

**Representative Don L. Ipson** proposes the following substitute bill:

**UTAH COLLEGE OF APPLIED TECHNOLOGY**

**GOVERNANCE AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen H. Urquhart**

House Sponsor: Don L. Ipson

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to governance of the Utah College of Applied Technology.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ renames a Utah College of Applied Technology college campus an applied technology college;
- ▶ renames the president of the Utah College of Applied Technology the commissioner of technical education;
- ▶ amends the duties of the commissioner of technical education;
- ▶ amends provisions related to the membership of the Utah College of Applied Technology Board of Trustees;
- ▶ establishes a term limit for a member of the Utah College of Applied Technology Board of Trustees;
- ▶ amends provisions related to the appointment of an applied technology college president; and



26           ▶ makes technical and conforming changes.

27 **Money Appropriated in this Bill:**

28           None

29 **Other Special Clauses:**

30           None

31 **Utah Code Sections Affected:**

32 AMENDS:

33           **35A-1-206**, as last amended by Laws of Utah 2014, Chapters 371 and 387

34           **35A-5-402**, as enacted by Laws of Utah 2015, Chapter 273

35           **53A-1-402**, as last amended by Laws of Utah 2005, Chapter 227

36           **53A-1a-501.3**, as last amended by Laws of Utah 2014, Chapter 363

37           **53A-1a-521**, as last amended by Laws of Utah 2014, Chapters 189 and 363

38           **53A-15-102**, as last amended by Laws of Utah 1995, Chapter 96

39           **53A-15-202**, as last amended by Laws of Utah 2013, Chapter 465

40           **53A-17a-114**, as last amended by Laws of Utah 2012, Chapter 288

41           **53B-1-103**, as last amended by Laws of Utah 2014, Chapter 88

42           **53B-2-104**, as last amended by Laws of Utah 2010, Chapters 211 and 286

43           **53B-2-106**, as last amended by Laws of Utah 2009, Chapter 370

44           **53B-2a-101**, as last amended by Laws of Utah 2009, Chapter 346

45           **53B-2a-102**, as last amended by Laws of Utah 2012, Chapter 78

46           **53B-2a-103**, as last amended by Laws of Utah 2014, Chapter 128

47           **53B-2a-104**, as last amended by Laws of Utah 2013, Chapter 310

48           **53B-2a-105**, as last amended by Laws of Utah 2009, Chapter 346

49           **53B-2a-106**, as last amended by Laws of Utah 2015, Chapter 404

50           **53B-2a-107**, as last amended by Laws of Utah 2009, Chapter 346

51           **53B-2a-108**, as last amended by Laws of Utah 2014, Chapter 128

52           **53B-2a-109**, as last amended by Laws of Utah 2010, Chapter 286

53           **53B-2a-110**, as last amended by Laws of Utah 2013, Chapter 310

54           **53B-2a-112**, as last amended by Laws of Utah 2009, Chapter 346

55           **53B-2a-113**, as last amended by Laws of Utah 2009, Chapter 346

56           **53B-6-106**, as last amended by Laws of Utah 2009, Chapter 370

- 57 **53B-8d-102**, as last amended by Laws of Utah 2008, Chapter 3
- 58 **53B-16-102**, as last amended by Laws of Utah 2009, Chapter 346
- 59 **53B-17-105**, as enacted by Laws of Utah 2014, Chapter 63
- 60 **59-12-102**, as last amended by Laws of Utah 2015, Chapters 182, 294, and 461
- 61 **63A-9-101**, as last amended by Laws of Utah 2008, Chapter 65
- 62 **63I-2-253**, as last amended by Laws of Utah 2015, Chapters 258, 418, and 456
- 63 **63M-2-202**, as last amended by Laws of Utah 2015, Chapter 357
- 64 **63N-12-203**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 65 **63N-12-212**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 66 **67-1-12**, as last amended by Laws of Utah 1999, Chapter 269

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

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

70 **35A-1-206. State Council on Workforce Services -- Appointment -- Membership**  
 71 **-- Terms of members -- Compensation.**

72 (1) There is created a State Council on Workforce Services that shall:

- 73 (a) perform the activities described in Subsection (8);
- 74 (b) advise on issues requested by the department and the Legislature; and
- 75 (c) make recommendations to the department regarding:
  - 76 (i) the implementation of Chapter 2, Economic Service Areas, Chapter 3, Employment
  - 77 Support Act, and Chapter 5, Training and Workforce Improvement Act; and
  - 78 (ii) the coordination of apprenticeship training.

79 (2) (a) The council shall consist of the following voting members:

- 80 (i) a private sector representative from each economic service area as designated by the
- 81 economic service area director;
- 82 (ii) the superintendent of public instruction or the superintendent's designee;
- 83 (iii) the commissioner of higher education or the commissioner's designee; and
- 84 (iv) the following members appointed by the governor in consultation with the
- 85 executive director:
  - 86 (A) four representatives of small employers as defined by rule by the department;
  - 87 (B) four representatives of large employers as defined by rule by the department;

88 (C) four representatives of employees or employee organizations, including at least one  
89 representative from nominees suggested by public employees organizations;

90 (D) two representatives of the clients served under this title including  
91 community-based organizations;

92 (E) a representative of veterans in the state;

93 (F) the executive director of the Utah State Office of Rehabilitation; and

94 (G) the [~~Applied Technology College president~~] Utah College of Applied Technology  
95 commissioner of technical education.

96 (b) The following shall serve as nonvoting ex officio members of the council:

97 (i) the executive director or the executive director's designee;

98 (ii) a legislator appointed by the governor from nominations of the speaker of the  
99 House of Representatives and president of the Senate;

100 (iii) the executive director of the Department of Human Services;

101 (iv) the director of the Governor's Office of Economic Development or the director's  
102 designee; and

103 (v) the executive director of the Department of Health.

104 (3) (a) The governor shall appoint one nongovernmental member from the council as  
105 the chair of the council.

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

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

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

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

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

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

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

121 (6) (a) A member who is not a legislator may not receive compensation or benefits for  
122 the member's service, but may receive per diem and travel expenses as allowed in:

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

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

125 (iii) rules made by the Division of Finance according to Sections 63A-3-106 and  
126 63A-3-107.

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

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

131 (8) The council shall:

132 (a) develop a state workforce services plan in accordance with Section 35A-1-207;

133 (b) review economic service area plans to certify consistency with state policy  
134 guidelines;

135 (c) improve the understanding and visibility of state workforce services efforts through  
136 external and internal marketing strategies;

137 (d) include in the annual written report described in Section 35A-1-109, information  
138 and accomplishments related to the activities of the department;

139 (e) issue other studies, reports, or documents the council considers advisable that are  
140 not required under Subsection (8)(d);

141 (f) coordinate the planning and delivery of workforce development services with public  
142 education, higher education, vocational rehabilitation, and human services; and

143 (g) perform other responsibilities within the scope of workforce services as requested  
144 by:

145 (i) the Legislature;

146 (ii) the governor; or

147 (iii) the executive director.

148 Section 2. Section 35A-5-402 is amended to read:

149 **35A-5-402. Career and Technical Education Board creation -- Membership.**

150 (1) There is created the Career and Technical Education Board, within the department,  
151 composed of the following members:

152 (a) the state superintendent of public instruction or the state superintendent of public  
153 instruction's designee;

154 (b) the commissioner of higher education or the commissioner of higher education's  
155 designee;

156 (c) the ~~[president of the]~~ Utah College of Applied Technology commissioner of  
157 technical education or the ~~[president of the]~~ Utah College of Applied ~~[Technology's]~~  
158 Technology commissioner of technical education's designee;

159 (d) the executive director of the department or the executive director of the  
160 department's designee;

161 (e) the executive director of the Governor's Office of Economic Development or the  
162 executive director of the Governor's Office of Economic Development's designee;

163 (f) one member of the governor's staff, appointed by the governor;

164 (g) five private sector members, representing business or industry that employs  
165 individuals who hold certificates issued by a CTE program, appointed by the governor;

166 (h) a member of the Senate, appointed by the president of the Senate; and

167 (i) a member of the House of Representatives, appointed by the speaker of the House  
168 of Representatives.

169 (2) The CTE Board shall select a chair and vice chair from among the members of the  
170 CTE Board.

171 (3) The CTE Board shall meet at least quarterly.

172 (4) Attendance of a simple majority of the members of the CTE Board constitutes a  
173 quorum for the transaction of official CTE Board business.

174 (5) Formal action by the CTE Board requires the majority vote of a quorum.

175 (6) A member of the CTE Board:

176 (a) may not receive compensation or benefits for the member's service; and

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

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

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

180 (iii) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and

181 63A-3-107.

182 Section 3. Section 53A-1-402 is amended to read:

183 **53A-1-402. Board to establish minimum standards for public schools.**

184 (1) The State Board of Education shall establish rules and minimum standards for the  
185 public schools that are consistent with this title, including rules and minimum standards  
186 governing the following:

187 (a) (i) the qualification and certification of educators and ancillary personnel who  
188 provide direct student services;

189 (ii) required school administrative and supervisory services; and

190 (iii) the evaluation of instructional personnel;

191 (b) (i) access to programs;

192 (ii) attendance;

193 (iii) competency levels;

194 (iv) graduation requirements; and

195 (v) discipline and control;

196 (c) (i) school accreditation;

197 (ii) the academic year;

198 (iii) alternative and pilot programs;

199 (iv) curriculum and instruction requirements;

200 (v) school libraries; and

201 (vi) services to:

202 (A) persons with a disability as defined by and covered under:

203 (I) the Americans with Disabilities Act of 1990, 42 U.S.C. 12102;

204 (II) the Rehabilitation Act of 1973, 29 U.S.C. 705(20)(A); and

205 (III) the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3); and

206 (B) other special groups;

207 (d) (i) state reimbursed bus routes;

208 (ii) bus safety and operational requirements; and

209 (iii) other transportation needs; and

210 (e) (i) school productivity and cost effectiveness measures;

211 (ii) federal programs;

- 212 (iii) school budget formats; and  
213 (iv) financial, statistical, and student accounting requirements.  
214 (2) The board shall determine if:  
215 (a) the minimum standards have been met; and  
216 (b) required reports are properly submitted.  
217 (3) The board may apply for, receive, administer, and distribute to eligible applicants  
218 funds made available through programs of the federal government.  
219 (4) (a) [~~The~~] An applied technology college within the Utah College of Applied  
220 Technology shall provide competency-based career and technical education courses that fulfill  
221 high school graduation requirements, as requested and authorized by the State Board of  
222 Education.  
223 (b) A school district may grant a high school diploma to a student participating in  
224 courses described under Subsection (4)(a) that are provided by [~~the~~] an applied technology  
225 college within the Utah College of Applied Technology.  
226 Section 4. Section **53A-1a-501.3** is amended to read:  
227 **53A-1a-501.3. Definitions.**  
228 As used in this part:  
229 (1) "Asset" means property of all kinds, real and personal, tangible and intangible, and  
230 includes:  
231 (a) cash;  
232 (b) stock or other investments;  
233 (c) real property;  
234 (d) equipment and supplies;  
235 (e) an ownership interest;  
236 (f) a license;  
237 (g) a cause of action; and  
238 (h) any similar property.  
239 (2) "Board of trustees of a higher education institution" or "board of trustees" means:  
240 (a) the board of trustees of:  
241 (i) the University of Utah;  
242 (ii) Utah State University;



- 243 (iii) Weber State University;
- 244 (iv) Southern Utah University;
- 245 (v) Snow College;
- 246 (vi) Dixie State University;
- 247 (vii) Utah Valley University; or
- 248 (viii) Salt Lake Community College; or

249 (b) the [~~campus~~] board of directors of [~~a college campus~~] an applied technology college  
 250 within the Utah College of Applied Technology.

251 (3) "Charter agreement" or "charter" means an agreement made in accordance with  
 252 Section 53A-1a-508, that authorizes the operation of a charter school.

253 (4) "Charter school authorizer" or "authorizer" means the State Charter School Board,  
 254 local school board, or board of trustees of a higher education institution that authorizes the  
 255 establishment of a charter school.

256 (5) "Governing board" means the board that operates a charter school.

257 Section 5. Section 53A-1a-521 is amended to read:

258 **53A-1a-521. Charter schools authorized by a board of trustees of a higher**  
 259 **education institution -- Application process -- Board of trustees responsibilities.**

260 (1) Subject to the approval of the State Board of Education and except as provided in  
 261 Subsection (8), an applicant identified in Section 53A-1a-504 may enter into an agreement with  
 262 a board of trustees of a higher education institution authorizing the applicant to establish and  
 263 operate a charter school.

264 (2) (a) An applicant applying for authorization from a board of trustees to establish and  
 265 operate a charter school shall provide a copy of the application to the State Charter School  
 266 Board and the local school board of the school district in which the proposed charter school  
 267 shall be located either before or at the same time the applicant files the application with the  
 268 board of trustees.

269 (b) The State Charter School Board and the local school board may review the  
 270 application and offer suggestions or recommendations to the applicant or the board of trustees  
 271 before acting on the application.

272 (c) The board of trustees shall give due consideration to suggestions or  
 273 recommendations made by the State Charter School Board or the local school board under

274 Subsection (2)(b).

275 (3) (a) If a board of trustees approves an application to establish and operate a charter  
276 school, the board of trustees shall submit the application to the State Board of Education.

277 (b) The State Board of Education shall, by majority vote, within 60 days of receipt of  
278 the application, approve or deny an application approved by a board of trustees.

279 (c) The State Board of Education's action under Subsection (3)(b) is final action subject  
280 to judicial review.

281 (4) The State Board of Education shall make a rule providing a timeline for the  
282 opening of a charter school following the approval of a charter school application by a board of  
283 trustees.

284 (5) After approval of a charter school application, the applicant and the board of  
285 trustees shall set forth the terms and conditions for the operation of the charter school in a  
286 written charter agreement.

287 (6) (a) The school's charter may include a provision that the charter school pay an  
288 annual fee for the board of trustees' costs in providing oversight of, and technical support to,  
289 the charter school in accordance with Subsection (7).

290 (b) In the first two years that a charter school is in operation, an annual fee described in  
291 Subsection (6)(a) may not exceed the product of 3% of the revenue the charter school receives  
292 from the state in the current fiscal year.

293 (c) Beginning with the third year that a charter school is in operation, an annual fee  
294 described in Subsection (6)(a) may not exceed the product of 1% of the revenue a charter  
295 school receives from the state in the current fiscal year.

296 (d) An annual fee described in Subsection (6)(a) shall be:

297 (i) paid to the board of trustees' higher education institution; and

298 (ii) expended as directed by the board of trustees.

299 (7) A board of trustees shall:

300 (a) annually review and evaluate the performance of charter schools authorized by the  
301 board of trustees and hold the schools accountable for their performance;

302 (b) monitor charter schools authorized by the board of trustees for compliance with  
303 federal and state laws, rules, and regulations; and

304 (c) provide technical support to charter schools authorized by the board of trustees to

305 assist them in understanding and performing their charter obligations.

306 (8) (a) In addition to complying with the requirements of this section, a [campus] board  
307 of directors of [~~a college campus~~] an applied technology college within the Utah College of  
308 Applied Technology shall obtain the approval of the Utah College of Applied Technology  
309 Board of Trustees before entering into an agreement to establish and operate a charter school.

310 (b) If a [campus] board of directors of [~~a college campus with~~] an applied technology  
311 college within the Utah College of Applied Technology approves an application to establish  
312 and operate a charter school, the [~~campus board of directors of the college campus~~] applied  
313 technology college board of directors shall submit the application to the Utah College of  
314 Applied Technology Board of Trustees.

315 (c) The Utah College of Applied Technology Board of Trustees shall, by majority vote,  
316 within 60 days of receipt of the application, approve or deny the application approved by the  
317 [campus] applied technology college board of directors.

318 (d) The Utah College of Applied Technology Board of Trustees may deny an  
319 application approved by [~~a campus~~] an applied technology college board of directors if the  
320 proposed charter school does not accomplish a purpose of charter schools as provided in  
321 Section [53A-1a-503](#).

322 (e) A charter school application may not be denied on the basis that the establishment  
323 of the charter school will have any or all of the following impacts on a public school, including  
324 another charter school:

- 325 (i) an enrollment decline;  
326 (ii) a decrease in funding; or  
327 (iii) a modification of programs or services.

328 (9) (a) Subject to the requirements of this part, [~~a campus board of directors of a~~  
329 ~~college campus within the Utah College of Applied Technology~~] an applied technology college  
330 board of directors may establish:

331 (i) procedures for submitting applications to establish and operate a charter school [~~to a~~  
332 ~~campus board of directors of a college campus within the Utah College of Applied~~  
333 ~~Technology~~]; and

334 (ii) criteria for [~~a campus board of directors~~] approval of an application to establish  
335 and operate a charter school.

336 (b) The Utah College of Applied Technology Board of Trustees may not establish  
337 policy governing the procedures or criteria described in Subsection (9)(a).

