

## SB0111S01 compared with SB0111

~~{deleted text}~~ shows text that was in SB0111 but was deleted in SB0111S01.

inserted text shows text that was not in SB0111 but was inserted into SB0111S01.

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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

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#### LONG TITLE

##### General Description:

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

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ renames the State Board of Regents to the Utah Board of Higher Education;
- ▶ enacts provisions related to the Utah Board of Higher Education, including:
  - powers and duties;
  - membership;
  - compensation for members; and
  - ~~{subcommittees}~~committees;
- ▶ creates a nominating committee to nominate individuals to the governor to appoint

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to the Utah Board of Higher Education;

- ▶ repeals the Utah System of Technical Colleges Board of Trustees;
- ▶ transitions duties of the Utah System of Technical Colleges Board of Trustees to the Utah Board of Higher Education;
- ▶ provides that the Utah Board of Higher Education is the successor to the Utah System of Technical Colleges Board of Trustees;
- ▶ provides for the transition in the membership of the Utah Board of Higher Education from the membership of the State Board of Regents and the Utah System of Technical Colleges Board of Trustees;
- ▶ creates the positions of associate commissioner for academic education and associate commissioner for technical education;
- ▶ repeals provisions related to the commissioner of technical education;
- ▶ amends provisions related to the selection of institution of higher education presidents;
- ▶ amends requirements related to an institution of higher education's authority to approve a new program of instruction;
- ▶ changes the name of a governing board for a technical college from a technical college board of directors to a technical college board of trustees;
- ▶ amends provisions related to the Higher Education Strategic Planning Commission, including extending the commission by one year;
- ▶ amends other provisions related to higher education; and
- ▶ makes technical and conforming changes.

### **Money Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the Legislature - Office of Legislative Research and General Counsel as a one-time appropriation:
  - from the General Fund \$1,200;
- ▶ to the Legislature - Senate as a one-time appropriation:
  - from the General Fund \$4,000; ~~and~~
- ▶ to the Legislature - House of Representatives as a one-time appropriation:
  - from the General Fund \$4,000 ~~and~~.

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- ▶ to the State Board of Regents - Administration, as an ongoing appropriation:
  - from the Education Fund, \$4,742,600;
  - from Revenue Transfers, \$106,300;
  - from Beginning Nonlapsing Balances, \$380,800;
  - from Closing Nonlapsing Balances, (\$380,800);
- ▶ to the State Board of Regents - Student Assistance, as an ongoing appropriation:
  - from the Education Fund, \$38,400;
- ▶ to the State Board of Regents - Student Support, as an ongoing appropriation:
  - from the Education Fund, \$20,190,400;
  - from Beginning Nonlapsing Balances, \$486,100;
  - from Closing Nonlapsing Balances, (\$486,100);
- ▶ to the State Board of Regents - Student Support, as a one-time appropriation:
  - from the Education Fund, One-time, \$862,100;
  - from Education Fund Restricted - Performance Funding Restricted Account, One-time, \$381,100;
- ▶ to the State Board of Regents - Technology, as an ongoing appropriation:
  - from the Education Fund, (\$7,983,500);
  - from Beginning Nonlapsing Balances, (\$700);
  - from Closing Nonlapsing Balances, \$700;
- ▶ to the State Board of Regents - Technology, as a one-time appropriation:
  - from the Education Fund, One-time, (\$862,100);
  - from Education Fund Restricted - Performance Funding Restricted Account, One-time, (\$143,700);
- ▶ to the State Board of Regents - Economic Development, as an ongoing appropriation:
  - from the Education Fund, (\$5,386,400);
  - from Beginning Nonlapsing Balances, (\$127,400);
  - from Closing Nonlapsing Balances, \$127,400;
- ▶ to the State Board of Regents - Education Excellence, as an ongoing appropriation:
  - from the Education Fund, (\$935,900);
  - from Education Fund Restricted - Performance Funding Restricted Account,

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(\$143,700);

- from Revenue Transfers, (\$106,200);
- from Beginning Nonlapsing Balances, (\$214,000);
- from Closing Nonlapsing Balances, \$214,000;
- ▶ to the State Board of Regents - Education Excellence, as a one-time appropriation:
  - 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

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**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  
**35A-5-103**, as last amended by Laws of Utah 2016, Chapter 144  
**35A-6-105**, as enacted by Laws of Utah 2019, Chapter 224  
**35A-8-2103**, as renumbered and amended by Laws of Utah 2018, Chapter 182  
**35A-13-603**, as last amended by Laws of Utah 2019, Chapter 89  
**35A-14-102**, as last amended by Laws of Utah 2018, Chapter 341 and last amended by  
Coordination Clause, Laws of Utah 2018, Chapter 315  
**35A-14-203**, as enacted by Laws of Utah 2017, Chapter 375  
**35A-14-302**, as enacted by Laws of Utah 2017, Chapter 375  
**36-21-1**, as last amended by Laws of Utah 2018, Chapter 25  
**36-28-102**, as last amended by Laws of Utah 2018, Chapter 39  
**41-6a-2002**, as last amended by Laws of Utah 2018, Chapter 25  
**49-11-102**, as last amended by Laws of Utah 2019, Chapter 31  
**49-11-403**, as last amended by Laws of Utah 2015, Chapter 243  
**49-12-203**, as last amended by Laws of Utah 2018, Chapter 10 and last amended by  
Coordination Clause, Laws of Utah 2018, Chapter 315  
**49-12-204**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315  
**49-12-402**, as last amended by Laws of Utah 2017, Chapter 141  
**49-13-203**, as last amended by Laws of Utah 2018, Chapter 10 and last amended by  
Coordination Clause, Laws of Utah 2018, Chapter 315  
**49-13-204**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315  
**49-13-402**, as last amended by Laws of Utah 2019, Chapter 31  
**49-21-102**, as last amended by Laws of Utah 2018, Chapter 185  
**49-22-203**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315  
**49-22-204**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315  
**51-7-4**, as last amended by Laws of Utah 2017, Chapter 363

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**51-7-13**, as last amended by Laws of Utah 2018, Chapter 415  
**51-8-303**, as enacted by Laws of Utah 2007, Chapter 59  
**51-9-201**, as last amended by Laws of Utah 2014, Chapter 96  
**53-2a-802**, as last amended by Laws of Utah 2017, Chapter 363  
**53-7-204**, as last amended by Laws of Utah 2018, Chapter 152  
**53B-1-101.5**, as last amended by Laws of Utah 2017, Chapter 382  
**53B-1-102**, as last amended by Laws of Utah 2017, Chapter 382  
**53B-1-109**, as last amended by Laws of Utah 2018, Chapter 415  
**53B-1-114**, as last amended by Laws of Utah 2018, Chapter 415  
**53B-1-301**, as enacted by Laws of Utah 2019, Chapter 324 and last amended by  
Coordination Clause, Laws of Utah 2019, Chapter 444  
**53B-2-102**, as last amended by Laws of Utah 2018, Chapter 382  
**53B-2-103**, as last amended by Laws of Utah 2017, Chapter 382  
**53B-2-104**, as last amended by Laws of Utah 2019, Chapter 357  
**53B-2-106**, as last amended by Laws of Utah 2017, Chapter 382  
**53B-2a-100.5**, as enacted by Laws of Utah 2017, Chapter 382  
**53B-2a-101**, as last amended by Laws of Utah 2019, Chapter 482  
**53B-2a-104**, as last amended by Laws of Utah 2018, Chapter 382  
**53B-2a-105**, as last amended by Laws of Utah 2018, Chapter 382  
**53B-2a-106**, as last amended by Laws of Utah 2018, Chapters 382 and 415  
**53B-2a-107**, as last amended by Laws of Utah 2018, Chapter 382  
**53B-2a-108**, as repealed and reenacted by Laws of Utah 2018, Chapter 382  
**53B-2a-109**, as last amended by Laws of Utah 2018, Chapter 382  
**53B-2a-110**, as last amended by Laws of Utah 2017, Chapter 382  
**53B-2a-112**, as last amended by Laws of Utah 2018, Chapter 382  
**53B-2a-113**, as last amended by Laws of Utah 2018, Chapter 382  
**53B-2a-114**, as last amended by Laws of Utah 2018, Chapter 382  
**53B-2a-115**, as enacted by Laws of Utah 2017, Chapter 382  
**53B-2a-116**, as last amended by Laws of Utah 2019, Chapter 13  
**53B-2a-117**, as enacted by Laws of Utah 2019, Chapter 482  
**53B-6-104**, as last amended by Laws of Utah 2017, Chapter 43

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**53B-6-105.5**, as last amended by Laws of Utah 2019, Chapter 444  
**53B-6-105.9**, as last amended by Laws of Utah 2008, Chapter 382  
**53B-6-106**, as last amended by Laws of Utah 2017, Chapter 382  
**53B-7-101**, as last amended by Laws of Utah 2019, Chapters 324 and 482  
**53B-7-104**, as last amended by Laws of Utah 1989, Chapter 277  
**53B-7-702**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315  
**53B-7-703**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315  
**53B-7-705**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315  
**53B-7-706**, as last amended by Laws of Utah 2019, Chapter 324  
**53B-7-707**, as last amended by Laws of Utah 2019, Chapter 324  
**53B-8-101**, as last amended by Laws of Utah 2018, Chapters 281 and 382  
**53B-8-103**, as last amended by Laws of Utah 2013, Chapters 10 and 23  
**53B-8-104**, as last amended by Laws of Utah 2019, Chapter 324  
**53B-8-106**, as enacted by Laws of Utah 2002, Chapter 230  
**53B-8-107**, as last amended by Laws of Utah 2018, Chapter 39  
**53B-8-201**, as last amended by Laws of Utah 2019, Chapter 444  
**53B-8-301**, as enacted by Laws of Utah 2019, Chapter 444  
**53B-8-303**, as enacted by Laws of Utah 2019, Chapter 444  
**53B-8a-102.5**, as enacted by Laws of Utah 2017, Chapter 389  
**53B-8a-204**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315  
**53B-8e-103**, as last amended by Laws of Utah 2018, Chapter 39  
**53B-10-201**, as enacted by Laws of Utah 2018, Chapter 402  
**53B-11-104**, as enacted by Laws of Utah 1998, Chapter 70  
**53B-12-102**, as last amended by Laws of Utah 2011, Chapter 46  
**53B-16-101**, as last amended by Laws of Utah 2017, Chapter 382  
**53B-16-102**, as last amended by Laws of Utah 2017, Chapter 382  
**53B-16-105**, as last amended by Laws of Utah 2019, Chapter 102  
**53B-16-107**, as last amended by Laws of Utah 2019, Chapter 102  
**53B-16-110**, as enacted by Laws of Utah 2019, Chapter 102  
**53B-16-202**, as renumbered and amended by Laws of Utah 1987, Chapter 8  
**53B-16-205**, as last amended by Laws of Utah 2009, Chapter 346

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**53B-16-205.5**, as enacted by Laws of Utah 2014, Chapter 69

**53B-16-209**, as last amended by Laws of Utah 2017, Chapter 382

**53B-16-303**, as last amended by Laws of Utah 2008, Chapter 382

**53B-16-401**, as last amended by Laws of Utah 2017, Chapter 382

**53B-16-402**, as enacted by Laws of Utah 1996, Chapter 73

**53B-16-501**, as last amended by Laws of Utah 2015, Chapter 337

**53B-17-101**, as last amended by Laws of Utah 2014, Chapter 63

**53B-17-103**, as last amended by Laws of Utah 2006, Chapter 150

**53B-17-104**, as last amended by Laws of Utah 2014, Chapter 63

**53B-17-105**, as last amended by Laws of Utah 2017, Chapter 382

**53B-17-503**, as enacted by Laws of Utah 1987, Chapter 167

**53B-17-505**, as enacted by Laws of Utah 1987, Chapter 167

**53B-17-901**, as enacted by Laws of Utah 2013, Chapter 302

**53B-17-1203**, as last amended by Laws of Utah 2019, Chapter 186 and renumbered and amended by Laws of Utah 2019, Chapter 446 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 446

**53B-17-1204**, as last amended by Laws of Utah 2019, Chapter 186 and renumbered and amended by Laws of Utah 2019, Chapter 446 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 446

**53B-18-501**, as enacted by Laws of Utah 1988, Chapter 218

**53B-18-1301**, as enacted by Laws of Utah 2011, Chapter 249

**53B-21-104**, as enacted by Laws of Utah 1987, Chapter 167

**53B-21-105**, as last amended by Laws of Utah 2011, Chapter 342

**53B-21-113**, as enacted by Laws of Utah 1987, Chapter 167

**53B-22-201**, as enacted by Laws of Utah 2019, Chapter 482

**53B-23-104**, as enacted by Laws of Utah 2006, Chapter 301

**53B-23-106**, as enacted by Laws of Utah 2006, Chapter 301

**53B-26-103**, as last amended by Laws of Utah 2019, Chapters 324 and 357

**53B-26-202**, as last amended by Laws of Utah 2019, Chapter 324

**53B-27-301**, as enacted by Laws of Utah 2018, Chapter 325

**53B-27-303**, as enacted by Laws of Utah 2018, Chapter 325



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**53B-28-401**, as enacted by Laws of Utah 2019, Chapter 476

**53E-1-201**, as last amended by Laws of Utah 2019, Chapter 324 and last amended by  
Coordination Clause, Laws of Utah 2019, Chapters 41, 205, 223, 342, 446, and 476

**53E-1-203**, as enacted by Laws of Utah 2019, Chapter 324

**53E-2-302**, as last amended by Laws of Utah 2019, Chapter 186

**53E-3-502**, as renumbered and amended by Laws of Utah 2018, Chapter 1

**53E-3-505**, as last amended by Laws of Utah 2019, Chapters 186 and 226

**53E-3-507**, as last amended by Laws of Utah 2019, Chapters 186, 324, and 357

**53E-4-206**, as last amended by Laws of Utah 2019, Chapter 186

**53E-4-308**, as last amended by Laws of Utah 2019, Chapters 186 and 342

**53E-6-201**, as last amended by Laws of Utah 2019, Chapter 186

**53E-10-301**, as last amended by Laws of Utah 2019, Chapters 120 and 147

**53E-10-302**, as last amended by Laws of Utah 2019, Chapters 120, 147, and 186

**53E-10-303**, as renumbered and amended by Laws of Utah 2018, Chapter 1

**53E-10-304**, as last amended by Laws of Utah 2019, Chapter 186

**53E-10-305**, as last amended by Laws of Utah 2019, Chapters 120, 147, and 223

**53E-10-308**, as last amended by Laws of Utah 2019, Chapters 186 and 324

**53E-10-704**, as last amended by Laws of Utah 2019, Chapter 186

**53F-2-409**, as last amended by Laws of Utah 2019, Chapters 136 and 186

**53F-2-501**, as last amended by Laws of Utah 2019, Chapter 186

**53F-5-204**, as last amended by Laws of Utah 2019, Chapters 186 and 324

**53F-5-205**, as last amended by Laws of Utah 2019, Chapter 186

**53G-5-102**, as last amended by Laws of Utah 2019, Chapter 293

**53G-5-306**, as last amended by Laws of Utah 2019, Chapter 293

**53G-10-303**, as last amended by Laws of Utah 2019, Chapter 293

**54-8b-10**, as last amended by Laws of Utah 2019, Chapter 349

**58-22-302**, as last amended by Laws of Utah 2017, Chapter 382

**59-12-102**, as last amended by Laws of Utah 2019, Chapters 325, 481, and 486

**63A-3-103**, as last amended by Laws of Utah 2019, Chapter 370

**63A-3-110**, as last amended by Laws of Utah 2019, Chapter 211

**63A-4-103**, as last amended by Laws of Utah 2010, Chapter 324

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**63A-5-104**, as last amended by Laws of Utah 2019, Chapters 468 and 482

**63A-5-303**, as enacted by Laws of Utah 1995, Chapter 113

**63A-5-305**, as last amended by Laws of Utah 2016, Chapter 240

**63A-5-501**, as renumbered and amended by Laws of Utah 2008, Chapter 382

**63C-19-102**, as enacted by Laws of Utah 2018, Chapter 382

**63C-19-201**, as enacted by Laws of Utah 2018, Chapter 382

**63C-19-202**, as enacted by Laws of Utah 2018, Chapter 382

**63D-2-102**, as last amended by Laws of Utah 2009, Chapter 356

**63F-1-102**, as last amended by Laws of Utah 2019, Chapter 246

**63F-1-206**, as last amended by Laws of Utah 2017, Chapter 238

**63F-1-303**, as last amended by Laws of Utah 2019, Chapter 246

**63F-2-102**, as last amended by Laws of Utah 2018, Chapter 81

**63G-2-103**, as last amended by Laws of Utah 2019, Chapters 254 and 280

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

**63G-6a-202**, as last amended by Laws of Utah 2016, Chapter 144

**63G-7-301**, as last amended by Laws of Utah 2019, Chapters 229 and 248

**63G-10-102**, as last amended by Laws of Utah 2016, Chapter 144

**63I-2-253**, as last amended by Laws of Utah 2019, Chapters 41, 129, 136, 223, 324, 325, and 444

**63I-2-263**, as last amended by Laws of Utah 2019, Chapters 182, 240, 246, 325, 370, and 483

**63I-5-102**, as last amended by Laws of Utah 2016, Chapters 144 and 195

**63I-5-201**, as last amended by Laws of Utah 2018, Chapter 25

**63J-1-210**, as last amended by Laws of Utah 2011, Chapters 323 and 342

**63J-1-219**, as last amended by Laws of Utah 2018, Chapter 39

**63J-1-602.2**, as last amended by Laws of Utah 2019, Chapters 136, 326, 468, and 469

**63J-2-102**, as last amended by Laws of Utah 2018, Chapter 469

**63J-3-103**, as last amended by Laws of Utah 2017, Chapter 382

**63N-1-301**, as last amended by Laws of Utah 2019, Chapter 487

**63N-12-503**, as last amended by Laws of Utah 2019, Chapter 427

**63N-12-508**, as enacted by Laws of Utah 2019, Chapter 487

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**67-8-3**, as last amended by Laws of Utah 2018, Chapter 415

**67-19c-101**, as last amended by Laws of Utah 2012, Chapter 212

**67-21-3**, as last amended by Laws of Utah 2018, Chapter 178

### **ENACTS:**

**53B-1-401**, Utah Code Annotated 1953

**53B-1-403**, Utah Code Annotated 1953

**53B-1-405**, Utah Code Annotated 1953

**53B-1-406**, Utah Code Annotated 1953

**53B-1-407**, Utah Code Annotated 1953

**53B-1-409**, Utah Code Annotated 1953

**53B-1-410**, Utah Code Annotated 1953

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

**53B-1-502**, Utah Code Annotated 1953

**53B-1-503**, Utah Code Annotated 1953

### **RENUMBERS AND AMENDS:**

**53B-1-402**, (Renumbered from 53B-1-103, as last amended by Laws of Utah 2019, Chapter 357)

**53B-1-404**, (Renumbered from 53B-1-104, as last amended by Laws of Utah 2018, Chapter 382)

**53B-1-408**, (Renumbered from 53B-1-105, as last amended by Laws of Utah 2012, Chapter 78)

### **REPEALS:**

**53B-1-101**, as last amended by Laws of Utah 2017, Chapter 382

**53B-1-106**, as last amended by Laws of Utah 2018, Chapter 325

**53B-1-107**, as last amended by Laws of Utah 2019, Chapter 324

**53B-2a-102**, as last amended by Laws of Utah 2018, Chapter 382

**53B-2a-111**, as last amended by Laws of Utah 2017, Chapter 382

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

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

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

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

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

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

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

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

(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.

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(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;

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- (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

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[(f)] (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;

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- (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
- (iii) create and coordinate best practices among public education and higher education;
- (b) with the consent of the Senate, appoint a director to oversee the administration of the STEM Action Center;
- (c) select a physical location for the STEM Action Center;
- (d) strategically engage industry and business entities to cooperate with the STEM board:
- (i) to support high quality professional development and provide other assistance for educators and students; and
- (ii) to provide private funding and support for the STEM Action Center;
- (e) give direction to the STEM Action Center and the providers selected through a request for proposals process pursuant to this part; and
- (f) work to meet the following expectations:
- (i) that at least 50 educators are implementing best practice learning tools in classrooms;
- (ii) performance change in student achievement in each classroom participating in a STEM Action Center project; and
- (iii) that students from at least 50 schools in the state participate in the STEM competitions, fairs, and camps described in Subsection 9-22-106(2)(d).
- (2) The STEM board may:
- (a) enter into contracts for the purposes of this part;
- (b) apply for, receive, and disburse funds, contributions, or grants from any source for the purposes set forth in this part;
- (c) employ, compensate, and prescribe the duties and powers of individuals necessary to execute the duties and powers of the STEM board;
- (d) prescribe the duties and powers of the STEM Action Center providers; and



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

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

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

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

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

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

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

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

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

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

(f) may not:

(i) engage in lobbying activities;

(ii) attempt to influence legislation; or

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

(A) a political candidate; or

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

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

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

(1) The STEM board shall:

(a) establish a STEM Action Center;

(b) ensure that the STEM Action Center:

(i) is accessible to the public; and

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

(c) work cooperatively with the State Board of Education to:

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- (i) further STEM education; and
  - (ii) ensure best practices are implemented as described in Sections 9-22-107 and 9-22-108;
  - (d) engage private entities to provide financial support or employee time for STEM activities in schools in addition to what is currently provided by private entities; and
  - (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,

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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, if available;

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

(m) work cooperatively with the State Board of Education to designate schools as STEM schools, where the schools have agreed to adopt a plan of STEM implementation in alignment with criteria set by the State Board of Education and the board;

(n) support best methods of high quality professional development for STEM education in kindergarten through grade 12, including methods of high quality professional development that reduce cost and increase effectiveness, to help educators learn how to most effectively implement best practice learning tools in classrooms;

(o) recognize achievement in the STEM competitions, fairs, and camps described in Subsection (2)(d);

(p) send student results from STEM competitions, fairs, and camps described in Subsection (2)(d) to media and ask the media to report on them;

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

(r) support targeted high quality professional development for improved instruction in STEM education, including:

(i) improved instructional materials that are dynamic and engaging for students;

(ii) use of applied instruction; and

(iii) introduction of other research-based methods that support student achievement in STEM areas; and

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

(i) public education students; and

(ii) higher education students.

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

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

- (i) public education high school graduation rates;
- (ii) the number of students taking a remedial mathematics course at an institution of 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

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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

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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

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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

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(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



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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.

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(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

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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;  
or

(b) judge standing for retention at any election.

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

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

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

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

(c) "Public entity" includes local health departments created under Title 26, Chapter 1, Department of Health Organization.

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

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

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

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

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

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

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

(18) (a) "State 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.

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

Section 12. Section **35A-1-206** is amended to read:

### **35A-1-206. State Workforce Development Board -- Appointment -- Membership -- 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;]~~

~~[(f)]~~ (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

~~[(f)]~~ (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

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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 nominated by state labor federations;

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

(C) may include one or more representatives from a community-based organization that has demonstrated experience and expertise in addressing the employment, training, or educational needs of individuals with barriers to employment; and

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

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

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

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

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

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

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

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

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

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

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appointed for the unexpired term.

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

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

(6) (a) A member of the board who is not a legislator may not receive compensation or benefits for the member'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 member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

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

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

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

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

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

(d) developing strategies for staff training;

(e) developing and improving employment centers; and

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

(i) the Legislature;

(ii) the governor; or

(iii) the executive director.

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

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

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

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

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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.



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(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.

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

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

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

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

(7) 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.

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

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

### **35A-13-603. Board.**

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

(a) a designee of the assistant director;

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

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

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

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

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

(b) In making appointments under Subsections (1)(d) and (e), the director shall give

## **SB0111S01 compared with SB0111**

consideration to recommendations by certified interpreters and members of the deaf and hard of hearing community.

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

(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.

## SB0111S01 compared with SB0111

(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;

~~[(d)]~~ (c) the Department of Workforce Services; and

~~[(e)]~~ (d) the Department of Health.

Section 18. Section **35A-14-203** is amended to read:

### **35A-14-203. Utah Data Research Advisory Board -- Composition -- Appointment.**

(1) There is created the Utah Data Research Advisory Board in accordance with this section.

(2) The Utah Data Research Advisory Board is composed of the following members:

(a) the state superintendent of the State Board of Education or the state 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's designee;]~~

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

~~[(e)]~~ (d) the director of the Department of Health or the director's designee.

(3) The executive director shall serve as chair.

(4) A member of the board:

(a) except to the extent a member's service on the board is related to the member's duties outside of the board, may not receive compensation or benefits for the member's service; and

(b) may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

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

Section 19. Section **35A-14-302** is amended to read:

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### **35A-14-302. Center duties -- Data studies.**

(1) The center shall use data that the center maintains or that a participating entity contributes to the data research program under Section 35A-14-301 to conduct research for the purpose of developing public policy for the state.

(2) The director, with consultation by the advisory board, shall create a prioritized list of data research for the center to conduct using the data research program each year.

(3) (a) In developing the list described in Subsection (2), the center shall accept data research requests from:

(i) a legislative committee or a legislative staff office;

(ii) the governor or an executive branch agency;

(iii) the State Board of Education; and

~~[(iv) the State Board of Regents; and]~~

~~[(v) the Utah College of Applied Technology.]~~

(iv) the Utah Board of Higher Education.

(b) The department shall begin accepting the data research requests described in Subsection (3)(a) on July 1, 2017.

(c) The center shall report the list described in Subsection (2) to the Education Interim Committee before December 1 of each year.

(4) In addition to conducting data research in accordance with the prioritized list described in Subsection (2), the center may use additional resources to prepare data research at the request of:

(a) a state government entity;

(b) a political subdivision of the state;

(c) a private entity; or

(d) a member of the public.

(5) The director, with approval by the board, shall determine, for a data research request described in Subsection (4):

(a) whether the center has the resources to complete the data research request;

(b) the order in which the center shall complete the data research request, if at all; and

(c) a reasonable estimated cost for the request.

(6) The center, after evaluating a request under Subsection (5), shall:

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(a) provide the person that requested the data research with a cost estimate; and

(b) require, before accepting a data research request, that the person that submitted the data research request agree to pay, once the data research is complete, the full cost of completing the data research request as determined by the center under Subsection (5).

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

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

(9) The center shall:

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

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

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

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

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

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

(a) connected;

(b) aggregated; and

(c) de-identified.

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

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

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

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

(1) "Governmental entity" means:

## **SB0111S01 compared with SB0111**

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

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

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

(d) the National Guard;

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

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

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

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

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

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

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

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

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

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

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

(2) The commission membership is composed of 19 permanent members, but may not exceed 24 members, and is as follows:

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

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

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and

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

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

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

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

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

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

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

(h) the Guard and Reserve Transition Assistance Advisor;

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

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

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

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

(m) a representative from the Veterans Health Administration.

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

(a) state or local government agencies;

(b) interest groups concerned with veterans issues; or

(c) the general public.

(4) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the commission.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(a) as a cochair of the commission.

(5) A majority of the members of the commission shall constitute a quorum. The

## **SB0111S01 compared with SB0111**

action of a majority of a quorum constitutes the action of the commission.

(6) The term for each pro tempore member appointed in accordance with Subsection (3) shall be two years from July 1 of the year of appointment. A pro tempore member may not serve more than three terms.

(7) If a member leaves office or is unable to serve, the vacancy shall be filled as it was 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;



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- (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;
  - (xii) the Office of Legislative Research and General Counsel;
  - (xiii) the Legislature;
  - (xiv) legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;
  - (xv) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;
  - (xvi) any state-funded institution of higher education or public education; or
  - (xvii) any political subdivision of the state.
- (b) "Governmental entity" includes:
- (i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsections (3)(a)(i) through (xvii) that is funded or established by the government to carry out the public's business; or
  - (ii) a person acting as an agent of a governmental entity or acting on behalf of a governmental entity.
- (4) "Secured area" means an area, enclosed by clear boundaries, to which access is limited and not open to the public and entry is only obtainable through specific access-control points.

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

### **49-11-102. Definitions.**

As used in this title:

- (1) (a) "Active member" means a member who:
  - (i) is employed by a participating employer and accruing service credit; or
  - (ii) within the previous 120 days:
    - (A) has been employed by a participating employer; and
    - (B) accrued service credit.

## **SB0111S01 compared with SB0111**

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

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

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

(4) (a) "Agency" means:

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

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

(iii) a state college or university; or

(iv) any other participating employer.

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

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

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

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

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

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

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

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

(10) (a) "At-will employee" means a person who is employed by a participating

## **SB0111S01 compared with SB0111**

employer and:

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

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

(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

## **SB0111S01 compared with SB0111**

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;
- (e) Chapter 16, Firefighters' Retirement Act;
- (f) Chapter 17, Judges' Contributory Retirement Act;
- (g) Chapter 18, Judges' Noncontributory Retirement Act;
- (h) Chapter 19, Utah Governors' and Legislators' Retirement Act;
- (i) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or
- (j) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

(20) "Defined benefit" or "defined benefit plan" or "defined benefit system" means a system or plan offered under this title to provide a specified allowance to a retiree or a retiree's spouse after retirement that is based on a set formula involving one or more of the following factors:

- (a) years of service;
- (b) final average monthly salary; or
- (c) a retirement multiplier.

(21) "Defined contribution" or "defined contribution plan" means any defined contribution plan or deferred compensation plan authorized under the Internal Revenue Code and administered by the board.

(22) "Educational institution" means a political subdivision or instrumentality of the state or a combination thereof primarily engaged in educational activities or the administration or servicing of educational activities, including:

- (a) the State Board of Education and its instrumentalities;
- (b) any institution of higher education and its branches;
- (c) any school district and its instrumentalities;
- (d) any vocational and technical school; and
- (e) any entity arising out of a consolidation agreement between entities described under this Subsection (22).

## **SB0111S01 compared with SB0111**

(23) "Elected official":

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

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

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

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

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

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

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

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

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

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

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

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

(29) (a) "Initially entering" means hired, appointed, or elected for the first time, in current service as a member with any participating employer.

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

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

## **SB0111S01 compared with SB0111**

- (i) does not have any prior service credit on file with the office;
- (ii) is covered by a retirement plan other than a retirement plan created under this title;

and

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

(30) "Institution of higher education" means an institution described in Section 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.

## **SB0111S01 compared with SB0111**

(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

## **SB0111S01 compared with SB0111**

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.

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

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

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

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

(48) "Retirement date" means the date selected by the member on which the member's retirement becomes effective with the office.

(49) "Retirement related contribution":

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

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

(50) "Service credit" means:

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

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

(51) "Surviving spouse" means:

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

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



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(52) "System" means the individual retirement systems created 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, Chapter 18, Judges' Noncontributory Retirement Act, and Chapter 19, Utah Governors' and Legislators' Retirement Act, the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 22, Part 3, Tier II Hybrid Retirement System, and the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 23, Part 3, Tier II Hybrid Retirement System.

(53) "Technical college" means the same as that term is defined in Section 53B-1-101.5.

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

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

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

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

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

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

(b) "Tier II" includes:

(i) the Tier II hybrid system established under:

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

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

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

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

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

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

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

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

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

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

### **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

## **SB0111S01 compared with SB0111**

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:

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(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;

## **SB0111S01 compared with SB0111**

(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 elected, prior to July 1, 2014, to be excluded from participation in this system under Subsection 49-12-202(2)(d);

(h) 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

(i) an employee described in Subsection (1)(i)(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.

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(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 July 1, 2009 is not affected under Subsection (1)(f).

(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).

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(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

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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 in Subsection (2)(b)(ii)(B), the [~~Board of Regents~~] Utah Board of Higher Education; or

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

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

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

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

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

(i) was hired after January 1, 1979;

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

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



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

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

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

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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

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(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

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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

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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

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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

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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 regular full-time employees of 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 in 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.

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

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

(4) A regular full-time employee hired by an institution of higher education after

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January 1, 1979, whose employment classification requires participation in this system shall participate in this system.

(5) (a) Notwithstanding any other provision of this section, a regular full-time employee of an institution of higher education whose employment classification assignment under Subsection (2)(b) required participation in a retirement program other than this system shall have a one-time irrevocable election to participate in this system.

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

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

(d) Beginning July 1, 2010, a regular full-time employee of an institution of higher education who elects to be covered by this system under Subsection (5)(a) may begin to accrue 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 by complying with the requirements of Section 49-11-403.

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

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

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

(1) (a) Except as provided under Subsection (7) or Section 49-13-701, 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 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 an amount equal to 2% of the retiree's final average monthly salary multiplied by the number of years of service credit accrued.

(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, plus a full actuarial reduction for each year of retirement prior to age 60, unless the member has 30 or more years of accrued credit, in which event no reduction is made to the allowance.



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(c) (i) Years of service include 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 one-half 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

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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 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.

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(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:

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

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

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

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

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

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

(E) the governor of the state;

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

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

(b) "Eligible employee" does not include:

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

(ii) a retiree.

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

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

- (i) contemplates continued employment during a fiscal or calendar year; and
- (ii) would pay an amount equal to or greater than 40 hours per week at the legally required minimum wage, regardless of the number of hours worked.

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

- (i) available within any geographic boundaries of the state;
- (ii) offered at a certain level of wages;
- (iii) available at a particular number of hours per week; or
- (iv) currently available.

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

(6) "Monthly disability benefit" means the monthly payments and accrual of service credit under Section 49-21-401.

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

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

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

- (i) based solely on physical objective medical impairment; and
- (ii) regardless of the existence or absence of any mental impairment.

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

(10) "Physician" means a licensed physician.

(11) "Regular monthly salary" means the amount certified by the participating

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employer as the monthly salary of the eligible employee, unless there is a discrepancy between the certified amount and the amount actually paid, in which case the office shall determine the regular monthly salary.

(12) "Regular occupation" means either:

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

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

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

(14) "Total disability" means:

(a) own occupation disability; or

(b) ongoing disability.

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

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

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

### **49-22-203. 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), 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

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employer;

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

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

(e) 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);

(f) a person who files a written request for exemption with the office under Section 49-22-205; or

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

Section 33. Section **49-22-204** is amended to read:

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### **49-22-204. Higher education employees' eligibility requirements -- Election between different retirement plans -- Classification requirements -- Transfer between systems.**

(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 annuity contract with a public or 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

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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 college for regular full-time employees of each technical college.

(4) 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 shall participate in this system.

Section 34. Section **51-7-4** is amended to read:

**51-7-4. Transfer of functions, powers, and duties relating to public funds to state treasurer -- Exceptions -- Deposit of income from investment of state money.**

(1) Unless otherwise required by the Utah Constitution or applicable federal law, the functions, powers, and duties vested by law in each state officer, board, commission, institution, department, division, agency, or other similar instrumentality relating to the deposit, investment, or reinvestment of public funds, and the purchase, sale, or exchange of investments or securities of, or for, funds or accounts under the control and management of each of these instrumentalities, are transferred to and shall be exercised by the state treasurer, except:

(a) funds assigned to the Utah State Retirement Board for investment under Section 49-11-302;

(b) funds of member institutions of the state system of higher education:

(i) acquired by gift, devise, or bequest, or by federal or private contract or grant;

(ii) derived from student fees or from income from operations of auxiliary enterprises, which fees and income are pledged or otherwise dedicated to the payment of interest and principal of bonds issued by an institution of higher education;

(iii) subject to rules made by the council, under Section 51-7-18, deposited in a foreign depository institution as defined in Section 7-1-103; and

(iv) other funds that are not included in the institution's work program as approved by the ~~[State Board of Regents]~~ Utah Board of Higher Education;

(c) inmate funds as provided in Section 64-13-23 or in Title 64, Chapter 9b, Work



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Programs for Prisoners;

- (d) trust funds established by judicial order;
- (e) funds of the Utah Housing Corporation;
- (f) endowment funds of higher education institutions; and
- (g) the funds of the Utah Educational Savings Plan.

(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

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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 education foundations shall be invested as provided in Section 51-7-11 and the rules of the council.

(3) (a) Each institution shall make monthly reports detailing the deposit and investment of funds in its custody or control to its institutional council and the [~~State Board of Regents~~] Utah Board of Higher Education.

(b) The state auditor may conduct or cause to be conducted an annual audit of the investment program of each institution.

(c) The [~~State Board of Regents~~] Utah Board of Higher Education shall:

(i) require whatever internal controls and supervision are necessary to ensure the appropriate safekeeping, investment, and accounting for all funds of these institutions; and

(ii) submit annually to the governor and the Legislature a summary report of all investments by institutions under its jurisdiction.

Section 36. Section **51-8-303** is amended to read:

**51-8-303. Requirements of member institutions of the state system of higher education.**

(1) The [~~State Board of Regents~~] Utah Board of Higher Education shall:

(a) establish asset allocations for the institutional funds;

(b) in consultation with the commissioner of higher education, establish guidelines for investing the funds; and

(c) establish a written policy governing conflicts of interest.

(2) (a) A higher education institution may not invest its institutional funds in violation of the [~~State Board of Regents~~] Utah Board of Higher Education's guidelines unless the [~~State Board of Regents~~] Utah Board of Higher Education approves an investment policy that has been adopted by the higher education institution's board of trustees.

(b) A higher education institution and its employees shall comply with the [~~State Board~~

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~~of Regents']~~ Utah Board of Higher Education's conflict of interest requirements unless the ~~[State Board of Regents]~~ Utah Board of Higher Education approves the conflict of interest policy that has been adopted by the higher education institution's board of trustees.

(3) (a) The board of trustees of a higher education institution may adopt:

(i) an investment policy to govern the investment of the higher education institution's institutional funds; and

(ii) a conflict of interest policy.

(b) The investment policy shall:

(i) define the groups, and the responsibilities of those groups, that must be involved with investing the institutional funds;

(ii) ensure that the groups defined under Subsection (3)(b)(i) at least include the board of trustees, an investment committee, institutional staff, and a custodian bank;

(iii) create an investment committee that includes not more than two members of the board of trustees and no less than two independent investment management professionals;

(iv) determine an appropriate risk level for the institutional funds;

(v) establish allocation ranges for asset classes considered suitable for the institutional funds;

(vi) determine prudent diversification of the institutional funds; and

(vii) establish performance objectives and a regular review process.