338 (10) Before [~~a board of trustees~~] an applied technology college board of directors  
339 accepts a charter school application, the [~~board of trustees~~] applied technology college board of  
340 directors shall, in accordance with State Board of Education rules, establish and make public  
341 [~~the board of trustees~~]:

- 342 (a) application requirements, in accordance with Section 53A-1a-504;
- 343 (b) application process, including timelines, in accordance with this section; and
- 344 (c) minimum academic, financial, and enrollment standards.

345 Section 6. Section 53A-15-102 is amended to read:

346 **53A-15-102. Early graduation incentives -- Incentive to school district -- Partial**  
347 **tuition scholarship for student -- Payments.**

348 (1) Any secondary public school student who has completed all required courses or  
349 demonstrated mastery of required skills and competencies may, with the approval of the  
350 student, the student's parent or guardian, and an authorized local school official, graduate at any  
351 time.

352 (2) Each public high school shall receive an amount equal to 1/2 of the scholarship  
353 awarded to each student who graduates from the school at or prior to the conclusion of the  
354 eleventh grade, or a proportionately lesser amount for any student who graduates after the  
355 conclusion of the eleventh grade but prior to the conclusion of the twelfth grade.

356 (3) (a) A student who graduates from high school at or prior to the conclusion of the  
357 eleventh grade shall receive a centennial scholarship in the lesser amount of full tuition for one  
358 year or \$1,000 to be used for full time enrollment at a Utah public college, university,  
359 community college, [~~applied technology center~~] applied technology college within the Utah  
360 College of Applied Technology, or any other institution in the state of Utah, accredited by the  
361 Northwest Association of Schools and Colleges that offers postsecondary courses of the  
362 student's choice upon verification that the student has registered at the institution during the  
363 fiscal year following graduation from high school.

364 (b) In the case of a student who graduates after the conclusion of the eleventh grade but  
365 prior to the conclusion of the twelfth grade, the student shall receive a centennial scholarship of  
366 a proportionately lesser amount.

367 (4) (a) The payments authorized in Subsections (2) and (3)(a) shall be made during the  
368 fiscal year that follows the student's graduation.

369 (b) The payments authorized in Subsection (3)(b) may be made during the fiscal year in  
370 which the student graduates or the fiscal year following the student's graduation.

371 (5) (a) The State Board of Education shall administer the payment program authorized  
372 in Subsections (2), (3), and (4).

373 (b) (i) The Legislature shall make an annual appropriation from the Uniform School  
374 Fund to the State Board of Education for the costs associated with the Centennial Scholarship  
375 Program based on the projected number of students who will graduate before the conclusion of  
376 the twelfth grade in any given year.

377 (ii) It is understood that the appropriation is offset by the state money that would  
378 otherwise be required and appropriated for these students if they were enrolled in an additional  
379 grade for a full year.

380 Section 7. Section **53A-15-202** is amended to read:

381 **53A-15-202. Powers of the board.**

382 The State Board of Education:

383 (1) shall establish minimum standards for career and technical education programs in the  
384 public education system;

385 (2) may apply for, receive, administer, and distribute funds made available through  
386 programs of federal and state governments to promote and aid career and technical education;

387 (3) shall cooperate with federal and state governments to administer programs which  
388 promote and maintain career and technical education;

389 (4) shall cooperate with the Utah College of Applied Technology, Salt Lake Community  
390 College's School of Applied Technology, Snow College, and Utah State University Eastern to  
391 ensure that students in the public education system have access to career and technical education  
392 at Utah College of Applied Technology [~~campuses~~] applied technology colleges, Salt Lake  
393 Community College's School of Applied Technology, Snow College, and Utah State University  
394 Eastern;

395 (5) shall require that before a minor student may participate in clinical experiences as part  
396 of a health care occupation program at a high school or other institution to which the student has  
397 been referred, the student's parent or legal guardian has:

398 (a) been first given written notice through appropriate disclosure when registering and  
399 prior to participation that the program contains a clinical experience segment in which the student  
400 will observe and perform specific health care procedures that may include personal care, patient  
401 bathing, and bathroom assistance; and

402 (b) provided specific written consent for the student's participation in the program and  
403 clinical experience; and

404 (6) shall, after consulting with school districts, charter schools, the Utah College of  
405 Applied Technology, Salt Lake Community College's School of Applied Technology, Snow  
406 College, and Utah State University Eastern, prepare and submit an annual report to the governor  
407 and to the Legislature's Education Interim Committee by October 31 of each year detailing:

408 (a) how the career and technical education needs of secondary students are being met; and

409 (b) what access secondary students have to programs offered:

410 (i) at applied technology colleges; and

411 (ii) within the regions served by Salt Lake Community College's School of Applied  
412 Technology, Snow College, and Utah State University Eastern.

413 Section 8. Section **53A-17a-114** is amended to read:

414 **53A-17a-114. Career and technical education program alternatives.**

415 (1) A secondary student may attend [~~a campus of~~] an applied technology college within  
416 the Utah College of Applied Technology [~~created under Title 53B, Chapter 2a, Utah College of~~  
417 ~~Applied Technology, if~~], if the secondary student's career and technical education goals are better  
418 achieved by attending [~~the Utah College of Applied Technology~~] an applied technology college  
419 as determined by:

420 (a) the secondary student; and

421 (b) if the secondary student is a minor, the secondary student's parent or legal guardian.

422 (2) [~~Beginning with the school year that occurs during the fiscal year that begins on July~~  
423 ~~1, 2011 and ends on June 30, 2012, a~~] A secondary student served under this section [~~in a campus~~  
424 ~~of~~] by an applied technology college within the Utah College of Applied Technology shall be  
425 counted in the average daily membership of the sending school district or charter school.

426 Section 9. Section **53B-1-103** is amended to read:

427 **53B-1-103. Establishment of State Board of Regents -- Powers and authority.**

428 (1) There is established a State Board of Regents.

429 (2) (a) Except as provided in Subsection (2)(b), the board is vested with the control,  
430 management, and supervision of the institutions of higher education designated in Section  
431 [53B-1-102](#) in a manner consistent with the policy and purpose of this title and the specific powers  
432 and responsibilities granted to it.

433 (b) The board may only exercise powers relating to the Utah College of Applied  
434 Technology and [~~its college campuses~~] applied technology colleges within the Utah College of  
435 Applied Technology that are specifically provided in this title.

436 (c) The board shall coordinate and support articulation agreements between the Utah  
437 College of Applied Technology or applied technology colleges within the Utah College of Applied  
438 Technology and other institutions of higher education.

439 (d) The board shall prepare and submit an annual report detailing its progress and  
440 recommendations on career and technical education issues to the governor and to the Legislature's  
441 Education Interim Committee by October 31 of each year, which shall include information  
442 detailing:

443 (i) how the career and technical education needs of secondary students are being met by  
444 institutions of higher education other than applied technology colleges within the Utah College of  
445 Applied Technology, including what access secondary students have to programs offered by Salt  
446 Lake Community College's School of Applied Technology, Snow College, and Utah State  
447 University Eastern;

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

450 (iii) performance outcomes, including:

451 (A) entered employment;

452 (B) job retention; and

453 (C) earnings; and

454 (iv) student tuition and fees.

455 (e) Except for the Utah College of Applied Technology, the board may modify the name  
456 of an institution under its control and management, as designated in Section [53B-1-102](#), to reflect  
457 the role and general course of study of the institution.

458 (f) The board may not conduct a feasibility study or perform another act relating to  
459 merging any of the following institutions with another institution of higher education:

- 460 (i) [the] Bridgerland Applied Technology College [Campus];
- 461 (ii) [the] Ogden-Weber Applied Technology College [Campus];
- 462 (iii) [the] Davis Applied Technology College [Campus];
- 463 (iv) [the] Tooele Applied Technology College [Campus];
- 464 (v) [the] Mountainland Applied Technology College [Campus];
- 465 (vi) [the] Uintah Basin Applied Technology College [Campus];
- 466 (vii) [the] Southwest Applied Technology College [Campus]; and
- 467 (viii) [the] Dixie Applied Technology College [Campus].

468 (3) This section does not affect the power and authority vested in the State Board of  
469 Education to apply for, accept, and manage federal appropriations for the establishment and  
470 maintenance of career and technical education.

471 (4) The board shall conduct a study regarding the feasibility of providing a veterans'  
472 walk-in center or services at each state institution of higher education. The study shall include:

473 (a) an implementation plan for providing a walk-in center or services at each institution  
474 of higher education;

475 (b) criteria, based upon the size of the institution, to determine whether the institution  
476 should be required to provide a walk-in center or services;

477 (c) responsibilities of the walk-in center or services;

478 (d) a notification process about the walk-in center or services to veterans upon their  
479 application for admission;

480 (e) the possibility of staffing a veterans walk-in center or services with veterans, including  
481 through work-study positions to be filled by veterans;

482 (f) annual reports from each walk-in center and services to the board which includes  
483 summary information of veterans served; and

484 (g) funding requirements for a veterans walk-in center and services.

485 (5) Presentation of the study, including the implementation plan with funding and other  
486 recommendations, shall be made to a legislative committee, commission, or task force upon  
487 request no later than the October 2014 interim meeting.

488 Section 10. Section **53B-2-104** is amended to read:

489 **53B-2-104. Memberships of board of trustees -- Terms -- Vacancies -- Oath --**  
490 **Officers -- Bylaws -- Quorum -- Committees -- Compensation.**



491 (1) (a) The board of trustees of an institution of higher education consists of the following:

492 (i) except as provided in Subsection 53B-18-1201(3)(b), eight persons appointed by the  
493 governor and approved by the Senate; and

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

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

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

500 (b) An appointed member holds office until a successor is appointed and qualified.

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

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

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

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

507 (5) Each board of trustees shall elect a chair and vice chair, who serve for two years and  
508 until their successors are elected and qualified.

509 (6) (a) Each board of trustees may enact bylaws for its own government, including  
510 provision for regular meetings.

511 (b) (i) The board of trustees may provide for an executive committee in its bylaws.

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

514 (iii) The committee may act on nonroutine matters only under extraordinary and  
515 emergency circumstances.

516 (iv) The committee shall report its activities to the board of trustees at its next regular  
517 meeting following the action.

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

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

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

521 (9) A member may not receive compensation or benefits for the member's service, but may

522 receive per diem and travel expenses in accordance with:

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

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

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

526 (10) This section does not apply to a board of directors of an applied technology college  
527 within the Utah College of Applied Technology.

528 Section 11. Section 53B-2-106 is amended to read:

529 **53B-2-106. Duties and responsibilities of the president of each institution -- Approval**  
530 **by board of trustees.**

531 (1) (a) The president of each institution may exercise grants of power and authority as  
532 delegated by the board, as well as the necessary and proper exercise of powers and authority not  
533 specifically denied to the institution, its administration, faculty, or students by the board or by law,  
534 to assure the effective and efficient administration and operation of the institution consistent with  
535 the statewide master plan for higher education.

536 (b) The president of each institution may, after consultation with the institution's board of  
537 trustees, exercise powers relating to the institution's employees, including faculty and persons  
538 under contract with the institution, by implementing any of the following:

539 (i) furloughs;

540 (ii) reductions in force;

541 (iii) benefit adjustments;

542 (iv) program reductions or discontinuance;

543 (v) early retirement incentives that provide cost savings to the institution; and

544 (vi) other measures that provide cost savings to the institution.

545 (2) Except as provided by the board, the president of each institution, with the approval  
546 of the institution's board of trustees may:

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

549 (ii) appoint support personnel, prescribe their duties, and determine their salaries from the  
550 institution's position classification plan, which may:

551 (A) be based upon similarity of duties and responsibilities within the institution; and

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

553 (iii) adopt policies for:

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

555 (B) service recognition for employees with more than 15 years of employment with the  
556 institution; and

557 (iv) subject to the authority of, policy established by, and the approval of the board of  
558 regents, and recognizing the status of the institutions within the state system of higher education  
559 as bodies politic and corporate, appoint attorneys to provide legal advice to the institution's  
560 administration and to coordinate legal affairs within the institution. The board of regents shall  
561 coordinate activities of attorneys at the institutions of higher education. The institutions shall  
562 provide an annual report to the board of regents on the activities of appointed attorneys. These  
563 appointed attorneys may not conduct litigation, settle claims covered by the State Risk  
564 Management Fund, or issue formal legal opinions but shall, in all respects, cooperate with the  
565 Office of the Attorney General in providing legal representation to the institution;

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

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

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

582 (3) Compensation costs and related office expenses for appointed attorneys shall be funded  
583 within existing budgets.

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

587 (5) This section does not apply to a president of an applied technology college within the  
588 Utah College of Applied Technology.

589 Section 12. Section **53B-2a-101** is amended to read:

590 **53B-2a-101. Definitions.**

591 As used in this chapter:

592 (1) "Applied technology college" means a member college of the Utah College of Applied  
593 Technology.

594 [(+)] (2) "Board of trustees" means the Utah College of Applied Technology Board of  
595 Trustees.

596 [~~2~~] "~~College campus" means a college campus of the Utah College of Applied~~  
597 ~~Technology.~~]

598 (3) "Commissioner of technical education" means the Utah College of Applied Technology  
599 commissioner of technical education.

600 [(3)] (4) "Competency-based" means mastery of subject matter or skill level, as  
601 demonstrated through business and industry approved standards and assessments, achieved through  
602 participation in a hands-on learning environment, and which is tied to observable, measurable  
603 performance objectives.

604 (5) "Member" means a member of the board of trustees.

605 [(4)] (6) "Open-entry, open-exit" means:

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

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

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

614 Section 13. Section **53B-2a-102** is amended to read:

615 **53B-2a-102. Commissioner of technical education -- Appointment -- Duties.**

616 (1) (a) The board of trustees, upon approval from the governor and with the consent of the  
617 Senate [~~for each appointee nominated on or after May 8, 2012~~], shall appoint a [~~president for the~~  
618 ~~Utah College of Applied Technology~~] commissioner of technical education to serve as the board  
619 of trustees' chief executive officer.

620 [~~(b) The president of the Utah College of Applied Technology does not need to have a~~  
621 ~~doctorate degree, but shall]~~

622 (b) The commissioner of technical education shall:

623 (i) have an appropriate and relevant educational background; and

624 (ii) have extensive experience in career and technical education.

625 (c) The [~~president~~] commissioner of technical education shall serve at the board of trustees'  
626 discretion and may be terminated by:

627 (i) the board of trustees; or

628 (ii) the governor, after consultation with the board of trustees.

629 (d) If the board of trustees intends to appoint an interim or acting commissioner of  
630 technical education during a leave of absence of the commissioner of technical education, the  
631 board of trustees shall appoint the interim or acting commissioner of technical education with the  
632 consent of the Senate.

633 [~~(d)~~] (e) The name of each final candidate for [~~president of the Utah College of Applied~~  
634 ~~Technology~~] commissioner of technical education shall be publicly disclosed.

635 [~~(2) The president shall:]~~

636 [~~(a) direct the Utah College of Applied Technology and coordinate the activities of each~~  
637 ~~of its college campuses;]~~

638 [~~(b) in consultation with the board of trustees, campus presidents, and campus boards of~~  
639 ~~directors, prepare a comprehensive strategic plan for delivering career and technical education~~  
640 ~~through the Utah College of Applied Technology college campuses;]~~

641 [~~(c) after consulting with school districts, charter schools, and other higher education~~  
642 ~~institutions in the regions, ensure that the curricula of the Utah College of Applied Technology~~  
643 ~~meet the needs of the state, the regions, the school districts, and charter schools;]~~

644 [~~(d) in consultation with the board of trustees, campus presidents, and campus boards of~~  
645 ~~directors, and after consulting with school districts, charter schools, and other higher education~~

646 ~~institutions in the region, develop strategies for providing career and technical education in rural~~  
647 ~~areas, specifically considering the distances between rural career and technical education~~  
648 ~~providers;]~~

649 ~~[(e) establish minimum standards for career and technical education programs of the Utah~~  
650 ~~College of Applied Technology college campuses;]~~

651 ~~[(f) in conjunction with the board of trustees;]~~

652 ~~[(i) develop and implement a system of common definitions, standards, and criteria for~~  
653 ~~tracking and measuring the effectiveness of career and technical education;]~~

654 ~~[(ii) maintain a central administration office for coordination, prioritization, support, and~~  
655 ~~reporting of college functions dealing with;]~~

656 ~~[(A) budgets and audits;]~~

657 ~~[(B) facilities, including capital, capital development, and leases;]~~

658 ~~[(C) management information systems;]~~

659 ~~[(D) campus and college master planning efforts;]~~

660 ~~[(E) strategic planning;]~~

661 ~~[(F) articulation with institutions of higher education and public education;]~~

662 ~~[(G) legislative, State System of Public Education, State System of Higher Education, and~~  
663 ~~Board of Regents contact;]~~

664 ~~[(H) general data collection; and]~~

665 ~~[(I) programs, certificates, and curriculum; and]~~

666 ~~[(iii) develop and implement a plan to inform citizens about the availability, cost, and~~  
667 ~~advantages of career and technical education;]~~

668 ~~[(g) after consulting with the State Board of Education, school districts, and charter~~  
669 ~~schools, ensure that secondary students in the public education system have access to career and~~  
670 ~~technical education through the Utah College of Applied Technology college campuses;]~~

671 ~~[(h) in conjunction with the board of trustees, establish benchmarks, provide oversight,~~  
672 ~~evaluate program performance, and obtain independent audits to ensure that college campuses~~  
673 ~~follow the non-credit career and technical education mission described in this part; and]~~

674 ~~[(i) with the approval of the board of trustees, appoint each campus president in~~  
675 ~~accordance with Section [53B-2a-107](#) and annually set the compensation of each campus president.]~~

676 (2) The board of trustees shall:

- 677 (a) set the salary of the commissioner of technical education;
- 678 (b) prescribe the duties and functions of the commissioner of technical education; and
- 679 (c) select a commissioner of technical education on the basis of outstanding professional
- 680 qualifications.