(c) Each higher education institution that adopts an investment policy, a conflict of interest policy, or both, shall submit the policy, and any subsequent amendments, to the ~~[State Board of Regents]~~ Utah Board of Higher Education for ~~[its]~~ approval.

(4) Each higher education institution shall make monthly reports detailing the deposit and investment of funds in ~~[its]~~ the institution's custody or control to:

(a) ~~[its]~~ the institution of higher education board of trustees; and

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

(b) the Utah Board of Higher Education.

(5) The state auditor may conduct or cause to be conducted an annual audit of the investment program of each higher education institution.

(6) The ~~[State Board of Regents]~~ Utah Board of Higher Education shall submit an annual report to the governor and the Legislature summarizing all investments by higher

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education institutions under its jurisdiction.

Section 37. Section **51-9-201** is amended to read:

### **51-9-201. Creation of Tobacco Settlement Restricted Account.**

- (1) There is created within the General Fund a restricted account known as the "Tobacco Settlement Restricted Account."
- (2) The account shall earn interest.
- (3) The account shall consist of:
  - (a) on and after July 1, 2007, 60% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998; and
  - (b) interest earned on the account.
- (4) To the extent that funds will be available for appropriation in a given fiscal year, those funds shall be appropriated from the account in the following order:
  - (a) \$66,600 to the Office of the Attorney General for ongoing enforcement and defense of the Tobacco Settlement Agreement;
  - (b) \$18,500 to the State Tax Commission for ongoing enforcement of business compliance with the Tobacco Tax Settlement Agreement;
  - (c) \$10,452,900 to the Department of Health for:
    - (i) children in the Medicaid program created in Title 26, Chapter 18, Medical Assistance Act, and the Children's Health Insurance Program created in Section 26-40-103; and
    - (ii) for restoration of dental benefits in the Children's Health Insurance Program;
  - (d) \$3,847,100 to the Department of Health for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television, and with a preference in funding given to tobacco-related programs;
  - (e) \$193,700 to the Administrative Office of the Courts and \$2,325,400 to the Department of Human Services for the statewide expansion of the drug court program;
  - (f) \$4,000,000 to the [~~State Board of Regents~~] Utah Board of Higher Education for the University of Utah Health Sciences Center to benefit the health and well-being of Utah citizens through in-state research, treatment, and educational activities; and
  - (g) any remaining funds as directed by the Legislature through appropriation.

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Section 38. Section **53-2a-802** is amended to read:

### **53-2a-802. Definitions.**

(1) (a) "Absent" means:

- (i) not physically present or not able to be communicated with for 48 hours; or
- (ii) for local government officers, as defined by local ordinances.

(b) "Absent" does not include a person who can be communicated with via telephone, radio, or telecommunications.

(2) "Department" means the Department of Administrative Services, the Department of Agriculture and Food, the Alcoholic Beverage Control Commission, 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 Workforce Services, the Labor Commission, the National Guard, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Department of Human Services, the State Tax Commission, the Department of Technology Services, the Department of Transportation, any other major administrative subdivisions of state government, the State Board of Education, the ~~[State Board of Regents]~~ Utah Board of Higher Education, the Utah Housing Corporation, the State Retirement Board, and each institution of higher education within the system of higher education.

(3) "Division" means the Division of Emergency Management established in Title 53, Chapter 2a, Part 1, Emergency Management Act.

(4) "Emergency interim successor" means a person designated by this part to exercise the powers and discharge the duties of an office when the person legally exercising the powers and duties of the office is unavailable.

(5) "Executive director" means the person with ultimate responsibility for managing and overseeing the operations of each department, however denominated.

(6) (a) "Office" includes all state and local offices, the powers and duties of which are defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

(b) "Office" does not include the office of governor or the legislative or judicial offices.

(7) "Place of governance" means the physical location where the powers of an office are being exercised.

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(8) "Political subdivision" includes counties, cities, towns, metro townships, districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

(9) "Political subdivision officer" means a person holding an office in a political subdivision.

(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

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- (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, county, special district, and local government entity's safe seizure, storage, and repurposing, destruction, or disposal of a firework, class A explosive, or class B explosive that:
  - (A) is illegal; or
  - (B) a person uses or handles in an illegal manner;
- (vi) deputizing qualified persons to act as deputy fire marshals, and to secure special services in emergencies;
- (vii) implementing Section 15A-1-403;
- (viii) setting guidelines for use of funding;
- (ix) establishing criteria for training and safety equipment grants for fire departments enrolled in firefighter certification;
- (x) establishing ongoing training standards for hazardous materials emergency response agencies; and
- (xi) establishing criteria for the fire safety inspection of a food truck;
- (c) recommend to the commissioner a state fire marshal;
- (d) develop policies under which the state fire marshal and the state fire marshal's authorized representatives will perform;
- (e) provide for the employment of field assistants and other salaried personnel as required;
- (f) prescribe the duties of the state fire marshal and the state fire marshal's authorized representatives;
- (g) establish a statewide fire prevention, fire education, and fire service training program in cooperation with the ~~[Board of Regents]~~ Utah Board of Higher Education;
- (h) establish a statewide fire statistics program for the purpose of gathering fire data from all political subdivisions of the state;
- (i) establish a fire academy in accordance with Section 53-7-204.2;

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- (j) coordinate the efforts of all people engaged in fire suppression in the state;
  - (k) work aggressively with the local political subdivisions to reduce fire losses;
  - (l) regulate the sale and servicing of portable fire extinguishers and automatic fire suppression systems in the interest of safeguarding lives and property;
  - (m) establish a certification program for persons who inspect and test automatic fire sprinkler systems;
  - (n) establish a certification program for persons who inspect and test fire alarm systems;
  - (o) establish a certification for persons who provide response services regarding hazardous materials emergencies;
  - (p) in accordance with Sections 15A-1-403 and 68-3-14, submit a written report to the Business and Labor Interim Committee; and
  - (q) jointly create the Unified Code Analysis Council with the Uniform Building Code Commission in accordance with Section 15A-1-203.
- (2) (a) In the rules that the board makes under Subsection (1)(b)(v), the board shall include a provision prohibiting a state, county, special district, or local government entity from disposing of an item described in Subsection (1)(b)(v) by means of open burning, except under circumstances described in the rule.
- (b) When making a rule under Subsection (1)(b)(v), the board shall:
    - (i) review and include applicable references to:
      - (A) requirements described in Title 15A, Chapter 5, State Fire Code Act; and
      - (B) provisions of the International Fire Code; and
    - (ii) consider the appropriate role of the following in relation to the rule:
      - (A) the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives; and
      - (B) a firework wholesaler or distributor.
- (3) The board may incorporate in its rules by reference, in whole or in part:
- (a) the state fire code; or
  - (b) subject to the state fire code, a nationally recognized and readily available standard pertaining to the protection of life and property from fire, explosion, or panic.
- (4) The following functions shall be administered locally by a city, county, or fire protection district:



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(a) issuing permits, including open burning permits pursuant to Sections 11-7-1 and 19-2-114;

(b) creating a local board of appeals in accordance with the state fire code; and

(c) subject to the state fire code and the other provisions of this chapter, establishing, modifying, or deleting fire flow and water supply requirements.

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 ~~Vocational~~ 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;

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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

(ii) is short-term training.

(b) "Technical education" does not include general education.

Section 41. Section **53B-1-102** is amended to read:

### **53B-1-102. Utah system of higher education.**

(1) The ~~[state]~~ Utah system of higher education consists of the following institutions:

~~[(a) the Utah System of Higher Education, which consists of the following institutions:]~~

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

(a) degree-granting institutions, which are:

~~[(ii)]~~ (i) the University of Utah;

~~[(iii)]~~ (ii) Utah State University;

~~[(iv)]~~ (iii) Weber State University;

~~[(v)]~~ (iv) Southern Utah University;

~~[(vi)]~~ (v) Snow College;

~~[(vii)]~~ (vi) Dixie State University;

~~[(viii)]~~ (vii) Utah Valley University; and

~~[(ix)]~~ (viii) Salt Lake Community College;

~~[(b) the Utah System of Technical Colleges, which consists of the following institutions:]~~

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

(b) technical colleges, which are:

~~[(ii)]~~ (i) Bridgerland Technical College;

~~[(iii)]~~ (ii) Davis Technical College;

~~[(iv)]~~ (iii) Dixie Technical College;

~~[(v)]~~ (iv) Mountainland Technical College;

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~~[(vi)]~~ (v) Ogden-Weber Technical College;

~~[(vii)]~~ (vi) Southwest Technical College;

~~[(viii)]~~ (vii) Tooele Technical College; and

~~[(ix)]~~ (viii) Uintah Basin Technical College; ~~[and]~~

(c) the Utah Board of Higher Education; and

~~[(e)]~~ (d) other public post-high school educational institutions as the Legislature may designate.

(2) A change in the name of an institution within the ~~[Utah System of Higher Education shall not be considered]~~ Utah system of higher education is not a change in the role or mission of the institution, unless otherwise authorized by the ~~[State Board of Regents]~~ board.

(3) It is not the intent of the Legislature to increase the number of research universities in the state beyond the University of Utah and Utah State University.

(4) An institution or board described in Subsection (1) is empowered to sue and be sued and to contract and be contracted with.

Section 42. Section **53B-1-109** is amended to read:

**53B-1-109. Coordination of higher education and public education information technology systems -- Use of unique student identifier.**

(1) As used in this section, "unique student identifier" means the same as that term is defined in Section 53E-4-308.

(2) The ~~[State Board of Regents]~~ board and State Board of Education shall coordinate public education and higher education information technology systems to allow individual student academic achievement to be tracked through both education systems in accordance with this section and Section 53E-4-308.

(3) Information technology systems ~~[utilized]~~ used at an institution within the state system of higher education shall ~~[utilize]~~ use the unique student identifier of all students who have previously been assigned a unique student identifier.

Section 43. Section **53B-1-114** is amended to read:

**53B-1-114. Coordination for education.**

(1) At least quarterly, in order to coordinate education services, the commissioner and the state superintendent of public instruction shall convene a meeting of individuals who have

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responsibilities related to Utah's education system [~~shall meet~~], including:

(a) the state superintendent of public instruction [~~described in Section 53E-3-301~~];

(b) the commissioner;

~~[(c) the commissioner of technical education described in Section 53B-2a-102;]~~

~~[(d)]~~ (c) the executive director of the Department of Workforce Services described in Section 35A-1-201;

~~[(e)]~~ (d) the executive director of the Governor's Office of Economic Development described in Section 63N-1-202;

~~[(f)]~~ (e) the chair of the State Board of Education;

~~[(g)]~~ (f) the chair of the [~~State Board of Regents~~] Utah Board of Higher Education;

~~[(h) the chair of the Utah System of Technical Colleges Board of Trustees described in Section 53B-2a-103; and]~~

(g) a member of the governor's staff; and

~~[(i)]~~ (h) the chairs of the Education Interim Committee.

(2) The coordinating group described in this section shall, for the State Board of Education and the Utah Board of Higher Education:

(a) coordinate strategic planning efforts;

(b) encourage alignment of strategic plans; and

(c) report on the State Board of Education's strategic plan to the Utah Board of Higher Education and the Utah Board of Higher Education's strategic plan to the State Board of Education.

~~[(2)]~~ (3) A meeting described in [~~this section~~] Subsection (1) is not subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 44. Section **53B-1-301** is amended to read:

**53B-1-301. Reports to and actions of the Higher Education Appropriations Subcommittee.**

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Higher Education Appropriations Subcommittee:

(a) the reports described in Sections 34A-2-202.5, 53B-17-804, and 59-9-102.5 by the Rocky Mountain Center for Occupational and Environmental Health;

(b) the report described in Section 53B-7-101 by the board on recommended

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appropriations for higher education institutions, including the report described in Section 53B-8-104 by the board on the effects of offering nonresident partial tuition scholarships;

(c) the report described in Section 53B-7-704 by the Department of Workforce Services and the Governor's Office of Economic Development on targeted jobs;

(d) the reports described in Section 53B-7-705 by the board [~~and the Utah System of Technical Colleges Board of Trustees, respectively,~~] on performance;

(e) the report described in Section 53B-8-201 by the board on the Regents' Scholarship Program;

(f) the report described in Section 53B-8-303 by the [~~State Board of Regents~~] board regarding Access Utah promise scholarships;

(g) the report described in Section 53B-8d-104 by the Division of Child and Family Services on tuition waivers for wards of the state;

(h) the report described in Section 53B-12-107 by the Utah Higher Education Assistance Authority;

(i) the report described in Section 53B-13a-104 by the board on the Success Stipend Program;

(j) the report described in Section 53B-17-201 by the University of Utah regarding the Miners' Hospital for Disabled Miners;

(k) the report described in Section 53B-26-103 by the Governor's Office of Economic Development on high demand technical jobs projected to support economic growth;

(l) the report described in Section 53B-26-202 by the Medical Education Council on projected demand for nursing professionals; and

(m) the report described in Section 53E-10-308 by the State Board of Education and [~~State Board of Regents~~] board on student participation in the concurrent enrollment program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Higher Education Appropriations Subcommittee:

(a) upon request, the information described in Section 53B-8a-111 submitted by the Utah Educational Savings Plan;

(b) as described in Section 53B-26-103, a proposal by an eligible partnership related to workforce needs for technical jobs projected to support economic growth;

(c) a proposal described in Section 53B-26-202 by an eligible program to respond to

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projected demand for nursing professionals; and

(d) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission on the commission's progress.

(3) In accordance with applicable provisions, the Higher Education Appropriations Subcommittee shall complete the following:

(a) as required by Section 53B-7-703, the review of performance funding described in Section 53B-7-703;

(b) the review described in Section 53B-7-705 of the implementation of performance funding;

(c) an appropriation recommendation described in Section 53B-26-103 to fund a proposal responding to workforce needs of a strategic industry cluster;

(d) an appropriation recommendation described in Section 53B-26-202 to fund a proposal responding to projected demand for nursing professionals; and

(e) review of the report described in Section 63B-10-301 by the University of Utah on the status of a bond and bond payments specified in Section 63B-10-301.

Section 45. Section **53B-1-401** is enacted to read:

### **Part 4. Utah Board of Higher Education**

#### **53B-1-401. Definitions.**

As used in this part:

(1) "Board" means the Utah Board of Higher Education described in Section 53B-1-402.

(2) "Institution of higher education" or "institution" means an institution of higher education described in Section 53B-1-102.

(3) "Nominating committee" means the committee described in Section 53B-1-406.

Section 46. Section **53B-1-402**, which is renumbered from Section 53B-1-103 is renumbered and amended to read:

~~[53B-1-103].~~      **53B-1-402. Establishment of {State Board of Regents, known as Utah Board of Higher Education}board** -- Powers, duties, and authority -- Reports.

(1) There is established a State Board of Regents[-], which:

(a) beginning July 1, 2020, is renamed the Utah Board of Higher Education;

(b) is the governing board for the institutions of higher education;

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(c) controls, manages, and supervises the Utah system of higher education; and

(d) is a body politic and corporate with perpetual succession and with all rights, immunities, and franchises necessary to function as a body politic and corporate.

~~[(2) (a) Except as provided in Subsection (2)(b), the board shall control, manage, and supervise the institutions of higher education designated in Section 53B-1-102 in a manner consistent with the policy and purpose of this title and the specific powers and responsibilities granted to the board.]~~

~~[(b) The board may only exercise powers relating to the Utah System of Technical Colleges Board of Trustees, the Utah System of Technical Colleges, or a technical college that are specifically provided in this title.]~~

~~[(3) The board shall, for the Utah System of Higher Education:]~~

~~[(a) provide strategic leadership and link system capacity to the economy and workforce needs;]~~

~~[(b) enhance the impact and efficiency of the system;]~~

~~[(c) establish measurable goals and metrics and delineate the expected contributions of individual institutions of higher education toward these goals;]~~

~~[(d) evaluate presidents based on institutional performance;]~~

~~[(e) delegate to presidents the authority to manage the presidents' institutions of higher education;]~~

~~[(f) administer statewide functions including system data collection and reporting;]~~

~~[(g) establish unified budget, finance, and capital funding priorities and practices; and]~~

~~[(h) provide system leadership on issues that have a system-wide impact, including:]~~

~~[(i) statewide college access and college preparedness initiatives;]~~

~~[(ii) learning opportunities drawn from multiple campuses or online learning options, including new modes of delivery of content at multiple locations;]~~

~~[(iii) degree program requirement guidelines including credit hour limits, articulation agreements, and transfer across institutions;]~~

~~[(iv) alignment of general education requirements across institutions of higher education;]~~

~~[(v) incorporation of evidence-based practices that increase college completion; and]~~

~~[(vi) monitoring of workforce needs, with an emphasis on credentials that build upon~~

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one another.]

~~[(4) The board shall coordinate and support articulation agreements between the Utah System of Technical Colleges or a technical college and other institutions of higher education.]~~

(2) The board shall:

(a) establish and promote a state-level vision and goals for higher education that emphasize system priorities, including:

(i) quality;

(ii) affordability;

(iii) educational opportunity, access, equity, and completion;

(iv) workforce alignment and preparation for high-quality jobs; and

(v) economic growth;

(b) establish policies and practices that advance the vision and goals;

(c) establish metrics to demonstrate and monitor:

(i) performance related to the goals; and

(ii) performance on measures of operational efficiency;

(d) collect and analyze data including economic data, demographic data, and data related to the metrics;

(e) coordinate data collection across institutions;

(f) establish, approve, and oversee each institution's mission and role in accordance with Section 53B-16-101;

(g) assess an institution's performance in accomplishing the institution's mission and role;

(h) participate in the establishment and review of programs of instruction in accordance with Section 53B-16-102;

(i) perform duties related to an institution of higher education president, including:

(i) appointing an institution of higher education president in accordance with Sections 53B-2-102 and 53B-2a-107;

(ii) providing support and guidance to an institution of higher education president; and

(iii) evaluating an institution of higher education president based on institution performance and progress toward systemwide priorities;

(j) create and implement a strategic finance plan for higher education, including by:



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(i) establishing ~~unified~~ comprehensive budget and finance priorities for academic education and technical education;

(ii) allocating statewide resources to institutions;

(iii) setting tuition for each institution;

(iv) administering state financial aid programs;

(v) administering performance funding in accordance with Chapter 7, Part 7,

Performance Funding; and

(vi) developing a strategic capital facility plan and prioritization process in accordance with Chapter 22, Part 2, Capital Developments, and Sections 53B-2a-117 and 53B-2a-118;

(k) create a seamless articulated education system for Utah students that responds to changing demographics and workforce, including by:

(i) providing for statewide prior learning assessment, in accordance with Section 53B-16-110;

(ii) establishing and maintaining clear pathways for articulation and transfer, in accordance with Section 53B-16-105;

(iii) establishing degree program requirement guidelines, including credit hour limits;

(iv) aligning general education requirements across degree-granting institutions;

(v) coordinating and incentivizing collaboration and partnerships between institutions in delivering programs;

(vi) coordinating distance delivery of programs; and

(vii) coordinating work-based learning;

(l) coordinate with the public education system:

(i) regarding public education programs that provide postsecondary credit or certificates; and

(ii) to ensure that an institution of higher education providing technical education serves secondary students in the public education system;

(m) delegate to an institution board of trustees certain duties related to institution governance including:

(i) guidance and support for the institution president;

(ii) effective administration;

(iii) the institution's responsibility for contributing to progress toward achieving

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systemwide goals; and

(iv) other responsibilities determined by the board;

(n) delegate to an institution of higher education president management of the institution of higher education;

(o) maximize efficiency throughout the Utah system of higher education by identifying and establishing shared administrative services;

(p) develop strategies for providing higher education, including career and technical education, in rural areas;

(q) manage and facilitate a process for initiating, prioritizing, and implementing education reform initiatives; and

(r) provide ongoing quality review of institutions.

(3) The board shall submit an annual report of the board's activities and performance against the board's goals and metrics to:

(a) the Education Interim Committee;

(b) the Higher Education Appropriations Subcommittee;

(c) the governor; and

(d) each institution of higher education.

~~[(5)]~~ (4) The board shall prepare and submit an annual report detailing the board's progress and recommendations on workforce related issues, including career and technical education ~~[issues and addressing workforce needs]~~, to the governor and to the Legislature's Education Interim Committee by October 31 of each year, ~~[which shall include]~~ including information detailing:

(a) how the career and technical education needs of secondary students are being met by institutions of higher education ~~[described in Subsection 53B-1-102(1)(a), including the access secondary students have to programs offered by Salt Lake Community College's School of Applied Technology, Snow College, Utah State University Eastern, and Utah State University Blanding];~~

(b) how the emphasis on high demand, high wage, and high skill jobs in business and industry is being provided;

(c) performance outcomes, including:

(i) entered employment;

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- (ii) job retention; and
- (iii) earnings;
- (d) an analysis of workforce needs and efforts to meet workforce needs; and
- (e) student tuition and fees.

~~[(6)]~~ (5) The board may modify the name of an institution ~~[described in Subsection 53B-1-102(1)(a)]~~ of higher education to reflect the role and general course of study of the institution.

~~[(7)]~~ (6) The board may not conduct a feasibility study or perform another act relating to merging a technical college with another institution of higher education.

~~[(8)]~~ (7) This section does not affect the power and authority vested in the State Board of Education to apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.

~~[(9)]~~ (8) The board shall ensure that any training or certification that an employee of the higher education system is required to complete under this title or by board rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Section 47. Section **53B-1-403** is enacted to read:

### **53B-1-403. Committees.**

(1) The board shall form:

(a) a committee to focus on technical education; and

(b) a committee to focus on academic education.

(2) The board may form committees in addition to the committees described in Subsection (1).

Section 48. Section **53B-1-404**, which is renumbered from Section 53B-1-104 is renumbered and amended to read:

~~[53B-1-104].~~        **53B-1-404. Membership of the board -- Student appointees -- Terms -- Oath -- Officers -- Committees -- Bylaws -- Meetings -- Quorum -- Vacancies -- Compensation -- Training.**

(1) ~~[Except as provided in Subsection (2), the]~~ The board consists of ~~[17]~~ 18 residents of the state appointed by the governor with the advice and consent of the Senate, as follows:

~~[(a) eight at-large members;]~~

~~[(b) eight members, each of whom is:]~~

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~~[(i) selected from three nominees presented to the governor by a higher education institution board of trustees; and]~~

~~[(ii) a current or former member of the institution of higher education board of trustees that nominates the member; and]~~

~~[(c) one member, selected from three nominees presented to the governor by the student body presidents of the institutions of higher education, who:]~~

~~[(i) is a fully matriculated student enrolled in an institution of higher education; and]~~

~~[(ii) is not serving as a student body president at the time of the nomination.]~~

~~[(2)(a)(i) An individual appointed to the board on or before May 8, 2017, may serve on the board, even if the individual does not fulfill a requirement for the composition of the board described in Subsection (1).]~~

~~[(ii) The governor may reappoint a member described in Subsection (2)(a)(i) when the member's term expires.]~~

~~[(b) An individual appointed to the board on or before May 8, 2017, who is a current or former member of an institution of higher education board of trustees is the board member for the institution of higher education described in Subsection (1)(b).]~~

~~[(c)(i) Subject to Subsection (2)(c)(ii), as positions on the board become vacant, the governor shall ensure that newly appointed members move the board toward the composition described in Subsection (1).]~~

~~[(ii) In appointing a new member to the board, the governor shall first appoint a member described in Subsection (1)(b) until the eight positions described in Subsection (1)(b) are filled.]~~

(a) subject to Subsections (2)(a), (3), and (3+6)(b)(ii), 16 members appointed from among candidates presented to the governor by a nominating committee; and

(b) two student members appointed as described in Subsection (4).

(2) (a) For an appointment of a member effective July 1, 2020, the governor shall appoint the member in accordance with Section 53B-1-501.

(b) Unless appointed by the governor as described in Section 53B-1-501, the term of each individual who is a member of the {board} State Board of Regents on May 12, 2020, expires on June 30, 2020.

(3) If the governor is not satisfied with a sufficient number of the candidates presented

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by the nominating committee to make the required number of appointments, the governor may request that the committee nominate additional candidates.

(4) (a) For the appointments described in Subsection (1)(b), the governor shall appoint:

(i) one individual who is enrolled in a certificate program at a technical college at the time of the appointment; and

(ii) one individual who:

(A) is a fully matriculated student enrolled in a degree-granting institution; and

(B) is not serving as a student body president at the time of the nomination.

(b) The governor shall select:

(i) an appointee described in Subsection (4)(a)(i) from among ~~eight~~ three nominees, ~~one of whom is~~ presented to the governor by a committee consulting of one student from each technical college a committee consisting of eight students, one from each technical college, each of whom is recognized by the student's technical college; and

(ii) an appointee described in Subsection (4)(a)(ii) from among three nominees presented to the governor by the student body presidents of degree-granting institutions.

~~[(3)]~~ (5) (a) All appointments to the board shall be made on a nonpartisan basis.

~~[(b) In making appointments to the board, the governor shall consider:]~~

~~[(i) geographic representation of members;]~~

~~[(ii) diversity;]~~

~~[(iii) experience in higher education governance;]~~

~~[(iv) experience in economic development; and]~~

~~[(v) exposure to institutions of higher education.]~~

~~[(c)]~~ (b) An individual may not serve simultaneously on the [State Board of Regents] board and an institution [of higher education] board of trustees.

~~[(4)]~~ (6) (a) (i) Except as provided in Subsection [(4)(b), members of the board] (6)(a)(ii) and Section 53B-1-501, members shall be appointed to six-year staggered terms, each of which [begin] begins on July 1 of the year of appointment.

~~[(b) A student member]~~ (ii) A member described in Subsection (1)[(c)](b) shall be appointed to a one-year term.

(b) (i) A member described in Subsection (1)(a) may serve up to two consecutive full terms.

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(ii) The governor may appoint a member described in Subsection (1)(a) to a second consecutive full term without a recommendation from the nominating committee.

(iii) A member described in Subsection (1)(b) may not serve more than one full term.

(c) (i) The governor may remove a member ~~[of the board]~~ for cause.

(ii) The governor shall consult with the president of the Senate before removing a member ~~[of the board]~~.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(12)]~~ (14) (a) A vacancy in the board occurring before the expiration of a ~~[voting]~~ member's full term shall be immediately filled ~~[by appointment by the governor with the consent of the Senate]~~ through the nomination process described in Section 53B-1-406 and this section.

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

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

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

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

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

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

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

(16) The commissioner shall provide to each member:

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

(b) ongoing annual training.

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

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

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

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

(b) varied areas of expertise; and

(c) varied geographic representation.

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(2) In developing the qualifications, the ~~{governor}~~board shall consider:

(a) expertise in:

(i) business or industry;

(ii) technical education;

(iii) general education; and

(iv) advanced education and research;

(b) geographic representation; and

(c) knowledge or experience in a field including:

(i) finance;

(ii) accounting or auditing;

(iii) law;

(iv) facilities or real estate;

(v) educational delivery models;

(vi) workforce development;

(vii) economic development;

(viii) kindergarten through grade 12 education; and

(ix) educational quality assessment.

(3) The ~~{governor}~~board shall consult with the ~~{board}~~governor to develop the qualifications described in this section.

Section 50. Section **53B-1-406** is enacted to read:

### **53B-1-406. Nominating committee.**

(1) ~~{A}~~Except as provided in Subsection (1)(b), a nominating committee shall be formed to begin service:

(a) by January 1 ~~{of a year in which a vacancy will occur on the board; or~~

~~{when a mid-term vacancy occurs on the board}, 2022; and~~

(b) on January 1 of each even number year thereafter.

(2) (a) A nominating committee shall include:

(i) subject to Subsection (2)(b), ~~{two individuals}~~one individual appointed by the president of the Senate;

(ii) subject to Subsection (2)(b), ~~{two individuals}~~one individual appointed by the speaker of the House of Representatives; and



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(iii) ~~{three}~~five individuals appointed by the governor, including:

(A) one individual who is a member of the board of trustees of a degree-granting institution;

(B) one individual who is a member of a technical college board of trustees; and

(C) ~~{one}~~three additional ~~{individual}~~individuals.

(b) An individual appointed under Subsection (2)(a)(i) or (ii) may not be serving as a legislator at the time of appointment.

(3) ~~{A}~~(a) Except as provided in Subsection (3)(b), a nominating committee member is appointed to a two-year term.

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

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

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

(c) ~~{ Any formal action by }~~(i) Four members of the nominating committee ~~{requires the approval}~~constitute a quorum.

~~(ii) The action~~ of a majority of a quorum constitutes the action of the nominating committee~~{ members}~~.

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

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

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

(8) A nominating committee 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

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63A-3-107.

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

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

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

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

(2) The board shall ensure that the industry advisory council includes representation

from:

(a) employers; ~~and~~

(b) kindergarten through grade 12 representatives;~~;~~

(c) degree-granting institution faculty; and

(d) technical college faculty.

(3) The industry advisory council shall inform:

(a) the committee for technical education;

(b) the committee for academic education; and

(c) the State Board of Education.

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

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

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

(b) The commissioner may be terminated by:

(i) the board; or

(ii) the governor, after consultation with the board.

(c) The board shall:

(i) set the salary of the commissioner;

(ii) subject to Subsection (3), prescribe the duties and functions of the commissioner;

and

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

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

(i) an associate commissioner for academic education; and

(ii) an associate commissioner for technical education.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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(c) may continue an administrative rule.

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

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

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

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

(i) at least six individuals who were members of the State Board of Regents on May 12, 2020;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) a technical college employee; or

(ii) a technical college president.

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

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

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

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

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

(a) in accordance with Section 53B-1-408; or

(b) as an interim commissioner.

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

(a) shall jointly:

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

(ii) recruit candidates for the commissioner; and

(b) may provide one or more candidates identified under Subsection (2)(a) for the

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position of commissioner to the Utah Board of Higher Education.

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

(5) (a) The board shall select an institution of higher education president from among

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the finalists presented by a search committee.

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

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

(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:

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(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.



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(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 until their successors are elected and qualified.

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

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

(ii) If established, an executive committee shall have full authority of the board of trustees to act upon routine matters during the interim between board of 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 board of trustees at the board of trustees' next regular meeting following the action.

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

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

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

(9) 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.

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

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

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

(1) (a) Except as provided in Subsection [~~(5)~~] (6), the president of each institution of higher education described in Section 53B-2-101 may exercise grants of power and authority as delegated by the board, as well as the necessary and proper exercise of powers and authority not specifically denied to the institution of higher education or the institution of higher education's administration, faculty, or students by the board or by law, to ensure the effective and efficient administration and operation of the institution of higher education consistent with the statewide master plan for higher education.

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

- (i) furloughs;
- (ii) reductions in force;
- (iii) benefit adjustments;
- (iv) program reductions or discontinuance;
- (v) early retirement incentives that provide cost savings to the institution of higher education; or
- (vi) other measures that provide cost savings to the institution of higher education.

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

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

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

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

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

(iii) adopt policies for:

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(A) employee sick leave use and accrual; and

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

(iv) subject to the authority of, the policy established by, and the approval of the board, and recognizing the status of the institutions within the state system of higher education as bodies politic and corporate, appoint attorneys to provide legal advice to the institution of higher education's administration and to coordinate legal affairs within the institution of higher 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

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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

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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.

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

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

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

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

(2) Beginning on July 1, 2020:

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

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

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

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

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

~~[(c) advise the commissioner of technical education and the State Board of Regents on issues related to career and technical education, including articulation with institutions of~~

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~~higher education and public education;]~~

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

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

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

~~[(i) the Legislature; and]~~

~~[(ii) the Governor's Office of Management and Budget;]~~

~~[(g) receive funding requests pertaining to capital facilities and land purchases from each technical college, ensure that the requests comply with Section 53B-2a-112, prioritize the requests, and submit the prioritized requests to the State Building Board;]~~

~~[(h) comply with Chapter 7, Part 7, Performance Funding;]~~

~~[(i) in conjunction with the commissioner of technical education, establish benchmarks, provide oversight, evaluate program performance, and obtain independent audits to ensure that a technical college follows the noncredit career and technical education mission described in this part;]~~

~~[(j) approve programs for UTech;]~~

~~[(k) approve the tuition rates for technical colleges;]~~

~~[(l) prepare and submit an annual report detailing the board of trustees' progress and recommendations on career and technical education issues to the governor and to the Legislature's Education Interim Committee by October 31 of each year, which shall include information detailing:]~~

~~[(i) how the career and technical education needs of secondary students are being met, including what access secondary students have to programs offered at technical colleges;]~~

~~[(ii) how the emphasis on high demand, high wage, and high skill jobs in business and industry described in Section 53B-2a-106 is being provided;]~~

~~[(iii) performance outcomes, including:]~~

~~[(A) performance on the metrics described in Section 53B-7-707; and]~~

~~[(B) earnings; and]~~

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~~[(iv) student tuition and fees; and]~~

~~[(m) collaborate with the State Board of Regents, the State Board of Education, the Department of Workforce Services, and the Governor's Office of Economic Development on the delivery of career and technical education.]~~

~~[(3) The board of trustees, the commissioner of technical education, or a technical college president or board of directors may not conduct a feasibility study or perform another act relating to offering a degree or awarding credit.]~~

Section 65. Section **53B-2a-105** is amended to read:

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

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

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

- (a) the Box Elder School District;
- (b) the Cache School District;
- (c) the Logan School District; and
- (d) the Rich School District;

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

- (a) the Ogden City School District; and
- (b) the Weber School District;

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

- (a) the Davis School District; and
- (b) the Morgan School District;

(4) Tooele Technical College, which serves the geographic area encompassing the Tooele County School District;

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

- (a) the Alpine School District;
- (b) the Nebo School District;
- (c) the Provo School District;
- (d) the South Summit School District;
- (e) the North Summit School District;
- (f) the Wasatch School District; and
- (g) the Park City School District;

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

- (a) the Daggett School District;
- (b) the Duchesne School District; and
- (c) the Uintah School District;

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

- (a) the Beaver School District;
- (b) the Garfield School District;
- (c) the Iron School District; and
- (d) the Kane School District; and

(8) Dixie Technical College, which serves the geographic area encompassing the Washington School District.

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

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

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

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

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

- (i) low cost to adult students, as approved by the board [~~of trustees~~]; and
- (ii) no tuition to secondary students;

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

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

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

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

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



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

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

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

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

(C) how the ~~[emphasis on]~~ technical college emphasizes high demand, high wage, high skill jobs in business and industry ~~[described in Subsection (1)(c)(ii) is being provided]~~; and

(D) student tuition and fees.

(2) A technical college may offer:

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

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

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

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

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

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

(b) offer a degree;

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

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

(e) participate in intercollegiate athletics.

(4) The mission of a technical college is limited to ~~[noncredit career and]~~ technical education and may not expand to include ~~[credit-based]~~ academic programs ~~[typically offered]~~

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~~by community colleges or other institutions of higher education] that lead to a degree.~~

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

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

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

(A) an employer; or

(B) a craft, trade, or apprenticeship program;

(ii) the technical college notifies the affected institution about the request; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) (i) Except as provided in Subsection (1)(c)(ii), a record or information gathered or generated during the search process for a technical college president, including a candidate's application and the search committee's deliberations, is confidential and is a protected record under Section 63G-2-305.

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

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

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

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

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

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

(3) A technical college president shall:

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

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

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

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

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

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

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

(1) As used in this section:

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

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

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

(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).

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(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

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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

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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 the technical college board of [~~directors'~~] trustees' jurisdiction;

(g) establish human resources and compensation policies for all employees in accordance with policies of the board [~~of trustees~~];

(h) approve credentials for employees and assign employees to duties in accordance with board [~~of trustees~~] policies and accreditation guidelines;

(i) conduct annual program evaluations;

(j) appoint program advisory committees and other advisory groups to provide counsel, support, and recommendations for updating and improving the effectiveness of training programs and services;

(k) approve regulations, both regular and emergency, to be issued and executed by the technical college president;

(l) coordinate with local school boards, school districts, and charter schools to meet the [~~career and~~] technical education needs of secondary students; [~~and~~]

(m) develop policies and procedures for the admission, classification, instruction, and examination of students in accordance with the policies and accreditation guidelines of the board [~~of trustees~~] and the State Board of Education[~~;~~]; and

(n) (i) approve a strategic plan for the technical college that is aligned with:

(A) state attainment goals;

(B) workforce needs; and

(C) the technical college's role, mission, and distinctiveness; and

(ii) monitor the technical college's progress toward achieving the strategic plan.

(2) A policy described in Subsection (1)(g) does not apply to compensation for a technical college president.

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(3) A technical college board of [~~directors~~] trustees may not exercise jurisdiction over career and technical education provided by a school district or charter school or provided by a higher education institution independently of the technical college.

(4) If a program advisory committee or other advisory group submits a printed recommendation to a technical college board of [~~directors~~] trustees, the technical college board of [~~directors~~] trustees shall acknowledge the recommendation with a printed response that explains the technical college board of [~~directors~~'] trustees' action regarding the recommendation and the reasons for the action.

Section 71. Section **53B-2a-112** is amended to read:

**53B-2a-112. Technical colleges -- Relationships with other public and higher education institutions -- Agreements -- Priorities -- New capital facilities.**

(1) As used in this section, "higher education institution" means:

(a) Utah State University for:

(i) Bridgerland Technical College;

(ii) Tooele Technical College; and

(iii) Uintah Basin Technical College;

(b) Weber State University for:

(i) Ogden-Weber Technical College; and

(ii) Davis Technical College;

(c) Utah Valley University for Mountainland Technical College;

(d) Southern Utah University for Southwest Technical College; and

(e) Dixie State University for Dixie Technical College.

~~[(2) A technical college shall avoid any unnecessary duplication of career and technical education instructional facilities, programs, administration, and staff between the technical college and other public and higher education institutions.]~~

~~[(3)]~~ (2) A technical college may enter into agreements:

(a) with other higher education institutions to cultivate cooperative relationships; or

(b) with other public and higher education institutions to enhance career and technical education within the technical college's region~~[-or]~~.

~~[(c) to comply with Subsection (2).]~~

~~[(4)]~~ (3) Before a technical college develops new instructional facilities, the technical



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college shall give priority to:

(a) maintaining the technical college's existing instructional facilities for both secondary and adult students;

(b) coordinating with the president of the technical college's higher education institution and entering into any necessary agreements to provide career and technical education to secondary and adult students that:

(i) maintain and support existing higher education career and technical education programs; and

(ii) maximize the use of existing higher education facilities; and

(c) developing cooperative agreements with school districts, charter schools, other higher education institutions, businesses, industries, and community and private agencies to maximize the availability of career and technical education instructional facilities for both secondary and adult students.