- 681 (3) The commissioner of technical education is responsible to the board of trustees to:
- 682 (a) ensure that the policies and programs of the board of trustees are properly executed;
- 683 (b) furnish information about the Utah College of Applied Technology and make
- 684 recommendations regarding the information to the board of trustees;

- 685 (c) provide state-level leadership in an activity affecting an applied technology college;
- 686 and

- 687 (d) perform other duties as assigned by the board of trustees in carrying out the board of
- 688 trustees' duties and responsibilities.

689 Section 14. Section **53B-2a-103** is amended to read:

690 **53B-2a-103. Utah College of Applied Technology Board of Trustees -- Membership**  
 691 **-- Terms -- Vacancies -- Oath -- Officers -- Quorum -- Committees -- Compensation.**

692 (1) There is created the Utah College of Applied Technology Board of Trustees[;].

693 (2) Except as provided in Subsections (3) and (4), the board of trustees is composed of the  
 694 following members:

695 (a) one member of the State Board of Education appointed by the chair of the State Board  
 696 of Education, to serve as a nonvoting member;

697 (b) one member of the State Board of Regents appointed by the chair of the State Board  
 698 of Regents, to serve as a nonvoting member;

699 (c) one member, representing business and industry employers from [~~the campus~~] each  
 700 applied technology college board of directors [~~of each applied technology college campus~~],  
 701 appointed by a majority vote of the business and industry employer members of the [~~campus~~  
 702 ~~board~~] applied technology college board of directors;

703 (d) one member representing business and industry employers from the Snow College  
 704 Economic Development and Workforce Preparation Advisory Committee appointed by a majority  
 705 of the business and industry employer members of the advisory committee;

706 (e) one member representing business and industry employers from the Utah State  
 707 University Eastern career and technical education advisory committee appointed by a majority of

708 the business and industry employer members of the advisory committee;

709 (f) one member representing business and industry employers from the Salt Lake  
710 Community College School of Applied Technology Board of Directors appointed by a majority  
711 of the business and industry employer members of the board of directors;

712 (g) one business or industry employer representative appointed by the governor with the  
713 consent of the Senate from nominations submitted by the speaker of the House of Representatives  
714 and president of the Senate;

715 (h) one representative of union craft, trade, or apprenticeship programs that prepare  
716 workers for employment in career and technical education fields, appointed by the governor with  
717 the consent of the Senate;

718 (i) one representative of non-union craft, trade, or apprenticeship programs that prepare  
719 workers for employment in career and technical education fields, appointed by the governor with  
720 the consent of the Senate; and

721 (j) the executive director of the Governor's Office of Economic Development or the  
722 executive director's designee.

723 [~~(2)(a) In making appointments to the board of trustees, the governor shall consider:]~~

724 (3) (a) Beginning on July 1, 2019, the board of trustees is composed of 15 voting members  
725 appointed by the governor with the consent of the Senate, as follows:

726 (i) one member representing each applied technology college, selected from at least two  
727 nominees presented to the governor by the board of directors of each applied technology college;  
728 and

729 (ii) one member representing each of the following sectors:

730 (A) information technology;

731 (B) manufacturing;

732 (C) life sciences;

733 (D) health care;

734 (E) transportation;

735 (F) union craft, trade, or apprenticeship; and

736 (G) non-union craft, trade or apprenticeship.

737 (b) The seven members described in Subsection (3)(a)(ii) shall be selected from the state  
738 at large, subject to the following conditions:



739 (i) at least four members shall reside in a geographic area served by an applied technology  
740 college described in Section 53B-2a-105; and

741 (ii) no more than two members may reside in a single geographic area served by an applied  
742 technology college described in Section 53B-2a-105.

743 ~~[(i) individuals from the state at large with due consideration for geographical~~  
744 ~~representation;]~~

745 ~~[(ii) individuals recognized for their knowledge and expertise; and]~~

746 ~~[(iii) individuals who represent current and emerging business and industry sectors of the~~  
747 ~~state.]~~

748 ~~[(b) Appointments]~~

749 (c) (i) In addition to the 15 voting members described in Subsection (3)(a), one member  
750 of the Board of Regents, appointed by the chair of the Board of Regents, shall serve as a nonvoting  
751 member of the board of trustees.

752 (ii) The nonvoting member from the Board of Regents is not subject to the term limit  
753 described in Subsection (5)(b).

754 (d) The governor shall make appointments to the board [shall be made] of trustees on a  
755 nonpartisan basis.

756 (4) (a) Except as provided in Subsection (4)(d), to transition from the composition of the  
757 board of trustees described in Subsection (2) to the composition described in Subsection (3), for  
758 a member who was appointed to the board of trustees on or before May 10, 2016, the governor  
759 shall appoint a replacement when the member's current term expires.

760 (b) In replacing a member who was appointed under Subsection (2)(c), the governor shall  
761 appoint a member to represent the applied technology college represented by the member whose  
762 term expires by:

763 (i) soliciting the applied technology college's board of directors to nominate at least two  
764 individuals for the position; and

765 (ii) selecting from the nominees presented.

766 (c) In replacing a member who was appointed under Subsections (2)(d) through (2)(j), the  
767 governor shall appoint a new member at large, ensuring representation from the sectors described  
768 in Subsection (3)(a)(ii).

769 (d) (i) A member appointed under Subsection (2)(a) shall remain on the board of trustees

770 until June 30, 2019.

771 (ii) A member appointed under Subsection (2)(b) may remain on the board following the  
772 transition to the board composition described in Subsection (3).

773 (e) In making an appointment under this Subsection (4), the governor:

774 (i) shall appoint a member on a nonpartisan basis; and

775 (ii) may not reappoint the member who is being replaced if the member has served on the  
776 board of trustees for at least two consecutive full terms.

777 ~~[(3)(a)]~~ (5) (a) (i) Except as provided under Subsection ~~[(3)(b), members of the board of~~  
778 ~~trustees]~~ (5)(a)(ii), a member shall be appointed commencing on July 1 of each odd-numbered year  
779 to a four-year term.

780 ~~[(b) Initial terms of the board members beginning on July 1, 2009 shall be staggered with~~  
781 ~~two-year and four-year terms so that]~~

782 (ii) The governor shall ensure that member terms are staggered so that approximately  
783 one-half of the members' terms [will] expire in any odd-numbered year.

784 ~~[(c) An appointed member holds office until a successor is appointed and qualified.]~~

785 (b) A member may not hold office for more than two consecutive full terms.

786 ~~[(4)]~~ (6) When a vacancy occurs ~~[in]~~ on the ~~[membership]~~ board of trustees for any reason,  
787 the governor shall appoint a replacement [shall be appointed] for the unexpired term.

788 ~~[(5)]~~ (7) (a) Each member shall take the official oath of office prior to assuming the office.

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

790 ~~[(6)]~~ (8) (a) The board of trustees shall elect a chair and vice chair, who serve for two years  
791 and until their successors are elected and qualified.

792 (b) A member may not serve more than two consecutive terms as the chair or vice chair.

793 ~~[(7)]~~ (9) (a) The board of trustees ~~[may]~~ shall enact bylaws for ~~[its]~~ the board of trustees'  
794 own government, including [provision] provisions for regular meetings.

795 (b) (i) The board of trustees ~~[may]~~ shall provide for an executive committee in ~~[its]~~ the  
796 board of trustees' bylaws.

797 (ii) ~~[If established, the]~~ The executive committee shall have full authority of the board of  
798 trustees to act upon routine matters during the interim between board of trustees meetings.

799 (iii) The executive committee may act on nonroutine matters only under extraordinary and  
800 emergency circumstances.

801 (iv) The executive committee shall report its activities to the board of trustees at [its] the  
 802 board of trustees' next regular meeting following the executive committee's action.

803 [~~8~~] (10) A quorum shall be required to conduct business which shall consist of a majority  
 804 of voting board of trustee members.

805 [~~9~~] (11) The board of trustees may establish advisory committees.

806 [~~10~~] (12) A member may not receive compensation or benefits for the member's service,  
 807 but may receive per diem and travel expenses in accordance with:

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

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

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

811 Section 15. Section 53B-2a-104 is amended to read:

812 **53B-2a-104. Utah College of Applied Technology Board of Trustees -- Powers and**  
 813 **duties.**

814 (1) The Utah College of Applied Technology Board of Trustees is vested with the control,  
 815 management, and supervision of applied technology colleges within the Utah College of Applied  
 816 Technology [~~college campuses~~] in a manner consistent with the policy and purpose of this title and  
 817 the specific powers and responsibilities granted to [it] the board of trustees.

818 (2) The [~~Utah College of Applied Technology Board of Trustees~~] board of trustees shall:

819 (a) ensure that [~~the Utah College of Applied Technology~~] an applied technology college  
 820 [~~campuses comply~~] complies with the requirements in Section 53B-2a-106;

821 (b) appoint the [~~president for the Utah College of Applied Technology~~] commissioner of  
 822 applied technology in accordance with Section 53B-2a-102;

823 (c) advise the [~~president of the Utah College of Applied Technology~~] commissioner of  
 824 applied technology and the State Board of Regents on issues related to career and technical  
 825 education, including articulation with institutions of higher education and public education;

826 (d) ensure that a secondary student in the public education system has access to career and  
 827 technical education through an applied technology college in the secondary student's service  
 828 region;

829 (e) in consultation with the State Board of Education, the State Board of Regents, and  
 830 applied technology college presidents, develop strategies for providing career and technical  
 831 education in rural areas, considering distances between rural career and technical education

832 providers;

833 ~~[(d)]~~ (f) receive budget requests from each applied technology college [~~campus~~], compile

834 and prioritize the requests, and submit the request to:

835 (i) the Legislature; and

836 (ii) the Governor's Office of Management and Budget;

837 ~~[(e)]~~ (g) receive funding requests pertaining to capital facilities and land purchases from

838 each applied technology college [~~campus~~], ensure that the requests comply with Section

839 53B-2a-112, prioritize the requests, and submit the prioritized requests to the State Building Board;

840 ~~[(f)]~~ (h) in conjunction with the [~~Utah College of Applied Technology president~~]

841 commissioner of applied technology, establish benchmarks, provide oversight, evaluate program

842 performance, and obtain independent audits to ensure that [~~campuses follow~~] an applied

843 technology college follows the non-credit career and technical education mission described in this

844 part;

845 ~~[(g)]~~ (i) approve programs for the Utah College of Applied Technology;

846 ~~[(h)]~~ (j) approve the tuition rates for applied technology colleges within the Utah College

847 of Applied Technology;

848 ~~[(i)]~~ (k) prepare and submit an annual report detailing [~~its~~] the board of trustees' progress

849 and recommendations on career and technical education issues to the governor and to the

850 Legislature's Education Interim Committee by October 31 of each year, which shall include

851 information detailing:

852 (i) how the career and technical education needs of secondary students are being met,

853 including what access secondary students have to programs offered at [~~college campuses~~] applied

854 technology colleges;

855 (ii) how the emphasis on high demand, high wage, and high skill jobs in business and

856 industry described in [~~Subsection~~] Section 53B-2a-106~~[(1)(c)(ii)]~~ is being provided;

857 (iii) performance outcomes, including:

858 (A) entered employment;

859 (B) job retention; and

860 (C) earnings; and

861 (iv) student tuition and fees; and

862 ~~[(j)]~~ (l) collaborate with the State Board of Regents, the State Board of Education, the state

863 system of public education, the state system of higher education, the Department of Workforce  
 864 Services, and the Governor's Office of Economic Development on the delivery of career and  
 865 technical education.

866 ~~[(3) The Utah College of Applied Technology Board of Trustees, the president of the Utah~~  
 867 ~~College of Applied Technology, and the Utah College of Applied Technology's college campuses,~~  
 868 ~~presidents, and boards]~~

869 (3) The board of trustees, the commissioner of applied technology, or an applied  
 870 technology college, president, or board of directors may not conduct a feasibility study or perform  
 871 another act relating to offering a degree or awarding credit.

872 Section 16. Section **53B-2a-105** is amended to read:

873 **53B-2a-105. Utah College of Applied Technology -- Composition.**

874 The Utah College of Applied Technology is composed of the following [~~college campuses~~]  
 875 applied technology colleges:

876 (1) [~~the~~] Bridgerland Applied Technology College [~~Campus~~], which serves the geographic  
 877 area encompassing:

- 878 (a) the Box Elder School District;
- 879 (b) the Cache School District;
- 880 (c) the Logan School District; and
- 881 (d) the Rich School District;

882 (2) [~~the~~] Ogden-Weber Applied Technology College [~~Campus~~], which serves the  
 883 geographic area encompassing:

- 884 (a) the Ogden City School District; and
- 885 (b) the Weber School District;

886 (3) [~~the~~] Davis Applied Technology College [~~Campus~~], which serves the geographic area  
 887 encompassing:

- 888 (a) the Davis School District; and
- 889 (b) the Morgan School District;

890 (4) [~~the~~] Tooele Applied Technology College [~~Campus~~], which serves the geographic area  
 891 encompassing the Tooele County School District;

892 (5) [~~the~~] Mountainland Applied Technology College [~~Campus~~], which serves the  
 893 geographic area encompassing:

- 894 (a) the Alpine School District;
- 895 (b) the Nebo School District;
- 896 (c) the Provo School District;
- 897 (d) the South Summit School District;
- 898 (e) the North Summit School District;
- 899 (f) the Wasatch School District; and
- 900 (g) the Park City School District;
- 901 (6) [~~the~~] Uintah Basin Applied Technology College [~~Campus~~], which serves the
- 902 geographic area encompassing:
  - 903 (a) the Daggett School District;
  - 904 (b) the Duchesne School District; and
  - 905 (c) the Uintah School District;
- 906 (7) [~~the~~] Southwest Applied Technology College [~~Campus~~], which serves the geographic
- 907 area encompassing:
  - 908 (a) the Beaver School District;
  - 909 (b) the Garfield School District;
  - 910 (c) the Iron School District; and
  - 911 (d) the Kane School District; and
- 912 (8) [~~the~~] Dixie Applied Technology College [~~Campus~~], which serves the geographic area
- 913 encompassing the Washington School District.

914 Section 17. Section **53B-2a-106** is amended to read:

915 **53B-2a-106. Applied technology colleges -- Duties.**

- 916 (1) Each applied technology college within the Utah College of Applied Technology
- 917 [~~college campus~~] shall, within the geographic area served by the applied technology college
- 918 [~~campus~~]:
  - 919 (a) offer a non-credit post-secondary and secondary career and technical education
  - 920 curriculum;
  - 921 (b) offer that curriculum at:
    - 922 (i) low cost to adult students, as approved by the board of trustees; and
    - 923 (ii) no tuition to secondary students;
  - 924 (c) provide career and technical education that will result in:

- 925 (i) appropriate licensing, certification, or other evidence of completion of training; and  
926 (ii) qualification for specific employment, with an emphasis on high demand, high wage,  
927 and high skill jobs in business and industry;
- 928 (d) develop cooperative agreements with school districts, charter schools, other higher  
929 education institutions, businesses, industries, and community and private agencies to maximize  
930 the availability of instructional facilities within the geographic area served by the applied  
931 technology college [~~campus~~]; and
- 932 (e) after consulting with school districts and charter schools within the geographic area  
933 served by the applied technology college [~~campus~~]:
- 934 (i) ensure that secondary students in the public education system have access to career and  
935 technical education at [~~each college campus~~] the applied technology college; and
- 936 (ii) prepare and submit an annual report to the [~~Utah College of Applied Technology~~]  
937 board of trustees detailing:
- 938 (A) how the career and technical education needs of secondary students within the region  
939 are being met;
- 940 (B) what access secondary students within the region have to programs offered at [~~college~~  
941 ~~campuses~~] the applied technology college;
- 942 (C) how the emphasis on high demand, high wage, high skill jobs in business and industry  
943 described in Subsection (1)(c)(ii) is being provided; and
- 944 (D) student tuition and fees.
- 945 (2) [~~A~~] An applied technology college [~~campus~~] may offer:
- 946 (a) a competency-based high school diploma approved by the State Board of Education  
947 in accordance with Section [53A-1-402](#);
- 948 (b) non-credit, basic instruction in areas such as reading, language arts, and mathematics  
949 that are necessary for student success in a chosen career and technical education or job-related  
950 program;
- 951 (c) non-credit courses of interest when similar offerings to the community are limited and  
952 courses are financially self-supporting; and
- 953 (d) secondary school level courses through the Statewide Online Education Program in  
954 accordance with Section [53A-15-1205](#).
- 955 (3) Except as provided in Subsection (2)(d), [~~a college campus~~] an applied technology

956 college may not:

957 (a) offer courses other than non-credit career and technical education or the non-credit,  
958 basic instruction described in Subsections (2)(b) and (c);

959 (b) offer a degree;

960 (c) offer career and technical education or basic instruction outside the geographic area  
961 served by the [~~college campus~~] applied technology college without a cooperative agreement  
962 between an affected institution, except as provided in Subsection (6);

963 (d) provide tenure or academic rank for its instructors; [~~and~~] or

964 (e) participate in intercollegiate athletics.