~~[(5)]~~ (4) (a) Before submitting a funding request pertaining to new capital facilities and land purchases to the board ~~[of trustees]~~, a technical college shall:

(i) ensure that all available instructional facilities are maximized in accordance with Subsections ~~[(4)]~~ (3)(a) through (c); and

(ii) coordinate the request with the president of the technical college's higher education institution, if applicable.

(b) The State Building Board shall make a finding that the requirements of this section are met before the State Building Board may consider a funding request from the board ~~[of trustees]~~ pertaining to new capital facilities and land purchases for a technical college.

(c) A technical college may not construct, approve the construction of, plan for the design or construction of, or consent to the construction of a career and technical education facility without approval of the Legislature.

~~[(6)]~~ (5) Before acquiring new fiscal and administrative support structures, a technical college shall:

(a) review the use of existing public or higher education administrative and accounting systems, financial record systems, and student and financial aid systems for the delivery of career and technical education in the region;

(b) determine the feasibility of using existing systems; and

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(c) with the approval of the technical college board of [~~directors~~] trustees and the board [~~of trustees~~], use the existing systems.

Section 72. Section **53B-2a-113** is amended to read:

### **53B-2a-113. Technical colleges -- Leasing authority -- Lease-purchase agreements -- Report.**

(1) [~~In accordance with Subsection 53B-2a-112(2), a~~] A technical college may enter into a lease with other higher education institutions, school districts, charter schools, state agencies, or business and industry for a term of:

(a) one year or less with the approval of the technical college board of [~~directors~~] trustees; or

(b) more than one year with the approval of the board [~~of trustees and~~] if:

(i) [~~the approval of~~] the Legislature approves funding for the lease [~~by the Legislature~~] prior to a technical college entering into the lease; or

(ii) the lease agreement includes language that allows termination of the lease without penalty.

(2) (a) [~~In accordance with Subsection 53B-2a-112(2), a~~] A technical college may enter into a lease-purchase agreement if:

(i) there is a long-term benefit to the state;

(ii) the project is included in [~~both~~] the technical college [~~and UTech master plans~~] master plan;

(iii) the lease-purchase agreement includes language that allows termination of the lease;

(iv) the lease-purchase agreement is approved by the technical college board of [~~directors~~] trustees and the board [~~of trustees~~]; and

(v) the lease-purchase agreement is:

(A) reviewed by the Division of Facilities Construction and Management;

(B) reviewed by the State Building Board; and

(C) approved by the Legislature.

(b) An approval under Subsection (2)(a) shall include a recognition of:

(i) all parties, dates, and elements of the agreement;

(ii) the equity or collateral component that creates the benefit; and

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(iii) the options dealing with the sale and division of equity.

(3) (a) Each technical college shall provide an annual lease report to the board [~~of trustees~~] that details each of the technical college's leases, annual costs, location, square footage, and recommendations for lease continuation.

(b) The board [~~of trustees~~] shall compile and distribute an annual combined lease report for all technical colleges to the Division of Facilities Construction and Management and to others upon request.

(4) The board [~~of trustees~~] shall use the annual combined lease report in determining planning, utilization, and budget requests.

Section 73. Section **53B-2a-114** is amended to read:

### **53B-2a-114. Educational program on the use of information technology.**

(1) [~~UTech~~] The board, through the technical colleges, shall offer an educational program on the use of information technology as provided in this section.

(2) An educational program on the use of information technology shall:

(a) provide instruction on skills and competencies essential for the workplace and requested by employers;

(b) include the following components:

(i) a curriculum;

(ii) online access to the curriculum;

(iii) instructional software for classroom and student use;

(iv) certification of skills and competencies most frequently requested by employers;

(v) professional development for faculty; and

(vi) deployment and program support, including integration with existing curriculum standards; and

(c) be made available to students, faculty, and staff of technical colleges.

Section 74. Section **53B-2a-115** is amended to read:

### **53B-2a-115. Utah System of Technical Colleges -- Institutional name changes.**

(1) Beginning July 1, 2017:

~~[(a) the Utah College of Applied Technology shall be known as the Utah System of Technical Colleges;]~~

~~[(b)]~~ (a) Bridgerland Applied Technology College shall be known as Bridgerland

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Technical College;

~~[(c)]~~ (b) Ogden-Weber Applied Technology College shall be known as Ogden-Weber Technical College;

~~[(d)]~~ (c) Davis Applied Technology College shall be known as Davis Technical College;

~~[(e)]~~ (d) Tooele Applied Technology College shall be known as Tooele Technical College;

~~[(f)]~~ (e) Mountainland Applied Technology College shall be known as Mountainland Technical College;

~~[(g)]~~ (f) Uintah Basin Applied Technology College shall be known as Uintah Basin Technical College;

~~[(h)]~~ (g) Southwest Applied Technology College shall be known as Southwest Technical College; and

~~[(i)]~~ (h) Dixie Applied Technology College shall be known as Dixie Technical College.

(2) (a) As described in Subsection (1), ~~[the Utah System of Technical Colleges is a continuation of the Utah College of Applied Technology and]~~ each technical college is a continuation of the applied technology college that preceded the technical college.

(b) An institution described in Subsection (1):

(i) possess all rights, title, privileges, powers, immunities, franchises, endowments, property, and claims of the institution that preceded the institution; and

(ii) shall fulfill and perform all obligations of the institution that preceded the institution, including obligations relating to outstanding bonds and notes.

Section 75. Section **53B-2a-116** is amended to read:

### **53B-2a-116. Technical college scholarships.**

(1) As used in this section:

(a) "High demand program" means a program designated by the board ~~[of trustees]~~ in accordance with Subsection (7).

(b) "Institution of higher education" means an institution ~~[within the Utah System of Higher Education]~~ described in Subsection 53B-1-102(1)(a).

(c) "Membership hour" means 60 minutes of scheduled instruction provided by a technical college to a student enrolled in the technical college.

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(d) "Scholarship" means a technical college scholarship described in this section.

(e) "Technical college service area" means the same as that term is defined in Section 53B-2a-108.

(2) (a) Subject to future budget constraints, the Legislature shall annually appropriate money to the board [~~of trustees~~] to be distributed to technical colleges to award scholarships.

(b) The board [~~of trustees~~] shall annually distribute:

(i) 50% of the appropriation described in Subsection (2)(a) to each technical college in an equal amount; and

(ii) 50% of the appropriation described in Subsection (2)(a) to each technical college based on the technical college's prior year share of secondary student membership hours completed at all technical colleges.

(3) In accordance with the rules described in Subsection (6), a technical college may award a scholarship to an individual who:

(a) graduates or will graduate from high school within the 12 months prior to the individual receiving a scholarship;

(b) is enrolled in, or intends to enroll in, a high demand program; and

(c) while the individual is enrolled in a secondary school, makes satisfactory progress in a career and technical education pathway offered by:

(i) a technical college;

(ii) an institution of higher education; or

(iii) a school district or charter school.

(4) Subject to Subsection (5), a technical college may award a scholarship for an amount of money up to the total cost of tuition, program fees, and required textbooks for the high demand program in which the scholarship recipient is enrolled or intends to enroll.

(5) (a) Except as provided in Subsection (5)(b), a technical college may only apply a scholarship toward a scholarship recipient's costs described in Subsection (4) from the day on which the technical college awards the scholarship until 12 months after the day on which the scholarship recipient graduates from high school.

(b) (i) A technical college may defer a scholarship for up to three years after the day on which the scholarship recipient graduates from high school.

(ii) A technical college that defers a scholarship may apply the scholarship toward the

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scholarship recipient's costs described in Subsection (4) for up to a total of 12 months.

(c) A technical college may cancel a scholarship if the scholarship recipient does not:

(i) maintain enrollment in the technical college on at least a half time basis, as determined by the technical college; or

(ii) make satisfactory progress toward the completion of a certificate.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board ~~[of trustees]~~ shall make rules that establish:

(a) requirements related to a technical college's administration of a scholarship described in this section;

(b) requirements related to eligibility for a scholarship, including requiring technical colleges to prioritize scholarships for underserved populations;

(c) a process for an individual to apply to a technical college to receive a scholarship; and

(d) how to determine satisfactory progress for purposes described in Subsections (3)(c) and (5)(c)(ii).

(7) Every other year, after consulting with the Department of Workforce Services, the board ~~[of trustees]~~ shall designate, as a high demand program, a technical college program that prepares an individual to work in a job that has, in Utah or in the technical college service area:

(a) high employer demand and high median hourly wages; or

(b) significant industry importance.

Section 76. Section **53B-2a-117** is amended to read:

**53B-2a-117. Legislative approval -- Capital development projects --**

### **Prioritization.**

(1) As used in this section:

(a) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(b) "Fund" means the Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(2) In accordance with this section, a technical college is required to receive legislative approval in an appropriations act for a dedicated project or a nondedicated project.

(3) In accordance with Section 53B-2a-112, a technical college shall submit to the

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board ~~[of trustees]~~ a proposal for a funding request for each dedicated project or nondedicated project for which the technical college seeks legislative approval.

(4) The board ~~[of trustees]~~ shall:

(a) review each proposal submitted under Subsection (3) to ensure that the proposal complies with Section 53B-2a-112;

(b) based on the results of the ~~[board of trustees']~~ board's review under Subsection (4)(a), create:

(i) a list of approved dedicated projects, prioritized in accordance with Subsection (6); and

(ii) a list of approved nondedicated projects, prioritized in accordance with Subsection (6); and

(c) submit the lists described in Subsection (4)(b) to:

(i) the governor;

(ii) the Infrastructure and General Government Appropriations Subcommittee;

(iii) the Higher Education Appropriations Subcommittee; and

(iv) the State Building Board for the State Building Board's:

(A) recommendation, for the list described in Subsection (4)(b)(i); or

(B) recommendation and prioritization, for the list described in Subsection (4)(b)(ii).

(5) A dedicated project:

(a) is subject to the State Building Board's recommendation as described in Section 63A-5-104; and

(b) is not subject to the State Building Board's prioritization as described in Section 63A-5-104.

(6) (a) Subject to Subsection (7), the board ~~[of trustees]~~ shall prioritize funding requests for capital development projects described in this section based on:

(i) growth and capacity;

(ii) effectiveness and support of critical programs;

(iii) cost effectiveness;

(iv) building deficiencies and life safety concerns; and

(v) alternative funding sources.

(b) ~~[On or before August 1, 2019, the board of trustees]~~ The board shall establish:

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(i) how the board [~~of trustees~~] will measure each factor described in Subsection (6)(a);  
and

(ii) procedures for prioritizing funding requests for capital development projects described in this section.

(7) (a) Subject to Subsection (7)(b), and in accordance with Subsection (6), the board [~~of trustees~~] may annually prioritize:

(i) up to three nondedicated projects if the ongoing appropriation to the fund is less than \$7,000,000;

(ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least \$7,000,000 but less than \$14,000,000; or

(iii) one nondedicated project if the ongoing appropriation to the fund is at least \$14,000,000.

(b) For each calendar year beginning on or after January 1, 2020, the dollar amounts described in Subsection (7)(a) shall be adjusted by an amount equal to the percentage difference between:

(i) the Consumer Price Index for the 2019 calendar year; and

(ii) the Consumer Price Index for the previous calendar year.

(8) (a) A technical college may request operations and maintenance funds for a capital development project approved under this section.

(b) The Legislature shall consider a technical college's request described in Subsection (8)(a).

Section 77. Section **53B-6-104** is amended to read:

### **53B-6-104. Multi-University Consortium for Teacher Training in Sensory Impairments -- Purposes -- Appropriation.**

(1) (a) In conjunction with the [~~State Board of Regents'~~] board's master plan for higher education, there is established a Multi-University Consortium for Teacher Training in Sensory Impairments which is an outgrowth of a consortium established by the federal government.

(b) The consortium shall include within its membership the University of Utah, Utah State University, Brigham Young University, the Utah Schools for the Deaf and the Blind, the Services for At-Risk Students section under the State Board of Education, and local school districts.



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(2) The consortium, in collaboration with the ~~[State Board of Regents]~~ board and the State Board of Education, shall develop and implement teacher preparation programs that qualify and certify instructors to work with students who are visually impaired, deaf, or hard of hearing, or both visually impaired and deaf or hard of hearing.

~~[(3)(a) There is appropriated from the General Fund for fiscal year 1994-95, \$200,000 to the State Board of Regents to fund the consortium's teacher preparation programs referred to in Subsection (2).]~~

~~[(b) The appropriation is nonlapsing.]~~

~~[(c)]~~ (3) ~~[The State Board of Regents]~~ The board shall consider including within ~~[its]~~ the board's annual budget recommendations a line item appropriation to provide ongoing funding for the programs provided pursuant to this section.

Section 78. Section **53B-6-105.5** is amended to read:

### **53B-6-105.5. Technology Initiative Advisory Board -- Composition -- Duties.**

(1) There is created a Technology Initiative Advisory Board to assist and make recommendations to the ~~[State Board of Regents in its]~~ board in the board's administration of the Engineering and Computer Science Initiative established under Section 53B-6-105.

(2) (a) The advisory board shall consist of individuals appointed by the governor from business and industry who have expertise in the areas of engineering, computer science, and related technologies.

(b) The advisory board shall select a chair and cochair.

(c) The advisory board shall meet at the call of the chair.

(d) The ~~[State Board of Regents]~~ board, through the commissioner of higher education, shall provide staff support for the advisory board.

(3) A member of ~~[an]~~ the advisory 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.

(4) The advisory board shall:

(a) make recommendations to the ~~[State Board of Regents]~~ board on the allocation and

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distribution of money appropriated to fund:

- (i) the faculty incentive program established in Section 53B-6-105.9; and
- (ii) equipment purchases required to improve the quality of instructional programs in engineering, computer science, and related technology;
- (b) prepare a strategic plan that details actions required by the [~~State Board of Regents~~] board to meet the intent of the Engineering and Technology Science Initiative;
- (c) review and assess engineering, computer science, and related technology programs currently being offered at higher education institutions and their impact on the economic prosperity of the state;
- (d) provide the [~~State Board of Regents~~] board with an assessment and reporting plan that:
  - (i) measures results against expectations under the initiative, including verification of the matching requirements for institutions of higher education to receive money under Section 53B-6-105.9; and
  - (ii) includes an analysis of market demand for technical employment, program articulation among higher education institutions in engineering, computer science, and related technology, tracking of student placement, student admission to the initiative program by region, transfer rates, and retention in and graduation rates from the initiative program; and
- (e) make an annual report of its activities to the [~~State Board of Regents~~] board.
- (5) The annual report of the Technology Initiative Advisory Board shall include the summary report of the institutional matches described in Section 53B-6-105.9.

Section 79. Section **53B-6-105.9** is amended to read:

**53B-6-105.9. Incentive program for engineering, computer science, and related technology faculty.**

- (1) The Legislature shall provide an annual appropriation to help fund the faculty incentive component of the Engineering and Computer Science Initiative established under Section 53B-6-105.
- (2) The appropriation shall be used to hire, recruit, and retain outstanding faculty in engineering, computer science, and related technology fields under guidelines established by the [~~State Board of Regents~~] board.
- (3) (a) State institutions of higher education shall match the appropriation on a

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one-to-one basis in order to qualify for state money appropriated under Subsection (1).

(b) (i) Qualifying institutions shall annually report their matching dollars to the board.

(ii) The board shall make a summary report of the institutional matches.

(iii) The annual report of the Technology Initiative Advisory Board required by Section 53B-6-105.5 shall include the summary report of the institutional matches.

(4) The board shall make ~~[a rule]~~ rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing policies and procedures to apply for and 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~~[-]~~,

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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.**

(1) As used in this section:

(a) ~~[(i)]~~ "Higher education institution" or "institution" means an institution of higher education listed in Section 53B-1-102.

~~[(ii) "Higher education institution" or "institution" does not include:]~~

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

~~[(B) a technical college.]~~

(b) "Research university" means the University of Utah or Utah State University.

(2) (a) ~~[The]~~ Subject to Subsection (3), the board shall recommend a combined appropriation for the operating budgets of higher education institutions for inclusion in a state appropriations act.

(b) The board's combined budget recommendation shall include:

(i) employee compensation;

(ii) mandatory costs, including building operations and maintenance, fuel, and power;

(iii) performance funding described in Part 7, Performance Funding;

(iv) statewide and institutional priorities, including scholarships, financial aid, and technology infrastructure; and

(v) enrollment growth.

(c) The board's recommendations shall be available for presentation to the governor and to the Legislature at least 30 days before the convening of the Legislature, and shall include schedules showing the recommended amounts for each institution, including separately funded programs or divisions.

(d) The recommended appropriations shall be determined by the board only after ~~[it]~~ the board has reviewed the proposed institutional operating budgets, and has consulted with the

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various institutions and board staff in order to make appropriate adjustments.

(3) In the combined request for appropriation, the board shall differentiate between appropriations requested for academic education and appropriations requested for technical education.

~~[(3)]~~ (4) (a) Institutional operating budgets shall be submitted to the board at least 90 days before the convening of the Legislature in accordance with procedures established by the board.

(b) Except as provided in ~~[Section]~~ Sections 53B-2a-117 and 53B-22-204, funding requests pertaining to capital facilities and land purchases shall be submitted in accordance with procedures prescribed by the State Building Board.

~~[(4)]~~ (5) (a) The budget recommendations of the board shall be accompanied by full explanations and supporting data.

(b) The appropriations recommended by the board shall be made with the dual objective of:

(i) justifying for higher education institutions appropriations consistent with their needs, and consistent with the financial ability of the state; and

(ii) determining an equitable distribution of funds among the respective institutions in accordance with the aims and objectives of the statewide master plan for higher education.

~~[(5)]~~ (6) (a) The board shall request a hearing with the governor on the recommended appropriations.

(b) After the governor delivers his budget message to the Legislature, the board shall request hearings on the recommended appropriations with the Higher Education Appropriations Subcommittee.

(c) If either the total amount of the state appropriations or its allocation among the institutions as proposed by the Legislature or the Higher Education Appropriations Subcommittee is substantially different from the recommendations of the board, the board may request further hearings with the Legislature or the Higher Education Appropriations Subcommittee to reconsider both the total amount and the allocation.

~~[(6)]~~ (7) The board may devise, establish, periodically review, and revise formulas for the board's use and for the use of the governor and the Higher Education Appropriations Subcommittee in making appropriation recommendations.

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~~[(7)]~~ (8) (a) The board shall recommend to each session of the Legislature the minimum tuitions, resident and nonresident, for each institution which it considers necessary to implement the budget recommendations.

(b) The board may fix the tuition, fees, and charges for each institution at levels the board finds necessary to meet budget requirements.

~~[(8)]~~ (9) Money allocated to each institution by legislative appropriation may be budgeted in accordance with institutional work programs approved by the board, provided that the expenditures funded by appropriations for each institution are kept within the appropriations for the applicable period.

~~[(9)]~~ (10) The dedicated credits, including revenues derived from tuitions, fees, federal grants, and proceeds from sales received by the institutions are appropriated to the respective institutions to be used in accordance with institutional work programs.

~~[(10)]~~ (11) An institution may do the institution's own purchasing, issue the institution's own payrolls, and handle the institution's own financial affairs under the general supervision of the board.

~~[(11)]~~ (12) If the Legislature appropriates money in accordance with this section, the money shall be distributed to the board and higher education institutions to fund the items described in Subsection (2)(b).

Section 82. Section **53B-7-104** is amended to read:

### **53B-7-104. Retention of net reimbursed overhead revenues.**

(1) For fiscal year 1990-91 and for each succeeding year, all budget documents for the system of higher education shall reflect retention by the institutions within the system of their net reimbursed overhead revenues for support of research and related programs under policies established by the ~~[State Board of Regents]~~ board. These overhead revenues may not be considered a dedicated credit.

(2) The board, in conjunction with institutions within the system, shall provide the Legislature, through the Office of Legislative Fiscal Analyst, with a complete accounting of the net reimbursed overhead revenues on an annual basis. This accounting shall include actual expenditures for the prior fiscal year, budgeted expenditures for the current fiscal year, and planned expenditures for the following fiscal year.

Section 83. Section **53B-7-702** is amended to read:

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### **53B-7-702. Definitions.**

As used in this part:

(1) "Account" means the Performance Funding Restricted Account created in Section 53B-7-703.

(2) "Estimated revenue growth from targeted jobs" means the estimated increase in individual income tax revenue generated by individuals employed in targeted jobs, determined by the Department of Workforce Services in accordance with Section 53B-7-704.

(3) "Full new performance funding amount" means the maximum amount of new performance funding that a ~~[higher education]~~ degree-granting institution or technical college may qualify for in a fiscal year, determined by the Legislature in accordance with Section 53B-7-705.

(4) "Full-time" means the number of credit hours the board determines is full-time enrollment for a student.

(5) "GOED" means the Governor's Office of Economic Development created in Section 63N-1-201.

~~[(6)]~~ ~~"Higher education institution" means the same as that term is defined in Section 53B-7-101.]~~

~~[(7)]~~ (6) "Job" means an occupation determined by the Department of Workforce Services.

~~[(8)]~~ (7) "Membership hour" means 60 minutes of scheduled instruction provided by a technical college to a student enrolled in the technical college.

~~[(9)]~~ (8) "New performance funding" means the difference between the total amount of money in the account and the amount of money appropriated from the account for performance funding in the current fiscal year.

~~[(10)]~~ (9) "Performance" means total performance across the metrics described in:

- (a) Section 53B-7-706 for a ~~[higher education]~~ degree-granting institution; or
- (b) Section 53B-7-707 for a technical college.

~~[(11)]~~ (10) "Research university" means the University of Utah or Utah State University.

~~[(12)]~~ (11) "Targeted job" means a job designated by the Department of Workforce Services or GOED in accordance with Section 53B-7-704.

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~~[(13)]~~ (12) "Technical college graduate" means an individual who:

- (a) has earned a certificate from an accredited program at a technical college; and
- (b) is no longer enrolled in the technical college.

~~[(14) "Utah System of Technical Colleges" means the Utah System of Technical Colleges described in Chapter 2a, Utah System of Technical Colleges.]~~

Section 84. Section **53B-7-703** is amended to read:

### **53B-7-703. Performance Funding Restricted Account -- Creation -- Deposits into account -- Legislative review.**

(1) There is created within the Education Fund a restricted account known as the "Performance Funding Restricted Account."

(2) Money in the account shall be:

(a) used for performance funding for:

- (i) ~~[higher education]~~ degree-granting institutions; and
- (ii) technical colleges; and

(b) appropriated by the Legislature in accordance with Section 53B-7-705.

(3) (a) Money in the account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) (a) Except as provided in Subsection (4)(b)(ii), the Division of Finance shall deposit into the account an amount equal to:

(i) 14% of the estimated revenue growth from targeted jobs upon appropriation by the Legislature for the fiscal year beginning on July 1, 2018; and

(ii) 20% of the estimated revenue growth from targeted jobs upon appropriation by the Legislature for a fiscal year beginning on or after July 1, 2019.

(b) (i) As used in this Subsection (4)(b), "total higher education appropriations" means, for the current fiscal year, the total state funded appropriations to:

(A) the ~~[State Board of Regents]~~ board;

(B) ~~[higher education]~~ degree-granting institutions; and

~~[(C) the Utah System of Technical Colleges; and]~~

~~[(D)]~~ (C) technical colleges.

(ii) If a deposit described in Subsection (4)(a) would exceed 10% of total higher education appropriations, upon appropriation by the Legislature, the Division of Finance shall



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deposit into the account an amount equal to 10% of total higher education appropriations.

(c) The Legislature may appropriate money to the account.

(5) During the interim following a legislative general session in which an amount described in Subsection (4)(b) is deposited into the account, the Higher Education Appropriations Subcommittee shall review performance funding described in this part and make recommendations to the Legislature about:

(a) the performance levels required for [~~higher education~~] degree-granting institutions and technical colleges to receive performance funding as described in Section 53B-7-705;

(b) the performance metrics described in Sections 53B-7-706 and 53B-7-707; and

(c) the amount of individual income tax revenue dedicated to higher education performance funding.

Section 85. Section **53B-7-705** is amended to read:

**53B-7-705. Determination of full new performance funding amount -- Role of appropriations subcommittee -- Program review.**

(1) In accordance with this section, and based on money deposited into the account, the Legislature shall, as part of the higher education appropriations budget process, annually determine the full new performance funding amount for each:

(a) [~~higher education~~] degree-granting institution; and

(b) technical college.

(2) The Legislature shall annually allocate:

(a) 90% of the money in the account to [~~higher education~~] degree-granting institutions; and

(b) 10% of the money in the account to technical colleges.

(3) (a) The Legislature shall determine a [~~higher education~~] degree-granting institution's full new performance funding amount based on the [~~higher education~~] degree-granting institution's prior year share of:

(i) full-time equivalent enrollment in all [~~higher education~~] degree-granting institutions; and

(ii) the total state-funded appropriated budget for all [~~higher education~~] degree-granting institutions.

(b) In determining a [~~higher education~~] degree-granting institution's full new

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performance funding amount, the Legislature shall give equal weight to the factors described in Subsections (3)(a)(i) and (ii).

(4) (a) The Legislature shall determine a technical college's full new performance funding amount based on the technical college's prior year share of:

- (i) membership hours for all technical colleges; and
- (ii) the total state-funded appropriated budget for all technical colleges.

(b) In determining a technical college's full new performance funding amount, the 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

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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.

(8) Notwithstanding Section 53B-7-703 and Subsections (6) and (7), the Legislature may, by majority vote, appropriate or refrain from appropriating money for performance funding as circumstances require in a particular year.

(9) On or before November 1, 2020, the Education Interim Committee, the Higher Education Appropriations Subcommittee, and the governor shall review the implementation of performance funding described in this part.

Section 86. Section **53B-7-706** is amended to read:

### **53B-7-706. Performance metrics for degree-granting institutions --**

#### **Determination of performance.**

(1) (a) The board shall establish a model for determining a [~~higher education~~] degree-granting institution's performance.

(b) The board shall submit a draft of the model described in this section to the Higher Education Appropriations Subcommittee and the governor for comments and recommendations.

(2) (a) The model described in Subsection (1) shall include metrics, including:

(i) completion, measured by degrees and certificates awarded;

(ii) completion by underserved students, measured by degrees and certificates awarded to underserved students;

(iii) responsiveness to workforce needs, measured by degrees and certificates awarded in high market demand fields;

(iv) institutional efficiency, measured by degrees and certificates awarded per full-time equivalent student; and

(v) for a research university, research, measured by total research expenditures.

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(b) Subject to Subsection (2)(c), the board shall determine the relative weights of the metrics described in Subsection (2)(a).

(c) The board shall assign the responsiveness to workforce needs metric described in Subsection (2)(a)(iii) a weight of at least 25% when determining ~~[an institution of higher education's]~~ a degree-granting institution's performance.

(3) For each ~~[higher education]~~ degree-granting institution, the board shall annually determine the ~~[higher education]~~ degree-granting institution's:

(a) performance; and

(b) change in performance compared to the ~~[higher education]~~ degree-granting institution's average performance over the previous five years.

(4) The board shall use the model described in this section to make the report described in Section 53B-7-705 for determining a ~~[higher education]~~ degree-granting institution's performance funding for a fiscal year beginning on or after July 1, 2018.

Section 87. Section **53B-7-707** is amended to read:

**53B-7-707. Performance metrics for technical colleges -- Determination of performance.**

(1) (a) The ~~[Utah System of Technical Colleges Board of Trustees]~~ board shall establish a model for determining a technical college's performance.

(b) The ~~[Utah System of Technical Colleges Board of Trustees]~~ board shall submit a draft of the model described in this section to the Higher Education Appropriations Subcommittee and the governor for comments and recommendations.

(2) (a) The model described in Subsection (1) shall include metrics, including:

(i) completions, measured by certificates awarded;

(ii) short-term occupational training, measured by completions of:

(A) short-term occupational training that takes less than 60 hours to complete; and

(B) short-term occupational training that takes at least 60 hours to complete;

(iii) secondary completions, measured by:

(A) completions of competencies sufficient to be recommended for high school credits;

(B) certificates awarded to secondary students; and

(C) retention of certificate-seeking high school graduates as certificate-seeking postsecondary students;

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(iv) placements, measured by:

(A) total placements in related employment, military service, or continuing education;

(B) placements for underserved students; and

(C) placements from high impact programs; and

(v) institutional efficiency, measured by the number of technical college graduates per 900 membership hours.

(b) The [~~Utah System of Technical Colleges Board of Trustees~~] board shall determine the relative weights of the metrics described in Subsection (2)(a).

(3) (a) For each technical college, the [~~Utah System of Technical Colleges Board of Trustees~~] board shall annually determine the technical college's:

(i) performance; and

(ii) except as provided in Subsection (3)(b), change in performance compared to the technical college's average performance over the previous five years.

(b) For performance during a fiscal year before fiscal year 2020, if comparable performance data is not available for the previous five years, the [~~Utah System of Technical Colleges Board of Trustees~~] board may determine a technical college's change in performance using the average performance over the previous three or four years.

Section 88. Section **53B-8-101** is amended to read:

### **53B-8-101. Waiver of tuition.**

(1) (a) The president of an institution of higher education described in Section 53B-2-101 may waive all or part of the tuition on behalf of meritorious or impecunious resident students to an amount not exceeding 10% of the total amount of tuition which, in the absence of the waivers, would have been collected from all Utah resident students at the institution of higher education.

(b) (i) Two and a half percent of the waivers designated in Subsection (1)(a) shall be set aside for members of the Utah National Guard.

(ii) A waiver described in Subsection (1)(b)(i) shall be preserved by the student at least 60 days before the beginning of an academic term.

(2) (a) A president of an institution of higher education listed in Subsections 53B-2-101(1)(a) through (h) may waive all or part of the nonresident portion of tuition for a meritorious nonresident undergraduate student.

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(b) In determining which students are meritorious for purposes of granting a tuition waiver under Subsection (2)(a), a president shall consider students who are performing above the average at the institution of higher education, including having an admissions index higher than the average for the institution, if an admissions index is used.

(c) A president of an institution of higher education may continue to waive the nonresident portion of tuition for a student described in Subsection (2)(a) for as long as the student is enrolled at the institution of higher education.

(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 ~~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

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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 funds sufficient in amount to equal the estimated loss of dedicated credits that would be realized if all of the tuition waivers authorized by Subsection (2) were granted.

Section 89. Section **53B-8-103** is amended to read:

**53B-8-103. Waiver of nonresident differential in tuition rates -- Dixie State University good neighbor tuition waivers.**

(1) Notwithstanding any other provision of law:

(a) (i) The board may determine when to grant a full or partial waiver of the nonresident differential in tuition rates charged to undergraduate students pursuant to reciprocal agreements with other states.

(ii) In making the determination described under Subsection (1)(a)(i), the board shall consider the potential of the waiver to:

(A) enhance educational opportunities for Utah residents;

(B) promote mutually beneficial cooperation and development of Utah communities and nearby communities in neighboring states;

(C) contribute to the quality of educational programs; and

(D) assist in maintaining the cost effectiveness of auxiliary operations in Utah institutions of higher education.

(b) (i) Consistent with its determinations made pursuant to Subsection (1)(a), the board may enter into agreements with other states to provide for a full or partial reciprocal waiver of the nonresident tuition differential charged to undergraduate students.

(ii) An agreement shall provide for the numbers and identifying criteria of undergraduate students, and shall specify the institutions of higher education that will be affected by the agreement.

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(c) The board shall establish policy guidelines for the administration by the affected Utah institutions of any tuition waivers authorized under this section, for evaluating applicants for such waivers, and for reporting the results of the reciprocal waiver programs authorized by this section.

(d) A report and financial analysis of any waivers of tuition authorized under this section shall be submitted annually to the general session of the Legislature as part of the budget recommendations of the board for the system of higher education.

(2) (a) Dixie State University may offer a good neighbor full waiver of the nonresident differential in tuition rates charged to undergraduate students:

(i) pursuant to reciprocal agreements with other states; or

(ii) to a resident of a county that has a portion of the county located within 70 miles of the main campus of Dixie State University.

(b) (i) A student who attends Dixie State University under a good neighbor tuition waiver shall pay a surcharge per credit hour in addition to the regular resident tuition and fees of Dixie State University.

(ii) The surcharge per credit hour shall be based on a percentage of the approved resident tuition per credit hour each academic year.

(iii) The percentage assessed as a surcharge per credit hour shall be set by the [~~State Board of Regents~~] board.

(c) Dixie State University may restrict the number of good neighbor tuition waivers awarded.

(d) A student who attends Dixie State University on a good neighbor tuition waiver may not count the time during which the waiver is received towards establishing resident student status in Utah.

Section 90. Section **53B-8-104** is amended to read:

### **53B-8-104. Nonresident partial tuition scholarships.**

(1) The board may grant a scholarship for partial waiver of the nonresident portion of total tuition charged by public institutions of higher education to nonresident undergraduate students, subject to the limitations provided in this section, if the board determines that the scholarship will:

(a) promote mutually beneficial cooperation between Utah communities and nearby



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communities in states adjacent to Utah;

(b) contribute to the quality and desirable cultural diversity of educational programs in Utah institutions;

(c) assist in maintaining an adequate level of service and related cost-effectiveness of auxiliary operations in Utah institutions of higher education; and

(d) promote enrollment of nonresident students with high academic aptitudes.

(2) The board shall establish policy guidelines for the administration by institutions of higher education of any partial tuition scholarships authorized under this section, for evaluating applicants for those scholarships, and for reporting the results of the scholarship program authorized by this section.

(3) The policy guidelines promulgated by the board under Subsection (2) shall include the following provisions:

(a) the amount of the approved scholarship may not be more than 1/2 of the differential tuition charged to nonresident students for an equal number of credit hours of instruction;

(b) a nonresident partial tuition scholarship may be awarded initially only to a nonresident undergraduate student who has not previously been enrolled in a college or university in Utah and who has enrolled full time for 10 or more credit hours, whose legal domicile is within approximately 100 highway miles of the Utah system of higher education institution at which the recipient wishes to enroll or such distance that the ~~[regents]~~ board may establish for any institution;

(c) the total number of nonresident partial tuition scholarships granted may not exceed a total of 600 such scholarships in effect at any one time; and

(d) the board shall determine eligibility for nonresident partial tuition scholarships on the basis of program availability at an institution and on a competitive basis, using quantifiable measurements such as grade point averages and results of test scores.

(4) The board shall submit an annual report and financial analysis of the effects of offering nonresident partial tuition scholarships authorized under this section to the Higher Education Appropriations Subcommittee as part of the board's budget recommendations for the system of higher education.

Section 91. Section **53B-8-106** is amended to read:

**53B-8-106. Resident tuition -- Requirements -- Rules.**

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(1) If allowed under federal law, a student, other than a nonimmigrant alien within the meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United States Code, shall be exempt from paying the nonresident portion of total tuition if the student:

- (a) attended high school in this state for three or more years;
- (b) graduated from a high school in this state or received the equivalent of a high school diploma in this state; and
- (c) registers as an entering student at an institution of higher education not earlier than 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

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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 determined under Section 53B-8-102;

(c) the dependent may not have already completed a course of studies leading to an undergraduate degree;

(d) the dependent may only utilize the waiver for courses that are applicable toward the degree or certificate requirements of the program in which the dependent is enrolled; and

(e) the dependent may not be excluded from the waiver if the dependent has previously taken courses at or has been awarded credit by a state institution of higher education.

(4) Notwithstanding Subsection (3)(b), a dependent of a qualifying deceased military member that was a member of the Utah National Guard is not required to be a resident student as determined under Section 53B-8-102.

(5) The tuition waiver in this section is applicable for undergraduate study only.

(6) The Department of Veterans and Military Affairs, after consultation with the adjutant general if necessary, shall certify to the institution that the dependent is a surviving dependent eligible for the tuition waiver in accordance with this section.

(7) The waiver in this section does not apply to fees, books, or housing expenses.

(8) The [~~State Board of Regents~~] board may request reimbursement from the Legislature for costs incurred in providing the tuition waiver under this section.

Section 93. Section **53B-8-201** is amended to read:

### **53B-8-201. Regents' Scholarship Program.**

(1) As used in this section:

(a) "Eligible institution" means an institution of higher education within the state system of higher education described in Section 53B-1-102.

(b) "Eligible student" means a student who:

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- (i) applies to the board in accordance with the rules described in Subsection (6);
- (ii) is enrolled in an eligible institution; and
- (iii) meets the criteria established by the board in rules described in Subsection (6).

(c) "Fee" means:

(i) for an eligible institution that is [~~part of the Utah System of Higher Education~~] a degree-granting institution, a fee approved by the board; or

(ii) for an eligible institution that is a technical college, a fee approved by the eligible institution.

(d) "Program" means the Regents' Scholarship Program described in this section.

(2) (a) A student who graduates from high school after July 1, 2018:

- (i) may receive a Regents' scholarship in accordance with this section; and
- (ii) may not receive a scholarship in accordance with Sections 53B-8-202 through

53B-8-205.

(b) A student who graduates from high school on or before July 1, 2018:

(i) may receive a scholarship in accordance with Sections 53B-8-202 through 53B-8-205; and

(ii) may not receive a Regents' scholarship in accordance with this section.

(3) (a) Subject to legislative appropriations, beginning with an appropriation for fiscal year 2019, the board shall annually distribute money for the Regents' Scholarship Program described in this section to each eligible institution to award as Regents' scholarships to eligible students.

(b) The board shall annually determine the amount of a Regents' scholarship based on:

- (i) the number of eligible students in the state; and
- (ii) money available for the program.

(c) The board shall annually determine the total amount of money to distribute to an eligible institution based on the eligible institution's share of all eligible students in the state.

(4) (a) Except as provided in Subsection (4)(b) or (c), an eligible institution shall provide to an eligible student a Regents' scholarship in the amount determined by the board described in Subsection (3)(b).

(b) For a Regents' scholarship for which an eligible student applies on or before July 1, 2019, an eligible institution may reduce the amount of the Regents' scholarship based on other

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state aid awarded to the eligible student for tuition and fees.