965 (4) The mission of [~~a college campus~~] an applied technology college is limited to  
966 non-credit career and technical education and may not expand to include credit-based academic  
967 programs typically offered by community colleges or other institutions of higher education.

968 (5) [~~A campus~~] An applied technology college shall be recognized as a [~~college campus~~]  
969 member applied technology college of the Utah College of Applied Technology, and regional  
970 affiliation shall be retained and recognized through local designations such as "Bridgerland  
971 Applied Technology College: A member applied technology college of the Utah College of  
972 Applied Technology [~~Campus~~]."

973 (6) (a) [~~A college campus~~] An applied technology college may offer career and technical  
974 education or basic instruction outside the geographic area served by the [~~college campus~~] applied  
975 technology college without a cooperative agreement, as required in Subsection (3)(c), if:

976 (i) the career and technical education or basic instruction is specifically requested by:

977 (A) an employer; or

978 (B) a craft, trade, or apprenticeship program;

979 (ii) the [~~college campus~~] applied technology college notifies the affected institution about  
980 the request; and

981 (iii) the affected institution is given an opportunity to make a proposal, prior to any  
982 contract being finalized or training being initiated by the applied technology college [~~campus~~], to  
983 the employer, craft, trade, or apprenticeship program about offering the requested career and  
984 technical education or basic instruction, provided that the proposal shall be presented no later than  
985 one business week from the delivery of the notice described under Subsection (6)(b).

986 (b) The requirements under Subsection (6)(a)(iii) do not apply if there is a prior training



987 relationship.

988 Section 18. Section **53B-2a-107** is amended to read:

989 **53B-2a-107. Applied technology college presidents -- Appointments -- Duties.**

990 (1) (a) The [~~president of the Utah College of Applied Technology~~] board of trustees shall,  
991 after consultation with [~~a campus~~] an applied technology college board of directors [~~and with the~~  
992 ~~approval of the board of trustees, appoint a campus~~], appoint an applied technology college  
993 president for [~~a college campus~~] an applied technology college.

994 (b) The board of trustees shall establish a policy for appointing an applied technology  
995 college president that:

996 (i) requires the board of trustees to create a search committee that:

997 (A) shall include an equal number of board of trustee members and members from the  
998 applied technology college board of directors; and

999 (B) may include applied technology college faculty, students, or other individuals;

1000 (ii) requires the search committee to seek nominations, interview candidates, and forward  
1001 qualified candidates to the board of trustees for consideration;

1002 (iii) provides for at least two members of the applied technology college board of directors  
1003 to participate in board of trustees' interviews of finalists; and

1004 (iv) provides for the board of trustees to vote to appoint an applied technology college  
1005 president in a meeting that complies with Title 52, Chapter 4, Open and Public Meetings Act.

1006 [~~(b) A campus~~] (2) (a) An applied technology college president shall serve as the chief  
1007 administrative officer of the college campus.

1008 [~~(c) A campus~~] (b) An applied technology college president does not need to have a  
1009 doctorate degree, but shall have extensive experience in career and technical education.

1010 [~~(d) A campus~~] (c) An applied technology college president is subject to regular review  
1011 and evaluation administered by the [~~Utah College of Applied Technology president~~] board of  
1012 trustees, in cooperation with the [~~campus~~] applied technology college board of directors, through  
1013 a process approved by the board of trustees.

1014 [~~(e) A campus~~] (d) An applied technology college president serves at the discretion of [~~the~~  
1015 ~~Utah College of Applied Technology president, in cooperation with the campus board of directors~~  
1016 ~~and~~] the board of trustees, in cooperation with the applied technology college board of directors.

1017 (e) The board of trustees, in cooperation with an applied technology college board of

1018 directors, shall set the compensation for an applied technology college president.

1019 [~~2) Each campus president of a college campus shall:~~]

1020 (3) An applied technology college president shall:

1021 (a) serve as the executive officer of the [~~campus~~] applied technology college board of  
1022 directors;

1023 (b) administer the day-to-day operations of the [~~college campus~~] applied technology  
1024 college;

1025 (c) consult with the [~~campus~~] applied technology college board of directors; and

1026 (d) administer human resource policies and employee compensation plans in accordance  
1027 with the requirements of the [~~Utah College of Applied Technology Board of Trustees~~] board of  
1028 trustees.

1029 Section 19. Section **53B-2a-108** is amended to read:

1030 **53B-2a-108. Applied technology college boards of directors -- Membership --**  
1031 **Appointments.**

1032 [~~A campus~~] An applied technology college shall have [~~a campus~~] an applied technology  
1033 college board of directors appointed as follows:

1034 (1) the Bridgerland Applied Technology College [~~Campus~~] Board of Directors shall be  
1035 composed of the following 12 members:

1036 (a) one elected local school board member appointed by the board of education for the Box  
1037 Elder School District;

1038 (b) one elected local school board member appointed by the board of education for the  
1039 Cache School District;

1040 (c) one elected local school board member appointed by the board of education for the  
1041 Logan School District;

1042 (d) one elected local school board member appointed by the board of education for the  
1043 Rich School District;

1044 (e) one member of the Utah State University board of trustees; and

1045 (f) seven representatives of business or industry employers within the region appointed  
1046 jointly by the members appointed under Subsections (1)(a) through (e);

1047 (2) the Ogden-Weber Applied Technology College [~~Campus~~] Board of Directors shall be  
1048 composed of the following 10 members:

1049 (a) one elected local school board member appointed by the board of education for the  
1050 Ogden City School District;

1051 (b) one elected local school board member appointed by the board of education for the  
1052 Weber School District;

1053 (c) one member of the Weber State University board of trustees; and

1054 (d) seven representatives of business or industry employers within the region appointed  
1055 jointly by the members appointed under Subsections (2)(a) through (c);

1056 (3) the Davis Applied Technology College [~~Campus~~] Board of Directors shall be  
1057 composed of the following 10 members:

1058 (a) one elected local school board member appointed by the board of education for the  
1059 Davis School District;

1060 (b) one elected local school board member appointed by the board of education for the  
1061 Morgan School District;

1062 (c) one member of the Weber State University board of trustees; and

1063 (d) seven representatives of business or industry employers within the region appointed  
1064 jointly by the members appointed under Subsections (3)(a) through (c);

1065 (4) the Tooele Applied Technology College [~~Campus~~] Board of Directors shall be  
1066 composed of the following 12 members:

1067 (a) one elected local school board member appointed by the board of education for the  
1068 Tooele County School District;

1069 (b) one member of the Utah State University board of trustees; and

1070 (c) 10 representatives of business or industry employers within the region appointed jointly  
1071 by the members appointed under Subsections (4)(a) and (b);

1072 (5) the Mountainland Applied Technology College [~~Campus~~] Board of Directors shall be  
1073 composed of the following 18 members:

1074 (a) one elected local school board member appointed by the board of education for the  
1075 Alpine School District;

1076 (b) one elected local school board member appointed by the board of education for the  
1077 Nebo School District;

1078 (c) one elected local school board member appointed by the board of education for the  
1079 Provo School District;

- 1080 (d) one elected local school board member appointed by the board of education for the  
1081 South Summit School District;
- 1082 (e) one elected local school board member appointed by the board of education for the  
1083 North Summit School District;
- 1084 (f) one elected local school board member appointed by the board of education for the  
1085 Wasatch School District;
- 1086 (g) one elected local school board member appointed by the board of education for the  
1087 Park City School District;
- 1088 (h) one member of the Utah Valley University board of trustees; and
- 1089 (i) 10 representatives of business or industry employers within the region appointed jointly  
1090 by the members appointed under Subsections (5)(a) through (h);
- 1091 (6) the Uintah Basin Applied Technology College [~~Campus~~] Board of Directors shall be  
1092 composed of the following 10 members:
- 1093 (a) one elected local school board member appointed by the board of education for the  
1094 Daggett School District;
- 1095 (b) one elected local school board member appointed by the board of education for the  
1096 Duchesne School District;
- 1097 (c) one elected local school board member appointed by the board of education for the  
1098 Uintah School District;
- 1099 (d) one member of the Utah State University board of trustees; and
- 1100 (e) six representatives of business or industry employers within the region appointed  
1101 jointly by the members appointed under Subsections (6)(a) through (d);
- 1102 (7) the Southwest Applied Technology College [~~Campus~~] Board of Directors shall be  
1103 composed of the following 12 members:
- 1104 (a) one elected local school board member appointed by the board of education for the  
1105 Beaver School District;
- 1106 (b) one elected local school board member appointed by the board of education for the  
1107 Garfield School District;
- 1108 (c) one elected local school board member appointed by the board of education for the Iron  
1109 School District;
- 1110 (d) one elected local school board member appointed by the board of education for the

1111 Kane School District;

1112 (e) one member of the Southern Utah University board of trustees; and

1113 (f) seven representatives of business or industry employers within the region appointed  
1114 jointly by the members appointed under Subsections (7)(a) through (e);

1115 (8) the Dixie Applied Technology College [~~Campus~~] Board of Directors shall be  
1116 composed of the following 10 members:

1117 (a) one elected local school board member appointed by the board of education for the  
1118 Washington School District;

1119 (b) one member of the Dixie State University board of trustees; and

1120 (c) eight representatives of business or industry employers within the region appointed  
1121 jointly by the members appointed under Subsections (8)(a) and (b); and

1122 (9) the representatives of business or industry employers shall be:

1123 (a) appointed jointly by the designated members from a list of names provided by local  
1124 organizations or associations whose members employ workers with career and technical education;

1125 (b) individuals recognized for their knowledge and expertise;

1126 (c) individuals who represent current and emerging business and industry sectors of the  
1127 state; and

1128 (d) appointed on a nonpartisan basis.

1129 Section 20. Section **53B-2a-109** is amended to read:

1130 **53B-2a-109. Applied technology college boards of directors -- Terms -- Quorum --**

1131 **Chair-- Compensation.**

1132 (1) (a) At the first meeting of [~~a-campus~~] an applied technology college board of directors  
1133 after July 1, 2009:

1134 (i) the representatives from the local school boards shall divide up their positions so that  
1135 approximately half of them serve for two-year terms and half serve for four-year terms; and

1136 (ii) the representatives from business and industry employers shall divide up their positions  
1137 so that approximately half of them serve for two-year terms and half serve for four-year terms.

1138 (b) Except as provided in Subsection (1)(a), individuals appointed to [~~a-campus~~] an  
1139 applied technology college board of directors shall serve four-year terms.

1140 (2) The original appointing authority shall fill any vacancies that occur on [~~the-campus~~]  
1141 an applied technology college board of directors.

1142 (3) A majority of [~~the campus~~] an applied technology college board of directors is a  
1143 quorum.

1144 (4) [~~A campus~~] An applied technology college board of directors shall elect a chair from  
1145 its membership.

1146 (5) A member of an applied technology college board of directors may not receive  
1147 compensation or benefits for the member's service, but may receive per diem and travel expenses  
1148 in accordance with:

1149 (a) Section 63A-3-106;

1150 (b) Section 63A-3-107; and

1151 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

1152 (6) (a) [~~A campus~~] An applied technology college board of directors may enact bylaws for  
1153 [~~its~~] the applied technology college's own government, including provision for regular meetings,  
1154 that are in accordance with the policies of the [~~Utah College of Applied Technology~~] board of  
1155 trustees.

1156 (b) (i) [~~The campus~~] An applied technology college board of directors may provide for an  
1157 executive committee in [~~its~~] the applied technology college board of directors' bylaws.

1158 (ii) If established, [~~the~~] an executive committee shall have the full authority of the  
1159 [~~campus~~] applied technology college board of directors to act upon routine matters during the  
1160 interim between board meetings.

1161 (iii) [~~The~~] An executive committee may act on nonroutine matters only under  
1162 extraordinary and emergency circumstances.

1163 (iv) [~~The~~] An executive committee shall report [~~its~~] the executive committee's activities  
1164 to the [~~campus~~] applied technology college board of directors at [~~its~~] the applied technology board  
1165 of directors' next regular meeting following the action.

1166 (7) [~~A campus~~] An applied technology college board of directors may establish advisory  
1167 committees.

1168 Section 21. Section **53B-2a-110** is amended to read:

1169 **53B-2a-110. Applied technology college board of directors' powers and duties.**

1170 (1) [~~A campus~~] An applied technology college board of directors shall:

1171 (a) assist the [~~campus~~] applied technology college president in preparing a budget request  
1172 for [~~its~~] the applied technology college's annual operations to the [~~Utah College of Applied~~

1173 ~~Technology Board of Trustees]~~ board of trustees;

1174 (b) after consulting with the [~~Utah College of Applied Technology]~~ board of trustees, other  
1175 higher education institutions, school districts, and charter schools within [~~its]~~ the applied  
1176 technology college's region, prepare a comprehensive strategic plan for delivering career and  
1177 technical education within [~~its]~~ the region;

1178 (c) consult with business, industry, the Department of Workforce Services, the Governor's  
1179 Office of Economic Development, and the Governor's Office of Management and Budget on an  
1180 ongoing basis to determine what workers and skills are needed for employment in Utah businesses  
1181 and industries;

1182 (d) develop programs based upon the information gathered in accordance with Subsection  
1183 (1)(c), including expedited program approval and termination procedures to meet market needs;

1184 (e) adopt an annual budget and fund balances;

1185 (f) develop policies for the operation of career and technical education facilities under [~~its]~~  
1186 the applied technology college board of directors' jurisdiction;

1187 (g) establish human resources and compensation policies for all employees in accordance  
1188 with policies of the [~~Utah College of Applied Technology Board of Trustees]~~ board of trustees;

1189 (h) approve credentials for employees and assign employees to duties in accordance with  
1190 [~~the Utah College of Applied Technology Board of Trustees]~~ board of trustees policies and  
1191 accreditation guidelines;

1192 (i) conduct annual program evaluations;

1193 (j) appoint program advisory committees and other advisory groups to provide counsel,  
1194 support, and recommendations for updating and improving the effectiveness of training programs  
1195 and services;

1196 (k) approve regulations, both regular and emergency, to be issued and executed by the  
1197 [~~campus president]~~ applied technology college president;

1198 (l) coordinate with local school boards, school districts, and charter schools to meet the  
1199 career and technical education needs of secondary students; and

1200 (m) develop policies and procedures for the admission, classification, instruction, and  
1201 examination of students in accordance with the policies and accreditation guidelines of the [~~Utah~~  
1202 ~~College of Applied Technology]~~ board of trustees and the State Board of Education.

1203 (2) Subsection (1)(g) does not apply to [~~a campus]~~ an applied technology college president.

1204 (3) [~~A campus~~] An applied technology college board of directors may not exercise [~~any~~]  
1205 jurisdiction over career and technical education provided by a school district or charter school or  
1206 provided by a higher education institution independently of [~~a college campus~~] an applied  
1207 technology college.

1208 (4) If a program advisory committee or other advisory group submits a printed  
1209 recommendation to [~~the campus~~] an applied technology college board of directors, the [~~campus~~]  
1210 applied technology college board of directors shall acknowledge the recommendation with a  
1211 printed response that explains the [~~campus~~] applied technology college board of directors' action  
1212 regarding the recommendation and the reasons for the action.

1213 Section 22. Section **53B-2a-112** is amended to read:

1214 **53B-2a-112. Applied technology colleges -- Relationships with other public and**  
1215 **higher education institutions -- Agreements -- Priorities -- New capital facilities.**

1216 (1) As used in this section, "higher education institution" means, for each [~~college campus~~]  
1217 applied technology college, the higher education institution designated in Section **53B-2a-108** that  
1218 has a representative on [~~its campus~~] the applied technology college's board of directors.

1219 (2) [~~A college campus~~] An applied technology college shall avoid any unnecessary  
1220 duplication of career and technical education instructional facilities, programs, administration, and  
1221 staff between the applied technology college [~~campus~~] and other public and higher education  
1222 institutions.

1223 (3) [~~A~~] An applied technology college [~~campus~~] may enter into agreements:

1224 (a) with other higher education institutions to cultivate cooperative relationships;

1225 (b) with other public and higher education institutions to enhance career and technical  
1226 education within its region; or

1227 (c) to comply with Subsection (2).

1228 (4) Before [~~a~~] an applied technology college [~~campus~~] develops [~~its own~~] new instructional  
1229 facilities, [~~it~~] the applied technology college shall give priority to:

1230 (a) maintaining [~~its own~~] the applied technology college's existing instructional facilities  
1231 for both secondary and adult students;

1232 (b) coordinating with the president of a higher education institution and entering into any  
1233 necessary agreements to provide career and technical education to both secondary and adult  
1234 students that:



1235 (i) maintain and support existing higher education career and technical education  
1236 programs; and

1237 (ii) maximize the use of existing higher education facilities; and

1238 (c) developing cooperative agreements with school districts, charter schools, other higher  
1239 education institutions, businesses, industries, and community and private agencies to maximize  
1240 the availability of career and technical education instructional facilities for both secondary and  
1241 adult students.