(c) For a Regents' scholarship for which an eligible student applies after July 1, 2019:

(i) an eligible institution shall reduce the amount of the Regents' scholarship so that the total amount of state aid awarded to the eligible student, including tuition or fee waivers and the Regents' scholarship, does not exceed the cost of the eligible student's tuition and fees; and

(ii) the eligible student may only use the Regents' scholarship for tuition and fees.

(5) The board may:

(a) audit an eligible institution's administration of Regents' scholarships; and

(b) require an eligible institution to repay to the board money distributed to the eligible institution under this section that is not provided to an eligible student as a Regents' scholarship.

(6) ~~[(a)]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that establish:

~~[(i)]~~ (a) requirements related to an eligible institution's administration of Regents' scholarships;

~~[(ii)]~~ (b) a process for a student to apply to the board to determine the student's eligibility for a Regents' scholarship;

~~[(iii)]~~ (c) criteria to determine a student's eligibility for a Regents' scholarship, including:

~~[(A)]~~ (i) minimum secondary education academic performance standards;

~~[(B)]~~ (ii) the completion of secondary core curriculum and graduation requirements;

~~[(C)]~~ (iii) the completion of a Free Application for Federal Student Aid;

~~[(D)]~~ (iv) need-based measures that address college affordability and access; and

~~[(E)]~~ (v) minimum enrollment requirements in an eligible institution; and

~~[(iv)]~~ (d) a requirement for each eligible institution to annually report to the board on all Regents' scholarships awarded by the eligible institution.

~~[(b) In making rules described in Subsection (6)(a) that apply to a technical college, the board shall consult with the Utah System of Technical Colleges Board of Trustees.]~~

(7) The board shall annually report on the program to the Higher Education Appropriations Subcommittee.

(8) (a) The State Board of Education, a school district, or a public high school shall

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cooperate with the board and eligible institutions to facilitate the program, including by exchanging relevant data where allowed by law.

(b) The State Board of Education shall annually provide to the board a list of directory information, including name and address, for each grade 8 student in the state.

(9) Notwithstanding the provisions in this section, a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities is an eligible institution for purposes of providing a Regents' scholarship to an 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

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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

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(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;
- (b) the recipient uses a promise scholarship to attend an institution for four semesters;
- (c) the recipient completes the requirements for an associate degree; or
- (d) if the recipient attends an institution that does not offer associate degrees, the recipient has 60 earned credit hours.

(6) A recipient may only use a promise scholarship for tuition and fees.

(7) A promise scholarship is transferable between institutions.

(8) ~~[(a)]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, ~~[and Subsection (8)(b);]~~ the board shall make rules to establish:

~~[(i)]~~ (a) requirements related to whether an individual is eligible for a promise scholarship, including:

~~[(A)]~~ (i) a process for an eligible individual to defer a promise scholarship;

~~[(B)]~~ (ii) how an individual demonstrates financial need for purposes of receiving a promise scholarship; and

~~[(C)]~~ (iii) how to determine whether an individual is a Utah resident;

~~[(ii)]~~ (b) a process and requirements for an individual to apply for a promise scholarship;

~~[(iii)]~~ (c) a formula to determine the distributions to each institution described in Subsection (3) that takes into account:

~~[(A)]~~ (i) the cost of tuition and fees for programs offered by institutions; and

~~[(B)]~~ (ii) the number of eligible individuals who attend each institution;

~~[(iv)]~~ (d) how an institution may prioritize awarding scholarships based on the financial needs of eligible individuals;

~~[(v)]~~ (e) conditions a recipient is required to meet to continue to receive a promise



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scholarship, including requirements related to academic achievement and enrollment status;  
and

~~[(v)]~~ (f) a requirement that in communicating about promise scholarships to recipients and potential recipients, the board and institutions do not portray the Access Utah Promise Scholarship Program as a program that is guaranteed to be in effect indefinitely.

~~[(b) In making the rules described in Subsection (8)(a), the board shall consult with the Utah System of Technical Colleges Board of Trustees.]~~

(9) On or before November 1 each year, the board shall report to the Higher Education Appropriations Subcommittee regarding promise scholarships, including:

(a) the number of scholarships awarded; and

(b) whether the promise scholarship program is effective in helping underserved students access higher education.

Section 96. Section **53B-8a-102.5** is amended to read:

### **53B-8a-102.5. Definitions for part.**

As used in this part:

(1) "Administrative fund" means the money used to administer the Utah Educational Savings Plan.

(2) "Board" means the board of directors of the Utah Educational Savings Plan, which is the ~~[State Board of Regents]~~ Utah Board of Higher Education acting in the ~~[State Board of Regents']~~ Utah Board of Higher Education's capacity as the Utah Higher Education Assistance Authority under Title 53B, Chapter 12, Higher Education Assistance Authority.

(3) "Endowment fund" means the endowment fund established under Section 53B-8a-107, which is held as a separate fund within the Utah Educational Savings Plan.

(4) "Executive director" means the administrator appointed to administer and manage the Utah Educational Savings Plan.

(5) "Federally insured depository institution" means an institution whose deposits and accounts are to any extent insured by a federal deposit insurance agency, including the Federal Deposit Insurance Corporation and the National Credit Union Administration.

(6) "Grantor trust" means a trust, the income of which is for the benefit of the grantor under Section 677, Internal Revenue Code.

(7) "Higher education costs" means qualified higher education expenses as defined in

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Section 529(e)(3), Internal Revenue Code.

(8) "Owner of the grantor trust" means one or more individuals who are treated as an owner of a trust under Section 677, Internal Revenue Code, if that trust is a grantor trust.

(9) "Program fund" means the program fund created under Section 53B-8a-107, which is held as a separate fund within the Utah Educational Savings Plan.

(10) "Qualified investment" means an amount invested in accordance with an account agreement established under this part.

(11) "Tuition and fees" means the quarterly or semester charges imposed to attend an institution of higher education and required as a condition of enrollment.

Section 97. Section **53B-8a-204** is amended to read:

### **53B-8a-204. Distribution of program money -- Application process --**

#### **Prioritization -- Account agreements.**

(1) The plan shall distribute money in the program by creating a 529 savings account for an eligible individual identified by a community partner.

(2) (a) (i) The plan shall carry out the responsibility described in Subsection (1) by establishing a process in which a community partner may apply for an allocation of program money to designate for eligible individuals.

(ii) The [~~State Board of Regents~~] Utah Board of Higher Education shall establish the application process for a community partner to apply for an allocation of program money.

(iii) The application process described in Subsection (2)(a)(ii) shall include:

(A) the criteria for a community partner to apply for an allocation of program money;

(B) the criteria that the plan will use to prioritize applications if the dollar amounts requested in the applications exceed the dollar amount available;

(C) the requirements for establishing a 529 savings account in the name of an eligible individual; and

(D) the roles and responsibilities of a community partner that makes a successful application for an allocation of program money.

(b) (i) A community partner that receives an allocation of program money shall enter into a contract with the plan.

(ii) The contract described in Subsection (2)(b)(i) shall:

(A) define the roles and responsibilities of the community partner and the plan with

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regard to the community partner's allocation of program money; and

(B) specify that the individual the community partner identifies to receive a portion of the community partner's allocation is an eligible individual.

(3) If the plan approves a community partner's application for an allocation of program money, the plan may not promise or otherwise encumber the allocation to any other person unless the allocation is forfeited under Subsection (5)(b)(ii).

(4) (a) A community partner shall identify each eligible individual who will receive a 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

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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;

(b) is a resident student of the state as determined under Section 53B-8-102; and

(c) submits verification as provided in Subsection (3) that the student is a Purple Heart recipient.

(2) (a) Beginning in the 2008-09 academic year, a state institution of higher education shall waive graduate tuition as provided in this Subsection (2) for each Purple Heart recipient who:

(i) is admitted as a full-time, part-time, or summer school student in a graduate program of study leading to a degree;

(ii) is a resident student of the state as determined under Section 53B-8-102; and

(iii) submits verification as provided in Subsection (3) that the student is a Purple Heart recipient.

(b) To qualify for a graduate tuition waiver, a Purple Heart recipient shall apply for a graduate program no later than 10 years from the day on which the Purple Heart recipient completes an undergraduate degree.

(c) The total amount of all graduate tuition waived for a Purple Heart recipient may not exceed \$10,000.

(d) A Purple Heart recipient may receive a graduate tuition waiver for a period of time that does not exceed the lesser of:

(i) the time it takes for the Purple Heart recipient to complete a graduate degree; or

(ii) five years after the day on which the Purple Heart recipient is accepted to a graduate program.

(3) A Purple Heart recipient seeking a tuition waiver shall request the Department of Veterans and Military Affairs to provide the verification required by Subsection (1)(c). The

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Department of Veterans and Military Affairs shall provide the verification upon obtaining evidence satisfactory to the division that the student is a Purple Heart recipient.

(4) The [~~State Board of Regents~~] board may request reimbursement from the Legislature for costs incurred in providing the tuition waiver under this section.

Section 99. Section **53B-10-201** is amended to read:

### **53B-10-201. Definitions.**

As used in this part:

(1) "Full-time" means the number of credit hours the board determines is full-time enrollment for a student.

(2) "GOED" means the Governor's Office of Economic Development created in Section 63N-1-201.

(3) "Incentive loan" means a loan described in Section 53B-10-202.

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

(5) "Program" means the Talent Development Incentive Loan Program created in Section 53B-10-202.

(6) "Qualifying degree" means an associate's or a bachelor's degree that qualifies an individual to work in a qualifying job, as determined by GOED under Section 53B-10-203.

(7) "Qualifying job" means a job:

(a) described in Section 53B-10-203 for which an individual may receive an incentive loan for the current two-year period; or

(b) (i) that was selected in accordance with Section 53B-10-203 at the time a recipient received an incentive loan; and

(ii) (A) for which the recipient is pursuing a qualifying degree;

(B) for which the recipient completed a qualifying degree; or

(C) in which the recipient is working.

(8) "Recipient" means an individual who receives an incentive loan.

Section 100. Section **53B-11-104** is amended to read:

**53B-11-104. Eligibility for student financial aid -- Filing of selective service status.**

(1) A male born after December 31, 1959, may not receive any state-supported loan,

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grant, or scholarship for attendance at a postsecondary institution within the state unless he has filed a statement of selective service status with the institution.

(2) The statement shall certify one of the following:

(a) that the male has registered with the selective service system in accordance with the Military Selective Service Act, 50 U.S.C. Sec. 3802, as amended;

(b) that the male is not required to register with the selective service system because he is:

(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

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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:

(i) would conflict with fiduciary obligations; or

(ii) is prohibited by insider trading provisions; or

(b) of a commercial nature, including information related to:

(i) account owners or borrowers;

(ii) demographic data;

(iii) contracts and related payments;

(iv) negotiations;

(v) proposals or bids;

(vi) investments;

(vii) the investment and management of funds;

(viii) fees and charges;

(ix) plan and program design;

(x) investment options and underlying investments offered to account owners;

(xi) marketing and outreach efforts;

(xii) lending criteria;

(xiii) the structure and terms of bonding;

(xiv) financial plans; or

(xv) reviews and audits, except the final report of the annual audit of financial statements required under Section 53B-8a-111.

(2) The duties, responsibilities, funds, liabilities, and expenses of the board as the Utah Higher Education Assistance Authority shall be maintained separate and apart from its other duties, responsibilities, funds, liabilities, and expenses.

(3) (a) In order to carry out the obligation of separation of functions required under

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Subsection (2), the board may appoint a board of directors of the authority, and designate its chairman to govern and manage the authority.

(b) The board of directors consists of not less than five persons, not more than two-thirds of whom may be members of the ~~[State Board of Regents]~~ board.

(c) The board of directors reports to and serves at the pleasure of the ~~[State Board of Regents]~~ board, and has all of the powers, duties, and responsibilities of the Utah Higher Education Assistance Authority except for those expressly retained by the ~~[State Board of 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



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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:

- (A) Salt Lake Community College; and
- (B) Snow College~~[-]; and~~

(iv) technical colleges and degree-granting institutions that provide technical education, and include:

- (A) each technical college;
- (B) Salt Lake Community College's School of Applied Technology's technical

education role described in Section 53B-16-209;

(C) each Utah State University regional institution's technical education role described in Section 53B-16-207; and

- (D) Snow College's technical education role described in Section 53B-16-205.

(2) (a) Except for the University of Utah, and subject to Subsection (2)(b), each institution of higher education described in ~~[Subsection]~~ Subsections (1)(b)(i) through (iii) has career and technical education included in the institution of higher education's primary role.

(b) The board shall determine the extent to which an institution described in Subsection (2)(a) provides career and technical education within the institution's primary role.

(3) The board ~~[may]~~ shall further clarify each institution of higher education's primary role~~[-]~~ by clarifying:

- (a) the level of program that the institution of higher education generally offers;
- (b) broad fields that are within the institution of higher education's mission; and
- (c) any special characteristics of the institution of higher education, such as being a

land grant university.

(4) On or before November 1, 2020, the board shall report to the Higher Education Strategic Planning Commission on the board's activities related to defining and clarifying each

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institution's role.

Section 103. Section **53B-16-102** is amended to read:

**53B-16-102. Changes in curriculum -- Substantial alterations in institutional operations -- Program approval -- Periodic review of programs -- Career and technical education curriculum changes.**

(1) As used in this section:

(a) "Institution of higher education" means an institution described in ~~[Subsection 53B-1-102(1)(a)]~~ Section 53B-1-102.

(b) "Program of instruction" means a program of curriculum that leads to the completion of a degree, diploma, certificate, or other credential.

(2) Under procedures and policies approved by the board and developed in consultation with each institution of higher education, each institution of higher education may make such changes in the institution of higher education's curriculum as necessary to better effectuate the institution of higher education's primary role.

~~[(3) An institution of higher education shall notify the board of a proposed new program of instruction.]~~

(3) The board shall establish criteria for whether an institution of higher education may approve a new program of instruction, including criteria related to whether:

(a) the program of instruction meets identified workforce needs;

(b) the institution of higher education is maximizing collaboration with other institutions of higher education to provide for efficiency in offering the program of instruction;

(c) the new program of instruction is within the institution of higher education's mission and role; and

(d) the new program of instruction meets other criteria determined by the board.

(4) (a) ~~[Without]~~ Except as provided in Subsection (4)(b), without the approval of the board, an institution of higher education may not:

(i) establish a branch, extension center, college, or professional school; or

(ii) establish a new program of instruction ~~[that is outside of the institution of higher education's primary role described in Section 53B-16-101].~~

(b) An institution of higher education may, with the approval of the institution of higher education's board of trustees, establish a new program of instruction that ~~[is within the~~

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~~institution of higher education's primary role described in Section 53B-16-101]~~ meets the criteria described in Subsection (3).

(5) (a) An institution of higher education shall notify the board of a proposed new program of instruction, including how the proposed new program of instruction meets the criteria described in Subsection (3).

(b) The board shall establish procedures and guidelines for institutional boards of trustees to consider an institutional proposal for a new program of instruction described in 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.

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(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.

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~~[(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;

(d) communicate ways in which a student may earn credit for prior learning; and

(e) allow a student to proceed toward the student's educational objectives as rapidly as the student's circumstances permit.

(3) The board shall develop, coordinate, and maintain a transfer and articulation system ~~[within the Utah System of Higher Education]~~ that:

(a) maintains a course numbering system that assigns common numbers to specified courses of similar level with similar curricular content, rigor, and standards;

(b) allows a student to track courses that transfer among institutions of higher education to meet requirements for general education and lower division courses that transfer to baccalaureate majors;

(c) allows a student to transfer courses from a provider with which the board has an articulation agreement to any institution of higher education;

(d) allows a student to transfer competency-based general education courses from a regionally accredited institution to an institution of higher education;

(e) improves program planning;

(f) increases communication and coordination between institutions of higher education;

(g) facilitates student acceleration and the transfer of students and credits between institutions of higher education; and

(h) if the system includes a software or data tool:

(i) provides predictive analysis that models probabilities of student success; and

(ii) develops tailored strategies to best support students.

(4) (a) The board shall identify general education courses in the humanities, social sciences, arts, physical sciences, and life sciences with uniform prefixes and common course

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numbers.

(b) ~~[An institution of higher education]~~ A degree-granting institution shall annually identify institution courses that satisfy requirements of courses described in Subsection (4)(a).

(c) ~~[An institution of higher education]~~ A degree-granting institution shall accept a course described in Subsection (3)(c), (3)(d), or (4)(a) toward filling specific area requirements for general education or lower division courses that transfer to baccalaureate majors.

(5) (a) The board shall identify common prerequisite courses and course substitutions 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

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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.

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(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).]~~

(2) [~~On or before November 1, 2019, the~~] The board shall develop a [systemwide] plan for advising and communicating with students and the public about credit for prior learning [~~in the Utah System of Higher Education~~].

(3) (a) [~~On or before November 1, 2019, the~~] The board shall establish policies that provide minimum standards for all institutions regarding:

- (i) accepted forms of prior learning assessments;
- (ii) awarding credit for prior learning;
- (iii) transferability of credit for prior learning between institutions;
- (iv) transcription of credit for prior learning;
- (v) institutional procedures for maintaining transparency and consistency in awarding credit for prior learning;
- (vi) communication to faculty, advisors, current students, and prospective students regarding standards and cost related to credit for prior learning and prior learning assessments;
- (vii) required training of faculty and advisors on prior learning assessment standards and processes; and
- (viii) portfolio-specific prior learning assessments.

(b) The board shall ensure that accepted forms of prior learning assessments described in Subsection (3)(a) include at least the following:

- (i) program evaluations, completed by an institution, of noncollegiate programs or training courses to recognize proficiencies;
- (ii) nationally recognized, standardized examinations, including:
  - (A) Advanced Placement examinations;
  - (B) College Level Exam Program general examinations;



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(C) College Level Exam Program subject examinations; and

(D) DANTES Subject Standardized Tests;

(iii) customized examinations offered by an institution to verify an individual's learning achievement that may include course final examinations or other examinations that assess general disciplinary knowledge or skill;

(iv) evaluations of corporate or military training; and

(v) assessments of individuals' portfolios.

(4) (a) The board shall establish minimum scores and maximum credit for each standardized examination described in Subsection (3)(b)(ii).

(b) An institution shall award credit to a student who demonstrates competency by passing a standardized examination described in Subsection (3)(b)(ii) unless the award of credit duplicates credit already awarded.

(5) The board shall:

(a) create and maintain a website that provides [~~systemwide and institutional~~] statewide information on prior learning assessments and credit for prior learning; and

(b) identify a software or data tool that will support the board in:

(i) implementing the plan described in Subsection (2); and

(ii) fulfilling the board's requirements described in Section 53B-16-105.

(6) On or before the November 2019 interim meeting, the board shall report to the Education Interim Committee on:

(a) the plan described in Subsection (2);

(b) the policies described in Subsection (3); and

(c) the software or data tool described in Subsection (5).

(7) On or before May 1, 2020, an institution shall report to the board:

(a) steps the institution will take to:

(i) implement the plan described in Subsection (2) and the policies described in Subsection (3); and

(ii) communicate to students about credit for prior learning, including about the policies described in Subsection (3);

(b) a timeline for the steps described in Subsection (7)(a); and

(c) each form of prior learning assessment for which the institution provides credit for

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prior learning that is not described in Subsection (3)(b).

(8) An institution shall annually report to the board on:

(a) each form of prior learning assessment for which the institution provides credit for prior learning; and

(b) the total amount of credit for prior learning the institution provides to students.

Section 107. Section **53B-16-202** is amended to read:

### **53B-16-202. Curricula at the community colleges.**

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

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(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;
- (v) the South Sanpete School District;
- (vi) the Wayne School District;
- (vii) the Piute School District; and
- (viii) the Sevier School District.

(4) Snow College may not exercise any jurisdiction over career and technical education provided by a school district or charter school independently of Snow College.

(5) Snow College shall report to the [~~State Board of Regents~~] board annually on:

(a) the status of and maintenance of the effort for career and technical education in the region served by Snow College, including access to open-entry, open-exit competency-based career and technical education programs; and

(b) student tuition and fees.

(6) Legislative appropriations to Snow College's career and technical education shall be made as line items that are separate from other appropriations for Snow College.

Section 109. Section **53B-16-205.5** is amended to read:

### **53B-16-205.5. Snow College Concurrent Education Program.**

(1) As used in this section:

(a) "Interactive video conferencing" means two-way, real-time transmission of audio and video signals between devices or computers at two or more locations.

(b) "Program" means the Snow College Concurrent Education Program.

(2) Consistent with policies established by the [~~State Board of Regents~~] board, Snow College shall establish and administer, subject to legislative appropriations, the Snow College Concurrent Education Program to provide:

(a) a consistent two-year schedule of concurrent enrollment courses delivered through

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interactive video conferencing to secondary school students;

(b) a pathway for a secondary school student to earn college credits that:

(i) apply toward earning an Associate of Science or Associate of Arts degree; or

(ii) satisfy scholarship requirements or other objectives that best meet the needs of an individual student; and

(c) advisory support to secondary school students who participate in the program and the secondary school students' school counselors to ensure that students' concurrent enrollment courses align with the students' academic and career goals.

Section 110. Section **53B-16-209** is amended to read:

### **53B-16-209. Salt Lake Community College -- School of Applied Technology -- Career and technical education -- Supervision and administration -- Institutional mission.**

(1) (a) There is hereby established a School of Applied Technology at Salt Lake Community College.

(b) Beginning on July 1, 2009, the Salt Lake Skills Center and the Salt Lake County portion of the Salt Lake/Tooele Applied Technology College shall be established as Salt Lake Community College's School of Applied Technology.

(2) Salt Lake Community College's School of Applied Technology is a continuation of the Salt Lake Skills Center and the Salt Lake County portion of the Salt Lake/Tooele Applied Technology College and shall:

(a) possess all rights, title, privileges, powers, immunities, franchises, endowments, property, and claims of the Salt Lake Skills Center and the Salt Lake County portion of the Salt Lake/Tooele Applied Technology College; and

(b) fulfill and perform all obligations of the Salt Lake Skills Center and the Salt Lake County portion of the Salt Lake/Tooele Applied Technology College.

(3) Salt Lake Community College shall administer the School of Applied Technology.

(4) Salt Lake Community College's School of Applied Technology shall:

(a) provide non-credit career and technical education for both secondary and adult students, with an emphasis primarily on open-entry, open-exit programs;

(b) ensure that economically disadvantaged, educationally disadvantaged, or other at-risk students have access to non-credit career and technical education;

(c) maintain a strong curriculum in non-credit career and technical education courses

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which can be articulated with credit career and technical education courses within the institution and within the state system of higher education;

(d) offer noncredit, basic instruction in areas such as reading, language arts, and mathematics that are necessary for student success in a chosen career and technical education or job-related program;

(e) offer the curriculum at:

(i) low cost to adult students, consistent with legislative appropriations to the School of Applied Technology; and

(ii) no tuition cost to secondary students;

(f) provide noncredit career and technical education that will result in:

(i) appropriate licensing, certification, or other evidence of completion of training; and

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

(g) develop cooperative agreements within the geographic area served by the School of Applied Technology with school districts, charter schools, and other higher education institutions, businesses, industries, and community and private agencies to maximize the availability of instructional facilities; and

(h) after consulting with school districts and charter schools within the geographic area served:

(i) ensure that secondary students in the public education system have access to non-credit career and technical education at each School of Applied Technology location; and

(ii) prepare and submit an annual report to the [~~State Board of Regents~~] board detailing:

(A) how the non-credit career and technical education needs of secondary students within the region are being met;

(B) what access secondary students within the region have to programs offered at School of Applied Technology locations;

(C) how the emphasis on high demand, high wage, and high skill jobs in business and industry is being provided; and

(D) student tuition and fees.

(5) Salt Lake Community College or Salt Lake Community College's School of

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Applied Technology may not exercise any jurisdiction over career and technical education provided by a school district or charter school independently of Salt Lake Community College or Salt Lake Community College's School of Applied Technology.

(6) Legislative appropriations to Salt Lake Community College's School of Applied Technology shall be made as a line item that separates it from other appropriations for Salt Lake Community College.

Section 111. Section **53B-16-303** is amended to read:

### **53B-16-303. Access to restricted records.**

Notwithstanding any other provision of Title 63G, Chapter 2, Government Records Access and Management Act, access to records restricted by this part shall only be permitted upon:

(1) written consent of the public institution of higher education originating, receiving, or maintaining such records; or

(2) a finding by the State Records Committee or a court that the record has not been properly classified as restricted under Section 63G-2-302, provided that the review of a restricted classification of a record shall not include considerations of weighing public and private interests regarding access to a properly classified record as contained in Subsection 63G-2-403(11)(b) or 63G-2-404(7) or Section 63G-2-309. Nothing in this Subsection (2) shall be construed to limit the authority of the [~~State Board of Regents~~] board to reclassify and disclose a record of a public institution of higher education.

Section 112. Section **53B-16-401** is amended to read:

### **53B-16-401. Definitions.**

As used in this part:

(1) "Cooperating employer" means a public or private entity which, as part of a work experience and career exploration program offered through an institution of higher education, provides interns with training and work experience in activities related to the entity's ongoing business activities.

(2) "Institution of higher education" means any component of the state system of higher education as defined under Section 53B-1-102 that is authorized by the board [~~or the Utah System of Technical Colleges Board of Trustees~~] to offer internship programs, and any private institution of higher education which offers internship programs under this part.

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(3) "Intern" means a student enrolled in a work experience and career exploration program under Section 53B-16-402 that is sponsored by an institution of higher education, involving both classroom instruction and work experience with a cooperating employer, for which the student receives no compensation.

(4) "Internship" means the work experience segment of an intern's work experience and career exploration program sponsored by an institution of higher education, performed under the direct supervision of a cooperating employer.

Section 113. Section **53B-16-402** is amended to read:

### **53B-16-402. Higher education internships.**

An institution of higher education may offer internships in connection with work experience and career exploration programs operated in accordance with rules of the [~~State Board of Regents~~] board.

Section 114. Section **53B-16-501** is amended to read:

### **53B-16-501. Nonprofit corporations or foundations -- Purpose.**

(1) Dixie State University may form a nonprofit corporation or foundation controlled by the president of the university and the [~~Board of Regents~~] board to aid and assist the university in attaining its charitable, communications, and other related educational objectives, including support for media innovation, film festivals, film production, print media, broadcasting, television, and digital media.

(2) The nonprofit corporation or foundation may receive and administer legislative appropriations, government grants, contracts, and private gifts to carry out its public purposes.

Section 115. Section **53B-17-101** is amended to read:

### **53B-17-101. Legislative findings on public broadcasting and telecommunications for education.**

The Legislature finds and determines the following:

(1) The University of Utah's Dolores Dore' Eccles Broadcast Center is the statewide public broadcasting and telecommunications facility for education in Utah.

(2) The center shall provide services to citizens of the state in cooperation with higher and public education, state and local government, and private industry.

(3) Distribution services provided through the center shall include KUED - TV, KUER - FM, and KUEN - TV.

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(4) KUED - TV and KUER - FM are licensed to the University of Utah.

(5) The Utah Education and Telehealth Network's broadcast entity, KUEN - TV, is licensed to the [~~Utah State Board of Regents~~] Utah Board of Higher Education and, together with UETN, is operated on behalf of the state's systems of public and higher education.

(6) All the entities referred to in Subsection (3) are under the administrative supervision of the University of Utah, subject to the authority and governance of the [~~State Board of Regents~~] Utah Board of Higher Education.

(7) This section neither regulates nor restricts a privately owned company in the distribution or dissemination of educational programs.

Section 116. Section **53B-17-103** is amended to read:

### **53B-17-103. General powers of University of Utah related to public broadcasting and telecommunication for education.**

(1) Subject to applicable rules of the Federal Communications Commission and the [~~State Board of Regents~~] Utah Board of Higher Education, the University of Utah shall:

(a) serve as the state's provider of public television services, with programming from the Public Broadcasting Service and other syndicated and locally produced programs;

(b) serve as the state's primary provider of public radio services, with programming from National Public Radio and other syndicated and locally produced programs; and

(c) subject to Section 53B-7-103, accept and use gifts and apply for and receive funds from federal and other sources to carry out the purposes of this part.

(2) Subject to future budget constraints, the Legislature shall provide an annual appropriation to operate KUED - TV.

(3) This section neither regulates nor restricts a privately owned company in the distribution or dissemination of educational programs.

Section 117. Section **53B-17-104** is amended to read:

### **53B-17-104. Responsibilities of the Utah Board of Higher Education, the State Board of Education, the University of Utah, KUED - TV, KUER - FM, and UETN related to public broadcasting and telecommunication for education and government.**

(1) Subject to applicable rules of the Federal Communications Commission and Section 53B-17-105, the [~~State Board of Regents~~] Utah Board of Higher Education, the State Board of Education, the University of Utah, KUED - TV, KUER - FM, and UETN shall:



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- (a) coordinate statewide services of public radio and television;
- (b) develop, maintain, and operate statewide distribution systems for KUED - TV, KUER - FM, and KUEN, the statewide distance learning service, the educational data network, connections to the Internet, and other telecommunications services appropriate for providing video, audio, and data telecommunication services in support of public and higher education, state government, and public libraries;
- (c) support the delivery of these services to as many communities as may be economically and technically feasible and lawfully permissible under the various operating licenses;
- (d) cooperate with state and local governmental and educational agencies and provide leadership and consulting service for telecommunication for education;
- (e) represent the state with privately owned telecommunications systems to gain access to their networks for the delivery of programs and services sponsored or produced by public and higher education;
- (f) acquire, produce, coordinate, and distribute a variety of programs and services of an educational, cultural, informative, and entertaining nature designed to promote the public interest and welfare of the state;
- (g) coordinate with the state system of higher education to acquire, produce, and distribute broadcast and nonbroadcast college credit telecourses, teleconferences, and other instructional and training services;
- (h) coordinate with school districts and public schools to acquire, produce, and distribute broadcast and nonbroadcast telecourses, teleconferences, and other instructional and training services to the public schools;
- (i) coordinate the development of a clearing house for the materials, courses, publications, media, software, and other applicable information related to the items addressed in Subsections (1)(g) and (h);
- (j) coordinate the provision of the following services to public schools:
  - (i) broadcast, during school hours, of educational and administrative programs recommended by the State Board of Education;
  - (ii) digitization of programs for broadcast purposes; and
  - (iii) program previewing;

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(k) share responsibility for Instructional Television (ITV) awareness and utilization;  
and

(l) provide teleconference and training services for state and local governmental agencies.

(2) This section neither regulates nor restricts a privately owned company in the distribution or dissemination of education programs.

Section 118. Section **53B-17-105** is amended to read:

### **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

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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;
  - (b) work with the private sector to deliver high-quality, cost-effective services;
  - (c) avoid duplicating facilities, equipment, or services of private providers or public telecommunications service, as defined under Section 54-8b-2;
  - (d) utilize statewide economic development criteria in the design and implementation of the educational telecommunications infrastructure; and
  - (e) assure that public service entities, such as educators, public service providers, and public broadcasters, are provided access to the telecommunications infrastructure developed in the state.
- (4) The University of Utah shall provide administrative support for UETN.
- (5) (a) The Utah Education and Telehealth Network Board, which is the governing board for UETN, is created.
- (b) The Utah Education and Telehealth Network Board shall have 13 members as follows:
- (i) ~~[four]~~ five members representing the state system of higher education, of which at least one member represents technical colleges, appointed by the commissioner of higher education;
  - (ii) four members representing the state system of public education appointed by the State Board of Education;
  - ~~[(iii) one member representing technical colleges appointed by the Utah System of Technical Colleges commissioner of technical education;]~~
  - ~~[(iv)]~~ (iii) one member representing the state library appointed by the state librarian;
  - ~~[(v)]~~ (iv) two members representing hospitals as follows:
    - (A) the members may not be employed by the same hospital system;

## **SB0111S01 compared with SB0111**

(B) one member shall represent a rural hospital;

(C) one member shall represent an urban hospital; and

(D) the chief administrator or the administrator's designee for each hospital licensed in this state shall select the two hospital representatives; and

~~[(vi)]~~ (v) one member representing the office of the governor, appointed by the governor.

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

(d) (i) The board shall elect a chair.

(ii) The chair shall set the agenda for the board meetings.

(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.

(7) The board:

(a) shall hire an executive director for UETN who may hire staff for UETN as permitted by the budget;

(b) may terminate the executive director's employment or assignment;

(c) shall determine the executive director's salary;

(d) shall annually conduct a performance evaluation of the executive director;

(e) shall establish policies the board determines are necessary for the operation of UETN and the administration of UETN's duties; and

(f) shall advise UETN in:

(i) the development and operation of a coordinated, statewide, multi-option telecommunications system to assist in the delivery of educational services and telehealth services throughout the state; and

(ii) acquiring, producing, and distributing instructional content.

(8) The executive director of UETN shall be an at-will employee.

(9) UETN shall locate and maintain educational and telehealth telecommunication

## **SB0111S01 compared with SB0111**

infrastructure throughout the state.

(10) Educational institutions shall manage site operations under policy established by UETN.

(11) Subject to future budget constraints, the Legislature shall provide an annual appropriation to operate UETN.

(12) If the network operated by the Department of Technology Services is not available, UETN may provide network connections to the central administration of counties and municipalities for the sole purpose of transferring data to a secure facility for backup and disaster recovery.

Section 119. Section **53B-17-503** is amended to read:

**53B-17-503. Administration through nonprofit corporations or foundations -- Control -- Authority of corporations or foundations -- Personnel considered employees of university.**

(1) The University of Utah may establish, develop, and administer through nonprofit corporations or foundations controlled by the president and the [~~State Board of Regents~~] board a research park upon the land acquired by the university under the patent.

(2) The nonprofit corporations or foundations may receive and administer legislative appropriations, government grants, contracts, and private gifts to carry out their public purposes.

(3) All salaried employees, agents, officers, faculty, and staff of the nonprofit corporation or foundation are for the purpose of employee benefits, employees, agents, officers, faculty, and staff of the University of Utah.

Section 120. Section **53B-17-505** is amended to read:

**53B-17-505. City to provide services and facilities to research park -- Fees and charges -- Disallowance of special improvement district or special taxes.**

(1) The Salt Lake City Council shall provide police and fire protection and furnish, install, and maintain customary municipal services and facilities for street lighting, traffic control, sidewalks, curb, gutter, drainage, sewage disposal, and water supply to all areas of the research park established upon lands conveyed to the University of Utah under the patent.

(2) The services and facilities are to be furnished and provided as needed and determined by the [~~State Board of Regents~~] board subject to connection fees, use charges, and

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other service fees customarily assessed against similar persons, companies, or properties within the territorial limits of Salt Lake City.

(3) No special improvement district may be created or special taxes imposed with respect to the services and facilities provided under this section.

Section 121. Section **53B-17-901** is amended to read:

### **53B-17-901. Admissions -- Increase authorized.**

(1) Beginning with the 2013-14 school year and subject to Subsection (2), the University of Utah School of Medicine may increase the number of students admitted by 40 students for a total of 122 students admitted annually.

(2) Beginning with the 2013-14 school year, no fewer than 82% of the students admitted annually shall:

(a) meet the qualifications of a resident student for the purpose of tuition in accordance with:

(i) Section 53B-8-102;

(ii) ~~[State Board of Regents]~~ board policy on determining resident status; and

(iii) University of Utah policy on determining resident status;

(b) have graduated from a public or private college or university located in Utah; or

(c) have graduated from a public or private high school located in Utah.

Section 122. Section **53B-17-1203** is amended to read:

### **53B-17-1203. SafeUT and School Safety Commission established -- Members.**

(1) There is created the SafeUT and School Safety Commission composed of the following members:

(a) one member who represents the Office of the Attorney General, appointed by the attorney general;

(b) one member who represents the Utah public education system, appointed by the State Board of Education;

(c) one member who represents the ~~[Utah System of Higher Education]~~ Utah system of higher education, appointed by the ~~[State Board of Regents]~~ board;

(d) one member who represents the Utah Department of Health, appointed by the executive director of the Department of Health;

(e) one member of the House of Representatives, appointed by the speaker of the

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House of Representatives;

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

(g) one member who represents the University Neuropsychiatric Institute, appointed by the chair of the commission;

(h) one member who represents law enforcement who has extensive experience in emergency response, appointed by the chair of the commission;

(i) one member who represents the Utah Department of Human Services who has experience in youth services or treatment services, appointed by the executive director of the Department of Human Services; and

(j) two members of the public, appointed by the chair of the commission.

(2) (a) Except as provided in Subsection (2)(b), members of the commission shall be appointed to four-year terms.

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

(c) When a vacancy occurs in the membership of the commission, the replacement shall be appointed for the unexpired term.

(3) (a) The attorney general's designee shall serve as chair of the commission.

(b) The chair shall set the agenda for commission meetings.

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

(5) Formal action by the commission requires a majority vote of a quorum.

(6) (a) Except as provided in Subsection (6)(b), a member may not receive compensation, benefits, per diem, or travel expenses for the member's service.

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

(7) The Office of the Attorney General shall provide staff support to the commission.

Section 123. Section **53B-17-1204** is amended to read:

**53B-17-1204. SafeUT and School Safety Commission duties -- LEA governing board duties -- Fees.**

(1) As used in this section:

(a) "LEA governing board" means:

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- (i) for a school district, the local school board;
- (ii) for a charter school, the charter school governing board; or
- (iii) for the Utah Schools for the Deaf and the Blind, the State Board of Education.

(b) "Local education agency" or "LEA" means:

- (i) a school district;
- (ii) a charter school; or
- (iii) the Utah Schools for the Deaf and the Blind.

(2) The commission shall coordinate:

(a) statewide efforts related to the SafeUT Crisis Line; and

(b) with the State Board of Education and the [~~State Board of Regents~~] board to promote awareness of the services available through the SafeUT Crisis Line.

(3) An LEA governing board shall inform students, parents, and school personnel about the SafeUT Crisis Line.

(4) (a) Except as provided in Subsection (4)(b), the University Neuropsychiatric Institute may charge a fee to an institution of higher education or other entity for the use of the SafeUT Crisis Line in accordance with the method described in Subsection (4)(c).

(b) The University Neuropsychiatric Institute may not charge a fee to the State Board of Education or a local education agency for the use of the SafeUT Crisis Line.

(c) The commission shall establish a standard method for charging a fee described in Subsection (4)(a).

Section 124. Section **53B-18-501** is amended to read:

### **53B-18-501. Nonprofit corporations or foundations -- Purpose.**

(1) In addition to any other powers which it now has, Utah State University may form nonprofit corporations or foundations controlled by the president of the university and the [~~State Board of Regents~~] board to aid and assist the university in attaining its charitable, scientific, literary, research, and educational objectives.

(2) The nonprofit corporations or foundations may receive and administer legislative appropriations, government grants, contracts, and private gifts to carry out their public purposes.

Section 125. Section **53B-18-1301** is amended to read:

### **53B-18-1301. Veterinary education program -- Partnership agreement.**



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(1) With the approval of the [~~State Board of Regents~~] board, Utah State University may enter into a partnership agreement with Washington State University to establish a veterinary education program.

(2) The partnership agreement may provide that:

(a) (i) initially, up to 20 Utah resident students and 10 nonresident students may be accepted each year into a four-year program leading to a doctorate in veterinary medicine; and

(ii) if resources become available to expand the doctoral program in veterinary medicine, additional Utah resident students and nonresident students may be accepted into the program; and

(b) students accepted into the doctoral program in veterinary medicine pursuant to Subsection (2)(a) complete the first and second years of study at Utah State University and the third and fourth years of study at Washington State University.

(3) Subject to future budget constraints, the Legislature shall annually provide an appropriation to pay for the nonresident portion of tuition for Utah students enrolled at Washington State University under a partnership agreement authorized by this section for the third and fourth years of a doctoral program in veterinary medicine.

Section 126. Section **53B-21-104** is amended to read:

### **53B-21-104. Deposit of bond proceeds -- State Building Board responsibilities -- Approval of Division of Facilities Construction and Management.**

(1) The [~~State Board of Regents~~] board treasurer or other fiscal officer, with the approval of the state treasurer, deposits the proceeds from the sale of bonds under this chapter into a special Construction Trust Fund Account established in compliance with the State Money Management Act of 1974.

(2) The proceeds are credited to the board on behalf of the institution of higher education for which the bonds were issued.

(3) The proceeds are kept in a separate fund and used solely for the purpose for which they were authorized by the board.

(4) The State Building Board makes all contracts and executes all instruments which it considers necessary to provide for the projects referred to in Section 53B-21-101.

(5) The proceeds in the special Construction Trust Fund Account shall be disbursed only upon receipt of written statements supported by itemized estimates and claims presented

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to the Division of Facilities Construction and Management as provided in the resolution authorizing the issuance of the bonds.

Section 127. Section **53B-21-105** is amended to read:

**53B-21-105. Disposition and use of income from operation of buildings --  
Payment of principal and interest on bonds.**

(1) Except for the revenues paid directly to a trustee under Subsection 53B-21-102(3)(f), all income and revenues from the operation of the buildings under this chapter are deposited as collected in a fund established in compliance with the State Money Management Act.

(2) (a) This money is for the payment of the principal and interest on the bonds authorized under this chapter.

(b) The money shall also be used, to the extent provided in the resolution authorizing the bonds, to pay for the cost of maintaining and operating the building and to establish reserves for that purpose.

(3) The [~~State Board of Regents~~] board treasurer or other designated fiscal officer shall, not less than 15 days prior to the date interest and principal payments are due, transmit to the paying agent sufficient money from the fund to pay the obligation.

Section 128. Section **53B-21-113** is amended to read:

**53B-21-113. Limitation on issuance of bonds.**

No bonds may be authorized or issued by the [~~State Board of Regents~~] board or the board of any institution under this chapter without the prior approval of the Legislature.

Section 129. Section **53B-22-201** is amended to read:

**53B-22-201. Definitions.**

As used in this part:

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

(2) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(3) "Dedicated project" means a capital development project for which state funds from an institution's allocation are requested or used.

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(4) "Fund" means the Higher Education Capital Projects Fund created in Section 53B-22-202.

(5) "Institution" means ~~[a college or university that is part of the Utah System of Higher Education described in Section 53B-1-102]~~ a degree-granting institution.

(6) "Institution's allocation" means the total amount of money in the fund that an institution has been allocated in accordance with Section 53B-22-203.

(7) "Nondedicated project" means a capital development project for which state funds from a source other than an institution's allocation are requested or used.

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

Section 130. Section **53B-23-104** is amended to read:

**53B-23-104. Centers for processing requests for electronic versions of instructional materials.**

(1) The ~~[State Board of Regents]~~ board may establish one or more centers to process requests for electronic versions of instructional materials pursuant to this chapter.

(2) The institutions designated as within the jurisdiction of a center shall submit requests for instructional material to the center, which shall transmit the request to the publisher or manufacturer.

(3) If there is more than one center, each center shall make every effort to coordinate requests.

(4) The publisher or manufacturer of instructional material shall be required to honor and respond to only those requests submitted through a designated center.

(5) If a publisher or manufacturer has responded to a request for instructional materials by a center, all subsequent requests for those instructional materials shall be satisfied by the center to which the request is made.

Section 131. Section **53B-23-106** is amended to read:

**53B-23-106. Board to make rules.**

~~[The State Board of Regents shall adopt]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules consistent with this section for its implementation and administration, including rules addressing:

(1) the designation of materials considered "required or essential to student success";

(2) the determination of the availability of technology for the conversion of nonprinted

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materials pursuant to Section 53B-23-103 and the conversion of mathematics and science materials pursuant to Section 53B-23-102; and

(3) the procedures and standards relating to distribution of files and materials pursuant to Section 53B-23-103.

Section 132. Section **53B-26-103** is amended to read:

### **53B-26-103. GOED reporting requirement -- Proposals -- Funding.**

(1) Every other year, the Governor's Office of Economic Development shall report to the Higher Education Appropriations Subcommittee~~[, the board, and the Utah System of Technical Colleges Board of Trustees]~~ and the board on the high demand technical jobs projected to support economic growth in the following high need strategic industry clusters:

- (a) aerospace and defense;
- (b) energy and natural resources;
- (c) financial services;
- (d) life sciences;
- (e) outdoor products;
- (f) software development and information technology; and
- (g) any other strategic industry cluster designated by the Governor's Office of

Economic Development.

(2) To receive funding under this section, an eligible partnership shall submit a proposal containing the elements described in Subsection (3) to the Higher Education Appropriations Subcommittee on or before January 5 for fiscal year 2018 and any succeeding fiscal year.

(3) A proposal described in Subsection (2) shall include:

- (a) a program of instruction that:
  - (i) is responsive to the workforce needs of a strategic industry cluster described in

Subsection (1):

- (A) in one CTE region, for a proposal submitted by a regional partnership; or
- (B) in at least two CTE regions, for a proposal submitted by a statewide partnership;
- (ii) leads to the attainment of a stackable sequence of credentials; and
- (iii) includes a non-duplicative progression of courses that include both academic and

CTE content;

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- (b) expected student enrollment, attainment rates, and job placement rates;
  - (c) evidence of input and support for the proposal from an industry advisory group;
  - (d) a description of any financial or in-kind contributions for the program from an industry advisory group;
  - (e) a description of the job opportunities available at each exit point in the stackable sequence of credentials;
  - (f) evidence of an official action in support of the proposal from~~[:]~~ the board;
  - ~~[(i) the Utah System of Technical Colleges Board of Trustees, if the eligible partnership includes a technical college described in Subsection 53B-26-102(10)(a); or]~~
  - ~~[(ii) the board, if the eligible partnership includes:]~~
  - ~~[(A) an institution of higher education; or]~~
  - ~~[(B) a college described in Subsections 53B-26-102(10)(b) through (e);]~~
  - (g) if the program of instruction described in Subsection (3)(a) requires board approval under Section 53B-16-102, evidence of board approval of the program of instruction; and
  - (h) a funding request, including justification for the request.
- (4) The Higher Education Appropriations Subcommittee shall:
- (a) review a proposal submitted under this section using the following criteria:
    - (i) the proposal contains the elements described in Subsection (3);
    - (ii) for a proposal from a regional partnership, support for the proposal is widespread within the CTE region; and
    - (iii) the proposal expands the capacity to meet state or regional workforce needs;
  - (b) determine the extent to which to fund the proposal; and
  - (c) make a recommendation to the Legislature for funding the proposal through the appropriations process.
- (5) An eligible partnership that receives funding under this section:
- (a) shall use the money to deliver the program of instruction described in the eligible partnership's proposal; and
  - (b) may not use the money for administration.

Section 133. Section **53B-26-202** is amended to read:

**53B-26-202. Nursing initiative -- Medical Education Council reporting requirement -- Proposals -- Funding.**

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(1) Every even-numbered year, the Medical Education Council created in Section 53B-24-302 shall:

- (a) project the demand, by license classification, for individuals to enter a nursing profession in each region;
- (b) receive input from at least one medical association in developing the projections described in Subsection (1)(a); and
- (c) report the projections described in Subsection (1)(a) to:
  - ~~[(i) the State Board of Regents;]~~
  - ~~[(ii) the Utah System of Technical Colleges Board of Trustees; and]~~
  - (i) the board; and
  - ~~[(iii)]~~ (ii) the Higher Education Appropriations Subcommittee.

(2) To receive funding under this section, on or before January 5, an eligible program shall submit to the Higher Education Appropriations Subcommittee, through the budget process for the ~~[State Board of Regents or the Utah System of Technical Colleges]~~ board, as applicable, a proposal that describes:

- (a) a program of instruction offered by the eligible program that is responsive to a projection described in Subsection (1)(a);
  - (b) the following information about the eligible program:
    - (i) expected student enrollment;
    - (ii) attainment rates;
    - (iii) job placement rates; and
    - (iv) passage rates for exams required for licensure for a nursing profession;
  - (c) the instructional cost per full-time equivalent student enrolled in the eligible program;
  - (d) financial or in-kind contributions to the eligible program from:
    - (i) the health care industry; or
    - (ii) an institution; and
  - (e) a funding request, including justification for the request.
- (3) The Higher Education Appropriations Subcommittee shall:
- (a) review a proposal submitted under this section using the following criteria:
    - (i) the proposal:

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(A) contains the elements described in Subsection (2);

(B) expands the capacity to meet the projected demand described in Subsection (1)(a);

and

(C) has health care industry or institution support; and

(ii) the program of instruction described in the proposal:

(A) is cost effective;

(B) has support from the health care industry or an institution; and

(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

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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;



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(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.

~~[(d)]~~ (c) "Student organization" means a club, group, sports team, fraternity or sorority, or other organization:

(i) of which the majority of members is composed of students enrolled in an institution; and

(ii) (A) that is officially recognized by the institution; or

(B) seeks to be officially recognized by the institution.

(2) An institution shall develop a campus safety plan that addresses:

(a) where an individual can locate the institution's policies and publications related to a covered offense;

(b) institution and community resources for a victim of a covered offense;

(c) the rights of a victim of a covered offense, including the measures the institution takes to ensure, unless otherwise provided by law, victim confidentiality throughout all steps in the reporting and response to a covered offense;

(d) how the institution informs the campus community of a crime that presents a threat to the campus community;

(e) availability, locations, and methods for requesting assistance of security personnel on the institution's campus;

(f) guidance on how a student may contact law enforcement for incidents that occur off campus;

(g) institution efforts related to increasing campus safety, including efforts related to the institution's increased response in providing services to victims of a covered offense, that:

(i) the institution made in the preceding 18 months; and

(ii) the institution expects to make in the upcoming 24 months;

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(h) coordination and communication between institution resources and organizations, including campus law enforcement;

(i) institution coordination with local law enforcement or community resources, including coordination related to a student's safety at an off-campus location; and

(j) how the institution requires a student organization to provide the campus safety training as described in Subsection (5).

(3) An institution shall:

(a) prominently post the institution's campus safety plan on the institution's website and each of the institution's campuses; and

(b) annually update the institution's campus safety plan.

(4) An institution shall develop a campus safety training curriculum that addresses:

(a) awareness and prevention of covered offenses, including information on institution and community resources for a victim of a covered offense;

(b) bystander intervention; and

(c) sexual consent.

(5) An institution shall require a student organization, in order for the student organization to receive or maintain official recognition by the institution, to annually provide campus safety training, using the curriculum described in Subsection (4), to the student organization's members.

(6) ~~[Each governing]~~ The board shall:

(a) on or before July 1, 2019, establish minimum requirements for an institution's campus safety plan described in Subsection (2);

(b) identify resources an institution may use to develop a campus safety training curriculum as described in Subsection (4); and

(c) report annually to the Education Interim Committee and the Law Enforcement and Criminal Justice Interim Committee, at or before the committees' November meetings, on the implementation of the requirements described in this section.

Section 137. Section **53E-1-201** is amended to read:

### **53E-1-201. Reports to and action required of the Education Interim Committee.**

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

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(a) the prioritized list of data research described in Section 35A-14-302 and the report on research described in Section 35A-14-304 by the Utah Data Research Center;

(b) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

(c) the report described in Section ~~[53B-1-103]~~ 53B-1-402 by the ~~[State Board of Regents]~~ Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

~~[(d) the report described in Section 53B-1-107 by the State Board of Regents on the activities of the State Board of Regents;]~~

~~[(e) the report described in Section 53B-2a-104 by the Utah System of Technical Colleges Board of Trustees on career and technical education issues;]~~

(d) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

~~[(f)]~~ (e) the reports described in Section 53B-28-401 by the ~~[State Board of Regents and the Utah System of Technical Colleges Board of Trustees]~~ Utah Board of Higher Education regarding activities related to campus safety;

~~[(g)]~~ (f) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

~~[(h)]~~ (g) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

~~[(i)]~~ (h) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

~~[(j)]~~ (i) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

~~[(k)]~~ (j) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

~~[(l)]~~ (k) the report described in Section 53F-4-407 by the state board on UPSTART;

~~[(m)]~~ (l) the report described in Section 53F-5-405 by an independent evaluator of a partnership that receives a grant to improve educational outcomes for students who are low income; and

~~[(n)]~~ (m) the report described in Section ~~53F-12-208~~ 63N-12-208 ~~9-22-109~~ by the STEM

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Action Center Board, including the information described in Section ~~63N-12-213~~ ~~9-22-113~~ on the status of the computer science initiative and Section ~~63N-12-214~~ ~~9-22-114~~ on the Computing Partnerships Grants Program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53E-3-519 by the state board regarding counseling services in schools;

(c) the reports described in Section 53E-3-520 by the state board regarding cost centers and implementing activity based costing;

(d) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(e) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(f) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(g) the report described in Section 53F-2-502 by the state board on the program evaluation of the dual language immersion program;

(h) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

(i) upon request, the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Intervention Grants Program;

(j) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

(k) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys;

(l) upon request, the report described in Section 53G-11-505 by the state board on progress in implementing employee evaluations;

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(m) the report described in Section 62A-15-117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the Department of Health regarding recommendations related to Medicaid reimbursement for school-based health services; and

(n) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission.

(3) In accordance with Section 53B-7-705, the Education Interim Committee shall complete the review of the implementation of performance funding.

Section 138. Section **53E-1-203** is amended to read:

### **53E-1-203. State Superintendent's Annual Report.**

(1) The state board shall prepare and submit to the governor, the Education Interim Committee, and the Public Education Appropriations Subcommittee, by January 15 of each year, an annual written report known as the State Superintendent's Annual Report that includes:

- (a) the operations, activities, programs, and services of the state board;
- (b) subject to Subsection (4)(b), all reports listed in Subsection (4)(a); and
- (c) data on the general condition of the schools with recommendations considered

desirable for specific programs, including:

- (i) a complete statement of fund balances;
- (ii) a complete statement of revenues by fund and source;
- (iii) a complete statement of adjusted expenditures by fund, the status of bonded

indebtedness, the cost of new school plants, and school levies;

(iv) a complete statement of state funds allocated to each school district and charter school by source, including supplemental appropriations, and a complete statement of expenditures by each school district and charter school, including supplemental appropriations, by function and object as outlined in the United States Department of Education publication "Financial Accounting for Local and State School Systems";

- (v) a statement that includes data on:

- (A) fall enrollments;
- (B) average membership;
- (C) high school graduates;

(D) licensed and classified employees, including data reported by school districts on educator ratings described in Section 53G-11-511;

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(E) pupil-teacher ratios;

(F) average class sizes;

(G) average salaries;

(H) applicable private school data; and

(I) data from statewide assessments described in Section 53E-4-301 for each school and school district;

(vi) statistical information regarding incidents of delinquent activity in the schools or at school-related activities; and

(vii) other statistical and financial information about the school system that the state superintendent considers pertinent.

(2) (a) For the purposes of Subsection (1)(c)(v):

(i) the pupil-teacher ratio for a school shall be calculated by dividing the number of students enrolled in a school by the number of full-time equivalent teachers assigned to the school, including regular classroom teachers, school-based specialists, and special education teachers;

(ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of the schools within a school district;

(iii) the pupil-teacher ratio for charter schools aggregated shall be the median pupil-teacher ratio of charter schools in the state; and

(iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median pupil-teacher ratio of public schools in the state.

(b) The report shall:

(i) include the pupil-teacher ratio for:

(A) each school district;

(B) the charter schools aggregated; and

(C) the state's public schools aggregated; and

(ii) identify a website where pupil-teacher ratios for each school in the state may be accessed.

(3) For each operation, activity, program, or service provided by the state board, the annual report shall include:

(a) a description of the operation, activity, program, or service;

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(b) data and metrics:

(i) selected and used by the state board 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;

(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 (3)(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 state board 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.

(4) (a) Except as provided in Subsection (4)(b), the annual report shall also include:

(i) the report described in Section 53E-3-507 by the state board on career and technical education needs and program access;

(ii) through October 1, 2022, the report described in Section 53E-3-515 by the state board on the Hospitality and Tourism Management Career and Technical Education Pilot Program;

(iii) beginning on July 1, 2020, the report described in Section 53E-3-516 by the state board on certain incidents that occur on school grounds;

(iv) the report described in Section 53E-4-202 by the state board on the development and implementation of the core standards for Utah public schools;

(v) the report described in Section 53E-5-310 by the state board on school turnaround and leadership development;

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(vi) the report described in Section 53E-10-308 by the state board and [~~State Board of Regents~~] Utah Board of Higher Education on student participation in the concurrent enrollment program;

(vii) the report described in Section 53F-2-503 by the state board on early literacy;

(viii) the report described in Section 53F-5-506 by the state board on information related to competency-based education;

(ix) the report described in Section 53G-9-802 by the state board on dropout prevention and recovery services; and

(x) the report described in Section 53G-10-204 by the state board on methods used, and the results being achieved, to instruct and prepare students to become informed and responsible citizens.

(b) The Education Interim Committee or the Public Education Appropriations Subcommittee may request a report described in Subsection (4)(a) to be reported separately from the State Superintendent's Annual Report.

(5) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(6) The state board shall:

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

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the state board's website.

(7) (a) Upon request of the Education Interim Committee or Public Education Appropriations Subcommittee, the state board shall present the State Superintendent's Annual Report to either committee.

(b) After submitting the State Superintendent's Annual Report in accordance with this section, the state board may supplement the report at a later time with updated data, information, or other materials as necessary or upon request by the governor, the Education Interim Committee, or the Public Education Appropriations Subcommittee.

Section 139. Section **53E-2-302** is amended to read:

### **53E-2-302. Characteristics of public education system.**

The Legislature shall assist in maintaining a public education system that has the following characteristics:



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(1) assumes that all students have the ability to learn and that each student departing the system will be prepared to achieve success in productive employment, further education, or both;

(2) provides a personalized education plan or personalized education occupation plan for each student, which involves the student, the student's parent, and school personnel in establishing the plan;

(3) provides students with the knowledge and skills to take responsibility for their 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

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(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

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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:

- (i) basic budgeting;
- (ii) saving and financial investments;
- (iii) banking and financial services, including balancing a checkbook or a bank account and online banking services;
- (iv) career management, including earning an income;
- (v) rights and responsibilities of renting or buying a home;
- (vi) retirement planning;
- (vii) loans and borrowing money, including interest, credit card debt, predatory lending, and payday loans;
- (viii) insurance;
- (ix) federal, state, and local taxes;
- (x) charitable giving;
- (xi) identity fraud and theft;
- (xii) negative financial consequences of gambling;
- (xiii) bankruptcy;
- (xiv) economic systems, including a description of:
  - (A) a command system such as socialism or communism, a market system such as capitalism, and a mixed system; and
  - (B) historic and current examples of the effects of each economic system on economic growth;
- (xv) supply and demand;
- (xvi) monetary and fiscal policy;
- (xvii) effective business plan creation, including using economic analysis in creating a

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plan;

- (xviii) scarcity and choices;
- (xix) opportunity cost and tradeoffs;
- (xx) productivity;
- (xxi) entrepreneurship; and
- (xxii) economic reasoning.

(c) "General financial literacy course" means the course of instruction administered by the state board under Subsection (3).

(2) The state board shall:

(a) more fully integrate existing and new financial and economic literacy education into instruction in kindergarten through grade 12 by:

(i) coordinating financial and economic literacy instruction with existing instruction in other areas of the core standards for Utah public schools, such as mathematics and social studies;

(ii) using curriculum mapping;

(iii) creating training materials and staff development programs that:

(A) highlight areas of potential coordination between financial and economic literacy education and other core standards for Utah public schools concepts; and

(B) demonstrate specific examples of financial and economic literacy concepts as a way of teaching other core standards for Utah public schools concepts; and

(iv) using appropriate financial and economic literacy assessments to improve financial and economic literacy education and, if necessary, developing assessments;

(b) work with interested public, private, and nonprofit entities to:

(i) identify, and make available to teachers, online resources for financial and economic literacy education, including modules with interactive activities and turnkey instructor resources;

(ii) coordinate school use of existing financial and economic literacy education resources;

(iii) develop simple, clear, and consistent messaging to reinforce and link existing financial literacy resources;

(iv) coordinate the efforts of school, work, private, nonprofit, and other financial

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education providers in implementing methods of appropriately communicating to teachers, students, and parents key financial and economic literacy messages; and

(v) encourage parents and students to establish higher education savings, including a Utah Educational Savings Plan account;

(c) make rules to develop guidelines and methods for school districts and charter schools to more fully integrate financial and economic literacy education into other core standards for Utah public schools courses; and

(d) in cooperation with school districts, charter schools, and interested private and nonprofit entities, provide opportunities for professional development in financial and economic literacy concepts to teachers, including:

- (i) a statewide learning community for financial and economic literacy;
- (ii) summer workshops; and
- (iii) online videos of experts in the field of financial and economic literacy education.

(3) The state board shall:

(a) administer a general financial literacy course in the same manner that the state board administers other core standards for Utah public school courses for grades 9 through 12;

(b) adopt standards and objectives for the general financial literacy course that address:

- (i) financial and economic literacy concepts;
- (ii) the costs of going to college, student loans, scholarships, and the Free Application for Federal Student Aid;

(iii) financial benefits of pursuing concurrent enrollment as defined in Section 53E-10-301; and

(iv) technology that relates to banking, savings, and financial products; and

(c) (i) contract with a provider, through a request for proposals process, to develop an online, end-of-course assessment for the general financial literacy course;

(ii) require a school district or charter school to administer an online, end-of-course assessment to a student who takes the general financial literacy course; and

(iii) develop a plan, through the state superintendent, to analyze the results of an online, end-of-course assessment in general financial literacy that includes:

- (A) an analysis of assessment results by standard; and
- (B) average scores statewide and by school district and school.

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(4) (a) The state board shall establish a task force to study and make recommendations to the state board on how to improve financial and economic literacy education in the public school system.

(b) The task force membership shall include representatives of:

(i) the state board;

(ii) school districts and charter schools;

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

(iv) private or public entities that teach financial education and share a commitment to empower individuals and families to achieve economic stability, opportunity, and upward mobility.

(c) The state board shall convene the task force at least once every three years to review and recommend adjustments to the standards and objectives of the general financial literacy course.

Section 142. Section **53E-3-507** is amended to read:

### **53E-3-507. Powers of the state board.**

The state board:

(1) shall establish minimum standards for career and technical education programs in the public education system;

(2) may apply for, receive, administer, and distribute funds made available through programs of federal and state governments to promote and aid career and technical education;

(3) shall cooperate with federal and state governments to administer programs that promote and maintain career and technical education;

(4) shall cooperate with the Utah [~~System of Technical Colleges Board of Trustees~~] Board of Higher Education, technical colleges, Salt Lake Community College's School of Applied Technology, Snow College, Utah State University Eastern, and Utah State University Blanding to ensure that students in the public education system have access to career and technical education at [~~Utah System of Technical Colleges~~] technical colleges, Salt Lake Community College's School of Applied Technology, Snow College, Utah State University Eastern, and Utah State University Blanding;

(5) shall require that before a minor student may participate in clinical experiences as part of a health care occupation program at a high school or other institution to which the

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student has been referred, the student's parent has:

(a) been first given written notice through appropriate disclosure when registering and prior to participation that the program contains a clinical experience segment in which the student will observe and perform specific health care procedures that may include personal care, patient bathing, and bathroom assistance; and

(b) provided specific written consent for the student's participation in the program and clinical experience; and

(6) shall, after consulting with school districts, charter schools, the Utah [~~System of Technical Colleges Board of Trustees~~] Board of Higher Education, technical colleges, Salt Lake Community College's School of Applied Technology, Snow College, Utah State University Eastern, and Utah State University Blanding, prepare and submit an annual report in accordance with Section 53E-1-203 detailing:

(a) how the career and technical education needs of secondary students are being met; and

(b) the access secondary students have to programs offered:

(i) at technical colleges; and

(ii) within the regions served by Salt Lake Community College's School of Applied Technology, Snow College, Utah State University Eastern, and Utah State University Blanding.

Section 143. Section **53E-4-206** is amended to read:

### **53E-4-206. Career and college readiness mathematics competency standards.**

(1) As used in this section, "qualifying score" means a score established as described in Subsection (4), that, if met by a student, qualifies the student to receive college credit for a mathematics course that satisfies the state system of higher education quantitative literacy requirement.

(2) The state board shall make rules that:

(a) (i) establish the mathematics competency standards described in Subsection (3) as a graduation requirement beginning with the 2016-17 school year; and

(ii) include the qualifying scores described in Subsection (4); and

(b) establish systematic reporting of college and career ready mathematics achievement.

(3) In addition to other graduation requirements established by the state board, a

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student shall fulfill one of the following requirements to demonstrate mathematics competency that supports the student's future college and career goals as outlined in the student's college and career plan:

(a) for a student pursuing a college degree after graduation:

(i) receive a score that at least meets the qualifying score for:

(A) an Advanced Placement calculus or statistics exam;

(B) an International Baccalaureate higher level mathematics exam;

(C) a college-level math placement test described in Subsection (5);

(D) a College Level Examination Program precalculus or calculus exam; or

(E) the ACT Mathematics Test; or

(ii) receive at least a "C" grade in a concurrent enrollment mathematics course that satisfies the state system of higher education quantitative literacy requirement;

(b) for a non college degree-seeking student, the student shall complete appropriate math competencies for the student's career goals as described in the student's college and career plan;

(c) for a student with an individualized education program prepared in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., the student shall meet the mathematics standards described in the student's individualized education program; or

(d) for a senior student with special circumstances as described in state board rule, the student shall fulfill a requirement associated with the student's special circumstances, as established in state board rule.

(4) The [~~State Board of Regents~~] Utah Board of Higher Education shall, in consultation with the state board, determine qualifying scores for the tests and exams described in Subsection (3)(a)(i).

(5) The [~~State Board of Regents, established in Section 53B-1-103,~~] Utah Board of Higher Education shall make a policy to select at least two tests for college-level math placement.

(6) The [~~State Board of Regents~~] Utah Board of Higher Education shall, in consultation with the state board, make policies to:

(a) develop mechanisms for a student who completes a math competency requirement described in Subsection (3)(a) to:



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- (i) receive college credit; and
- (ii) satisfy the state system of higher education quantitative literacy requirement;
- (b) allow a student, upon completion of required high school mathematics courses with at least a "C" grade, entry into a mathematics concurrent enrollment course;
- (c) increase access to a range of mathematics concurrent enrollment courses;
- (d) establish a consistent concurrent enrollment course approval process; and
- (e) establish a consistent process to qualify high school teachers with an upper level mathematics endorsement to teach entry level mathematics concurrent enrollment courses.

Section 144. Section **53E-4-308** is amended to read:

### **53E-4-308. Unique student identifier -- Coordination of higher education and public education information technology systems -- Coordination of preschool and public education information technology systems.**

(1) As used in this section, "unique student identifier" means an alphanumeric code assigned to each public education student for identification purposes, which:

- (a) is not assigned to any former or current student; and
- (b) does not incorporate personal information, including a birth date or Social Security number.

(2) The state board, through the state superintendent, shall assign each public education student a unique student identifier, which shall be used to track individual student performance on achievement tests administered under this part.

(3) The state board and the [~~State Board of Regents~~] Utah Board of Higher Education shall coordinate public education and higher education information technology systems to allow individual student academic achievement to be tracked through both education systems in accordance with this section and Section 53B-1-109.

(4) The state board and the [~~State Board of Regents~~] Utah Board of Higher Education shall coordinate access to the unique student identifier of a public education student who later attends an institution within the state system of higher education.

(5) (a) The state board and the Department of Workforce Services shall coordinate assignment of a unique student identifier to each student enrolled in a program described in Title 35A, Chapter 15, Preschool Programs.

- (b) A unique student identifier assigned to a student under Subsection (5)(a) shall

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remain the student's unique student identifier used by the state board when the student enrolls in a public school in kindergarten or a later grade.

(c) The state board, the Department of Workforce Services, and a contractor as defined in Section 53F-4-401, shall coordinate access to the unique student identifier of a preschool student who later attends an LEA.

Section 145. Section **53E-6-201** is amended to read:

### **53E-6-201. State board licensure.**

(1) To be fully implemented by July 1, 2020, and, if technology and funds are available, the state board shall establish in rule a system for educator licensing that includes:

(a) an associate educator license that permits an individual to provide educational services in a public school while working to meet the requirements of a professional educator license;

(b) a professional educator license that permits an individual to provide educational services in a public school after demonstrating that the individual meets licensure requirements established in state board rule; and

(c) an LEA-specific educator license issued by the state board at the request of an LEA's governing body that is valid for an individual to provide educational services in the requesting LEA's schools.

(2) An individual employed in a position that requires licensure by the state board shall hold the license that is appropriate to the position.

(3) (a) The state board may by rule rank, endorse, or otherwise classify licenses and establish the criteria for obtaining, retaining, and reinstating licenses.

(b) An educator who is enrolling in a course of study at an institution within the state system of higher education to satisfy the state board requirements for retaining a license is exempt from tuition, except for a semester registration fee established by the [~~State Board of Regents~~] Utah Board of Higher Education, if:

(i) the educator is enrolled on the basis of surplus space in the class after regularly enrolled students have been assigned and admitted to the class in accordance with regular procedures, normal teaching loads, and the institution's approved budget; and

(ii) enrollments are determined by each institution under rules and guidelines established by the [~~State Board of Regents~~] Utah Board of Higher Education in accordance

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with findings of fact that space is available for the educator's enrollment.

Section 146. Section **53E-10-301** is amended to read:

### **53E-10-301. Definitions.**

As used in this part:

(1) "Career and technical education course" means a concurrent enrollment course in career and technical education, as determined by the policy established by the [~~State Board of Regents~~] Utah Board of Higher Education under Section 53E-10-302.

(2) "Concurrent enrollment" means enrollment in a course offered through the concurrent enrollment program described in Section 53E-10-302.

(3) "Educator" means the same as that term is defined in Section 53E-6-102.

(4) "Eligible instructor" means an instructor who meets the requirements described in Subsection 53E-10-302(5).

(5) "Eligible student" means a student who:

(a) is enrolled in, and counted in average daily membership in, a public school within the state;

(b) has on file a plan for college and career readiness as described in Section 53E-2-304; and

(c) is in grade 9, 10, 11, or 12.

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

(7) "License" means the same as that term is defined in Section 53E-6-102.

(8) "Local education agency" or "LEA" means a school district or charter school.

(9) "Qualifying experience" means an LEA employee's experience in an academic field that:

(a) qualifies the LEA employee to teach a concurrent enrollment course in the academic field; and

(b) may include the LEA employee's:

(i) number of years teaching in the academic field;

(ii) holding a higher level secondary teaching credential issued by the state board;

(iii) research, publications, or other scholarly work in the academic field;

(iv) continuing professional education in the academic field;

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- (v) portfolio of work related to the academic field; or
- (vi) professional work experience or certifications in the academic field.

(10) "Value of the weighted pupil unit" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

Section 147. Section **53E-10-302** is amended to read:

### **53E-10-302. Concurrent enrollment program.**

(1) The state board and the [~~State Board of Regents~~] Utah Board of Higher Education shall establish and maintain a concurrent enrollment program that:

(a) provides an eligible student the opportunity to enroll in a course that allows the eligible student to earn credit concurrently:

- (i) toward high school graduation; and
- (ii) at an institution of higher education;

(b) includes only a course that:

- (i) leads to a degree or certificate offered by an institution of higher education; and
- (ii) is one of the following:

- (A) a general education course;
  - (B) a career and technical education course;
  - (C) a pre-major college level course; or
  - (D) a foreign language concurrent enrollment course described in Section 53E-10-307;
- (c) requires that the instructor of a concurrent enrollment course is an eligible

instructor; and

(d) is designed and implemented to take full advantage of the most current available education technology.

(2) The state board and the [~~State Board of Regents~~] Utah Board of Higher Education shall coordinate to:

(a) establish a concurrent enrollment course approval process that ensures:

(i) credit awarded for concurrent enrollment is consistent and transferable to all institutions of higher education; and

(ii) learning outcomes for a concurrent enrollment course align with:

- (A) core standards for Utah public schools adopted by the state board; and

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(B) except for a foreign language concurrent enrollment course described in Section 53E-10-307, an institution of higher education lower division course numbered at or above the 1000 level; and

(b) provide advising to an eligible student, including information on:

(i) general education requirements at institutions of higher education; and

(ii) how to choose concurrent enrollment courses to avoid duplication or excess credit hours.

(3) After consultation with institution of higher education concurrent enrollment directors, the [~~State Board of Regents~~] Utah Board of Higher Education shall:

(a) provide guidelines to an institution of higher education for establishing qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course; and

(b) on or before July 1, 2019, establish a policy that:

(i) determines which concurrent enrollment courses are career and technical education courses; and

(ii) creates a process for:

(A) an LEA to appeal an institution of higher education's decision under Subsection (6) if the institution of higher education does not approve an LEA employee as an eligible instructor; and

(B) an LEA or institution of higher education to determine whether an eligible instructor who previously taught a concurrent enrollment course is no longer qualified to teach the concurrent enrollment course.

(4) To qualify for funds under Section 53F-2-409, an LEA and an institution of higher education shall:

(a) enter into a contract, in accordance with Section 53E-10-303, to provide one or more concurrent enrollment courses that are approved under the course approval process described in Subsection (2);

(b) ensure that an instructor who teaches a concurrent enrollment course is an eligible instructor;

(c) establish qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course, in accordance with the guidelines described in Subsection (3)(a);

(d) ensure that a student who enrolls in a concurrent enrollment course is an eligible

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student; and

(e) coordinate advising to eligible students.

(5) (a) An institution of higher education faculty member is an eligible instructor.

(b) An LEA employee is an eligible instructor if the LEA employee:

(i) is licensed under Chapter 6, Education Professional Licensure;

(ii) is supervised by an institution of higher education; and

(iii) (A) as described in Subsection (6), is approved as an eligible instructor by the institution of higher education that provides the concurrent enrollment course taught by the LEA employee;

(B) has an upper level mathematics credential issued by the state board;

(C) is approved as adjunct faculty by the institution of higher education that provides the concurrent enrollment course taught by the LEA employee; or

(D) teaches a concurrent enrollment course that the LEA employee taught during the 2018-19 or 2019-20 school year.

(6) An institution of higher education shall approve an LEA employee as an eligible instructor:

(a) for a career and technical education concurrent enrollment course, if the LEA employee has:

(i) a degree, certificate, or industry certification in the concurrent enrollment course's academic field; or

(ii) qualifying experience, as determined by the institution of higher education; or

(b) for a concurrent enrollment course other than a career and technical education course, if the LEA employee has:

(i) a master's degree or higher in the concurrent enrollment course's academic field;

(ii) (A) a master's degree or higher in any academic field; and

(B) at least 18 completed credit hours of graduate course work in an academic field that is relevant to the concurrent enrollment course; or

(iii) qualifying experience, as determined by the institution of higher education.

(7) An institution of higher education shall accept credits earned by a student who completes a concurrent enrollment course on the same basis as credits earned by a full-time or part-time student enrolled at the institution of higher education.

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Section 148. Section **53E-10-303** is amended to read:

**53E-10-303. Designated institution of higher education -- Concurrent enrollment course right of first refusal.**

(1) As used in this section, "designated institution of higher education" means an institution of higher education that is designated by the [~~State Board of Regents~~] Utah Board of Higher Education to provide a course or program of study within a specific geographic region.

(2) To offer a concurrent enrollment course, an LEA shall contact the LEA's designated institution of higher education to request that the designated institution of higher education contract with the LEA to provide the concurrent enrollment course.

(3) If the LEA's designated institution of higher education chooses to offer the concurrent enrollment course, the LEA shall contract with the LEA's designated institution of higher education to provide the concurrent enrollment course.

(4) An LEA may contract with an institution of higher education that is not the LEA's designated institution of higher education to provide a concurrent enrollment course if the LEA's designated institution of higher education:

- (a) chooses not to offer the concurrent enrollment course proposed by the LEA; or
- (b) fails to respond to the LEA's request under Subsection (2) within 30 days after the day on which the LEA contacts the designated institution of higher education.

Section 149. Section **53E-10-304** is amended to read:

**53E-10-304. Concurrent enrollment participation form -- Parental permission.**

(1) The [~~State Board of Regents~~] Utah Board of Higher Education shall create a higher education concurrent enrollment participation form that includes a parental permission form.