1242 (5) (a) Before submitting a funding request pertaining to new capital facilities and land  
1243 purchases to the [~~Utah College of Applied Technology, a college campus~~] board of trustees, an  
1244 applied technology college shall:

1245 (i) ensure that all available instructional facilities are maximized in accordance with  
1246 Subsections (4)(a) through (c); and

1247 (ii) coordinate the request with the president of a higher education institution, if applicable.

1248 (b) The State Building Board shall make a finding that the requirements of this section are  
1249 met before [~~it~~] the State Building Board may consider a funding request [~~of the Utah College of~~  
1250 ~~Applied Technology~~] from the board of trustees pertaining to new capital facilities and land  
1251 purchases.

1252 (c) [~~A~~] An applied technology college [~~campus~~] may not construct, approve the  
1253 construction of, plan for the design or construction of, or consent to the construction of a career  
1254 and technical education facility without approval of the Legislature.

1255 (6) Before acquiring new fiscal and administrative support structures, [~~a college campus~~]  
1256 an applied technology college shall:

1257 (a) review the use of existing public or higher education administrative and accounting  
1258 systems, financial record systems, and student and financial aid systems for the delivery of career  
1259 and technical education in the region;

1260 (b) determine whether it is feasible to use those existing systems; and

1261 (c) with the approval of the [~~campus~~] applied technology college board of directors and  
1262 the board of trustees, use those existing systems.

1263 Section 23. Section **53B-2a-113** is amended to read:

1264 **53B-2a-113. Applied technology colleges -- Leasing authority -- Lease-purchase**  
1265 **agreements -- Report.**

1266 (1) In accordance with Subsection 53B-2a-112(2), [~~a college campus~~] an applied  
1267 technology college may enter into a lease with other higher education institutions, school districts,  
1268 charter schools, state agencies, or business and industry for a term of:

1269 (a) one year or less with the approval of the [~~campus~~] applied technology college board  
1270 of directors; and

1271 (b) more than one year with the approval of the board of trustees and:

1272 (i) the approval of funding for the lease by the Legislature prior to [~~a college campus~~] an  
1273 applied technology college entering into the lease; or

1274 (ii) the lease agreement includes language that allows termination of the lease without  
1275 penalty.

1276 (2) (a) In accordance with Subsection 53B-2a-112(2), [~~a~~] an applied technology college  
1277 [~~campus~~] may enter into a lease-purchase agreement if:

1278 (i) there is a long-term benefit to the state;

1279 (ii) the project is included in both the [~~campus~~] applied technology college and Utah  
1280 College of Applied Technology master plans;

1281 (iii) the lease-purchase agreement includes language that allows termination of the lease;

1282 (iv) the lease-purchase agreement is approved by the [~~campus~~] applied technology college  
1283 board of directors and the board of trustees; and

1284 (v) the lease-purchase agreement is:

1285 (A) reviewed by the Division of Facilities Construction and Management;

1286 (B) reviewed by the State Building Board; and

1287 (C) approved by the Legislature.

1288 (b) An approval under Subsection (2)(a) shall include a recognition of:

1289 (i) all parties, dates, and elements of the agreement;

1290 (ii) the equity or collateral component that creates the benefit; and

1291 (iii) the options dealing with the sale and division of equity.

1292 (3) (a) Each [~~college campus~~] applied technology college shall provide an annual lease  
1293 report to the board of trustees that details each of [~~its~~] the applied technology college's leases,  
1294 annual costs, location, square footage, and recommendations for lease continuation.

1295 (b) The [~~president of the Utah College of Applied Technology~~] board of trustees shall  
1296 compile and distribute an annual combined lease report for all [~~college campuses~~] applied

1297 technology colleges to the Division of Facilities Construction Management and to others upon  
1298 request.

1299 (4) The [~~Utah College of Applied Technology~~] board of trustees shall use the annual  
1300 combined lease report in determining planning, utilization, and budget requests.

1301 Section 24. Section **53B-6-106** is amended to read:

1302 **53B-6-106. Jobs Now and Economic Development Initiatives.**

1303 (1) (a) The Utah College of Applied Technology Board of Trustees shall develop,  
1304 establish, and maintain a Jobs Now Initiative, to promote workforce preparation programs that  
1305 meet critical needs and shortages throughout the state.

1306 (b) The State Board of Regents shall develop, establish, and maintain economic  
1307 development initiatives within the system of higher education.

1308 (2) The initiatives specified in Subsection (1) shall provide support for technical training  
1309 expansion that trains skilled potential employees within a period not to exceed 12 months for  
1310 technical jobs in critical needs occupations and other innovative economic development policy  
1311 initiatives.

1312 (3) (a) Subject to future budget constraints, the Legislature shall provide an annual  
1313 appropriation to the Utah College of Applied Technology to fund the Jobs Now Initiative  
1314 established in Subsection (1)(a).

1315 (b) (i) The Utah College of Applied Technology Board of Trustees shall allocate the  
1316 appropriation for the Jobs Now Initiative to [~~college campuses~~] applied technology colleges within  
1317 the [~~college~~] the Utah College of Applied Technology.

1318 (ii) [~~A college campus~~] An applied technology college shall use money received under  
1319 Subsection (3)(b)(i) for technical training expansion referred to in Subsection (2).

1320 (c) Subject to future budget constraints, the Legislature shall provide an annual  
1321 appropriation to the State Board of Regents to fund economic development initiatives established  
1322 pursuant Subsection (1)(b).

1323 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

1324 (i) the Utah College of Applied Technology Board of Trustees shall make rules to  
1325 implement the Jobs Now Initiative; and

1326 (ii) the board shall make rules to implement economic development initiatives.

1327 Section 25. Section **53B-8d-102** is amended to read:

1328 **53B-8d-102. Definitions.**

1329 As used in this chapter:

1330 (1) "Division" means the Division of Child and Family Services.

1331 (2) "Long-term foster care" means an individual who remains in the custody of the

1332 division, whether or not the individual resides:

1333 (a) with licensed foster parents; or

1334 (b) in independent living arrangements under the supervision of the division.

1335 (3) "State institution of higher education" means:

1336 (a) ~~[those institutions]~~ an institution designated in Section [53B-1-102](#); and

1337 (b) ~~[any]~~ a public institution that offers postsecondary education in consideration of the

1338 payment of tuition or fees for the attainment of educational or vocational objectives leading to a

1339 degree or certificate, including:

1340 ~~[(i) business schools;]~~

1341 ~~[(ii) technical schools;]~~

1342 ~~[(iii) applied technology centers;]~~

1343 ~~[(iv) trade schools; and]~~

1344 (i) a business school;

1345 (ii) a technical school;

1346 (iii) an applied technology college within the Utah College of Applied Technology;

1347 (iv) a trade school; or

1348 (v) ~~[institutions]~~ an institution offering related apprenticeship programs.

1349 (4) "Tuition" means tuition at the rate for residents of the state.

1350 (5) "Ward of the state" means an individual:

1351 (a) who is:

1352 (i) at least 17 years of age; and

1353 (ii) not older than 26 years of age;

1354 (b) who had a permanency goal in the individual's child and family plan, as described in

1355 Sections [62A-4a-205](#) and [78A-6-314](#), of long-term foster care while in the custody of the division;

1356 and

1357 (c) for whom the custody of the division was not terminated as a result of adoption.

1358 Section 26. Section **53B-16-102** is amended to read:

1359           **53B-16-102. Changes in curriculum -- Substantial alterations in institutional**  
1360 **operations -- Periodic review of programs -- Career and technical education curriculum**  
1361 **changes.**

1362           (1) Under procedures and policies approved by the board and developed in consultation  
1363 with each institution of higher education, each institution may make such changes in its curriculum  
1364 as necessary to better effectuate the institutional role previously approved by the board.

1365           (2) Notice of a change in the curriculum shall in all cases be promptly submitted to the  
1366 board.

1367           (3) The board shall establish procedures and policies for considering institutional  
1368 proposals for substantial alterations in the scope of existing institutional operations.

1369           (4) Alterations shall not be made without prior approval of the state board.

1370           (5) For purposes of this section, "substantial alteration" means the establishment of a  
1371 branch, extension center, college, professional school, division, institute, department, or a new  
1372 program in instruction, research, or public services or a new degree, diploma, or certificate.

1373           (6) The board shall conduct periodic reviews of all programs of instruction, research, and  
1374 public service at each institution, including those funded by gifts, grants, and contracts, and may  
1375 require the modification or termination of any program.

1376           (7) Prior to requiring modification or termination of a program, the board shall give the  
1377 institution adequate opportunity for a hearing before the board.

1378           (8) In making decisions related to career and technical education curriculum changes, the  
1379 board shall request a review of the proposed changes by the State Board of Education and the Utah  
1380 College of Applied Technology Board of Trustees to ensure an orderly and systematic career and  
1381 technical education curriculum that eliminates overlap and duplication of course work with the  
1382 high schools and ~~the~~ applied technology colleges within the Utah College of Applied  
1383 Technology.

1384           Section 27. Section **53B-17-105** is amended to read:

1385           **53B-17-105. Utah Education and Telehealth Network.**

1386           (1) There is created the Utah Education and Telehealth Network, or UETN.

1387           (2) UETN shall:

1388           (a) coordinate and support the telecommunications needs of public and higher education,  
1389 public libraries, and entities affiliated with the state systems of public and higher education as

1390 approved by the Utah Education and Telehealth Network Board, including the statewide  
1391 development and implementation of a network for education, which utilizes satellite, microwave,  
1392 fiber-optic, broadcast, and other transmission media;

1393 (b) coordinate the various telecommunications technology initiatives of public and higher  
1394 education;

1395 (c) provide high-quality, cost-effective Internet access and appropriate interface equipment  
1396 for schools and school systems;

1397 (d) procure, install, and maintain telecommunication services and equipment on behalf of  
1398 public and higher education;

1399 (e) develop or implement other programs or services for the delivery of distance learning  
1400 and telehealth services as directed by law;

1401 (f) apply for state and federal funding on behalf of:

1402 (i) public and higher education; and

1403 (ii) telehealth services;

1404 (g) in consultation with health care providers from a variety of health care systems, explore  
1405 and encourage the development of telehealth services as a means of reducing health care costs and  
1406 increasing health care quality and access, with emphasis on assisting rural health care providers  
1407 and special populations; and

1408 (h) in consultation with the Utah Department of Health, advise the governor and the  
1409 Legislature on:

1410 (i) the role of telehealth in the state;

1411 (ii) the policy issues related to telehealth;

1412 (iii) the changing telehealth needs and resources in the state; and

1413 (iv) state budgetary matters related to telehealth.

1414 (3) In performing the duties under Subsection (2), UETN shall:

1415 (a) provide services to schools, school districts, and the public and higher education  
1416 systems through an open and competitive bidding process;

1417 (b) work with the private sector to deliver high-quality, cost-effective services;

1418 (c) avoid duplicating facilities, equipment, or services of private providers or public  
1419 telecommunications service, as defined under Section [54-8b-2](#);

1420 (d) utilize statewide economic development criteria in the design and implementation of

1421 the educational telecommunications infrastructure; and

1422 (e) assure that public service entities, such as educators, public service providers, and  
1423 public broadcasters, are provided access to the telecommunications infrastructure developed in the  
1424 state.

1425 (4) The University of Utah shall provide administrative support for UETN.

1426 (5) (a) The Utah Education and Telehealth Network Board, which is the governing board  
1427 for UETN, is created.

1428 (b) The Utah Education and Telehealth Network Board shall have 13 members as follows:

1429 (i) four members representing the state system of higher education appointed by the  
1430 commissioner of higher education;

1431 (ii) four members representing the state system of public education including:

1432 (A) three members appointed by the State Board of Education; and

1433 (B) one member representing the Utah State Office of Education appointed by the state  
1434 superintendent;

1435 (iii) one member representing applied technology centers appointed by the [~~president of~~  
1436 ~~the~~] Utah College of Applied Technology commissioner of technical education;

1437 (iv) one member representing the state library appointed by the state librarian;

1438 (v) two members representing hospitals as follows:

1439 (A) the members may not be employed by the same hospital system;

1440 (B) one member shall represent a rural hospital;

1441 (C) one member shall represent an urban hospital; and

1442 (D) the chief administrator or the administrator's designee for each hospital licensed in this  
1443 state shall select the two hospital representatives; and

1444 (vi) one member representing the office of the governor, appointed by the governor.

1445 (c) When a vacancy occurs in the membership for any reason, the replacement shall be  
1446 appointed for the unexpired term.

1447 (d) (i) The board shall elect a chair.

1448 (ii) The chair shall set the agenda for the board meetings.

1449 (6) A member of the board may not receive compensation or benefits for the member's  
1450 service, but may receive per diem and travel expenses in accordance with:

1451 (a) Section [63A-3-106](#);

- 1452 (b) Section 63A-3-107; and
- 1453 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- 1454 (7) The board:
- 1455 (a) shall hire an executive director for UETN who may hire staff for UETN as permitted
- 1456 by the budget;
- 1457 (b) may terminate the executive director's employment or assignment;
- 1458 (c) shall determine the executive director's salary;
- 1459 (d) shall annually conduct a performance evaluation of the executive director;
- 1460 (e) shall establish policies the board determines are necessary for the operation of UETN
- 1461 and the administration of UETN's duties; and
- 1462 (f) shall advise UETN in:
- 1463 (i) the development and operation of a coordinated, statewide, multi-option
- 1464 telecommunications system to assist in the delivery of educational services and telehealth services
- 1465 throughout the state; and
- 1466 (ii) acquiring, producing, and distributing instructional content.
- 1467 (8) The executive director of UETN shall be an at-will employee.
- 1468 (9) UETN shall locate and maintain educational and telehealth telecommunication
- 1469 infrastructure throughout the state.
- 1470 (10) Educational institutions shall manage site operations under policy established by
- 1471 UETN.
- 1472 (11) Subject to future budget constraints, the Legislature shall provide an annual
- 1473 appropriation to operate UETN.
- 1474 (12) If the network operated by the Department of Technology Services is not available,
- 1475 UETN may provide network connections to the central administration of counties and
- 1476 municipalities for the sole purpose of transferring data to a secure facility for backup and disaster
- 1477 recovery.
- 1478 Section 28. Section 59-12-102 is amended to read:
- 1479 **59-12-102. Definitions.**
- 1480 As used in this chapter:
- 1481 (1) "800 service" means a telecommunications service that:
- 1482 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and



- 1483 (b) is typically marketed:
- 1484 (i) under the name 800 toll-free calling;
- 1485 (ii) under the name 855 toll-free calling;
- 1486 (iii) under the name 866 toll-free calling;
- 1487 (iv) under the name 877 toll-free calling;
- 1488 (v) under the name 888 toll-free calling; or
- 1489 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal
- 1490 Communications Commission.
- 1491 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 1492 (i) a subscriber purchases;
- 1493 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the
- 1494 subscriber's:
- 1495 (A) prerecorded announcement; or
- 1496 (B) live service; and
- 1497 (iii) is typically marketed:
- 1498 (A) under the name 900 service; or
- 1499 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 1500 Communications Commission.
- 1501 (b) "900 service" does not include a charge for:
- 1502 (i) a collection service a seller of a telecommunications service provides to a subscriber;
- 1503 or
- 1504 (ii) the following a subscriber sells to the subscriber's customer:
- 1505 (A) a product; or
- 1506 (B) a service.
- 1507 (3) (a) "Admission or user fees" includes season passes.
- 1508 (b) "Admission or user fees" does not include annual membership dues to private
- 1509 organizations.
- 1510 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 1511 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 1512 Agreement after November 12, 2002.
- 1513 (5) "Agreement combined tax rate" means the sum of the tax rates:

- 1514 (a) listed under Subsection (6); and
- 1515 (b) that are imposed within a local taxing jurisdiction.
- 1516 (6) "Agreement sales and use tax" means a tax imposed under:
- 1517 (a) Subsection 59-12-103(2)(a)(i)(A);
- 1518 (b) Subsection 59-12-103(2)(b)(i);
- 1519 (c) Subsection 59-12-103(2)(c)(i);
- 1520 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 1521 (e) Section 59-12-204;
- 1522 (f) Section 59-12-401;
- 1523 (g) Section 59-12-402;
- 1524 (h) Section 59-12-402.1;
- 1525 (i) Section 59-12-703;
- 1526 (j) Section 59-12-802;
- 1527 (k) Section 59-12-804;
- 1528 (l) Section 59-12-1102;
- 1529 (m) Section 59-12-1302;
- 1530 (n) Section 59-12-1402;
- 1531 (o) Section 59-12-1802;
- 1532 (p) Section 59-12-2003;
- 1533 (q) Section 59-12-2103;
- 1534 (r) Section 59-12-2213;
- 1535 (s) Section 59-12-2214;
- 1536 (t) Section 59-12-2215;
- 1537 (u) Section 59-12-2216;
- 1538 (v) Section 59-12-2217; or
- 1539 (w) Section 59-12-2218.
- 1540 (7) "Aircraft" is as defined in Section 72-10-102.
- 1541 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 1542 (a) except for:
- 1543 (i) an airline as defined in Section 59-2-102; or
- 1544 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"

1545 includes a corporation that is qualified to do business but is not otherwise doing business in the  
1546 state, of an airline; and

1547 (b) that has the workers, expertise, and facilities to perform the following, regardless of  
1548 whether the business entity performs the following in this state:

1549 (i) check, diagnose, overhaul, and repair:

1550 (A) an onboard system of a fixed wing turbine powered aircraft; and

1551 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

1552 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft

1553 engine;

1554 (iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

1555 (A) an inspection;

1556 (B) a repair, including a structural repair or modification;

1557 (C) changing landing gear; and

1558 (D) addressing issues related to an aging fixed wing turbine powered aircraft;

1559 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and

1560 completely apply new paint to the fixed wing turbine powered aircraft; and

1561 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results  
1562 in a change in the fixed wing turbine powered aircraft's certification requirements by the authority  
1563 that certifies the fixed wing turbine powered aircraft.