(2) Before allowing an eligible student to participate in concurrent enrollment, an LEA and an institution of higher education shall ensure that the eligible student has, for the current school year:

- (a) submitted the participation form described in Subsection (1);
- (b) signed an acknowledgment of program participation requirements; and
- (c) obtained parental permission as indicated by the signature of a student's parent on the parental permission form.

Section 150. Section **53E-10-305** is amended to read:

**53E-10-305. Tuition and fees.**

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(1) Except as provided in this section, the [~~State Board of Regents~~] Utah Board of Higher Education or an institution of higher education may not charge tuition or fees for a concurrent enrollment course.

(2) (a) The [~~State Board of Regents~~] Utah Board of Higher Education may charge a one-time fee for a student to participate in the concurrent enrollment program.

(b) A student who pays a fee described in Subsection (2)(a) does not satisfy a general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(3) (a) An institution of higher education may charge a one-time admission application fee for concurrent enrollment course credit offered by the institution of higher education.

(b) Payment of the fee described in Subsection (3)(a) satisfies the general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(4) (a) Except as provided in Subsection (4)(b), an institution of higher education may charge partial tuition of no more than \$30 per credit hour for a concurrent enrollment course for which a student earns college credit.

(b) An institution of higher education may not charge more than:

(i) \$5 per credit hour for an eligible student who qualifies for free or reduced price school lunch;

(ii) \$10 per credit hour for a concurrent enrollment course that is taught at an LEA by an eligible instructor described in Subsection 53E-10-302(5)(b); or

(iii) \$15 per credit hour for a concurrent enrollment course that is taught through video conferencing.

(5) In accordance with Section 53G-7-603, an LEA may charge a fee for a textbook, as defined in Section 53G-7-601, that is required for a concurrent enrollment course.

Section 151. Section **53E-10-308** is amended to read:

### **53E-10-308. Reporting.**

The state board and the [~~State Board of Regents~~] Utah Board of Higher Education shall submit an annual written report to the Higher Education Appropriations Subcommittee and in accordance with Section 53E-1-203 on student participation in the concurrent enrollment program, including:



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- (1) data on the higher education tuition not charged due to the hours of higher education credit granted through concurrent enrollment;
- (2) tuition or fees charged under Section 53E-10-305;
- (3) an accounting of the money appropriated for concurrent enrollment; and
- (4) a justification of the distribution method described in Subsections 53F-2-409(3)(d) and (e).

Section 152. Section **53E-10-704** is amended to read:

### **53E-10-704. Director Selection Committee -- Membership -- Powers and duties -- Compensation.**

- (1) There is created the Director Selection Committee to appoint the director.
- (2) The selection committee shall consist of the following nine members each appointed for two-year staggered terms, with the initial terms of the members described in Subsections (2)(a), (b), and (c) to be three years:
  - (a) one member of the office of the governor, who is the chair of the selection committee and appointed by the governor;
  - (b) one member of the House of Representatives, appointed by the speaker of the House of Representatives;
  - (c) one member of the Senate, appointed by the president of the Senate;
  - (d) one member of the state board, appointed by the chair of the state board;
  - (e) one member of the [~~Board of Regents~~] Utah Board of Higher Education, appointed by the chair of the [~~Board of Regents~~] Utah Board of Higher Education;
  - (f) one member appointed by the state superintendent;
  - (g) one member of the State Charter School Board, appointed by the chair of the State Charter School Board;
  - (h) one member of the Utah School Boards Association recognized in Section 53G-4-502, appointed by the association executive director; and
  - (i) one member of a state association that represents school superintendents, appointed by the association executive director.
- (3) (a) A member of the selection committee may be appointed for more than one term.
- (b) If a midterm vacancy occurs on the selection committee, the appointing individual, as described in Subsection (2), for the vacant position shall appoint an individual for the

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remainder of the term.

(4) A majority of the members shall constitute a quorum for the transaction of selection committee business.

(5) (a) The selection committee shall select and appoint a director for a four-year term.

(b) The director may be appointed for more than one term.

(6) (a) In a year in which the director is appointed, the selection committee shall:

(i) solicit applications for the director position to be submitted no later than June 1;

(ii) hold at least two meetings to discuss candidates for the open director position; and

(iii) select and appoint by majority vote a candidate to fill the director position to begin employment no later than August 1.

(b) Notwithstanding Subsection (6)(a), if a midterm vacancy in the director position occurs, the selection committee shall:

(i) no later than 25 business days after the day on which the position is vacated, solicit applications for the director position;

(ii) hold at least two meetings to discuss candidates for the vacant position; and

(iii) no later than 60 business days after the day on which the position is vacated, select a candidate to fill the director position for the remainder of the term.

(7) (a) The selection committee:

(i) may remove a director before the completion of the director's term only by a majority vote of the selection committee; and

(ii) is the only person empowered to remove the director.

(b) The chair shall hold a meeting to consider removing the director upon request of two or more selection committee members.

(8) A member of the selection committee may not receive compensation except a member who is a legislator shall receive compensation for travel and other expense reimbursements in accordance with Section 36-2-2.

(9) The selection committee shall:

(a) establish criteria for evaluation of the ULEAD program, including the degree of participation by participating institutions and practitioners; and

(b) evaluate the effectiveness of ULEAD every four years for purposes of continuing the program.

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(10) The selection committee shall hold a meeting described in this section in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

Section 153. Section **53F-2-409** is amended to read:

### **53F-2-409. Concurrent enrollment funding.**

(1) The terms defined in Section 53E-10-301 apply to this section.

(2) The state board shall allocate money appropriated for concurrent enrollment in accordance with this section.

(3) (a) The state board shall allocate money appropriated for concurrent enrollment in proportion to the number of credit hours earned for courses taken where:

(i) an LEA primarily bears the cost of instruction; and

(ii) an institution of higher education primarily bears the cost of instruction.

(b) From the money allocated under Subsection (3)(a)(i), the state board shall distribute:

(i) 60% of the money to LEAs; and

(ii) 40% of the money to the ~~[State Board of Regents]~~ Utah Board of Higher Education.

(c) From the money allocated under Subsection (3)(a)(ii), the state board shall distribute:

(i) 40% of the money to LEAs; and

(ii) 60% of the money to the ~~[State Board of Regents]~~ Utah Board of Higher Education.

(d) The state board shall make rules providing for the distribution of the money to LEAs under Subsections (3)(b)(i) and (3)(c)(i).

(e) The ~~[State Board of Regents]~~ Utah Board of Higher Education shall make rules providing for the distribution of the money allocated to institutions of higher education under Subsections (3)(b)(ii) and (3)(c)(ii).

(4) Subject to budget constraints, the Legislature shall annually increase the money appropriated for concurrent enrollment in proportion to the percentage increase over the previous school year in:

(a) kindergarten through grade 12 student enrollment; and

(b) the value of the weighted pupil unit.

(5) If an LEA receives an allocation of less than \$10,000 under this section, the LEA may use the allocation as described in Section 53F-2-206.

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Section 154. Section **53F-2-501** is amended to read:

### **53F-2-501. Early graduation incentives -- Incentive to school district -- Partial tuition scholarship for student -- Payments.**

(1) A secondary public school student who has completed all required courses or demonstrated mastery of required skills and competencies may graduate at any time with the approval of:

- (a) the student;
- (b) the student's parent; and
- (c) a local school official who is authorized by the school's principal or director to approve early graduation.

(2) The state board shall make a payment to a public high school in an amount equal to 1/2 of the scholarship awarded to each student under this section who graduates from the school at or before the conclusion of grade 11, or a proportionately lesser amount for a student who graduates after the conclusion of grade 11 but before the conclusion of grade 12.

(3) (a) The state board shall award to each student who graduates from high school at or before the conclusion of grade 11 a centennial scholarship in the amount of the greater of 30% of the previous year's value of the weighted pupil unit or \$1,000, subject to this Subsection (3) through Subsection (6).

(b) A student who is awarded a centennial scholarship may use the scholarship for full time enrollment at:

- (i) a Utah public college, university, or community college;
- (ii) a technical college described in Section 53B-2a-105; or
- (iii) any other institution in the state of Utah that:
  - (A) is accredited by an accrediting organization recognized by the [~~State Board of Regents~~] Utah Board of Higher Education; and

(B) offers postsecondary courses of the student's choice.

(c) Before making a payment of a centennial scholarship, the state board shall verify that the student has registered at an institution described in Subsection (3)(b):

- (i) during the fiscal year following the student's graduation from high school; or
  - (ii) at the end of the student's deferral period, in accordance with Subsection (4).
- (d) If a student graduates after the conclusion of grade 11 but before the conclusion of

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grade 12, the state board shall award the student a centennial scholarship of a proportionately lesser amount than the scholarship amount described in Subsection (3)(a).

(4) (a) A student who is eligible for a centennial scholarship under Subsection (3) may make a request to the state board that the state board defer consideration of the student for the scholarship for a set period of time.

(b) A student who makes a request under Subsection (4)(a) shall state in the request the reason for which the student wishes not to be considered for the scholarship until the end of the deferral period, which may include:

- (i) health reasons;
- (ii) religious reasons;
- (iii) military service; or
- (iv) humanitarian service.

(c) If a student makes a request under Subsection (4)(a), the state board shall:

- (i) (A) review the student's request; and
- (B) approve or reject the student's request; and

(ii) if the state board approves the student's request, in consultation with the student, set the length of the deferral period, ensuring that the deferral period is sufficient to meet the student's needs under Subsection (4)(b).

(d) At the end of the deferral period, and upon request of the student, the state board shall:

(i) determine a student to be eligible for the scholarship if the student was eligible at the time of the student's request for deferral; and

(ii) if found eligible, make a payment to the student in an amount equal to the amount described in Subsection (4)(e).

(e) The amount of a student's deferred scholarship payment shall be determined by the state board based on the amount of the scholarship the student would have been entitled to as described in Subsection (3) and based on the fiscal year prior to the student's request for deferral.

(5) Except as provided in Subsection (4)(b), the state board:

(a) shall make the payments authorized in Subsections (2) and (3)(a) during the fiscal year that follows the student's graduation; and

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(b) may make the payments authorized in Subsection (3)(b) during the fiscal year:

(i) in which the student graduates; or

(ii) following the student's graduation.

(6) Subject to future budget constraints, the Legislature shall adjust the appropriation for the Centennial Scholarship Program based on:

(a) the anticipated increase of students awarded a centennial scholarship; and

(b) the percent increase of the prior year's weighted pupil unit value, as provided in Subsection (3).

Section 155. Section **53F-5-204** is amended to read:

### **53F-5-204. Initiative to strengthen college and career readiness.**

(1) As used in this section:

(a) "College and career counseling" means:

(i) nurturing college and career aspirations;

(ii) assisting students in planning an academic program that connects to college and career goals;

(iii) providing early and ongoing exposure to information necessary to make informed decisions when selecting a college and career;

(iv) promoting participation in college and career assessments;

(v) providing financial aid information; and

(vi) increasing understanding about college admission processes.

(b) "LEA" or "local education agency" means a school district or charter school.

(2) There is created the Strengthening College and Career Readiness Program, a grant program for LEAs, to improve students' college and career readiness through enhancing the skill level of school counselors to provide college and career counseling.

(3) The state board shall:

(a) on or before August 1, 2015, collaborate with the [~~State Board of Regents~~] Utah Board of Higher Education, and business, community, and education stakeholders to develop a certificate for school counselors that:

(i) certifies that a school counselor is highly skilled at providing college and career counseling; and

(ii) is aligned with the Utah Comprehensive Counseling and Guidance Program as

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defined in rules established by the state board;

(b) subject to legislative appropriations, award grants to LEAs, on a competitive basis, for payment of course fees for courses required to earn the certificate developed by the state board under Subsection (3)(a); and

(c) make rules specifying:

(i) procedures for applying for and awarding grants under this section;

(ii) criteria for awarding grants; and

(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.

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(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;

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

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

(d) The committee shall select scholarship recipients based on the following criteria:

(i) test scores, grades, or other evidence demonstrating the applicant's ability to successfully complete a teacher education program; and

(ii) the applicant's record of success as a paraeducator.

(6) The maximum scholarship amount is \$5,000.

(7) Scholarship money may only be used to pay for tuition costs:

(a) of:

(i) an associate's degree program that fulfills credit requirements for the first two years of a bachelor's degree program leading to teacher licensure; or

(ii) the first two years of a bachelor's degree program leading to teacher licensure; and

(b) at a higher education institution:

(i) located in Utah; and

(ii) accredited by the Northwest Commission on Colleges and Universities.

(8) A scholarship recipient must be continuously employed as a paraeducator by a school district or charter school while pursuing a degree using scholarship money.

(9) The state board shall make rules in accordance with this section to administer the Paraeducator to Teacher Scholarship Program, including rules establishing:

(a) scholarship application procedures;

(b) the number of, and qualifications for, committee members who select scholarship recipients; and



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(c) procedures for distributing scholarship money.

(10) If the state obtains matching funds of equal sums from private contributors, the state board may award grants to institutions of higher education or nonprofit educational organizations for programs that provide:

(a) mentoring and training leading to a secondary education license with a certificate in mathematics for an individual who:

(i) is not a teacher in a public or private school;

(ii) does not have a teaching license;

(iii) has a bachelor's degree or higher; and

(iv) demonstrates a high level of mathematics competency by:

(A) successfully completing substantial course work in mathematics; and

(B) passing a mathematics content exam; or

(b) a stipend, professional development, and leadership opportunities to an experienced mathematics teacher who demonstrates high content knowledge and exemplary teaching and leadership skills to assist the teacher in becoming a teacher leader.

(11) (a) The state board shall make rules that establish criteria for awarding grants under this section.

(b) In awarding grants, the state board shall consider the amount or percent of matching funds provided by the grant recipient.

Section 157. Section **53G-5-102** is amended to read:

### **53G-5-102. Definitions.**

As used in this chapter:

(1) "Asset" means property of all kinds, real and personal, tangible and intangible, and includes:

(a) cash;

(b) stock or other investments;

(c) real property;

(d) equipment and supplies;

(e) an ownership interest;

(f) a license;

(g) a cause of action; and

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(h) any similar property.

(2) "Board of trustees of a higher education institution" or "board of trustees" means:

(a) the board of trustees of:

(i) the University of Utah;

(ii) Utah State University;

(iii) Weber State University;

(iv) Southern Utah University;

(v) Snow College;

(vi) Dixie State University;

(vii) Utah Valley University; or

(viii) Salt Lake Community College; or

(b) ~~[the board of directors of]~~ a technical college board of trustees described in Section 53B-2a-108.

(3) "Charter school authorizer" or "authorizer" means an entity listed in Section 53G-5-205 that authorizes a charter school.

Section 158. Section **53G-5-306** is amended to read:

**53G-5-306. Charter schools authorized by a board of trustees of a higher education institution -- Application process -- Board of trustees responsibilities.**

(1) Except as provided in Subsection (6), an applicant identified in Section 53G-5-302 may enter into an agreement with a board of trustees of a higher education institution authorizing the applicant to establish and operate a charter school.

(2) (a) An applicant applying for authorization from a board of trustees to establish and operate a charter school shall provide a copy of the application to the State Charter School Board and the local school board of the school district in which the proposed charter school will be located either before or at the same time the applicant files the application with the board of trustees.

(b) The State Charter School Board and the local school board may review the application and offer suggestions or recommendations to the applicant or the board of trustees before acting on the application.

(c) The board of trustees shall give due consideration to suggestions or recommendations made by the State Charter School Board or the local school board under

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Subsection (2)(b).

(3) The state board shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by a board of trustees.

(4) After approval of a charter school application, the applicant and the board of trustees shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

(5) (a) The school's charter agreement may include a provision that the charter school 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

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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.

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(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:

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- (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 telecommunication device capable of serving the customer at no charge to the customer beyond the rate for basic service.

(3) (a) The program described in Subsection (2) shall provide a dual party relay system using third party intervention to connect a certified deaf, hard of hearing, or severely speech impaired individual with a normal hearing individual by way of telecommunication devices designed for that purpose.

(b) The commission may, by rule, establish the type of telecommunications device to be provided to ensure functional equivalence.

(4) The commission shall cover the costs of the program described in this section from the Universal Public Telecommunications Service Support Fund created in Section 54-8b-15.

(5) In administering the program described in this section, the commission may use funds from the Universal Public Telecommunications Service Support Fund:

- (a) for the purchase, maintenance, repair, and distribution of telecommunication devices;
- (b) for the acquisition, operation, maintenance, and repair of a dual party relay system;
- (c) for the general administration of the program;
- (d) to train individuals in the use of telecommunications devices; and
- (e) to contract, in compliance with Title 63G, Chapter 6a, Utah Procurement Code,

with:

(i) an institution within the state system of higher education listed in Section 53B-1-102 for a program approved by the ~~[Board of Regents]~~ Utah Board of Higher Education that trains persons to qualify as certified interpreters; or

(ii) the Utah State Office of Rehabilitation created in Section 35A-1-202 for a program

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that trains persons to qualify as certified interpreters.

(6) The commission may create disbursement criteria and procedures by rule made under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for administering funds under Subsection (5).

(7) The commission shall solicit advice, counsel, and physical assistance from deaf, hard of hearing, or severely speech impaired individuals and the organizations serving deaf, hard of hearing, or severely speech impaired individuals in the design and implementation of the program.

Section 161. Section **58-22-302** is amended to read:

### **58-22-302. Qualifications for licensure.**

(1) Each applicant for licensure as a professional engineer 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 a bachelors or masters degree from an engineering program meeting criteria established by rule by the division in collaboration with the board; or

(ii) have completed the Transportation Engineering Technology and Fundamental Engineering College Program before July 1, 1998, under the direction of the Utah Department of Transportation and as certified by the Utah Department of Transportation;

(e) have successfully completed a program of qualifying experience established by rule by the division in collaboration with the board;

(f) have successfully passed examinations established by rule by the division in collaboration with the board; and

(g) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualification for licensure.

(2) Each applicant for licensure as a professional structural engineer 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) have graduated and received an earned bachelors or masters degree from an engineering program meeting criteria established by rule by the division in collaboration with

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the board;

(e) have successfully completed three years of licensed professional engineering experience established by rule by the division in 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;

(f) have successfully passed examinations established by rule by the division in 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;



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- (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 immediately preceding the date of the application as a:
      - (A) licensed professional engineer for licensure as a professional engineer;
      - (B) licensed professional structural engineer for licensure as a structural engineer; or
      - (C) licensed professional land surveyor for licensure as a professional land surveyor;
- and
- (e) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualifications for license.

(5) The rules made to implement this section shall be in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 162. Section **59-12-102** is amended to read:

### **59-12-102. Definitions.**

As used in this chapter:

- (1) "800 service" means a telecommunications service that:
  - (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
  - (b) is typically marketed:
    - (i) under the name 800 toll-free calling;
    - (ii) under the name 855 toll-free calling;
    - (iii) under the name 866 toll-free calling;
    - (iv) under the name 877 toll-free calling;
    - (v) under the name 888 toll-free calling; or
    - (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.
- (2) (a) "900 service" means an inbound toll telecommunications service that:

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(i) a subscriber purchases;

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

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include annual membership dues to private organizations.

(4) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

(5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(6) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (7); and

(b) that are imposed within a local taxing jurisdiction.

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- (7) "Agreement sales and use tax" means a tax imposed under:
- (a) Subsection 59-12-103(2)(a)(i)(A);
  - (b) Subsection 59-12-103(2)(b)(i);
  - (c) Subsection 59-12-103(2)(c)(i);
  - (d) Subsection 59-12-103(2)(d)(i)(A)(I);
  - (e) Section 59-12-204;
  - (f) Section 59-12-401;
  - (g) Section 59-12-402;
  - (h) Section 59-12-402.1;
  - (i) Section 59-12-703;
  - (j) Section 59-12-802;
  - (k) Section 59-12-804;
  - (l) Section 59-12-1102;
  - (m) Section 59-12-1302;
  - (n) Section 59-12-1402;
  - (o) Section 59-12-1802;
  - (p) Section 59-12-2003;
  - (q) Section 59-12-2103;
  - (r) Section 59-12-2213;
  - (s) Section 59-12-2214;
  - (t) Section 59-12-2215;
  - (u) Section 59-12-2216;
  - (v) Section 59-12-2217;
  - (w) Section 59-12-2218;
  - (x) Section 59-12-2219; or
  - (y) Section 59-12-2220.
- (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- (a) except for:
    - (i) an airline as defined in Section 59-2-102; or
    - (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"

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includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(10) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(11) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

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- (ii) nuclear fuel;
- (iii) oil-impregnated diatomaceous earth;
- (iv) oil sands;
- (v) oil shale;
- (vi) petroleum coke; or
- (vii) waste heat from:
  - (A) an industrial facility; or
  - (B) a power station in which an electric generator is driven through a process in which

water is heated, turns into steam, and spins a steam turbine.

(12) (a) Subject to Subsection (12)(b), "alternative energy electricity production facility" means a facility that:

- (i) uses alternative energy to produce electricity; and
- (ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

- (i) connected to an electric grid; or
- (ii) located on the premises of an electricity consumer.

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

(b) "Ancillary service" includes:

- (i) a conference bridging service;
- (ii) a detailed communications billing service;
- (iii) directory assistance;
- (iv) a vertical service; or
- (v) a voice mail service.

(14) "Area agency on aging" means the same as that term is defined in Section 62A-3-101.

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

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

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

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

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

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

(17) "Authorized carrier" means:

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

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

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

(18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

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

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

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

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

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- (i) black liquor; or
- (ii) treated woods.

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

- (i) distinct and identifiable; and
- (ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

- (ii) the sale of real property;
- (iii) the sale of services to real property;
- (iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

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

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

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

(v) the retail sale of two services if:

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

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

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

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

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

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

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

(A) that retail sale includes:

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- (I) food and food ingredients;
- (II) a drug;
- (III) durable medical equipment;
- (IV) mobility enhancing equipment;
- (V) an over-the-counter drug;
- (VI) a prosthetic device; or
- (VII) a medical supply; and
- (B) subject to Subsection (19)(f):

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

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

(c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

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

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

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

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:



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- (A) a binding sales document; or
- (B) another supporting sales-related document that is available to a purchaser.
- (ii) For purposes of Subsection (19)(d)(i), a binding sales document or another

supporting sales-related document that is available to a purchaser includes:

- (A) a bill of sale;
- (B) a contract;
- (C) an invoice;
- (D) a lease agreement;
- (E) a periodic notice of rates and services;
- (F) a price list;
- (G) a rate card;
- (H) a receipt; or
- (I) a service agreement.

(e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

- (A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or
- (B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (19)(b)(vi), a seller:

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

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

(iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales

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price of that retail sale.

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

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

(i) on a transaction; and

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

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

(c) maintains a record of the transaction described in Subsection (20)(a)(i).

(21) "Certified service provider" means an agent certified:

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

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel suitable for general use.

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

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

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

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

(24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (57) or residential use under Subsection (111).

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

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

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passenger's place of employment.

(ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

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

(26) "Component part" includes:

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

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

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

(d) feed, seeds, and seedlings.

(27) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(28) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(29) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (29)(a) and (b).

(30) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (30)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (30)(a).

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(31) "Construction materials" means any tangible personal property that will be converted into real property.

(32) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(33) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (33)(a)(i) to a location designated by the purchaser.

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

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

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

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

(a) is intended to supplement the diet;

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

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

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

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient

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described in Subsections (35)(b)(i) through (v);

(c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections

(35)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(36) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

(37) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(38) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(39) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

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(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

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

(a) address information; or

(b) telephone number information.

(41) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

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

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

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

(C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

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

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

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

(A) eyeglasses; or

(B) contact lenses.

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

(42) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

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

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(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

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

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

(i) recognized in:

(A) the official United States Pharmacopoeia;

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

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means equipment that:

(i) can withstand repeated use;

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

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

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(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (44)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

(45) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (45)(b)(i) through (vi).

(46) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(47) "Employee" means the same as that term is defined in Section 59-10-401.

(48) "Fixed guideway" means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(49) "Fixed wing turbine powered aircraft" means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

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

(51) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;



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- (B) concentrated form;
- (C) solid form;
- (D) frozen form;
- (E) dried form; or
- (F) dehydrated form; and
- (ii) that are:
  - (A) sold for:
    - (I) ingestion by humans; or
    - (II) chewing by humans; and
  - (B) consumed for the substance's:
    - (I) taste; or
    - (II) nutritional value.
- (b) "Food and food ingredients" includes an item described in Subsection (95)(b)(iii).
- (c) "Food and food ingredients" does not include:
  - (i) an alcoholic beverage;
  - (ii) tobacco; or
  - (iii) prepared food.
- (52) (a) "Fundraising sales" means sales:
  - (i) (A) made by a school; or
  - (B) made by a school student;
  - (ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and
  - (iii) that are part of an officially sanctioned school activity.
- (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity" means a school activity:
  - (i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;
  - (ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and
  - (iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

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

(54) "Governing board of the agreement" means the governing board of the agreement that is:

- (a) authorized to administer the agreement; and
- (b) established in accordance with the agreement.

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

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

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

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

(iv) the National Guard;

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

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

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

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

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

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

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

(a) in mining or extraction of minerals;

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

## **SB0111S01 compared with SB0111**

- (i) commercial greenhouses;
  - (ii) irrigation pumps;
  - (iii) farm machinery;
  - (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and
  - (v) other farming activities;
  - (c) in manufacturing tangible personal property at an establishment described in:
    - (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or
    - (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
  - (d) by a scrap recycler if:
    - (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:
      - (A) iron;
      - (B) steel;
      - (C) nonferrous metal;
      - (D) paper;
      - (E) glass;
      - (F) plastic;
      - (G) textile; or
      - (H) rubber; and
    - (ii) the new products under Subsection (57)(d)(i) would otherwise be made with nonrecycled materials; or
  - (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.
- (58) (a) Except as provided in Subsection (58)(b), "installation charge" means a charge for installing:
- (i) tangible personal property; or

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- (ii) a product transferred electronically.
- (b) "Installation charge" does not include a charge for:
  - (i) repairs or renovations of:
    - (A) tangible personal property; or
    - (B) a product transferred electronically; or
  - (ii) attaching tangible personal property or a product transferred electronically:
    - (A) to other tangible personal property; and
    - (B) as part of a manufacturing or fabrication process.

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

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

- (i) (A) a fixed term; or
- (B) an indeterminate term; and
- (ii) consideration.

(b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

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

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

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

- (A) upon completion of required payments; and
- (B) if the payment of an option price does not exceed the greater of:
  - (I) \$100; or
  - (II) 1% of the total required payments; or

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

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designed.

(d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

- (i) set-up of tangible personal property;
- (ii) maintenance of tangible personal property; or
- (iii) inspection of tangible personal property.

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

- (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

Manufacturing; or

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

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

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

(64) "Local taxing jurisdiction" means a:

- (a) county that is authorized to impose an agreement sales and use tax;
- (b) city that is authorized to impose an agreement sales and use tax; or
- (c) town that is authorized to impose an agreement sales and use tax.

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

(66) "Manufacturing facility" means:

- (a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

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(b) a scrap recycler if:

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

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (66)(b)(i) would otherwise be made with nonrecycled materials; or

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

(67) (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(68) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the

## **SB0111S01 compared with SB0111**

marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection (68)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

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(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include a person that only provides payment processing services.

(69) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

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

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

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (70)(a) through (g);

or

(j) person similar to a person described in Subsections (70)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

(72) "Mobile telecommunications service" means the same as that term is defined in



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the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

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

- (i) the origination point of the conveyance, routing, or transmission is not fixed;
- (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- (iii) the origination point described in Subsection (73)(a)(i) and the termination point described in Subsection (73)(a)(ii) are not fixed.

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

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

(74) (a) Except as provided in Subsection (74)(c), "mobility enhancing equipment" means equipment that is:

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

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

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

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (74)(a).

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

(i) a motor vehicle;

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

(iii) durable medical equipment; or

(iv) a prosthetic device.

(75) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section

## **SB0111S01 compared with SB0111**

59-12-124 to remit a tax on the seller's own purchases.

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

(a) except as provided in Subsection (76)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

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

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(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

## **SB0111S01 compared with SB0111**

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 includes a transmission by message or sound.

(86) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(87) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

(88) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (88)(c)(iii) or (iv).

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

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

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (88)(b)(ii);

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

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (88)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (129)(c).

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

(90) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

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

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

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

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(91) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(92) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(93) "Prepaid calling service" means a telecommunications service:

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

(b) that:

(i) is paid for in advance; and

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

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(94) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

## **SB0111S01 compared with SB0111**

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

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

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(95) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single

item; or

(iii) except as provided in Subsection (95)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

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(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (95)(b)(ii)(A)(I) through (IV);

and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (95)(b)(ii)(A) to prevent food borne illness; or

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

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

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

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

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- (VII) a cookie;
- (VIII) a croissant;
- (IX) a danish;
- (X) a donut;
- (XI) a muffin;
- (XII) a pastry;
- (XIII) a pie;
- (XIV) a roll;
- (XV) a tart;
- (XVI) a torte; or
- (XVII) a tortilla.

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

- (i) a container; or
- (ii) packaging.

(96) "Prescription" means an order, formula, or recipe that is issued:

- (a) (i) orally;
- (ii) in writing;
- (iii) electronically; or
- (iv) by any other manner of transmission; and
- (b) by a licensed practitioner authorized by the laws of a state.

(97) (a) Except as provided in Subsection (97)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

- (i) by the author or other creator of the computer software; and
- (ii) to the specifications of a specific purchaser.
- (b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

- (A) by the author or other creator of the computer software; and
- (B) to the specifications of a specific purchaser;
- (ii) computer software designed and developed by the author or other creator of the



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computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (97)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (97)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (97)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

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

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

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

(98) (a) "Private communications service" means a telecommunications service:

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

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

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

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

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

(99) (a) Except as provided in Subsection (99)(b), "product transferred electronically"

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means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

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

- (i) an ancillary service;
- (ii) computer software; or
- (iii) a telecommunications service.

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

- (i) artificially replace a missing portion of the body;
- (ii) prevent or correct a physical deformity or physical malfunction; or
- (iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

- (i) parts used in the repairs or renovation of a prosthetic device;
- (ii) replacement parts for a prosthetic device;
- (iii) a dental prosthesis; or
- (iv) a hearing aid.

(c) "Prosthetic device" does not include:

- (i) corrective eyeglasses; or
- (ii) contact lenses.

(101) (a) "Protective equipment" means an item:

- (i) for human wear; and
- (ii) that is:
  - (A) designed as protection:
    - (I) to the wearer against injury or disease; or
    - (II) against damage or injury of other persons or property; and
  - (B) not suitable for general use.

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

- (i) listing the items that constitute "protective equipment"; and
- (ii) that are consistent with the list of items that constitute "protective equipment"

under the agreement.

(102) (a) For purposes of Subsection 59-12-104(41), "publication" means any written

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or printed matter, other than a photocopy:

- (i) regardless of:
  - (A) characteristics;
  - (B) copyright;
  - (C) form;
  - (D) format;
  - (E) method of reproduction; or
  - (F) source; and
- (ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(103) (a) "Purchase price" and "sales price" mean the total amount of consideration:

- (i) valued in money; and
- (ii) for which tangible personal property, a product transferred electronically, or

services are:

- (A) sold;
- (B) leased; or
- (C) rented.
- (b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

- (ii) expenses of the seller, including:
  - (A) the cost of materials used;
  - (B) a labor cost;
  - (C) a service cost;
  - (D) interest;
  - (E) a loss;
  - (F) the cost of transportation to the seller; or
  - (G) a tax imposed on the seller;
- (iii) a charge by the seller for any service necessary to complete the sale; or
- (iv) consideration a seller receives from a person other than the purchaser if:

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(A) (I) the seller actually receives consideration from a person other than the purchaser;  
and

(II) the consideration described in Subsection (103)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

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

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

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

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

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

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

(Aa) invoice the purchaser receives; or

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

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

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

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

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

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately

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stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

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

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

(104) "Purchaser" means a person to whom:

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

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

(a) own and operate a data center facility that will house a group of networked server computers in one physical location in order to centralize the dissemination, management, and storage of data and information;

- (b) be located in the state;
- (c) be a new operation constructed on or after July 1, 2016;
- (d) consist of one or more buildings that total 150,000 or more square feet;
- (e) be owned or leased by:
  - (i) the establishment; or
  - (ii) a person under common ownership, as defined in Section 59-7-101, of the

establishment; and

- (f) be located on one or more parcels of land that are owned or leased by:

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(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment.

(106) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(107) "Rental" means the same as that term is defined in Subsection (60).

(108) (a) Except as provided in Subsection (108)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

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

(109) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of

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preparing those devices, technologies, or applications for marketing.

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

(i) at a residential address; or

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

(b) For purposes of Subsection (110)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

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

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

(a) resale;

(b) sublease; or

(c) subrent.

(113) (a) "Retailer" means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

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

(114) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

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(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(115) "Sale at retail" means the same as that term is defined in Subsection (112).

(116) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

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

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

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

(117) "Sales price" means the same as that term is defined in Subsection (103).

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

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

(A) the sale of:

(I) textbooks;



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- (II) textbook fees;
- (III) laboratory fees;
- (IV) laboratory supplies; or
- (V) safety equipment;
- (B) the sale of a uniform, protective equipment, or sports or recreational equipment

that:

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

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

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

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (118)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a

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private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(119) For purposes of this section and Section 59-12-104, "school" means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

(120) (a) "Seller" means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

(121) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

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(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials"

includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (121)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(122) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(123) (a) Subject to Subsections (123)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

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- (vii) makeup;
- (viii) a meal;
- (ix) mouthwash;
- (x) nail polish remover;
- (xi) a newspaper;
- (xii) a notepad;
- (xiii) a pen;
- (xiv) a pencil;
- (xv) a razor;
- (xvi) saline solution;
- (xvii) a sewing kit;
- (xviii) shaving cream;
- (xix) a shoe shine kit;
- (xx) a shower cap;
- (xxi) a snack item;
- (xxii) soap;
- (xxiii) toilet paper;
- (xxiv) a toothbrush;
- (xxv) toothpaste; or

(xxvi) an item similar to Subsections (123)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(124) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(125) "Solar energy" means the sun used as the sole source of energy for producing electricity.

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(126) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

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

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(127) "State" means the state of Utah, its departments, and agencies.

(128) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(129) (a) Except as provided in Subsection (129)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten

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computer software is transferred.

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

- (i) a dishwasher;
- (ii) a dryer;
- (iii) a freezer;
- (iv) a microwave;
- (v) a refrigerator;
- (vi) a stove;
- (vii) a washer; or

(viii) an item similar to Subsections (129)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

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

- (i) a hot water heater;
- (ii) a water filtration system; or
- (iii) a water softener system.

(130) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (130)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

- (i) telecommunications switching or routing equipment, machinery, or software; or
- (ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (130)(a):

- (i) a pole;
- (ii) software;

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- (iii) a supplementary power supply;
- (iv) temperature or environmental equipment or machinery;
- (v) test equipment;
- (vi) a tower; or
- (vii) equipment, machinery, or software that functions similarly to an item listed in

Subsections (130)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (130)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (vi).

(131) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(132) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

- (a) telecommunications enabling or facilitating equipment, machinery, or software;
- (b) telecommunications switching or routing equipment, machinery, or software; or
- (c) telecommunications transmission equipment, machinery, or software.

(133) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

- (A) on the code, form, or protocol of the content;
- (B) for the purpose of electronic conveyance, routing, or transmission; and
- (C) regardless of whether the service:
- (I) is referred to as voice over Internet protocol service; or

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(II) is classified by the Federal Communications Commission as enhanced or value added;

- (ii) an 800 service;
- (iii) a 900 service;
- (iv) a fixed wireless service;
- (v) a mobile wireless service;
- (vi) a postpaid calling service;
- (vii) a prepaid calling service;
- (viii) a prepaid wireless calling service; or
- (ix) a private communications service.

(c) "Telecommunications service" does not include:

- (i) advertising, including directory advertising;
- (ii) an ancillary service;
- (iii) a billing and collection service provided to a third party;
- (iv) a data processing and information service if:
  - (A) the data processing and information service allows data to be:
    - (I) (Aa) acquired;
    - (Bb) generated;
    - (Cc) processed;
    - (Dd) retrieved; or
    - (Ee) stored; and
  - (II) delivered by an electronic transmission to a purchaser; and
- (B) the purchaser's primary purpose for the underlying transaction is the processed data

or information;

- (v) installation or maintenance of the following on a customer's premises:
  - (A) equipment; or
  - (B) wiring;
- (vi) Internet access service;
- (vii) a paging service;
- (viii) a product transferred electronically, including:
  - (A) music;



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- (B) reading material;
  - (C) a ring tone;
  - (D) software; or
  - (E) video;
  - (ix) a radio and television audio and video programming service:
  - (A) regardless of the medium; and
  - (B) including:
    - (I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;
    - (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
    - (III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;
  - (x) a value-added nonvoice data service; or
  - (xi) tangible personal property.
- (134) (a) "Telecommunications service provider" means a person that:
- (i) owns, controls, operates, or manages a telecommunications service; and
  - (ii) engages in an activity described in Subsection (134)(a)(i) for the shared use with or resale to any person of the telecommunications service.
- (b) A person described in Subsection (134)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:
- (i) that person; or
  - (ii) the telecommunications service that the person owns, controls, operates, or manages.
- (135) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (135)(b) if that item is purchased or leased primarily for switching or routing:
- (i) an ancillary service;
  - (ii) data communications;
  - (iii) voice communications; or
  - (iv) telecommunications service.
- (b) The following apply to Subsection (135)(a):

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- (i) a bridge;
- (ii) a computer;
- (iii) a cross connect;
- (iv) a modem;
- (v) a multiplexer;
- (vi) plug in circuitry;
- (vii) a router;
- (viii) software;
- (ix) a switch; or
- (x) equipment, machinery, or software that functions similarly to an item listed in

Subsections (135)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (135)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (135)(b)(i) through (ix).

(136) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (136)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

- (i) an ancillary service;
- (ii) data communications;
- (iii) voice communications; or
- (iv) telecommunications service.