1564 (9) "Alcoholic beverage" means a beverage that:

1565 (a) is suitable for human consumption; and

1566 (b) contains .5% or more alcohol by volume.

1567 (10) "Alternative energy" means:

1568 (a) biomass energy;

1569 (b) geothermal energy;

1570 (c) hydroelectric energy;

1571 (d) solar energy;

1572 (e) wind energy; or

1573 (f) energy that is derived from:

1574 (i) coal-to-liquids;

1575 (ii) nuclear fuel;

1576 (iii) oil-impregnated diatomaceous earth;

1577 (iv) oil sands;

1578 (v) oil shale;

1579 (vi) petroleum coke; or

1580 (vii) waste heat from:

1581 (A) an industrial facility; or

1582 (B) a power station in which an electric generator is driven through a process in which  
1583 water is heated, turns into steam, and spins a steam turbine.

1584 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production facility"  
1585 means a facility that:

1586 (i) uses alternative energy to produce electricity; and

1587 (ii) has a production capacity of two megawatts or greater.

1588 (b) A facility is an alternative energy electricity production facility regardless of whether  
1589 the facility is:

1590 (i) connected to an electric grid; or

1591 (ii) located on the premises of an electricity consumer.

1592 (12) (a) "Ancillary service" means a service associated with, or incidental to, the provision  
1593 of telecommunications service.

1594 (b) "Ancillary service" includes:

1595 (i) a conference bridging service;

1596 (ii) a detailed communications billing service;

1597 (iii) directory assistance;

1598 (iv) a vertical service; or

1599 (v) a voice mail service.

1600 (13) "Area agency on aging" is as defined in Section [62A-3-101](#).

1601 (14) "Assisted amusement device" means an amusement device, skill device, or ride device  
1602 that is started and stopped by an individual:

1603 (a) who is not the purchaser or renter of the right to use or operate the amusement device,  
1604 skill device, or ride device; and

1605 (b) at the direction of the seller of the right to use the amusement device, skill device, or  
1606 ride device.

1607 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or  
1608 washing of tangible personal property if the cleaning or washing labor is primarily performed by  
1609 an individual:

1610 (a) who is not the purchaser of the cleaning or washing of the tangible personal property;  
1611 and

1612 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
1613 property.

1614 (16) "Authorized carrier" means:

1615 (a) in the case of vehicles operated over public highways, the holder of credentials  
1616 indicating that the vehicle is or will be operated pursuant to both the International Registration  
1617 Plan and the International Fuel Tax Agreement;

1618 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating  
1619 certificate or air carrier's operating certificate; or

1620 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock,  
1621 a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in  
1622 more than one state.

1623 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the  
1624 following that is used as the primary source of energy to produce fuel or electricity:

1625 (i) material from a plant or tree; or

1626 (ii) other organic matter that is available on a renewable basis, including:

1627 (A) slash and brush from forests and woodlands;

1628 (B) animal waste;

1629 (C) waste vegetable oil;

1630 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of  
1631 wastewater residuals, or through the conversion of a waste material through a nonincineration,  
1632 thermal conversion process;

1633 (E) aquatic plants; and

1634 (F) agricultural products.

1635 (b) "Biomass energy" does not include:

1636 (i) black liquor; or

1637 (ii) treated woods.

- 1638 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal  
1639 property, products, or services if the tangible personal property, products, or services are:
- 1640 (i) distinct and identifiable; and
  - 1641 (ii) sold for one nonitemized price.
- 1642 (b) "Bundled transaction" does not include:
- 1643 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on the  
1644 basis of the selection by the purchaser of the items of tangible personal property included in the  
1645 transaction;
  - 1646 (ii) the sale of real property;
  - 1647 (iii) the sale of services to real property;
  - 1648 (iv) the retail sale of tangible personal property and a service if:
    - 1649 (A) the tangible personal property:
      - 1650 (I) is essential to the use of the service; and
      - 1651 (II) is provided exclusively in connection with the service; and
    - 1652 (B) the service is the true object of the transaction;
  - 1653 (v) the retail sale of two services if:
    - 1654 (A) one service is provided that is essential to the use or receipt of a second service;
    - 1655 (B) the first service is provided exclusively in connection with the second service; and
    - 1656 (C) the second service is the true object of the transaction;
  - 1657 (vi) a transaction that includes tangible personal property or a product subject to taxation  
1658 under this chapter and tangible personal property or a product that is not subject to taxation under  
1659 this chapter if the:
    - 1660 (A) seller's purchase price of the tangible personal property or product subject to taxation  
1661 under this chapter is de minimis; or
    - 1662 (B) seller's sales price of the tangible personal property or product subject to taxation under  
1663 this chapter is de minimis; and
  - 1664 (vii) the retail sale of tangible personal property that is not subject to taxation under this  
1665 chapter and tangible personal property that is subject to taxation under this chapter if:
    - 1666 (A) that retail sale includes:
      - 1667 (I) food and food ingredients;
      - 1668 (II) a drug;

- 1669 (III) durable medical equipment;
- 1670 (IV) mobility enhancing equipment;
- 1671 (V) an over-the-counter drug;
- 1672 (VI) a prosthetic device; or
- 1673 (VII) a medical supply; and
- 1674 (B) subject to Subsection (18)(f):
- 1675 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 1676 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 1677 (II) the seller's sales price of the tangible personal property subject to taxation under this
- 1678 chapter is 50% or less of the seller's total sales price of that retail sale.
- 1679 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
- 1680 service that is distinct and identifiable does not include:
- 1681 (A) packaging that:
- 1682 (I) accompanies the sale of the tangible personal property, product, or service; and
- 1683 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
- 1684 service;
- 1685 (B) tangible personal property, a product, or a service provided free of charge with the
- 1686 purchase of another item of tangible personal property, a product, or a service; or
- 1687 (C) an item of tangible personal property, a product, or a service included in the definition
- 1688 of "purchase price."
- 1689 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
- 1690 product, or a service is provided free of charge with the purchase of another item of tangible
- 1691 personal property, a product, or a service if the sales price of the purchased item of tangible
- 1692 personal property, product, or service does not vary depending on the inclusion of the tangible
- 1693 personal property, product, or service provided free of charge.
- 1694 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does
- 1695 not include a price that is separately identified by tangible personal property, product, or service
- 1696 on the following, regardless of whether the following is in paper format or electronic format:
- 1697 (A) a binding sales document; or
- 1698 (B) another supporting sales-related document that is available to a purchaser.
- 1699 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting

1700 sales-related document that is available to a purchaser includes:

- 1701 (A) a bill of sale;
- 1702 (B) a contract;
- 1703 (C) an invoice;
- 1704 (D) a lease agreement;
- 1705 (E) a periodic notice of rates and services;
- 1706 (F) a price list;
- 1707 (G) a rate card;
- 1708 (H) a receipt; or
- 1709 (I) a service agreement.

1710 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal property  
1711 or a product subject to taxation under this chapter is de minimis if:

- 1712 (A) the seller's purchase price of the tangible personal property or product is 10% or less  
1713 of the seller's total purchase price of the bundled transaction; or
- 1714 (B) the seller's sales price of the tangible personal property or product is 10% or less of the  
1715 seller's total sales price of the bundled transaction.

1716 (ii) For purposes of Subsection (18)(b)(vi), a seller:

1717 (A) shall use the seller's purchase price or the seller's sales price to determine if the  
1718 purchase price or sales price of the tangible personal property or product subject to taxation under  
1719 this chapter is de minimis; and

1720 (B) may not use a combination of the seller's purchase price and the seller's sales price to  
1721 determine if the purchase price or sales price of the tangible personal property or product subject  
1722 to taxation under this chapter is de minimis.

1723 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service  
1724 contract to determine if the sales price of tangible personal property or a product is de minimis.

1725 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the  
1726 seller's purchase price and the seller's sales price to determine if tangible personal property subject  
1727 to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that  
1728 retail sale.

1729 (19) "Certified automated system" means software certified by the governing board of the  
1730 agreement that:



1731 (a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

1732 (i) on a transaction; and

1733 (ii) in the states that are members of the agreement;

1734 (b) determines the amount of agreement sales and use tax to remit to a state that is a

1735 member of the agreement; and

1736 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

1737 (20) "Certified service provider" means an agent certified:

1738 (a) by the governing board of the agreement; and

1739 (b) to perform all of a seller's sales and use tax functions for an agreement sales and use

1740 tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own

1741 purchases.

1742 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel

1743 suitable for general use.

1744 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1745 commission shall make rules:

1746 (i) listing the items that constitute "clothing"; and

1747 (ii) that are consistent with the list of items that constitute "clothing" under the agreement.

1748 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

1749 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels

1750 that does not constitute industrial use under Subsection (56) or residential use under Subsection

1751 (106).

1752 (24) (a) "Common carrier" means a person engaged in or transacting the business of

1753 transporting passengers, freight, merchandise, or other property for hire within this state.

1754 (b) (i) "Common carrier" does not include a person who, at the time the person is traveling

1755 to or from that person's place of employment, transports a passenger to or from the passenger's

1756 place of employment.

1757 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah

1758 Administrative Rulemaking Act, the commission may make rules defining what constitutes a

1759 person's place of employment.

1760 (c) "Common carrier" does not include a person that provides transportation network

1761 services, as defined in Section 13-51-102.

- 1762 (25) "Component part" includes:  
1763 (a) poultry, dairy, and other livestock feed, and their components;  
1764 (b) baling ties and twine used in the baling of hay and straw;  
1765 (c) fuel used for providing temperature control of orchards and commercial greenhouses  
1766 doing a majority of their business in wholesale sales, and for providing power for off-highway type  
1767 farm machinery; and  
1768 (d) feed, seeds, and seedlings.
- 1769 (26) "Computer" means an electronic device that accepts information:  
1770 (a) (i) in digital form; or  
1771 (ii) in a form similar to digital form; and  
1772 (b) manipulates that information for a result based on a sequence of instructions.
- 1773 (27) "Computer software" means a set of coded instructions designed to cause:  
1774 (a) a computer to perform a task; or  
1775 (b) automatic data processing equipment to perform a task.
- 1776 (28) "Computer software maintenance contract" means a contract that obligates a seller  
1777 of computer software to provide a customer with:  
1778 (a) future updates or upgrades to computer software;  
1779 (b) support services with respect to computer software; or  
1780 (c) a combination of Subsections (28)(a) and (b).
- 1781 (29) (a) "Conference bridging service" means an ancillary service that links two or more  
1782 participants of an audio conference call or video conference call.  
1783 (b) "Conference bridging service" may include providing a telephone number as part of  
1784 the ancillary service described in Subsection (29)(a).  
1785 (c) "Conference bridging service" does not include a telecommunications service used to  
1786 reach the ancillary service described in Subsection (29)(a).
- 1787 (30) "Construction materials" means any tangible personal property that will be converted  
1788 into real property.
- 1789 (31) "Delivered electronically" means delivered to a purchaser by means other than  
1790 tangible storage media.
- 1791 (32) (a) "Delivery charge" means a charge:  
1792 (i) by a seller of:

- 1793 (A) tangible personal property;
- 1794 (B) a product transferred electronically; or
- 1795 (C) services; and
- 1796 (ii) for preparation and delivery of the tangible personal property, product transferred
- 1797 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
- 1798 purchaser.
- 1799 (b) "Delivery charge" includes a charge for the following:
- 1800 (i) transportation;
- 1801 (ii) shipping;
- 1802 (iii) postage;
- 1803 (iv) handling;
- 1804 (v) crating; or
- 1805 (vi) packing.
- 1806 (33) "Detailed telecommunications billing service" means an ancillary service of separately
- 1807 stating information pertaining to individual calls on a customer's billing statement.
- 1808 (34) "Dietary supplement" means a product, other than tobacco, that:
- 1809 (a) is intended to supplement the diet;
- 1810 (b) contains one or more of the following dietary ingredients:
- 1811 (i) a vitamin;
- 1812 (ii) a mineral;
- 1813 (iii) an herb or other botanical;
- 1814 (iv) an amino acid;
- 1815 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 1816 dietary intake; or
- 1817 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 1818 described in Subsections (34)(b)(i) through (v);
- 1819 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 1820 (A) tablet form;
- 1821 (B) capsule form;
- 1822 (C) powder form;
- 1823 (D) softgel form;

- 1824 (E) gelcap form; or
- 1825 (F) liquid form; or
- 1826 (ii) if the product is not intended for ingestion in a form described in Subsections
- 1827 (34)(c)(i)(A) through (F), is not represented:
- 1828 (A) as conventional food; and
- 1829 (B) for use as a sole item of:
- 1830 (I) a meal; or
- 1831 (II) the diet; and
- 1832 (d) is required to be labeled as a dietary supplement:
- 1833 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 1834 (ii) as required by 21 C.F.R. Sec. 101.36.
- 1835 (35) "Digital audio-visual work" means a series of related images which, when shown in
- 1836 succession, imparts an impression of motion, together with accompanying sounds, if any.
- 1837 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 1838 musical, spoken, or other sounds.
- 1839 (b) "Digital audio work" includes a ringtone.
- 1840 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
- 1841 sense as a book.
- 1842 (38) (a) "Direct mail" means printed material delivered or distributed by United States mail
- 1843 or other delivery service:
- 1844 (i) to:
- 1845 (A) a mass audience; or
- 1846 (B) addressees on a mailing list provided:
- 1847 (I) by a purchaser of the mailing list; or
- 1848 (II) at the discretion of the purchaser of the mailing list; and
- 1849 (ii) if the cost of the printed material is not billed directly to the recipients.
- 1850 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 1851 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 1852 (c) "Direct mail" does not include multiple items of printed material delivered to a single
- 1853 address.
- 1854 (39) "Directory assistance" means an ancillary service of providing:

- 1855 (a) address information; or  
1856 (b) telephone number information.
- 1857 (40) (a) "Disposable home medical equipment or supplies" means medical equipment or  
1858 supplies that:
- 1859 (i) cannot withstand repeated use; and
  - 1860 (ii) are purchased by, for, or on behalf of a person other than:
    - 1861 (A) a health care facility as defined in Section 26-21-2;
    - 1862 (B) a health care provider as defined in Section 78B-3-403;
    - 1863 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
    - 1864 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
  - 1865 (b) "Disposable home medical equipment or supplies" does not include:
    - 1866 (i) a drug;
    - 1867 (ii) durable medical equipment;
    - 1868 (iii) a hearing aid;
    - 1869 (iv) a hearing aid accessory;
    - 1870 (v) mobility enhancing equipment; or
    - 1871 (vi) tangible personal property used to correct impaired vision, including:
      - 1872 (A) eyeglasses; or
      - 1873 (B) contact lenses.
    - 1874 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1875 commission may by rule define what constitutes medical equipment or supplies.
  - 1876 (41) "Drilling equipment manufacturer" means a facility:
    - 1877 (a) located in the state;
    - 1878 (b) with respect to which 51% or more of the manufacturing activities of the facility  
1879 consist of manufacturing component parts of drilling equipment;
    - 1880 (c) that uses pressure of 800,000 or more pounds per square inch as part of the  
1881 manufacturing process; and
    - 1882 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the  
1883 manufacturing process.
  - 1884 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a  
1885 compound, substance, or preparation that is:

- 1886 (i) recognized in:
- 1887 (A) the official United States Pharmacopoeia;
- 1888 (B) the official Homeopathic Pharmacopoeia of the United States;
- 1889 (C) the official National Formulary; or
- 1890 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
- 1891 (ii) intended for use in the:
- 1892 (A) diagnosis of disease;
- 1893 (B) cure of disease;
- 1894 (C) mitigation of disease;
- 1895 (D) treatment of disease; or
- 1896 (E) prevention of disease; or
- 1897 (iii) intended to affect:
- 1898 (A) the structure of the body; or
- 1899 (B) any function of the body.
- 1900 (b) "Drug" does not include:
- 1901 (i) food and food ingredients;
- 1902 (ii) a dietary supplement;
- 1903 (iii) an alcoholic beverage; or
- 1904 (iv) a prosthetic device.
- 1905 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
- 1906 equipment that:
- 1907 (i) can withstand repeated use;
- 1908 (ii) is primarily and customarily used to serve a medical purpose;
- 1909 (iii) generally is not useful to a person in the absence of illness or injury; and
- 1910 (iv) is not worn in or on the body.
- 1911 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 1912 equipment described in Subsection (43)(a).
- 1913 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 1914 (44) "Electronic" means:
- 1915 (a) relating to technology; and
- 1916 (b) having:

- 1917 (i) electrical capabilities;
- 1918 (ii) digital capabilities;
- 1919 (iii) magnetic capabilities;
- 1920 (iv) wireless capabilities;
- 1921 (v) optical capabilities;
- 1922 (vi) electromagnetic capabilities; or
- 1923 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).
- 1924 (45) "Electronic financial payment service" means an establishment:
- 1925 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 1926 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 1927 federal Executive Office of the President, Office of Management and Budget; and
- 1928 (b) that performs electronic financial payment services.
- 1929 (46) "Employee" is as defined in Section [59-10-401](#).
- 1930 (47) "Fixed guideway" means a public transit facility that uses and occupies:
- 1931 (a) rail for the use of public transit; or
- 1932 (b) a separate right-of-way for the use of public transit.
- 1933 (48) "Fixed wing turbine powered aircraft" means an aircraft that:
- 1934 (a) is powered by turbine engines;
- 1935 (b) operates on jet fuel; and
- 1936 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 1937 (49) "Fixed wireless service" means a telecommunications service that provides radio
- 1938 communication between fixed points.
- 1939 (50) (a) "Food and food ingredients" means substances:
- 1940 (i) regardless of whether the substances are in:
- 1941 (A) liquid form;
- 1942 (B) concentrated form;
- 1943 (C) solid form;
- 1944 (D) frozen form;
- 1945 (E) dried form; or
- 1946 (F) dehydrated form; and
- 1947 (ii) that are:

- 1948 (A) sold for:
- 1949 (I) ingestion by humans; or
- 1950 (II) chewing by humans; and
- 1951 (B) consumed for the substance's:
- 1952 (I) taste; or
- 1953 (II) nutritional value.
- 1954 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
- 1955 (c) "Food and food ingredients" does not include:
- 1956 (i) an alcoholic beverage;
- 1957 (ii) tobacco; or
- 1958 (iii) prepared food.
- 1959 (51) (a) "Fundraising sales" means sales:
- 1960 (i) (A) made by a school; or
- 1961 (B) made by a school student;
- 1962 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 1963 materials, or provide transportation; and
- 1964 (iii) that are part of an officially sanctioned school activity.
- 1965 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity" means
- 1966 a school activity:
- 1967 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 1968 district governing the authorization and supervision of fundraising activities;
- 1969 (ii) that does not directly or indirectly compensate an individual teacher or other
- 1970 educational personnel by direct payment, commissions, or payment in kind; and
- 1971 (iii) the net or gross revenues from which are deposited in a dedicated account controlled
- 1972 by the school or school district.
- 1973 (52) "Geothermal energy" means energy contained in heat that continuously flows outward
- 1974 from the earth that is used as the sole source of energy to produce electricity.
- 1975 (53) "Governing board of the agreement" means the governing board of the agreement that
- 1976 is:
- 1977 (a) authorized to administer the agreement; and
- 1978 (b) established in accordance with the agreement.



1979 (54) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:  
1980 (i) the executive branch of the state, including all departments, institutions, boards,  
1981 divisions, bureaus, offices, commissions, and committees;  
1982 (ii) the judicial branch of the state, including the courts, the Judicial Council, the Office  
1983 of the Court Administrator, and similar administrative units in the judicial branch;  
1984 (iii) the legislative branch of the state, including the House of Representatives, the Senate,  
1985 the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office  
1986 of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;  
1987 (iv) the National Guard;  
1988 (v) an independent entity as defined in Section 63E-1-102; or  
1989 (vi) a political subdivision as defined in Section 17B-1-102.  
1990 (b) "Governmental entity" does not include the state systems of public and higher  
1991 education, including:  
1992 (i) ~~[a college campus of]~~ an applied technology college within the the Utah College of  
1993 Applied Technology;  
1994 (ii) a school;  
1995 (iii) the State Board of Education;  
1996 (iv) the State Board of Regents; or  
1997 (v) an institution of higher education.  
1998 (55) "Hydroelectric energy" means water used as the sole source of energy to produce  
1999 electricity.  
2000 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other  
2001 fuels:  
2002 (a) in mining or extraction of minerals;  
2003 (b) in agricultural operations to produce an agricultural product up to the time of harvest  
2004 or placing the agricultural product into a storage facility, including:  
2005 (i) commercial greenhouses;  
2006 (ii) irrigation pumps;  
2007 (iii) farm machinery;  
2008 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under  
2009 Title 41, Chapter 1a, Part 2, Registration; and

2010 (v) other farming activities;

2011 (c) in manufacturing tangible personal property at an establishment described in SIC Codes

2012 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office

2013 of the President, Office of Management and Budget;

2014 (d) by a scrap recycler if:

2015 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one

2016 or more of the following items into prepared grades of processed materials for use in new products:

2017 (A) iron;

2018 (B) steel;

2019 (C) nonferrous metal;

2020 (D) paper;

2021 (E) glass;

2022 (F) plastic;

2023 (G) textile; or

2024 (H) rubber; and

2025 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with

2026 nonrecycled materials; or

2027 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a

2028 cogeneration facility as defined in Section 54-2-1.

2029 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge for

2030 installing:

2031 (i) tangible personal property; or

2032 (ii) a product transferred electronically.

2033 (b) "Installation charge" does not include a charge for:

2034 (i) repairs or renovations of:

2035 (A) tangible personal property; or

2036 (B) a product transferred electronically; or

2037 (ii) attaching tangible personal property or a product transferred electronically:

2038 (A) to other tangible personal property; and

2039 (B) as part of a manufacturing or fabrication process.

2040 (58) "Institution of higher education" means an institution of higher education listed in

2041 Section 53B-2-101.

2042 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal  
2043 property or a product transferred electronically for:

2044 (i) (A) a fixed term; or

2045 (B) an indeterminate term; and

2046 (ii) consideration.

2047 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the  
2048 amount of consideration may be increased or decreased by reference to the amount realized upon

2049 sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

2050 (c) "Lease" or "rental" does not include:

2051 (i) a transfer of possession or control of property under a security agreement or deferred  
2052 payment plan that requires the transfer of title upon completion of the required payments;

2053 (ii) a transfer of possession or control of property under an agreement that requires the  
2054 transfer of title:

2055 (A) upon completion of required payments; and

2056 (B) if the payment of an option price does not exceed the greater of:

2057 (I) \$100; or

2058 (II) 1% of the total required payments; or

2059 (iii) providing tangible personal property along with an operator for a fixed period of time  
2060 or an indeterminate period of time if the operator is necessary for equipment to perform as

2061 designed.

2062 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to  
2063 perform as designed if the operator's duties exceed the:

2064 (i) set-up of tangible personal property;

2065 (ii) maintenance of tangible personal property; or

2066 (iii) inspection of tangible personal property.

2067 (60) "Life science establishment" means an establishment in this state that is classified  
2068 under the following NAICS codes of the 2007 North American Industry Classification System of

2069 the federal Executive Office of the President, Office of Management and Budget:

2070 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

2071 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

2072 Manufacturing; or

2073 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

2074 (61) "Life science research and development facility" means a facility owned, leased, or  
2075 rented by a life science establishment if research and development is performed in 51% or more  
2076 of the total area of the facility.

2077 (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media  
2078 if the tangible storage media is not physically transferred to the purchaser.

2079 (63) "Local taxing jurisdiction" means a:

2080 (a) county that is authorized to impose an agreement sales and use tax;

2081 (b) city that is authorized to impose an agreement sales and use tax; or

2082 (c) town that is authorized to impose an agreement sales and use tax.

2083 (64) "Manufactured home" is as defined in Section [15A-1-302](#).

2084 (65) "Manufacturing facility" means:

2085 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial  
2086 Classification Manual of the federal Executive Office of the President, Office of Management and  
2087 Budget;

2088 (b) a scrap recycler if:

2089 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one  
2090 or more of the following items into prepared grades of processed materials for use in new products:

2091 (A) iron;

2092 (B) steel;

2093 (C) nonferrous metal;

2094 (D) paper;

2095 (E) glass;

2096 (F) plastic;

2097 (G) textile; or

2098 (H) rubber; and

2099 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with  
2100 nonrecycled materials; or

2101 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is placed  
2102 in service on or after May 1, 2006.

2103 (66) "Member of the immediate family of the producer" means a person who is related to  
2104 a producer described in Subsection 59-12-104(20)(a) as a:

2105 (a) child or stepchild, regardless of whether the child or stepchild is:

2106 (i) an adopted child or adopted stepchild; or

2107 (ii) a foster child or foster stepchild;

2108 (b) grandchild or stepgrandchild;

2109 (c) grandparent or stepgrandparent;

2110 (d) nephew or stepnephew;

2111 (e) niece or stepniece;

2112 (f) parent or stepparent;

2113 (g) sibling or stepsibling;

2114 (h) spouse;

2115 (i) person who is the spouse of a person described in Subsections (66)(a) through (g); or

2116 (j) person similar to a person described in Subsections (66)(a) through (i) as determined

2117 by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
2118 Rulemaking Act.

2119 (67) "Mobile home" is as defined in Section 15A-1-302.

2120 (68) "Mobile telecommunications service" is as defined in the Mobile

2121 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2122 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of the  
2123 technology used, if:

2124 (i) the origination point of the conveyance, routing, or transmission is not fixed;

2125 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

2126 (iii) the origination point described in Subsection (69)(a)(i) and the termination point

2127 described in Subsection (69)(a)(ii) are not fixed.

2128 (b) "Mobile wireless service" includes a telecommunications service that is provided by  
2129 a commercial mobile radio service provider.

2130 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2131 commission may by rule define "commercial mobile radio service provider."

2132 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment" means  
2133 equipment that is:

2134 (i) primarily and customarily used to provide or increase the ability to move from one  
2135 place to another;

2136 (ii) appropriate for use in a:

2137 (A) home; or

2138 (B) motor vehicle; and

2139 (iii) not generally used by persons with normal mobility.

2140 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the  
2141 equipment described in Subsection (70)(a).

2142 (c) "Mobility enhancing equipment" does not include:

2143 (i) a motor vehicle;

2144 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
2145 vehicle manufacturer;

2146 (iii) durable medical equipment; or

2147 (iv) a prosthetic device.

2148 (71) "Model 1 seller" means a seller registered under the agreement that has selected a  
2149 certified service provider as the seller's agent to perform all of the seller's sales and use tax  
2150 functions for agreement sales and use taxes other than the seller's obligation under Section  
2151 [59-12-124](#) to remit a tax on the seller's own purchases.

2152 (72) "Model 2 seller" means a seller registered under the agreement that:

2153 (a) except as provided in Subsection (72)(b), has selected a certified automated system to  
2154 perform the seller's sales tax functions for agreement sales and use taxes; and

2155 (b) retains responsibility for remitting all of the sales tax:

2156 (i) collected by the seller; and

2157 (ii) to the appropriate local taxing jurisdiction.

2158 (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under the  
2159 agreement that has:

2160 (i) sales in at least five states that are members of the agreement;

2161 (ii) total annual sales revenues of at least \$500,000,000;

2162 (iii) a proprietary system that calculates the amount of tax:

2163 (A) for an agreement sales and use tax; and

2164 (B) due to each local taxing jurisdiction; and

2165 (iv) entered into a performance agreement with the governing board of the agreement.

2166 (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of  
2167 sellers using the same proprietary system.

2168 (74) "Model 4 seller" means a seller that is registered under the agreement and is not a  
2169 model 1 seller, model 2 seller, or model 3 seller.

2170 (75) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

2171 (76) "Motor vehicle" is as defined in Section [41-1a-102](#).

2172 (77) "Oil sands" means impregnated bituminous sands that:

2173 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with other  
2174 hydrocarbons, or otherwise treated;

2175 (b) yield mixtures of liquid hydrocarbon; and

2176 (c) require further processing other than mechanical blending before becoming finished  
2177 petroleum products.

2178 (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen  
2179 material that yields petroleum upon heating and distillation.

2180 (79) "Optional computer software maintenance contract" means a computer software  
2181 maintenance contract that a customer is not obligated to purchase as a condition to the retail sale  
2182 of computer software.

2183 (80) (a) "Other fuels" means products that burn independently to produce heat or energy.

2184 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal  
2185 property.

2186 (81) (a) "Paging service" means a telecommunications service that provides transmission  
2187 of a coded radio signal for the purpose of activating a specific pager.

2188 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal includes  
2189 a transmission by message or sound.

2190 (82) "Pawnbroker" is as defined in Section [13-32a-102](#).

2191 (83) "Pawn transaction" is as defined in Section [13-32a-102](#).

2192 (84) (a) "Permanently attached to real property" means that for tangible personal property  
2193 attached to real property:

2194 (i) the attachment of the tangible personal property to the real property;

2195 (A) is essential to the use of the tangible personal property; and

- 2196 (B) suggests that the tangible personal property will remain attached to the real property  
2197 in the same place over the useful life of the tangible personal property; or  
2198 (ii) if the tangible personal property is detached from the real property, the detachment  
2199 would:
- 2200 (A) cause substantial damage to the tangible personal property; or  
2201 (B) require substantial alteration or repair of the real property to which the tangible  
2202 personal property is attached.
- 2203 (b) "Permanently attached to real property" includes:  
2204 (i) the attachment of an accessory to the tangible personal property if the accessory is:  
2205 (A) essential to the operation of the tangible personal property; and  
2206 (B) attached only to facilitate the operation of the tangible personal property;  
2207 (ii) a temporary detachment of tangible personal property from real property for a repair  
2208 or renovation if the repair or renovation is performed where the tangible personal property and real  
2209 property are located; or  
2210 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
2211 Subsection (84)(c)(iii) or (iv).
- 2212 (c) "Permanently attached to real property" does not include:  
2213 (i) the attachment of portable or movable tangible personal property to real property if that  
2214 portable or movable tangible personal property is attached to real property only for:  
2215 (A) convenience;  
2216 (B) stability; or  
2217 (C) for an obvious temporary purpose;  
2218 (ii) the detachment of tangible personal property from real property except for the  
2219 detachment described in Subsection (84)(b)(ii);  
2220 (iii) an attachment of the following tangible personal property to real property if the  
2221 attachment to real property is only through a line that supplies water, electricity, gas,  
2222 telecommunications, cable, or supplies a similar item as determined by the commission by rule  
2223 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:  
2224 (A) a computer;  
2225 (B) a telephone;  
2226 (C) a television; or



2227 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as  
2228 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
2229 Administrative Rulemaking Act; or

2230 (iv) an item listed in Subsection (124)(c).

2231 (85) "Person" includes any individual, firm, partnership, joint venture, association,  
2232 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
2233 municipality, district, or other local governmental entity of the state, or any group or combination  
2234 acting as a unit.

2235 (86) "Place of primary use":

2236 (a) for telecommunications service other than mobile telecommunications service, means  
2237 the street address representative of where the customer's use of the telecommunications service  
2238 primarily occurs, which shall be:

2239 (i) the residential street address of the customer; or

2240 (ii) the primary business street address of the customer; or

2241 (b) for mobile telecommunications service, is as defined in the Mobile  
2242 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2243 (87) (a) "Postpaid calling service" means a telecommunications service a person obtains  
2244 by making a payment on a call-by-call basis:

2245 (i) through the use of a:

2246 (A) bank card;

2247 (B) credit card;

2248 (C) debit card; or

2249 (D) travel card; or

2250 (ii) by a charge made to a telephone number that is not associated with the origination or  
2251 termination of the telecommunications service.

2252 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
2253 service, that would be a prepaid wireless calling service if the service were exclusively a  
2254 telecommunications service.

2255 (88) "Postproduction" means an activity related to the finishing or duplication of a medium  
2256 described in Subsection [59-12-104\(54\)\(a\)](#).

2257 (89) "Prepaid calling service" means a telecommunications service:

- 2258 (a) that allows a purchaser access to telecommunications service that is exclusively  
2259 telecommunications service;
- 2260 (b) that:
- 2261 (i) is paid for in advance; and
- 2262 (ii) enables the origination of a call using an:
- 2263 (A) access number; or
- 2264 (B) authorization code;
- 2265 (c) that is dialed:
- 2266 (i) manually; or
- 2267 (ii) electronically; and
- 2268 (d) sold in predetermined units or dollars that decline:
- 2269 (i) by a known amount; and
- 2270 (ii) with use.
- 2271 (90) "Prepaid wireless calling service" means a telecommunications service:
- 2272 (a) that provides the right to utilize:
- 2273 (i) mobile wireless service; and
- 2274 (ii) other service that is not a telecommunications service, including:
- 2275 (A) the download of a product transferred electronically;
- 2276 (B) a content service; or
- 2277 (C) an ancillary service;
- 2278 (b) that:
- 2279 (i) is paid for in advance; and
- 2280 (ii) enables the origination of a call using an:
- 2281 (A) access number; or
- 2282 (B) authorization code;
- 2283 (c) that is dialed:
- 2284 (i) manually; or
- 2285 (ii) electronically; and
- 2286 (d) sold in predetermined units or dollars that decline:
- 2287 (i) by a known amount; and
- 2288 (ii) with use.