(b) The following apply to Subsection (136)(a):

- (i) an amplifier;
- (ii) a cable;
- (iii) a closure;
- (iv) a conduit;
- (v) a controller;
- (vi) a duplexer;
- (vii) a filter;
- (viii) an input device;

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- (ix) an input/output device;
- (x) an insulator;
- (xi) microwave machinery or equipment;
- (xii) an oscillator;
- (xiii) an output device;
- (xiv) a pedestal;
- (xv) a power converter;
- (xvi) a power supply;
- (xvii) a radio channel;
- (xviii) a radio receiver;
- (xix) a radio transmitter;
- (xx) a repeater;
- (xxi) software;
- (xxii) a terminal;
- (xxiii) a timing unit;
- (xxiv) a transformer;
- (xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (136)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (136)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (136)(b)(i) through (xxv).

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

- (i) offered by an institution of higher education; and
  - (ii) that the purchaser of the textbook or other printed material attends or will attend.
- (b) "Textbook for a higher education course" includes a textbook in electronic format.

(138) "Tobacco" means:

- (a) a cigarette;
- (b) a cigar;

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- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

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

(140) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

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

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

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

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

- (i) code;
- (ii) content;
- (iii) form; or
- (iv) protocol.

(142) (a) Subject to Subsection (142)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

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

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- (i) a vehicle described in Subsection (142)(a); or

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- (ii) (A) a locomotive;
- (B) a freight car;
- (C) railroad work equipment; or
- (D) other railroad rolling stock.

(143) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (142).

(144) (a) "Vertical service" means an ancillary service that:

- (i) is offered in connection with one or more telecommunications services; and
- (ii) offers an advanced calling feature that allows a customer to:
  - (A) identify a caller; and
  - (B) manage multiple calls and call connections.

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

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

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

(146) (a) Except as provided in Subsection (146)(b), "waste energy facility" means a facility that generates electricity:

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

- (A) tires;
- (B) waste coal;
- (C) oil shale; or
- (D) municipal solid waste; and
- (ii) in amounts greater than actually required for the operation of the facility.

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

- (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(147) "Watercraft" means a vessel as defined in Section 73-18-2.

(148) "Wind energy" means wind used as the sole source of energy to produce

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electricity.

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

Section 163. Section **63A-3-103** is amended to read:

**63A-3-103. Duties of director of division -- Application to institutions of higher education.**

(1) The director of the Division of Finance shall:

(a) define fiscal procedures relating to approval and allocation of funds;

(b) provide for the accounting control of funds;

(c) promulgate rules that:

(i) establish procedures for maintaining detailed records of all types of leases;

(ii) account for all types of leases in accordance with generally accepted accounting principles;

(iii) require the performance of a lease with an option to purchase study by state agencies prior to any lease with an option to purchase acquisition of capital equipment; and

(iv) require that the completed lease with an option to purchase study be approved by the director of the Division of Finance;

(d) if the department operates the Division of Finance as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:

(i) the proposed rate and fee schedule as required by Section 63A-1-114; and

(ii) other information or analysis requested by the Rate Committee;

(e) oversee the Office of State Debt Collection;

(f) publish the state's current constitutional debt limit on the Utah Public Finance Website, created in Section 63A-1-202; and

(g) prescribe other fiscal functions required by law or under the constitutional authority of the governor to transact all executive business for the state.

(2) (a) Institutions of higher education are subject to the provisions of Title 63A, Chapter 3, Part 1, General Provisions, and Title 63A, Chapter 3, Part 2, Accounting System, only to the extent expressly authorized or required by the [~~State Board of Regents~~] Utah Board of Higher Education under Title 53B, State System of Higher Education.

## **SB0111S01 compared with SB0111**

(b) Institutions of higher education shall submit financial data for the past fiscal year conforming to generally accepted accounting principles to the director of the Division of Finance.

(3) The Division of Finance shall prepare financial statements and other reports in accordance with legal requirements and generally accepted accounting principles for the state auditor's examination and certification:

- (a) not later than 60 days after a request from the state auditor; and
- (b) at the end of each fiscal year.

Section 164. Section **63A-3-110** is amended to read:

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

(1) As used in this section:

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

(b) "Governmental entity" means:

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

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

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

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

(v) the Utah Science Technology and Research Governing Authority created under Section 63M-2-301.

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

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

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

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

(C) would constitute taxable income under federal law.

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

(A) a de minimis or incidental expenditure; or

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

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

(2) A state officer or employee may not:

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

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

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

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

(i) the personal use expenditure was disbursed; or

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

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

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

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

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

(5) (a) Subject to Subsection (5)(b), the Division of Finance may withhold all or a



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portion of the wages of a state officer or employee who has violated Subsection (2) until the requirements of Subsection (3) have been met.

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

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

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

Section 165. Section **63A-4-103** is amended to read:

### **63A-4-103. Risk management -- Duties of state agencies.**

(1) (a) Unless specifically authorized by statute to do so, a state agency may not:

- (i) purchase insurance or self-fund any risk unless authorized by the risk manager; or
- (ii) procure or provide liability insurance for the state.

(b) (i) Notwithstanding the provisions of Subsection (1)(a), the [~~State Board of Regents~~] Utah Board of Higher Education may authorize higher education institutions to purchase insurance for, or self-fund, risks associated with their programs and activities that are not covered through the risk manager.

(ii) The [~~State Board of Regents~~] Utah Board of Higher Education shall provide copies of those purchased policies to the risk manager.

(iii) The [~~State Board of Regents~~] Utah Board of Higher Education shall ensure that the state is named as additional insured on any of those policies.

(2) Each state agency shall:

- (a) comply with reasonable risk related recommendations made by the risk manager;
- (b) participate in risk management training activities conducted or sponsored by the risk manager;

(c) include the insurance and liability provisions prescribed by the risk manager in all state contracts, together with a statement certifying to the other party to the contract that the insurance and liability provisions in the contract are those prescribed by the risk manager;

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(d) at each principal design stage, provide written notice to the risk manager that construction and major remodeling plans relating to agency buildings and facilities to be covered by the fund are available for review, for risk control purposes, and make them available to the risk manager for his review and recommendations; and

(e) cooperate fully with requests from the risk manager for agency planning, program, or risk related information, and allow the risk manager to attend agency planning and management meetings.

(3) Failure to include in the contract the provisions required by Subsection (2)(c) does not make the contract unenforceable by the state.

Section 166. Section **63A-5-104** is amended to read:

### **63A-5-104. Definitions -- Capital development and capital improvement process -- Approval requirements -- Limitations on new projects -- Emergencies.**

(1) As used in this section:

(a) (i) "Capital developments" means a:

(A) remodeling, site, or utility project with a total cost of \$3,500,000 or more;

(B) new facility with a construction cost of \$500,000 or more; or

(C) purchase of real property where an appropriation is requested to fund the purchase.

(ii) "Capital developments" does not include a project described in Subsection

(1)(b)(iii).

(b) "Capital improvements" means:

(i) a remodeling, alteration, replacement, or repair project with a total cost of less than \$3,500,000;

(ii) a site or utility improvement with a total cost of less than \$3,500,000;

(iii) a utility infrastructure improvement project that:

(A) has a total cost of less than \$7,000,000;

(B) consists of two or more projects that, if done separately, would each cost less than \$3,500,000; and

(C) the State Building Board determines is more cost effective or feasible to be completed as a single project; or

(iv) a new facility with a total construction cost of less than \$500,000.

(c) (i) "New facility" means the construction of a new building on state property

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regardless of funding source.

(ii) "New facility" includes:

(A) an addition to an existing building; and

(B) the enclosure of space that was not previously fully enclosed.

(iii) "New facility" does not include:

(A) the replacement of state-owned space that is demolished or that is otherwise removed from state use, if the total construction cost of the replacement space is less than \$3,500,000; or

(B) the construction of facilities that do not fully enclose a space.

(d) "Replacement cost of existing state facilities and infrastructure" means the replacement cost, as determined by the Division of Risk Management, of state facilities, excluding auxiliary facilities as defined by the State Building Board and the replacement cost of infrastructure as defined by the State Building Board.

(e) "State funds" means public money appropriated by the Legislature.

(2) (a) Except as provided in Subsection (2)(f), the board shall, on behalf of all state agencies, submit capital development recommendations and priorities to the Legislature for approval and prioritization.

(b) In developing the board's capital development recommendations and priorities, the board shall require each state agency that requests an appropriation for a capital development project to:

(i) submit to the board a capital development project request; and

(ii) complete and submit to the board a study that demonstrates the feasibility of the capital development project, including:

(A) the need for the capital development project;

(B) the appropriateness of the scope of the capital development project;

(C) any private funding for the capital development project; and

(D) the economic and community impacts of the capital development project.

(c) The board shall verify the completion and accuracy of a feasibility study that a state agency submits to the board under Subsection (2)(b).

(d) The board shall require that an institution of higher education described in Section 53B-1-102 that submits a request for a capital development project address whether and how,

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as a result of the project, the institution will:

- (i) offer courses or other resources that will help meet demand for jobs, training, and employment in the current market and the projected market for the next five years;

- (ii) respond to individual skilled and technical job demand over the next 3, 5, and 10 years;

- (iii) respond to industry demands for trained workers;

- (iv) help meet commitments made by the Governor's Office of Economic Development, including relating to training and incentives;

- (v) respond to changing needs in the economy; and

- (vi) based on demographics, respond to demands for on-line or in-class instruction.

- (e) The board shall give more weight in the board's scoring process to a request that is designated as a higher priority by the [~~State Board of Regents~~] Utah Board of Higher Education than a request that is designated as a lower priority by the [~~State Board of Regents~~] Utah Board of Higher Education only when determining the order of prioritization among requests submitted by the [~~State Board of Regents~~] Utah Board of Higher Education.

- (f) (i) For a dedicated project as defined in Section 53B-2a-101 or 53B-22-201, the board shall submit recommendations to the Legislature in accordance with this section.

- (ii) A dedicated project as defined in Section 53B-2a-101 or 53B-22-201 is not subject to prioritization by the board.

- (3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development project may not be constructed on state property without legislative approval.

- (b) Legislative approval is not required for a capital development project that consists of the design or construction of a new facility if:

- (i) the board determines that the requesting state agency has provided adequate assurance that state funds will not be used for the design or construction of the facility;

- (ii) the state agency provides to the board a written document, signed by the head of the state agency:

- (A) stating that funding or a revenue stream is in place, or will be in place before the project is completed, to ensure that increased state funding will not be required to cover the cost of operations and maintenance to the resulting facility for immediate or future capital improvements; and

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(B) detailing the source of the funding that will be used for the cost of operations and maintenance for immediate and future capital improvements to the resulting facility; and

(iii) the board determines that the use of the state property is:

(A) appropriate and consistent with the master plan for the property; and

(B) will not create an adverse impact on the state.

(c) (i) The Division of Facilities Construction and Management shall maintain a record of facilities constructed under the exemption provided in Subsection (3)(b).

(ii) For facilities constructed under the exemption provided in Subsection (3)(b), a state agency may not request:

(A) increased state funds for operations and maintenance; or

(B) state capital improvement funding.

(d) Legislative approval is not required for:

(i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds that has been approved by the board;

(ii) a facility to be built with nonstate funds and owned by nonstate entities within research park areas at the University of Utah and Utah State University;

(iii) a facility to be built at This is the Place State Park by This is the Place Foundation with funds of the foundation, including grant money from the state, or with donated services or materials;

(iv) a capital project that:

(A) is funded by the Uintah Basin Revitalization Fund or the Navajo Revitalization Fund; and

(B) does not provide a new facility for a state agency or higher education institution; or

(v) a capital project on school and institutional trust lands that is funded by the School and Institutional Trust Lands Administration from the Land Grant Management Fund and that does not fund construction of a new facility for a state agency or higher education institution.

(e) (i) Legislative approval is not required for capital development projects to be built for the Department of Transportation:

(A) as a result of an exchange of real property under Section 72-5-111; or

(B) as a result of a sale or exchange of real property from a maintenance facility if the real property is exchanged for, or the proceeds from the sale of the real property are used for,

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another maintenance facility, including improvements for a maintenance facility and real property.

(ii) When the Department of Transportation approves a sale or exchange under Subsection (3)(e), it shall notify the president of the Senate, the speaker of the House, and the cochairs of the Infrastructure and General Government Appropriations Subcommittee of the Legislature's Joint Appropriation Committee about any new facilities to be built or improved under this exemption.

(4) The Legislature may authorize:

- (a) the total square feet to be occupied by each state agency; and
- (b) the total square feet and total cost of lease space for each agency.

(5) If construction of a new building or facility will require an immediate or future increase in state funding for operations and maintenance or for capital improvements, the Legislature may not authorize the new building or facility until the Legislature appropriates funds for:

- (a) the portion of operations and maintenance, if any, that will require an immediate or future increase in state funding; and
- (b) the portion of capital improvements, if any, that will require an immediate or future increase in state funding.

(6) (a) Except as provided in Subsections (6)(b) and (c), the Legislature may not fund the design or construction of any new capital development projects, except to complete the funding of projects for which partial funding has been previously provided, until the Legislature has appropriated 1.1% of the replacement cost of existing state facilities and infrastructure to capital improvements.

(b) If the Legislature determines that there exists an Education Fund budget deficit or a General Fund budget deficit as those terms are defined in Section 63J-1-312, the Legislature may, in eliminating the deficit, reduce the amount appropriated to capital improvements to 0.9% of the replacement cost of state buildings and infrastructure.

(c) Subsection (6)(a) does not apply to a dedicated project as defined in Section 53B-2a-101 or 53B-22-201.

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), the Legislature may not fund the design and construction of a new facility in phases over more than one year unless the

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Legislature approves the funding for both the design and construction by a vote of two-thirds of all the members elected to each house.

(ii) Subsection (7)(a)(i) does not apply to a dedicated project as defined in Section 53B-2a-101 or 53B-22-201.

(b) An agency is required to receive approval from the board before the agency begins programming for a new facility that requires legislative approval under Subsection (3).

(c) The board or an agency may fund the programming of a new facility before the Legislature makes an appropriation for the new facility under Subsection (7)(a).

(8) (a) Notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures Act, after the Legislature approves capital development and capital improvement priorities under this section and Section 63A-5-228, if an emergency arises that creates an unforeseen and critical need for a capital improvement project, the board may reallocate capital improvement funds to address the project.

(b) The board shall report any changes the board makes in capital improvement allocations approved by the Legislature to:

- (i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and
- (ii) the Legislature at its next annual general session.

Section 167. Section **63A-5-303** is amended to read:

### **63A-5-303. Lease reporting and coordination.**

(1) The director shall:

(a) prepare a standard form upon which agencies and other state institutions and entities can report their current and proposed lease activity, including any lease renewals; and

(b) develop procedures and mechanisms within the division to:

- (i) obtain and share information about each agency's real property needs; and
- (ii) provide oversight and review of lessors and lessees during the term of each lease.

(2) Each agency, the Judicial Council, and the [~~Board of Regents~~] board of trustees for each institution of higher education shall report all current and proposed lease activity on the standard form prepared by the division to:

- (a) the State Building Board; and
- (b) the Office of Legislative Fiscal Analyst.

Section 168. Section **63A-5-305** is amended to read:

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### **63A-5-305. Leasing by higher education institutions.**

(1) The [~~Board of Regents~~] Utah Board of Higher Education shall establish written policies and procedures governing leasing by higher education institutions.

(2) Except as provided in Sections 53B-2a-113 and 63M-2-602, a higher education institution shall comply with the procedures and requirements of the [~~Board of Regents~~] Utah Board of Higher Education policies before signing or renewing a lease.

Section 169. Section **63A-5-501** is amended to read:

### **63A-5-501. Making keys to buildings of the state, political subdivisions, or colleges and universities without permission prohibited.**

No person shall knowingly make or cause to be made any key or duplicate key for any building, laboratory, facility, room, dormitory, hall or any other structure or part thereof owned by the state, by any political subdivision thereof or by the [~~board of regents~~] Utah Board of Higher Education or other governing body of any college or university [~~which~~] that is supported wholly or in part by the state without the prior written consent of the state, political subdivision, [~~board of regents~~] Utah Board of Higher Education, or other governing body.

Section 170. Section **63C-19-102** is amended to read:

### **63C-19-102. Definitions.**

As used in this chapter:

(1) "Commission" means the Higher Education Strategic Planning Commission created in Section 63C-19-201.

(2) "Institution of higher education" means an institution described in [~~Subsections 53B-1-102(1)(a)(ii) through (ix)~~] Subsection 53B-1-102(1)(a).

(3) "Institutional role" means an institution of higher education's role described in Section 53B-16-101.

(4) "State system of higher education" means the state system of higher education described in Section 53B-1-102.

(5) "Strategic plan" means the strategic plan described in Section 63C-19-202.

(6) "Technical college" means the same as that term is defined in Section 53B-1-101.5.

Section 171. Section **63C-19-201** is amended to read:

### **63C-19-201. Higher Education Strategic Planning Commission -- Membership -- Quorum and voting requirements -- Compensation -- Staff support.**



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(1) There is created the Higher Education Strategic Planning Commission consisting of the following [22] members:

(a) two members of the Senate, appointed by the president of the Senate;

(b) two members of the House of Representatives, appointed by the speaker of the House of Representatives;

~~[(c) two members of the State Board of Regents, appointed by the chair of the State Board of Regents;]~~

~~[(d) two members of the Utah System of Technical Colleges Board of Trustees, appointed by the chair of the Utah System of Technical Colleges Board of Trustees;]~~

(c) four members of the Utah Board of Higher Education, appointed by the chair of the Utah Board of Higher Education;

~~[(e)]~~ (d) four individuals, appointed by the chair of the ~~[State Board of Regents]~~ Utah Board of Higher Education, who represent degree-granting institutions of higher education from a range of geographic areas and with varied institutional roles;

~~[(f)]~~ (e) two individuals, appointed by the chair of the ~~[Utah System of Technical Colleges Board of Trustees]~~ Utah Board of Higher Education, who represent technical colleges from a range of geographic areas;

~~[(g)]~~ (f) the commissioner of higher education or the commissioner's designee;

~~[(h) the commissioner of technical education or the commissioner's designee;]~~

~~[(i)]~~ (g) (i) a member of the governor's staff who is responsible for advising the governor on education issues, appointed by the governor; or

(ii) a member of the governor's staff designated by the individual described in Subsection (1)(g)(i);

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

~~[(k)]~~ (i) the executive director of the Department of Workforce Services or the executive director's designee;

~~[(l)]~~ (j) the state superintendent of public instruction or the superintendent's designee; and

~~[(m)]~~ (k) two Utah business leaders, one appointed by the president of the Senate and one appointed by the speaker of the House of Representatives.

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(2) (a) The president of the Senate shall appoint one of the members described in Subsection (1)(a) as a cochair of the commission.

(b) The speaker of the House of Representatives shall appoint one of the members described in Subsection (1)(b) as a cochair of the commission.

(c) The chair of the ~~[State Board of Regents]~~ Utah Board of Higher Education shall appoint ~~[one]~~ two of the members described in Subsection (1)(c) as ~~[a vice chair]~~ vice chairs of the commission.

~~[(d) The chair of the Utah System of Technical Colleges Board of Trustees shall appoint one of the members described in Subsection (1)(d) as a vice chair of the commission.]~~

(3) (a) The salary and expenses of a commission member who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A commission member who is not a legislator may not receive compensation or benefits for the member's service on the commission, but may receive per diem and reimbursement for travel expenses incurred as a commission member at the rates established by the Division of Finance under:

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

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

(4) (a) A majority of the commission members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the commission.

(5) The Office of Legislative Research and General Counsel and the Office of the Legislative Fiscal Analyst shall provide staff support to the commission.

Section 172. Section **63C-19-202** is amended to read:

### **63C-19-202. Commission powers and duties -- Strategic plan -- Reports.**

(1) (a) ~~[The]~~ During calendar year 2019, the commission shall develop a strategic plan aimed at meeting the future challenges of the state system of higher education.

(b) The strategic plan shall address:

(i) providing quality, accessible, and innovative postsecondary education that prepares Utahns for the twenty-first century;

(ii) cost-effective and affordable modes of higher education delivery;

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(iii) the integration of prior learning and competency-based experiences to meet degree or certificate requirements;

(iv) maximizing the role of the state system of higher education in workforce and economic development;

(v) a statewide campus and technology master plan that reflects regional differences in projected student enrollment growth in the state system of higher education;

(vi) governance of the state system of higher education, including studying best practices and recommending modifications; and

(vii) other issues related to the state system of higher education as determined by the commission.

~~[(2)(a) The commission shall:]~~

~~[(i) select a consultant to manage the strategic planning process in accordance with Subsection (3);]~~

~~[(ii) guide the analytical work of a consultant described in Subsection (2)(a)(i) and review the results of the work;]~~

~~[(iii) coordinate with a consultant described in Subsection (2)(a)(i) to engage in a strategic planning process and create a strategic plan;]~~

~~[(iv) conduct regional meetings to gather stakeholder input during the strategic planning process; and]~~

~~[(v) report to the Legislature and the governor in accordance with Subsection (5).]~~

~~[(b) The commission may designate and assign working groups within the commission to address, study, evaluate, or discuss issues related to the commission's work.]~~

~~[(3) Subject to direction from the commission, a consultant selected under Subsection (2)(a) shall:]~~

~~[(a) collect and analyze data related to the current and future projected conditions of the state system of higher education, including:]~~

~~[(i) relevant demographics and educational attainment;]~~

~~[(ii) the state's economy, including workforce supply and demand;]~~

~~[(iii) affordability and financing of higher education through tuition, state funding, and other sources;]~~

~~[(iv) innovation by institutions of higher education, including research and research~~

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commercialization;]

~~[(v) operational and capital facility efficiencies;]~~

~~[(vi) accountability measures to assess the performance of the state system of higher education; and]~~

~~[(vii) any other data collection or analysis requested by the commission;]~~

~~[(b) based on the data described in Subsection (3)(a), make comparisons between higher education in Utah and higher education in other states or countries;]~~

~~[(c) project the condition of the state system of higher education in the future under the state's current system based on the projected:]~~

~~[(i) population;]~~

~~[(ii) workforce needs; and]~~

~~[(iii) funding requirements through tuition and state funding;]~~

~~[(d) develop alternatives to the projection described in Subsection (3)(c) by modeling potential changes to:]~~

~~[(i) industry and economic growth;]~~

~~[(ii) student enrollment patterns;]~~

~~[(iii) the portion of funding for the state system of higher education that comes from tuition and the portion of funding that comes from state funding; and]~~

~~[(iv) investments in capital facilities or technology infrastructure;]~~

~~[(e) recommend accountability or performance measures to assess the effectiveness of the state system of higher education;]~~

~~[(f) in coordination with the commission, conduct the regional meetings described in Subsection (2)(a)(iv) to share information and seek input from a range of stakeholders;]~~

~~[(g) recommend changes to the governance system for the state system of higher education that would facilitate implementation of the strategic plan; and]~~

~~[(h) produce for the commission:]~~

~~[(i) a draft report, including findings, observations, and strategic priorities; and]~~

~~[(ii) a final report, incorporating feedback from the commission on the draft report described in Subsection (3)(h)(i), regarding the future of the state system of higher education.]~~

~~[(4) The State Board of Regents and the Utah System of Technical Colleges Board of Trustees shall provide the commission and a consultant selected under Subsection (2)(a) with~~

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~~data and data analysis as requested by the commission.]~~

(2) During calendar year 2020, the commission shall:

(a) develop a statewide attainment goal and subgoals for higher education;

(b) define affordability for higher education in the state; and

(c) assist in facilitating the transition to the Utah Board of Higher Education.

~~[(5)]~~ (3) (a) On or before November 30, 2018, the commission shall report on the commission's progress to:

(i) the Education Interim Committee;

(ii) the Higher Education Appropriations Subcommittee;

(iii) the Legislative Management Committee; and

(iv) the governor.

(b) On or before November 30, 2019, the commission shall provide a ~~[final]~~ report, including a strategic plan and any recommendations, to:

(i) the Education Interim Committee;

(ii) the Higher Education Appropriations Subcommittee;

(iii) the Legislative Management Committee; and

(iv) the governor.

(c) On or before November 30, 2020, the commission shall report on the duties described in Subsection (2) to:

(i) the Education Interim Committee;

(ii) the Higher Education Appropriations Subcommittee;

(iii) the Legislative Management Committee; and

(iv) the governor.

Section 173. Section **63D-2-102** is amended to read:

### **63D-2-102. Definitions.**

As used in this chapter:

(1) (a) "Collect" means the gathering of personally identifiable information:

(i) from a user of a governmental website; or

(ii) about a user of the governmental website.

(b) "Collect" includes use of any identifying code linked to a user of a governmental website.

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(2) "Court website" means a website on the Internet that is operated by or on behalf of any court created in Title 78A, Chapter 1, Judiciary.

(3) "Governmental entity" means:

- (a) an executive branch agency as defined in Section 63F-1-102;
- (b) the legislative branch;
- (c) the judicial branch;
- (d) the State Board of Education;
- (e) the [~~Board of Regents~~] Utah Board of Higher Education;
- (f) an institution of higher education; and
- (g) a political subdivision of the state:
  - (i) as defined in Section 17B-1-102; and
  - (ii) including a school district.

(4) (a) "Governmental website" means a website on the Internet that is operated by or on behalf of a governmental entity.

(b) "Governmental website" includes a court website.

(5) "Governmental website operator" means a governmental entity or person acting on behalf of the governmental entity that:

- (a) operates a governmental website; and
- (b) collects or maintains personally identifiable information from or about a user of that website.

(6) "Personally identifiable information" means information that identifies:

- (a) a user by:
  - (i) name;
  - (ii) account number;
  - (iii) physical address;
  - (iv) email address;
  - (v) telephone number;
  - (vi) Social Security number;
  - (vii) credit card information; or
  - (viii) bank account information;
- (b) a user as having requested or obtained specific materials or services from a

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governmental website;

- (c) Internet sites visited by a user; or
- (d) any of the contents of a user's data-storage device.
- (7) "User" means a person who accesses a governmental website.

Section 174. Section **63F-1-102** is amended to read:

### **63F-1-102. Definitions.**

As used in this title:

(1) "Chief information officer" means the chief information officer appointed under Section 63F-1-201.

(2) "Data center" means a centralized repository for the storage, management, and dissemination of data.

(3) "Department" means the Department of Technology Services.

(4) "Enterprise architecture" means:

- (a) information technology that can be applied across state government; and
- (b) support for information technology that can be applied across state government,

including:

- (i) technical support;
- (ii) master software licenses; and
- (iii) hardware and software standards.

(5) (a) "Executive branch agency" means an agency or administrative subunit of state government.

(b) "Executive branch agency" does not include:

- (i) the legislative branch;
- (ii) the judicial branch;
- (iii) the State Board of Education;
- (iv) the ~~[Board of Regents]~~ Utah Board of Higher Education;
- (v) institutions of higher education;
- (vi) independent entities as defined in Section 63E-1-102; and
- (vii) elective constitutional offices of the executive department which includes:
  - (A) the state auditor;
  - (B) the state treasurer; and

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(C) the attorney general.

(6) "Executive branch strategic plan" means the executive branch strategic plan created under Section 63F-1-203.

(7) "Individual with a disability" means an individual with a condition that meets the definition of "disability" in 42 U.S.C. Sec. 12102.

(8) "Information technology" means all computerized and auxiliary automated information handling, including:

- (a) systems design and analysis;
- (b) acquisition, storage, and conversion of data;
- (c) computer programming;
- (d) information storage and retrieval;
- (e) voice, video, and data communications;
- (f) requisite systems controls;
- (g) simulation; and
- (h) all related interactions between people and machines.

(9) "State information architecture" means a logically consistent set of principles, policies, and standards that guide the engineering of state government's information technology and infrastructure in a way that ensures alignment with state government's business and service needs.

Section 175. Section **63F-1-206** is amended to read:

### **63F-1-206. Rulemaking -- Policies.**

(1) (a) Except as provided in Subsection (2), the chief information officer shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) provide standards that impose requirements on executive branch agencies that:

(A) are related to the security of the statewide area network; and

(B) establish standards for when an agency must obtain approval before obtaining items listed in Subsection 63F-1-205(1);

(ii) specify the detail and format required in an agency information technology plan submitted in accordance with Section 63F-1-204;

(iii) provide for standards related to the privacy policies of websites operated by or on behalf of an executive branch agency;



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(iv) provide for the acquisition, licensing, and sale of computer software;

(v) specify the requirements for the project plan and business case analysis required by Section 63F-1-205;

(vi) provide for project oversight of agency technology projects when required by Section 63F-1-205;

(vii) establish, in accordance with Subsection 63F-1-205(2), the implementation of the needs assessment for information technology purchases;

(viii) establish telecommunications standards and specifications in accordance with Section 63F-1-404; and

(ix) establish standards for accessibility of information technology by individuals with disabilities in accordance with Section 63F-1-210.

(b) The rulemaking authority granted by this Subsection (1) is in addition to any other rulemaking authority granted by this title.

(2) (a) Notwithstanding Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to Subsection (2)(b), the chief information officer may adopt a policy that outlines procedures to be followed by the chief information officer in facilitating the implementation of this title by executive branch agencies if the policy:

(i) is consistent with the executive branch strategic plan; and

(ii) is not required to be made by rule under Subsection (1) or Section 63G-3-201.

(b) (i) A policy adopted by the chief information officer under Subsection (2)(a) may not take effect until 30 days after the day on which the chief information officer submits the policy to:

(A) the governor; and

(B) all cabinet level officials.

(ii) During the 30-day period described in Subsection (2)(b)(i), cabinet level officials may review and comment on a policy submitted under Subsection (2)(b)(i).

(3) (a) Notwithstanding Subsection (1) or (2) or Title 63G, Chapter 3, Utah Administrative Rulemaking Act, without following the procedures of Subsection (1) or (2), the chief information officer may adopt a security procedure to be followed by executive branch agencies to protect the statewide area network if:

(i) broad communication of the security procedure would create a significant potential

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for increasing the vulnerability of the statewide area network to breach or attack; and

(ii) after consultation with the chief information officer, the governor agrees that broad communication of the security procedure would create a significant potential increase in the vulnerability of the statewide area network to breach or attack.

(b) A security procedure described in Subsection (3)(a) is classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) The chief information officer shall provide a copy of the security procedure as a protected record to:

(i) the chief justice of the Utah Supreme Court for the judicial branch;

(ii) the speaker of the House of Representatives and the president of the Senate for the legislative branch;

(iii) the chair of the ~~[Board of Regents]~~ Utah Board of Higher Education; and

(iv) the chair of the State Board of Education.

Section 176. Section **63F-1-303** is amended to read:

### **63F-1-303. Executive branch agencies -- Subscription by institutions.**

(1) An executive branch agency in accordance with its agency information technology plan approved by the chief information officer shall:

(a) subscribe to the information technology services provided by the department; or

(b) contract with one or more alternate private providers of information technology services if the chief information officer determines that the purchase of the services from a private provider will:

(i) result in:

(A) cost savings;

(B) increased efficiency; or

(C) improved quality of services; and

(ii) not impair the interoperability of the state's information technology services.

(2) An institution of higher education may subscribe to the services provided by the department if:

(a) the president of the institution recommends that the institution subscribe to the services of the department; and

(b) the ~~[Board of Regents]~~ Utah Board of Higher Education determines that

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subscription to the services of the department will result in cost savings or increased efficiency to the institution.

(3) The following may subscribe to information technology services by requesting that the services be provided from the department:

- (a) the legislative branch;
- (b) the judicial branch;
- (c) the State Board of Education;
- (d) a political subdivision of the state;
- (e) an agency of the federal government;
- (f) an independent entity as defined in Section 63E-1-102; and
- (g) an elective constitutional officer of the executive department as defined in

Subsection 63F-1-102(5)(b)(vii).

Section 177. Section **63F-2-102** is amended to read:

### **63F-2-102. Data Security Management Council -- Membership -- Duties.**

(1) There is created the Data Security Management Council composed of [~~nine~~] eight members as follows:

- (a) the chief information officer appointed under Section 63F-1-201, or the chief information officer's designee;
- (b) one individual appointed by the governor;
- (c) one individual appointed by the speaker of the House of Representatives and the president of the Senate from the Legislative Information Technology Steering Committee; and
- (d) the highest ranking information technology official, or the highest ranking information technology official's designee, from each of:

- (i) the Judicial Council;
- (ii) the [~~State Board of Regents~~] Utah Board of Higher Education;
- (iii) the State Board of Education;
- [~~(iv) the Utah System of Technical Colleges Board of Trustees;~~]
- [~~(v)~~] (iv) the State Tax Commission; and
- [~~(vi)~~] (v) the Office of the Attorney General.

(2) The council shall elect a chair of the council by majority vote.

(3) (a) A majority of the members of the council constitutes a quorum.

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(b) Action by a majority of a quorum of the council constitutes an action of the council.

(4) The Department of Technology Services shall provide staff to the council.

(5) The council shall meet quarterly, or as often as necessary, to:

(a) review existing state government data security policies;

(b) assess ongoing risks to state government information technology;

(c) create a method to notify state and local government entities of new risks;

(d) coordinate data breach simulation exercises with state and local government entities; and

(e) develop data security best practice recommendations for state government that include recommendations regarding:

(i) hiring and training a chief information security officer for each government entity;

(ii) continuous risk monitoring;

(iii) password management;

(iv) using the latest technology to identify and respond to vulnerabilities;

(v) protecting data in new and old systems; and

(vi) best procurement practices.

(6) A member who is not a member of the Legislature may not receive compensation or benefits for the member's service but may receive per diem and travel expenses as provided in:

(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.

Section 178. Section **63G-2-103** is amended to read:

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

As used in this chapter:

(1) "Audit" means:

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

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

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regulations.

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

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

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

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

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

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

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

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5) (a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's

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review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

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

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the ~~[State Board of Regents]~~ Utah Board of Higher Education, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

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

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

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this

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chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101;

(v) the Utah Independent Redistricting Commission; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

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

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

(13) "Individual" means a human being.

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

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

(ii) names of victims;

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

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

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

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

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

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with an order of the State Records Committee.

(17) "Person" means:

- (a) an individual;
- (b) a nonprofit or profit corporation;
- (c) a partnership;
- (d) a sole proprietorship;
- (e) other type of business organization; or
- (f) any combination acting in concert with one another.

(18) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(19) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(20) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(21) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.



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(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

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

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

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

(A) a member of the judiciary;

(B) an administrative law judge;

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

(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the

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employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

(xvi) child pornography, as defined by Section 76-5b-103; or

(xvii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201.

(23) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(24) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(25) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(26) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

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(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(27) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

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

(29) "State Records Committee" means the State Records Committee created in Section 63G-2-501.

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

Section 179. Section **63G-6a-103** is amended to read:

### **63G-6a-103. Definitions.**

As used in this chapter:

(1) "Applicable rulemaking authority" means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the building board or the Division of Facilities Construction and Management, created in Section 63A-5-201, the building board;

(B) for the Office of the Attorney General, the attorney general; and

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

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(ii) an individual or body designated by the legislative body of the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education [~~described in:~~], the Utah Board of Higher Education;

~~[(i) Subsections 53B-1-102(1)(a) and (c), the State Board of Regents; or]~~

~~[(ii) Subsection 53B-1-102(1)(b), the Utah System of Technical Colleges Board of Trustees;]~~

(g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the State Board of Education;

(h) for a public transit district, the chief executive of the public transit district;

(i) for a local district other than a public transit district or for a special service district:

(i) before January 1, 2015, the board of trustees of the local district or the governing body of the special service district; or

(ii) on or after January 1, 2015, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules:

(A) with respect to a subject addressed by board rules; or

(B) that are in addition to board rules;

(j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the board of directors of the Utah Educational Savings Plan;

(k) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the School and Institutional Trust Lands Board of Trustees;

(l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and Institutional Trust Fund Board of Trustees;

(m) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority Board, created in Section 63H-7a-203; or

(n) for any other procurement unit, the board.

(2) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.

(3) "Approved vendor list" means a list of approved vendors established under Section

## **SB0111S01 compared with SB0111**

63G-6a-507.

(4) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.

(5) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.

(6) "Bidding process" means the procurement process described in Part 6, Bidding.

(7) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(8) "Building board" means the State Building Board, created in Section 63A-5-101.

(9) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(10) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(11) "Chief procurement officer" means the chief procurement officer appointed under Subsection 63G-6a-302(1).

(12) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except as provided in Subsection

63G-6a-707(6)(b) relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

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(13) "Conservation district" means the same as that term is defined in Section 17D-3-102.

(14) "Construction":

(a) means services, including work, and supplies for a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

(15) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

(16) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

(17) "Contract" means an agreement for a procurement.

(18) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

## **SB0111S01 compared with SB0111**

- (d) processing contract amendments;
- (e) resolving, to the extent practicable, contract disputes;
- (f) curing contract errors and deficiencies;
- (g) terminating a contract;
- (h) measuring or evaluating completed work and contractor performance;
- (i) computing payments under the contract; and
- (j) closing out a contract.

(19) "Contractor" means a person who is awarded a contract with a procurement unit.

(20) "Cooperative procurement" means procurement conducted by, or on behalf of:

- (a) more than one procurement unit; or
- (b) a procurement unit and a cooperative purchasing organization.

(21) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(22) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

(23) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(24) "Days" means calendar days, unless expressly provided otherwise.

(25) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

(26) "Design professional" means:

- (a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act;
- (b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; or
- (c) an individual certified as a commercial interior designer under Title 58, Chapter 86,

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State Certification of Commercial Interior Designers Act.

(27) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

(28) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102;

(c) master planning and programming services; or

(d) services within the scope of the practice of commercial interior design, as defined in Section 58-86-102.

(29) "Design-build" means the procurement of design professional services and construction by the use of a single contract.

(30) "Director" means the director of the division.

(31) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.

(32) "Educational procurement unit" means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

(c) the Utah Schools for the Deaf and the Blind;

(d) the Utah Education and Telehealth Network;

(e) an institution of higher education of the state described in Section 53B-1-102; or

(f) the State Board of Education.

(33) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(34) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.



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(35) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

- (a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or
- (b) an adjustment is required by law.

(36) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

- (a) is based on the consumer price index or another commercially acceptable index, source, or formula; and
- (b) is not based on a percentage of the cost to the contractor.

(37) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

(38) "Head of a procurement unit" means:

- (a) for a legislative procurement unit, any person designated by rule made by the applicable rulemaking authority;
- (b) for an executive branch procurement unit:
  - (i) the director of the division; or
  - (ii) any other person designated by the board, by rule;
- (c) for a judicial procurement unit:
  - (i) the Judicial Council; or
  - (ii) any other person designated by the Judicial Council, by rule;
- (d) for a local government procurement unit:
  - (i) the legislative body of the local government procurement unit; or
  - (ii) any other person designated by the local government procurement unit;
- (e) for a local district other than a public transit district, the board of trustees of the local district or a designee of the board of trustees;
- (f) for a special service district, the governing body of the special service district or a designee of the governing body;
- (g) for a local building authority, the board of directors of the local building authority

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or a designee of the board of directors;

(h) for a conservation district, the board of supervisors of the conservation district or a designee of the board of supervisors;

(i) for a public corporation, the board of directors of the public corporation or a designee of the board of directors;

(j) for a school district or any school or entity within a school district, the board of the school district, or the board's designee;

(k) for a charter school, the individual or body with executive authority over the charter school, or the individual's or body's designee;

(l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education, or the president's designee;

(m) for a public transit district, the board of trustees or a designee of the board of trustees;

(n) for the State Board of Education, the State Board of Education or a designee of the State Board of Education; or

(o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or a designee of the executive director.

(39) "Immaterial error":

(a) means an irregularity or abnormality that is:

(i) a matter of form that does not affect substance; or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the chief procurement officer or the head of a procurement unit with independent procurement authority reasonably considers to be immaterial.

(40) "Indefinite quantity contract" means a fixed price contract that:

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(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(41) "Independent procurement authority" means authority granted to a procurement unit under Subsection 63G-6a-106(4)(a).

(42) "Invitation for bids":

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection (42)(a).

(43) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

(44) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

(45) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

(46) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

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- (d) a staff office of the Legislature, the Senate, or the House of Representatives; or
- (e) a committee, subcommittee, commission, or other organization:
  - (i) within the state legislative branch; or
  - (ii) (A) that is created by statute to advise or make recommendations to the Legislature;
  - (B) the membership of which includes legislators; and
  - (C) for which the Office of Legislative Research and General Counsel provides staff

support.

(47) "Local building authority" means the same as that term is defined in Section 17D-2-102.

(48) "Local district" means the same as that term is defined in Section 17B-1-102.

(49) "Local government procurement unit" means:

(a) a county or municipality, and each office or agency of the county or municipality, unless the county or municipality adopts its own procurement code by ordinance;

(b) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; or

(c) a county or municipality that has adopted a portion of this chapter by ordinance, to the extent that a term in the ordinance is used in the adopted portion of this chapter, and each office or agency of that county or municipality.

(50) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.

(51) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

(52) "Municipality" means a city, town, or metro township.

(53) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (53)(a).

(54) "Offeror" means a person who submits a proposal in response to a request for proposals.

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(55) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(56) "Procure" means to acquire a procurement item through a procurement.

(57) "Procurement":

(a) means a procurement unit's acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership;

(b) includes all functions that pertain to the acquisition of a procurement item, including:

(i) preparing and issuing a solicitation; and

(ii) (A) conducting a standard procurement process; or

(B) conducting a procurement process that is an exception to a standard procurement process under Part 8, Exceptions to Procurement Requirements; and

(c) does not include a grant.

(58) "Procurement item" means a supply, a service, or construction.

(59) "Procurement officer" means:

(a) for a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) a designee of the head of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) for the division or a procurement unit without independent procurement authority, the chief procurement officer.

(60) "Procurement unit":

(a) means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) the Utah Communications Authority, established in Section 63H-7a-201;

(vi) a local government procurement unit;

(vii) a local district;

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- (viii) a special service district;
- (ix) a local building authority;
- (x) a conservation district;
- (xi) a public corporation; or
- (xii) a public transit district; and

(b) does not include a political subdivision created under Title 11, Chapter 13,

Interlocal Cooperation Act.

(61) "Professional service" means labor, effort, or work that requires an elevated degree of specialized knowledge and discretion, including labor, effort, or work in the field of:

- (a) accounting;
- (b) administrative law judge service;
- (c) architecture;
- (d) construction design and management;
- (e) engineering;
- (f) financial services;
- (g) information technology;
- (h) the law;
- (i) medicine;
- (j) psychiatry; or
- (k) underwriting.

(62) "Protest officer" means:

(a) for the division or a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) the head of the procurement unit's designee who is an employee of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) for a procurement unit without independent procurement authority, the chief procurement officer or the chief procurement officer's designee who is an employee of the division.

(63) "Public corporation" means the same as that term is defined in Section 63E-1-102.

(64) "Public entity" means any government entity of the state or political subdivision of

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the state, including:

(a) a procurement unit;

(b) a municipality or county, regardless of whether the municipality or county has adopted this chapter or any part of this chapter; and

(c) any other government entity located in the state that expends public funds.

(65) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.

(66) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

(67) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(68) "Public-private partnership" means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

(69) "Qualified vendor" means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

(70) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

(71) "Request for information" means a nonbinding process through which a procurement unit requests information relating to a procurement item.

(72) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

(73) "Request for proposals process" means the procurement process described in Part 7, Request for Proposals.

(74) "Request for statement of qualifications" means a document used to solicit

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information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

(75) "Requirements contract" means a contract:

(a) under which a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(76) "Responsible" means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

(77) "Responsive" means conforming in all material respects to the requirements of a solicitation.

(78) "Sealed" means manually or electronically secured to prevent disclosure.

(79) "Service":

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

(80) "Small purchase process" means the procurement process described in Section 63G-6a-506.

(81) "Sole source contract" means a contract resulting from a sole source procurement.

(82) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

(83) "Solicitation" means an invitation for bids, request for proposals, request for statement of qualifications, or request for information.

(84) "Solicitation response" means:



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(a) a bid submitted in response to an invitation for bids;  
(b) a proposal submitted in response to a request for proposals; or  
(c) a statement of qualifications submitted in response to a request for statement of qualifications.

(85) "Special service district" means the same as that term is defined in Section 17D-1-102.

(86) "Specification" means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

- (a) a requirement for inspecting or testing a procurement item; or
- (b) preparing a procurement item for delivery.

(87) "Standard procurement process" means:

- (a) the bidding process;
- (b) the request for proposals process;
- (c) the approved vendor list process;
- (d) the small purchase process; or
- (e) the design professional procurement process.

(88) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

(89) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(90) "Subcontractor":

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person's contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

(91) "Supply" means a good, material, technology, piece of equipment, or any other item of personal property.

(92) "Tie bid" means that the lowest responsive bids of responsible bidders are

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identical in price.

(93) "Time and materials contract" means a contract under which the contractor is paid:

- (a) the actual cost of direct labor at specified hourly rates;
- (b) the actual cost of materials and equipment usage; and
- (c) an additional amount, expressly described in the contract, to cover overhead and

profit, that is not based on a percentage of the cost to the contractor.

(94) "Transitional costs":

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

- (i) training costs;
- (ii) conversion costs;
- (iii) compatibility costs;
- (iv) costs associated with system downtime;
- (v) disruption of service costs;
- (vi) staff time necessary to implement the change;
- (vii) installation costs; and
- (viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

- (i) the costs of preparing for or engaging in a procurement process; or
- (ii) contract negotiation or drafting costs.

(95) "Trial use contract" means a contract for a procurement item that the procurement unit acquires for a trial use or testing to determine whether the procurement item will benefit the procurement unit.

(96) "Vendor":

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

- (i) a bidder;

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- (ii) an offeror;
- (iii) an approved vendor;
- (iv) a design professional; and
- (v) a person who submits an unsolicited proposal under Section 63G-6a-712.

Section 180. Section **63G-6a-202** is amended to read:

### **63G-6a-202. Creation of Utah State Procurement Policy Board.**

- (1) There is created the Utah State Procurement Policy Board.
- (2) The board consists of up to 15 members as follows:
  - (a) two representatives of state institutions of higher education, appointed by the [~~board of regents~~] Utah Board of Higher Education;
  - (b) a representative of the Department of Human Services, appointed by the executive director of that department;
  - (c) a representative of the Department of Transportation, appointed by the executive director of that department;
  - (d) two representatives of school districts, appointed by the State Board of Education;
  - (e) a representative of the Division of Facilities Construction and Management, appointed by the director of that division;
  - (f) one representative of a county, appointed by the Utah Association of Counties;
  - (g) one representative of a city or town, appointed by the Utah League of Cities and Towns;
  - (h) two representatives of local districts or special service districts, appointed by the Utah Association of Special Districts;
  - (i) the executive director of the Department of Technology Services or the executive director's designee;
  - (j) the chief procurement officer or the chief procurement officer's designee; and
  - (k) two representatives of state agencies, other than a state agency already represented on the board, appointed by the executive director of the Department of Administrative Services, with the approval of the executive director of the state agency that employs the employee.
- (3) Members of the board shall be knowledgeable and experienced in, and have supervisory responsibility for, procurement in their official positions.

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(4) A board member may serve as long as the member meets the description in Subsection (2) unless removed by the person or entity with the authority to appoint the board member.

(5) (a) The board shall:

- (i) adopt rules of procedure for conducting its business; and
- (ii) elect a chair to serve for one year.

(b) The chair of the board shall be selected by a majority of the members of the board 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

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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

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(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 background check under Section 53G-11-402.

(3) (a) As used in this Subsection (3):

(i) "Appropriate behavior policy" means a policy that:

(A) is not less stringent than a model policy, created by the State Board of Education, establishing a professional standard of care for preventing the conduct described in Subsection (3)(a)(i)(D);

(B) is adopted by the applicable local education governing body;

(C) regulates behavior of a school employee toward a student; and

(D) includes a prohibition against any sexual conduct between an employee and a student and against the employee and student sharing any sexually explicit or lewd communication, image, or photograph.

(ii) "Local education agency" means:

(A) a school district;

(B) a charter school; or

(C) the Utah Schools for the Deaf and the Blind.

(iii) "Local education governing board" means:

(A) for a school district, the local school board;

(B) for a charter school, the charter school governing board; or

(C) for the Utah Schools for the Deaf and the Blind, the state board.

(iv) "Public school" means a public elementary or secondary school.

(v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

(vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering the term "child" in that section to include an individual under age 18.

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(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim against a local education agency for an injury resulting from a sexual battery or sexual abuse committed against a student of a public school by a paid employee of the public school who is criminally charged in connection with the sexual battery or sexual abuse, unless:

(i) at the time of the sexual battery or sexual abuse, the public school was subject to an appropriate behavior policy; and

(ii) before the sexual battery or sexual abuse occurred, the public school had:

(A) provided training on the policy to the employee; and

(B) required the employee to sign a statement acknowledging that the employee has read and understands the policy.

(4) (a) As used in this Subsection (4):

(i) "Higher education institution" means an institution included within the state system of higher education under Section 53B-1-102.

(ii) "Policy governing behavior" means a policy adopted by a higher education institution or the [~~State Board of Regents~~] Utah Board of Higher Education that:

(A) establishes a professional standard of care for preventing the conduct described in Subsections (4)(a)(ii)(C) and (D);

(B) regulates behavior of a special trust employee toward a subordinate student;

(C) includes a prohibition against any sexual conduct between a special trust employee and a subordinate student; and

(D) includes a prohibition against a special trust employee and subordinate student sharing any sexually explicit or lewd communication, image, or photograph.

(iii) "Sexual battery" means the offense described in Section 76-9-702.1.

(iv) "Special trust employee" means an employee of a higher education institution who is in a position of special trust, as defined in Section 76-5-404.1, with a higher education student.

(v) "Subordinate student" means a student:

(A) of a higher education institution; and

(B) whose educational opportunities could be adversely impacted by a special trust employee.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a

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claim for an injury resulting from a sexual battery committed against a subordinate student by a special trust employee, unless:

(i) the institution proves that the special trust employee's behavior that otherwise would constitute a sexual battery was:

(A) with a subordinate student who was at least 18 years old at the time of the behavior; and

(B) with the student's consent; or

(ii) (A) at the time of the sexual battery, the higher education institution was subject to a policy governing behavior; and

(B) before the sexual battery occurred, the higher education institution had taken steps to implement and enforce the policy governing behavior.

Section 182. Section **63G-10-102** is amended to read:

### **63G-10-102. Definitions.**

As used in this chapter:

(1) (a) "Action settlement agreement" includes a stipulation, consent decree, settlement agreement, or any other legally binding document or representation that resolves a threatened or pending lawsuit between the state and another party by requiring the state to take legally binding action.

(b) "Action settlement agreement" includes stipulations, consent decrees, settlement agreements, and other legally binding documents or representations resolving a dispute between the state and another party when the state is required to pay money and required to take legally binding action.

(c) "Action settlement agreement" does not include:

(i) the internal process established by the Department of Transportation to resolve construction contract claims;

(ii) any resolution of an employment dispute or claim made by an employee of the state of Utah against the state as employer;

(iii) adjudicative orders issued by the State Tax Commission, the Public Service Commission, the Labor Commission, or the Department of Workforce Services; or

(iv) 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



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Administration.

(2) (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" includes the legislative branch, the judicial branch, the attorney general's office, the State Board of Education, the ~~[Board of Regents]~~ Utah Board of Higher Education, the institutional councils of each higher education institution, and each higher education 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.]~~

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(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.

~~[(4)]~~ (5) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

~~[(5)]~~ (6) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

~~[(6)]~~ (7) Section 53B-8-112 is repealed July 1, 2024.

~~[(7)]~~ (8) Section 53B-8-114 is repealed July 1, 2024.

~~[(8)]~~ (9) (a) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), 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.

~~[(9)]~~ (10) Section 53B-10-101 is repealed on July 1, 2027.

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~~[(10)]~~ (11) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

~~[(11)]~~ (12) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.

~~[(12)]~~ (13) Section 53E-3-520 is repealed July 1, 2021.

~~[(13)]~~ (14) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.

~~[(14)]~~ (15) Section 53E-5-307 is repealed July 1, 2020.

~~[(15)]~~ (16) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(16)]~~ (17) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

~~[(17)]~~ (18) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(18)] Section 53F-4-204 is repealed July 1, 2019.~~

(19) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(20) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(21) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(22) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(23) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

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Section 184. Section **63I-2-263** is amended to read:

### **63I-2-263. Repeal dates, Title 63A to Title 63N.**

(1) On July 1, 2020:

(a) Subsection 63A-1-203(5)(a)(i) is repealed; and

(b) in Subsection 63A-1-203(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.

(2) Sections 63C-4a-307 and 63C-4a-309 are repealed January 1, 2020.

(3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission<sub>1</sub> is repealed July 1, ~~[2020]~~ 2021.

(4) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2020:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(5) In relation to the State Fair Park Committee, on January 1, 2021:

(a) Section 63H-6-104.5 is repealed; and

(b) Subsections 63H-6-104(8) and (9) are repealed.

(6) Section 63H-7a-303 is repealed on July 1, 2022.

(7) In relation to the Employability to Careers Program Board, on July 1, 2022:

(a) Subsection 63J-1-602.1(52) is repealed;

(b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed;

and

(c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

(8) Section 63J-4-708 is repealed January 1, 2023.

Section 185. Section **63I-5-102** is amended to read:

### **63I-5-102. Definitions.**

As used in this chapter:

(1) "Agency governing board" is any board or commission that has policy making and oversight responsibility over the agency, including the authority to appoint and remove the agency director.

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(2) "Agency head" means a cabinet officer, an elected official, an executive director, or a board or commission vested with responsibility to administer or make policy for a state agency.

(3) "Agency internal audit director" or "audit director" means the person who:

(a) directs the internal audit program for the state agency; and

(b) is appointed by the audit committee or, if no audit committee has been established, by the agency head.

(4) "Appointing authority" means:

(a) the governor, for state agencies other than the State Tax Commission;

(b) the Judicial Council, for judicial branch agencies;

(c) the ~~[Board of Regents]~~ Utah Board of Higher Education, for higher education entities;

(d) the State Board of Education, for entities administered by the State Board of Education; or

(e) the four tax commissioners, for the State Tax Commission.

(5) "Audit committee" means a standing committee composed of members who:

(a) are appointed by an appointing authority;

(b) (i) do not have administrative responsibilities within the agency; and

(ii) are not an agency contractor or other service provider; and

(c) have the expertise to provide effective oversight of and advice about internal audit activities and services.

(6) "Audit plan" means a prioritized list of audits to be performed by an internal audit program within a specified period of time.

(7) "Higher education entity" means the ~~[Board of Regents, the institutional councils of each higher education institution]~~ Utah Board of Higher Education, an institution of higher education board of trustees, or each higher education institution.

(8) "Internal audit" means an independent appraisal activity established within a state agency as a control system to examine and evaluate the adequacy and effectiveness of other internal control systems within the agency.

(9) "Internal audit program" means an audit function that:

(a) is conducted by an agency, division, bureau, or office, independent of the agency,

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division, bureau, or office operations;

(b) objectively evaluates the effectiveness of agency, division, bureau, or office governance, risk management, internal controls, and the efficiency of operations; and

(c) is conducted in accordance with the current:

(i) International Standards for the Professional Practice of Internal Auditing; or

(ii) The Government Auditing Standards, issued by the Comptroller General of the United States.

(10) "Judicial branch agency" means each administrative entity of the judicial branch.

(11) (a) "State agency" means:

(i) 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; or

(ii) each state public education entity.

(b) "State agency" does not mean:

(i) a legislative branch agency;

(ii) an independent state agency as defined in Section 63E-1-102;

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

(iv) any administrative subdivision of a county, municipality, school district, local district, or special service district.

Section 186. Section **63I-5-201** is amended to read:

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

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

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

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

(2) (a) The Administrative Office of the Courts shall establish an internal audit program under the direction of the Judicial Council, including auditing procedures for courts

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not of record.

(b) The Judicial Council may, by rule, require other judicial agencies to establish an internal audit program.

(3) (a) Dixie State University, the University of Utah, Utah State University, Salt Lake Community College, Southern Utah University, Utah Valley University, Weber State University, and Snow College shall establish an internal audit program under the direction of the ~~[Board of Regents]~~ Utah Board of Higher Education.

(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

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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;



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(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.

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(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.**

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and its committees.

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

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

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

(5) The Trip Reduction Program created in Section 19-2a-104.

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

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

(8) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

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

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

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

(12) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(7)(a) or (b).

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

(14) A new program or agency that is designated as nonlapsing under Section 36-24-101.

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- (15) The Utah National Guard, created in Title 39, Militia and Armories.
- (16) The State Tax Commission under Section 41-1a-1201 for the:
  - (a) purchase and distribution of license plates and decals; and
  - (b) administration and enforcement of motor vehicle registration requirements.
- (17) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.
- (18) The Motorcycle Rider Education Program, as provided in Section 53-3-905.
- (19) The [~~State Board of Regents~~] Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.
- (20) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.
- (21) The State Board of Education, as provided in Section 53F-2-205.
- (22) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.
- (23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.
- (24) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.
- (25) Appropriations to the Department of Technology Services for technology innovation as provided under Section 63F-4-202.
- (26) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.
- (27) The Utah Science Technology and Research Initiative created in Section 63M-2-301.
- (28) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.
- (29) Appropriations to fund the Governor's Office of Economic Development's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.
- (30) The Department of Human Resource Management user training program, as provided in Section 67-19-6.
- (31) A public safety answering point's emergency telecommunications service fund, as

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provided in Section 69-2-301.

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

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

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

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

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

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

(38) Indigent defense as provided in Title 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

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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;

## **SB0111S01 compared with SB0111**

(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 created by Section 72-2-118;

(xiv) transfers or deposits into or appropriations made to the Transportation Investment Fund of 2005 created by Section 72-2-124;

(xv) transfers or deposits into or appropriations made to:

(A) the Department of Transportation from any source; or

(B) any transportation-related account or fund from any source; or

(xvi) supplemental appropriations from the General Fund to the Division of Forestry, Fire, and State Lands to provide money for wildland fire control expenses incurred during the current or previous fire years.

(2) "Base year real per capita appropriations" means the result obtained for the state by dividing the fiscal year 1985 actual appropriations of the state less debt money by:

(a) the state's July 1, 1983 population; and

(b) the fiscal year 1983 inflation index divided by 100.

(3) "Calendar year" means the time period beginning on January 1 of any given year and ending on December 31 of the same year.

(4) "Fiscal emergency" means an extraordinary occurrence requiring immediate expenditures and includes the settlement under Laws of Utah 1988, Fourth Special Session, Chapter 4.

(5) "Fiscal year" means the time period beginning on July 1 of any given year and ending on June 30 of the subsequent year.

(6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual capital and operations appropriations from General Fund and non-Uniform School Fund income tax revenue sources, less debt money.

## **SB0111S01 compared with SB0111**

(7) "Inflation index" means the change in the general price level of goods and services as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic Analysis, U.S. Department of Commerce calculated as provided in Section 63J-3-202.

(8) (a) "Maximum allowable appropriations limit" means the appropriations that could be, or could have been, spent in any given year under the limitations of this chapter.

(b) "Maximum allowable appropriations limit" does not mean actual appropriations spent or actual expenditures.

(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:

## **SB0111S01 compared with SB0111**

- (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



## **SB0111S01 compared with SB0111**

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 implementation of the economic development strategy described in this section;

(iii) identify each of the relevant state-level economic development agencies, including the agencies described in Subsection (5)(c);

(iv) outline the functional role in furthering the state's economic development strategy for each relevant state-level economic development agency;

(v) establish specific principles and make specific recommendations to decrease competition and increase communication and cooperation among state-level economic development agencies, providers and administrators of economic development programs in the state, nonprofit entities that participate in economic development in the state, and local governments;

(vi) recommend a fundamental realignment of economic development programs in the state to ensure each program's purpose is congruent with the mission of the organization within which the program is located;

(vii) address rural economic development by:

(A) establishing goals and principles to ensure the state's economic development strategy works for both urban and rural areas of the state; and

(B) providing recommendations on how existing rural economic development programs should be restructured or realigned;

(viii) assess the effectiveness of the state's economic development incentives and make recommendations regarding:

(A) how incentive policies could be improved; and

(B) how incentives could be better coordinated among state-level economic development agencies and local governments;

## **SB0111S01 compared with SB0111**

(ix) make recommendations regarding how to align the state's economic development strategy and policies in order to take advantage of the strengths and address the weaknesses of the state's current and projected urban and rural workforce;

(x) make recommendations regarding how to monitor and assess whether certain economic development policies further the statewide economic development strategy described in this section, including recommendations on performance metrics to measure results; and

(xi) align the strategic plan with each element of the statewide economic development 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;

## **SB0111S01 compared with SB0111**

~~[(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;

~~[(l)]~~ (k) three representatives of private industry chosen by the talent ready board; and

~~[(m)]~~ (l) a representative of the technology industry chosen by the talent ready board.

(2) The talent ready board shall select a chair and vice chair from among the members of the talent ready board.

(3) The talent ready board shall meet at least quarterly.

(4) Attendance of a majority of the members of the talent ready board constitutes a quorum for the transaction of official talent ready board business.

(5) Formal action by the talent ready board requires the majority vote of a quorum.

(6) A member of the talent ready board:

(a) may not receive compensation or benefits for the member's service; and

(b) who is not a legislator may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

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

(7) The talent ready board shall:

(a) (i) review and develop metrics to measure the progress, performance, effectiveness, and scope of any state operation, activity, program, or service that primarily involves employment training or placement; and

(ii) ensure that the metrics described in Subsection (7)(a) are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement;

## **SB0111S01 compared with SB0111**

(b) make recommendations to the center regarding how to better align training and education in the state with industry demand;

(c) make recommendations to the center regarding how to better align technical education with current and future workforce needs; and

(d) coordinate with the center to meet the responsibilities described in Subsection 63N-12-502(4).

Section 194. Section **63N-12-508** is amended to read:

### **63N-12-508. Utah Works.**

(1) There is created within the center the Utah Works Program.

(2) The program, under the direction of the center and the talent ready board, shall develop workforce solutions that meet the needs of businesses that are creating jobs and economic growth in the state by:

(a) partnering with the office, the Department of Workforce Services, [~~the Utah System of Higher Education, and the Utah System of Technical Colleges~~] and the Utah system of higher education;

(b) identifying businesses that have significant hiring demands in the state;

(c) coordinating with the Department of Workforce Services to create effective recruitment initiatives to attract student and workforce participants and business participants to the program;

(d) coordinating with the [~~Utah System of Higher Education and the Utah System of Technical Colleges~~] Utah system of higher education to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program; and

(e) coordinating with the State Board of Education and local education agencies when appropriate to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program.

(3) The office, in consultation with the talent ready board, may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this section, make rules regarding the development and administration of the Utah Works Program.

(4) The center shall report the following metrics to the office for inclusion in the

## **SB0111S01 compared with SB0111**

office's annual report described in Section 63N-1-301:

- (a) the number of participants in the program;
- (b) the number of participants who have completed training offered by the program;

and

(c) the number of participants who have been hired by a business participating in the program.

Section 195. Section **67-8-3** is amended to read:

### **67-8-3. Compensation plan for appointive officers -- Exceptions -- Legislative approval -- Career status attorneys.**

(1) (a) The executive director of the Department of Human Resource Management, based upon recommendations of the Executive and Judicial Compensation Commission shall, before October 31 of each year, recommend to the governor a compensation plan for appointed officers of the state except those officers whose compensation is set under Section 49-11-203, 53E-3-302, ~~[53B-1-105]~~ 53B-1-408, or 53C-1-301.

(b) The plan shall include salaries and wages, paid leave, group insurance plans, retirement programs, and any other benefits that may be offered to state officers.

(2) The governor shall include in each annual budget proposal to the Legislature specific recommendations on compensation for those appointed state officers in Subsection (1).

(3) (a) After consultation with the attorney general, the executive director of the Department of Human Resource Management shall place career status attorneys on a state salary schedule at a range comparable with salaries paid attorneys in private and other public employment.

(b) The attorney general and the executive director shall take into consideration the experience of the attorney, length of service with the Office of the Attorney General, quality of performance, and responsibility involved in legal assignments.

(c) The attorney general and the executive director shall periodically adjust the salary levels for attorneys in a career status to reasonably compensate them for full-time employment and the restrictions placed on the private practice of law.

Section 196. Section **67-19c-101** is amended to read:

### **67-19c-101. Department award program.**

(1) As used in this section:

## **SB0111S01 compared with SB0111**

(a) "Department" 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 Workforce Services, 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 Insurance Department, the National Guard, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Labor Commission, the State Board of Education, the [~~State Board of Regents~~] Utah Board of Higher Education, the State Tax Commission, the Department of Technology Services, and the Department of Transportation.

(b) "Department head" means the individual or body of individuals in whom the ultimate legal authority of the department is vested by law.

(2) There is created a department awards program to award an outstanding employee in each department of state government.

(3) (a) By April 1 of each year, each department head shall solicit nominations for outstanding employee of the year for his department from the employees in his department.

(b) By July 1 of each year, the department head shall:

(i) select a person from the department to receive the outstanding employee of the year award using the criteria established in Subsection (3)(c); and

(ii) announce the recipient of the award to his employees.

(c) Department heads shall make the award to a person who demonstrates:

(i) extraordinary competence in performing his function;

(ii) creativity in identifying problems and devising workable, cost-effective solutions to them;

(iii) excellent relationships with the public and other employees;

(iv) a commitment to serving the public as the client; and

(v) a commitment to economy and efficiency in government.

(4) (a) The Department of Human Resource Management shall divide any appropriation for outstanding department employee awards that it receives from the Legislature equally among the departments.

(b) If the department receives money from the Department of Human Resource

## **SB0111S01 compared with SB0111**

Management or if the department budget allows, the department head shall provide the employee with a bonus, a plaque, or some other suitable acknowledgement of the award.

(5) (a) The department head may name the award after an exemplary present or former employee of the department.

(b) A department head may not name the award for himself or for any relative as defined in Section 52-3-1.

(c) Any awards or award programs existing in any department as of May 3, 1993, shall be modified to conform to the requirements of this section.

Section 197. Section **67-21-3** is amended to read:

### **67-21-3. Reporting of governmental waste or violations of law -- Employer action -- Exceptions.**

(1) (a) An employer may not take adverse action against an employee because the employee, or a person authorized to act on behalf of the employee, communicates in good faith:

(i) the waste or misuse of public funds, property, or manpower;

(ii) a violation or suspected violation of a law, rule, or regulation adopted under the law of this state, a political subdivision of this state, or any recognized entity of the United States; or

(iii) as it relates to a state government employer:

(A) gross mismanagement;

(B) abuse of authority; or

(C) unethical conduct.

(b) For purposes of Subsection (1)(a), an employee is presumed to have communicated in good faith if the employee gives written notice or otherwise formally communicates the conduct described in Subsection (1)(a) to:

(i) a person in authority over the person alleged to have engaged in the conduct described in Subsection (1)(a);

(ii) the attorney general's office;

(iii) law enforcement, if the conduct is criminal in nature;

(iv) if the employee is a public entity employee, public body employee, legislative employee, or a judicial employee:

## **SB0111S01 compared with SB0111**

- (A) the state auditor's office;
- (B) the president of the Senate;
- (C) the speaker of the House of Representatives;
- (D) the Office of Legislative Auditor General;
- (E) the governor's office;
- (F) the state court administrator; or
- (G) the Division of Finance;
- (v) if the employee is a public entity employee, but not an employee of a state institution of higher education, the director of the Division of Purchasing and General Services;
- (vi) if the employee is a political subdivision employee:
  - (A) the legislative body, or a member of the legislative body, of the political subdivision;
  - (B) the governing body, or a member of the governing body, of the political subdivision;
  - (C) the top executive of the political subdivision; or
  - (D) any government official with authority to audit the political subdivision or the applicable part of the political subdivision; or
- (vii) if the employee is an employee of a state institution of higher education:
  - ~~[(A) the State Board of Regents or a member of the State Board of Regents;]~~
  - (A) the Utah Board of Higher Education or a member of the Utah Board of Higher Education;
- (B) the commissioner of higher education;
- (C) the president of the state institution of higher education where the employee is employed; or
- (D) the entity that conducts audits of the state institution of higher education where the employee is employed.
- (c) The presumption described in Subsection (1)(b) may be rebutted by showing that the employee knew or reasonably ought to have known that the report is malicious, false, or frivolous.
- (2) An employer may not take adverse action against an employee because an employee participates or gives information in an investigation, hearing, court proceeding,



## **SB0111S01 compared with SB0111**

legislative or other inquiry, or other form of administrative review held by the public body.

(3) An employer may not take adverse action against an employee because the employee has objected to or refused to carry out a directive that the employee reasonably believes violates a law of this state, a political subdivision of this state, or the United States, or a rule or regulation adopted under the authority of the laws of this state, a political subdivision of this state, or the United States.

(4) An employer may not implement rules or policies that unreasonably restrict an employee's ability to document:

- (a) the waste or misuse of public funds, property, or manpower;
- (b) a violation or suspected violation of any law, rule, or regulation; or
- (c) as it relates to a state government employer:
  - (i) gross mismanagement;
  - (ii) abuse of authority; or
  - (iii) unethical conduct.

Section 198. **Repealer.**

This bill repeals:

Section **53B-1-101, Purpose of title.**

Section **53B-1-106, Appointment and hiring of staff -- Transfer of functions, personnel, and funds.**

Section **53B-1-107, Annual report of board activities.**

Section **53B-2a-102, Commissioner of technical education -- Appointment -- Duties.**

Section **53B-2a-111, Board of Trustees -- Consultation with State Board of Regents.**

Section 199. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

## **SB0111S01 compared with SB0111**

### To Legislature - Office of Legislative Research and General Counsel

From General Fund, One-time \$1,200

#### Schedule of Programs:

Administration \$1,200

### ITEM 2

#### To Legislature - Senate

From General Fund, One-time \$4,000

#### Schedule of Programs:

Administration \$4,000

### ITEM 3

#### To Legislature - House of Representatives

From General Fund, One-time \$4,000

#### Schedule of Programs:

Administration \$4,000

The Legislature intends that an appropriation provided under ~~these~~ items 1 through 3  
be used for expenses relating to the Higher Education Strategic Planning Commission,  
described in Title 63C, Chapter 19, Higher Education Strategic Planning Commission.

### STATE BOARD OF REGENTS

### ITEM 4

#### To State Board of Regents - Administration

From Education Fund \$4,742,600

From Revenue Transfers \$106,300

From Beginning Nonlapsing Balances \$380,800

From Closing Nonlapsing Balances (\$380,800)

#### Schedule of Programs:

Administration \$4,848,800

The Legislature intends that the Division of Finance rename the "State Board of  
Regents" agency "Utah Board of Higher Education" and the "State Board of Regents -  
Administration" line item "Utah Board of Higher Education – Administration".

### ITEM 5

#### To State Board of Regents - Student Assistance

## **SB0111S01 compared with SB0111**

<u>From Education Fund</u>	<u>\$38,400</u>
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### Schedule of Programs:

<u>Engineering Loan Repayment</u>	<u>\$38,400</u>
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The Legislature intends that the Division of Finance rename the "State Board of Regents -- Student Assistance" line item "Utah Board of Higher Education -- Student Assistance".

### ITEM 6

#### To State Board of Regents - Student Support

<u>From Education Fund</u>	<u>\$20,190,400</u>
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<u>From Education Fund, One-time</u>	<u>\$862,100</u>
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#### From Education Fund Restricted - Performance Funding

<u>Restricted Account, One-time</u>	<u>\$381,100</u>
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<u>From Beginning Nonlapsing Balances</u>	<u>\$486,100</u>
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<u>From Closing Nonlapsing Balances</u>	<u>(\$486,100)</u>
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### Schedule of Programs:

<u>Higher Education Technology Initiative</u>	<u>\$5,504,600</u>
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<u>Utah Academic Library Consortium</u>	<u>\$3,410,000</u>
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<u>Engineering Initiative</u>	<u>\$5,000,000</u>
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<u>Math Competency Initiative</u>	<u>\$1,926,200</u>
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#### Performance Funding -- Colleges and

<u>Universities</u>	<u>\$0</u>
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#### Performance Funding -- Technical

<u>Colleges</u>	<u>\$237,400</u>
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<u>Custom Fit</u>	<u>\$4,559,200</u>
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The Legislature intends that the Division of Finance rename the "State Board of Regents -- Student Support" line item "Utah Board of Higher Education -- Institutional and Student Support".

### ITEM 7

#### To State Board of Regents - Technology

<u>From Education Fund</u>	<u>(\$7,983,500)</u>
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<u>From Education Fund, One-time</u>	<u>(\$862,100)</u>
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## **SB0111S01 compared with SB0111**

### From Education Fund Restricted - Performance Funding

Restricted Account, One-time (\$143,700)

From Beginning Nonlapsing Balances (\$700)

From Closing Nonlapsing Balances \$700

### ITEM 8

#### To State Board of Regents - Economic Development

From Education Fund (\$5,386,400)

From Beginning Nonlapsing Balances (\$127,400)

From Closing Nonlapsing Balances \$127,400

### ITEM 9

#### To State Board of Regents - Education Excellence

From Education Fund (\$935,900)

From Education Fund Restricted - Performance Funding  
Restricted Account (\$143,700)

From Education Fund Restricted - Performance Funding  
Restricted Account, One-time \$143,700

From Revenue Transfers (\$106,200)

From Beginning Nonlapsing Balances (\$214,000)

From Closing Nonlapsing Balances \$214,000

### ITEM 10

#### To State Board of Regents - Math Competency Initiative

From Education Fund (\$1,926,200)

From Beginning Nonlapsing Balances (\$485,400)

From Closing Nonlapsing Balances \$485,400

### UTAH SYSTEM OF TECHNICAL COLLEGES

### ITEM 11

#### To Utah System of Technical Colleges - USTC Administration

From Education Fund (\$7,154,800)

From Education Fund Restricted - Performance Funding  
Restricted Account (\$237,400)

From Beginning Nonlapsing Balances (\$13,200)

## **SB0111S01 compared with SB0111**

### From Closing Nonlapsing Balances

\$13,200

#### **Section 200. Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect July 1, 2020.

(2) Amendments to the following sections take effect May 12, 2020:

(a) Section 53B-1-401;

(b) Section 53B-1-403;

(c) Section 53B-1-501;

(d) Section 53B-1-502;

(e) Section 53B-1-503; and

(f) Section 63C-19-202.

#### **Section 201. Coordinating S.B. 111 with H.B. 68 -- Substantive and technical amendments.**

If this S.B. 111 and H.B. 68, Apprenticeship and Work-Based Learning Amendments, 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 modifying Subsection 63N-12-507(1), amended in H.B. 68 to read:

"(1) The center in collaboration with the talent ready board may partner with one or more of the following to facilitate and encourage apprenticeship opportunities and work-based learning opportunities for Utah students:

(a) the state board;

(b) the Utah system of higher education; and

(c) a participating employer in the state."

#### **Section 202. Coordinating S.B. 111 with S.B. 60 -- Substantive and technical amendments.**

If this S.B. 111 and S.B. 60, Advice and Consent Amendments, 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

## **SB0111S01 compared with SB0111**

(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 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; or

(vii) 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 (vii)."

### **Section 203. Coordinating S.B. 111 with S.B. 90 -- Substantive and technical amendment.**

If this S.B. 111 and S.B. 90, Procurement Code Amendments, 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 as follows:

(1) the amendments to Section 63G-6a-103 in S.B. 90 supersede the amendments to Section 63G-6a-103 in S.B. 111;

(2) modify the definition of "Procurement official" in Subsection 63G-6a-103(57)(n) to read:

"(n) for the Utah Board of Higher Education, the Commissioner of Higher Education or the designee of the Commissioner of Higher Education;"

(3) modify the definition of "Rulemaking authority" in Subsection 63G-6a-103(77)(f) to read:

"(f) for a state institution of higher education, the Utah Board of Higher Education;"

(4) (a) delete Subsection 63G-6a-103(77)(g); and

## **SB0111S01 compared with SB0111**

(b) renumber remaining subsections accordingly;

(4) modify Subsection 63G-6a-103(77)(k), which is renumbered to Subsection 63G-6a-103(77)(j), to read:

"(k) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the Utah Board of Higher Education;".

### **Section 204. Coordinating S.B. 111 with S.B. 146 -- Substantive and technical amendments.**

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:

## **SB0111S01 compared with SB0111**

(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.