- 2289 (91) (a) "Prepared food" means:
- 2290 (i) food:
- 2291 (A) sold in a heated state; or
- 2292 (B) heated by a seller;
- 2293 (ii) two or more food ingredients mixed or combined by the seller for sale as a single item;
- 2294 or
- 2295 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
- 2296 by the seller, including a:
- 2297 (A) plate;
- 2298 (B) knife;
- 2299 (C) fork;
- 2300 (D) spoon;
- 2301 (E) glass;
- 2302 (F) cup;
- 2303 (G) napkin; or
- 2304 (H) straw.
- 2305 (b) "Prepared food" does not include:
- 2306 (i) food that a seller only:
- 2307 (A) cuts;
- 2308 (B) repackages; or
- 2309 (C) pasteurizes; or
- 2310 (ii) (A) the following:
- 2311 (I) raw egg;
- 2312 (II) raw fish;
- 2313 (III) raw meat;
- 2314 (IV) raw poultry; or
- 2315 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV); and
- 2316 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 2317 Food and Drug Administration's Food Code that a consumer cook the items described in
- 2318 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
- 2319 (iii) the following if sold without eating utensils provided by the seller:

2320 (A) food and food ingredients sold by a seller if the seller's proper primary classification  
2321 under the 2002 North American Industry Classification System of the federal Executive Office of  
2322 the President, Office of Management and Budget, is manufacturing in Sector 311, Food  
2323 Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

2324 (B) food and food ingredients sold in an unheated state:

2325 (I) by weight or volume; and

2326 (II) as a single item; or

2327 (C) a bakery item, including:

2328 (I) a bagel;

2329 (II) a bar;

2330 (III) a biscuit;

2331 (IV) bread;

2332 (V) a bun;

2333 (VI) a cake;

2334 (VII) a cookie;

2335 (VIII) a croissant;

2336 (IX) a danish;

2337 (X) a donut;

2338 (XI) a muffin;

2339 (XII) a pastry;

2340 (XIII) a pie;

2341 (XIV) a roll;

2342 (XV) a tart;

2343 (XVI) a torte; or

2344 (XVII) a tortilla.

2345 (c) An eating utensil provided by the seller does not include the following used to transport  
2346 the food:

2347 (i) a container; or

2348 (ii) packaging.

2349 (92) "Prescription" means an order, formula, or recipe that is issued:

2350 (a) (i) orally;

- 2351 (ii) in writing;
- 2352 (iii) electronically; or
- 2353 (iv) by any other manner of transmission; and
- 2354 (b) by a licensed practitioner authorized by the laws of a state.
- 2355 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
- 2356 software" means computer software that is not designed and developed:
- 2357 (i) by the author or other creator of the computer software; and
- 2358 (ii) to the specifications of a specific purchaser.
- 2359 (b) "Prewritten computer software" includes:
- 2360 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 2361 software is not designed and developed:
- 2362 (A) by the author or other creator of the computer software; and
- 2363 (B) to the specifications of a specific purchaser;
- 2364 (ii) computer software designed and developed by the author or other creator of the
- 2365 computer software to the specifications of a specific purchaser if the computer software is sold to
- 2366 a person other than the purchaser; or
- 2367 (iii) except as provided in Subsection (93)(c), prewritten computer software or a prewritten
- 2368 portion of prewritten computer software:
- 2369 (A) that is modified or enhanced to any degree; and
- 2370 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is designed
- 2371 and developed to the specifications of a specific purchaser.
- 2372 (c) "Prewritten computer software" does not include a modification or enhancement
- 2373 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:
- 2374 (i) reasonable; and
- 2375 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice
- 2376 or other statement of price provided to the purchaser at the time of sale or later, as demonstrated
- 2377 by:
- 2378 (A) the books and records the seller keeps at the time of the transaction in the regular
- 2379 course of business, including books and records the seller keeps at the time of the transaction in
- 2380 the regular course of business for nontax purposes;
- 2381 (B) a preponderance of the facts and circumstances at the time of the transaction; and

2382 (C) the understanding of all of the parties to the transaction.

2383 (94) (a) "Private communications service" means a telecommunications service:

2384 (i) that entitles a customer to exclusive or priority use of one or more communications  
2385 channels between or among termination points; and

2386 (ii) regardless of the manner in which the one or more communications channels are  
2387 connected.

2388 (b) "Private communications service" includes the following provided in connection with  
2389 the use of one or more communications channels:

2390 (i) an extension line;

2391 (ii) a station;

2392 (iii) switching capacity; or

2393 (iv) another associated service that is provided in connection with the use of one or more  
2394 communications channels as defined in Section [59-12-215](#).

2395 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"  
2396 means a product transferred electronically that would be subject to a tax under this chapter if that  
2397 product was transferred in a manner other than electronically.

2398 (b) "Product transferred electronically" does not include:

2399 (i) an ancillary service;

2400 (ii) computer software; or

2401 (iii) a telecommunications service.

2402 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:

2403 (i) artificially replace a missing portion of the body;

2404 (ii) prevent or correct a physical deformity or physical malfunction; or

2405 (iii) support a weak or deformed portion of the body.

2406 (b) "Prosthetic device" includes:

2407 (i) parts used in the repairs or renovation of a prosthetic device;

2408 (ii) replacement parts for a prosthetic device;

2409 (iii) a dental prosthesis; or

2410 (iv) a hearing aid.

2411 (c) "Prosthetic device" does not include:

2412 (i) corrective eyeglasses; or

- 2413 (ii) contact lenses.
- 2414 (97) (a) "Protective equipment" means an item:
- 2415 (i) for human wear; and
- 2416 (ii) that is:
- 2417 (A) designed as protection:
- 2418 (I) to the wearer against injury or disease; or
- 2419 (II) against damage or injury of other persons or property; and
- 2420 (B) not suitable for general use.
- 2421 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2422 commission shall make rules:
- 2423 (i) listing the items that constitute "protective equipment"; and
- 2424 (ii) that are consistent with the list of items that constitute "protective equipment" under
- 2425 the agreement.
- 2426 (98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 2427 printed matter, other than a photocopy:
- 2428 (i) regardless of:
- 2429 (A) characteristics;
- 2430 (B) copyright;
- 2431 (C) form;
- 2432 (D) format;
- 2433 (E) method of reproduction; or
- 2434 (F) source; and
- 2435 (ii) made available in printed or electronic format.
- 2436 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2437 commission may by rule define the term "photocopy."
- 2438 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 2439 (i) valued in money; and
- 2440 (ii) for which tangible personal property, a product transferred electronically, or services
- 2441 are:
- 2442 (A) sold;
- 2443 (B) leased; or

2444 (C) rented.

2445 (b) "Purchase price" and "sales price" include:

2446 (i) the seller's cost of the tangible personal property, a product transferred electronically,

2447 or services sold;

2448 (ii) expenses of the seller, including:

2449 (A) the cost of materials used;

2450 (B) a labor cost;

2451 (C) a service cost;

2452 (D) interest;

2453 (E) a loss;

2454 (F) the cost of transportation to the seller; or

2455 (G) a tax imposed on the seller;

2456 (iii) a charge by the seller for any service necessary to complete the sale; or

2457 (iv) consideration a seller receives from a person other than the purchaser if:

2458 (A) (I) the seller actually receives consideration from a person other than the purchaser;

2459 and

2460 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a price

2461 reduction or discount on the sale;

2462 (B) the seller has an obligation to pass the price reduction or discount through to the

2463 purchaser;

2464 (C) the amount of the consideration attributable to the sale is fixed and determinable by

2465 the seller at the time of the sale to the purchaser; and

2466 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the

2467 seller to claim a price reduction or discount; and

2468 (Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon,

2469 or other documentation with the understanding that the person other than the seller will reimburse

2470 any seller to whom the certificate, coupon, or other documentation is presented;

2471 (II) the purchaser identifies that purchaser to the seller as a member of a group or

2472 organization allowed a price reduction or discount, except that a preferred customer card that is

2473 available to any patron of a seller does not constitute membership in a group or organization

2474 allowed a price reduction or discount; or



- 2475 (III) the price reduction or discount is identified as a third party price reduction or discount  
2476 on the:
- 2477 (Aa) invoice the purchaser receives; or
  - 2478 (Bb) certificate, coupon, or other documentation the purchaser presents.
  - 2479 (c) "Purchase price" and "sales price" do not include:
    - 2480 (i) a discount:
      - 2481 (A) in a form including:
        - 2482 (I) cash;
        - 2483 (II) term; or
        - 2484 (III) coupon;
      - 2485 (B) that is allowed by a seller;
      - 2486 (C) taken by a purchaser on a sale; and
      - 2487 (D) that is not reimbursed by a third party; or
    - 2488 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately  
2489 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale  
2490 or later, as demonstrated by the books and records the seller keeps at the time of the transaction  
2491 in the regular course of business, including books and records the seller keeps at the time of the  
2492 transaction in the regular course of business for nontax purposes, by a preponderance of the facts  
2493 and circumstances at the time of the transaction, and by the understanding of all of the parties to  
2494 the transaction:
      - 2495 (A) the following from credit extended on the sale of tangible personal property or  
2496 services:
        - 2497 (I) a carrying charge;
        - 2498 (II) a financing charge; or
        - 2499 (III) an interest charge;
        - 2500 (B) a delivery charge;
        - 2501 (C) an installation charge;
        - 2502 (D) a manufacturer rebate on a motor vehicle; or
        - 2503 (E) a tax or fee legally imposed directly on the consumer.
  - 2504 (100) "Purchaser" means a person to whom:
    - 2505 (a) a sale of tangible personal property is made;

2506 (b) a product is transferred electronically; or  
2507 (c) a service is furnished.  
2508 (101) "Regularly rented" means:  
2509 (a) rented to a guest for value three or more times during a calendar year; or  
2510 (b) advertised or held out to the public as a place that is regularly rented to guests for  
2511 value.  
2512 (102) "Rental" is as defined in Subsection (59).  
2513 (103) (a) Except as provided in Subsection (103)(b), "repairs or renovations of tangible  
2514 personal property" means:  
2515 (i) a repair or renovation of tangible personal property that is not permanently attached to  
2516 real property; or  
2517 (ii) attaching tangible personal property or a product transferred electronically to other  
2518 tangible personal property or detaching tangible personal property or a product transferred  
2519 electronically from other tangible personal property if:  
2520 (A) the other tangible personal property to which the tangible personal property or product  
2521 transferred electronically is attached or from which the tangible personal property or product  
2522 transferred electronically is detached is not permanently attached to real property; and  
2523 (B) the attachment of tangible personal property or a product transferred electronically to  
2524 other tangible personal property or detachment of tangible personal property or a product  
2525 transferred electronically from other tangible personal property is made in conjunction with a  
2526 repair or replacement of tangible personal property or a product transferred electronically.  
2527 (b) "Repairs or renovations of tangible personal property" does not include:  
2528 (i) attaching prewritten computer software to other tangible personal property if the other  
2529 tangible personal property to which the prewritten computer software is attached is not  
2530 permanently attached to real property; or  
2531 (ii) detaching prewritten computer software from other tangible personal property if the  
2532 other tangible personal property from which the prewritten computer software is detached is not  
2533 permanently attached to real property.  
2534 (104) "Research and development" means the process of inquiry or experimentation aimed  
2535 at the discovery of facts, devices, technologies, or applications and the process of preparing those  
2536 devices, technologies, or applications for marketing.

2537 (105) (a) "Residential telecommunications services" means a telecommunications service  
2538 or an ancillary service that is provided to an individual for personal use:

2539 (i) at a residential address; or

2540 (ii) at an institution, including a nursing home or a school, if the telecommunications  
2541 service or ancillary service is provided to and paid for by the individual residing at the institution  
2542 rather than the institution.

2543 (b) For purposes of Subsection (105)(a)(i), a residential address includes an:

2544 (i) apartment; or

2545 (ii) other individual dwelling unit.

2546 (106) "Residential use" means the use in or around a home, apartment building, sleeping  
2547 quarters, and similar facilities or accommodations.

2548 (107) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

2549 (a) resale;

2550 (b) sublease; or

2551 (c) subrent.

2552 (108) (a) "Retailer" means any person engaged in a regularly organized business in  
2553 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and  
2554 who is selling to the user or consumer and not for resale.

2555 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
2556 engaged in the business of selling to users or consumers within the state.

2557 (109) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise,  
2558 in any manner, of tangible personal property or any other taxable transaction under Subsection  
2559 59-12-103(1), for consideration.

2560 (b) "Sale" includes:

2561 (i) installment and credit sales;

2562 (ii) any closed transaction constituting a sale;

2563 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

2564 (iv) any transaction if the possession of property is transferred but the seller retains the title  
2565 as security for the payment of the price; and

2566 (v) any transaction under which right to possession, operation, or use of any article of

2567 tangible personal property is granted under a lease or contract and the transfer of possession would

2568 be taxable if an outright sale were made.

2569 (110) "Sale at retail" is as defined in Subsection (107).

2570 (111) "Sale-leaseback transaction" means a transaction by which title to tangible personal  
2571 property or a product transferred electronically that is subject to a tax under this chapter is  
2572 transferred:

2573 (a) by a purchaser-lessee;

2574 (b) to a lessor;

2575 (c) for consideration; and

2576 (d) if:

2577 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of  
2578 the tangible personal property or product transferred electronically;

2579 (ii) the sale of the tangible personal property or product transferred electronically to the  
2580 lessor is intended as a form of financing:

2581 (A) for the tangible personal property or product transferred electronically; and

2582 (B) to the purchaser-lessee; and

2583 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee is  
2584 required to:

2585 (A) capitalize the tangible personal property or product transferred electronically for  
2586 financial reporting purposes; and

2587 (B) account for the lease payments as payments made under a financing arrangement.

2588 (112) "Sales price" is as defined in Subsection (99).

2589 (113) (a) "Sales relating to schools" means the following sales by, amounts paid to, or  
2590 amounts charged by a school:

2591 (i) sales that are directly related to the school's educational functions or activities  
2592 including:

2593 (A) the sale of:

2594 (I) textbooks;

2595 (II) textbook fees;

2596 (III) laboratory fees;

2597 (IV) laboratory supplies; or

2598 (V) safety equipment;

- 2599 (B) the sale of a uniform, protective equipment, or sports or recreational equipment that:  
2600 (I) a student is specifically required to wear as a condition of participation in a  
2601 school-related event or school-related activity; and  
2602 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
2603 place of ordinary clothing;
- 2604 (C) sales of the following if the net or gross revenues generated by the sales are deposited  
2605 into a school district fund or school fund dedicated to school meals:  
2606 (I) food and food ingredients; or  
2607 (II) prepared food; or  
2608 (D) transportation charges for official school activities; or  
2609 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
2610 event or school-related activity.
- 2611 (b) "Sales relating to schools" does not include:  
2612 (i) bookstore sales of items that are not educational materials or supplies;  
2613 (ii) except as provided in Subsection (113)(a)(i)(B):  
2614 (A) clothing;  
2615 (B) clothing accessories or equipment;  
2616 (C) protective equipment; or  
2617 (D) sports or recreational equipment; or  
2618 (iii) amounts paid to or amounts charged by a school for admission to a school-related  
2619 event or school-related activity if the amounts paid or charged are passed through to a person:  
2620 (A) other than a:  
2621 (I) school;  
2622 (II) nonprofit organization authorized by a school board or a governing body of a private  
2623 school to organize and direct a competitive secondary school activity; or  
2624 (III) nonprofit association authorized by a school board or a governing body of a private  
2625 school to organize and direct a competitive secondary school activity; and  
2626 (B) that is required to collect sales and use taxes under this chapter.
- 2627 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2628 commission may make rules defining the term "passed through."  
2629 (114) For purposes of this section and Section [59-12-104](#), "school":

- 2630 (a) means:
- 2631 (i) an elementary school or a secondary school that:
- 2632 (A) is a:
- 2633 (I) public school; or
- 2634 (II) private school; and
- 2635 (B) provides instruction for one or more grades kindergarten through 12; or
- 2636 (ii) a public school district; and
- 2637 (b) includes the Electronic High School as defined in Section [53A-15-1002](#).
- 2638 (115) "Seller" means a person that makes a sale, lease, or rental of:
- 2639 (a) tangible personal property;
- 2640 (b) a product transferred electronically; or
- 2641 (c) a service.
- 2642 (116) (a) "Semiconductor fabricating, processing, research, or development materials"
- 2643 means tangible personal property or a product transferred electronically if the tangible personal
- 2644 property or product transferred electronically is:
- 2645 (i) used primarily in the process of:
- 2646 (A) (I) manufacturing a semiconductor;
- 2647 (II) fabricating a semiconductor; or
- 2648 (III) research or development of a:
- 2649 (Aa) semiconductor; or
- 2650 (Bb) semiconductor manufacturing process; or
- 2651 (B) maintaining an environment suitable for a semiconductor; or
- 2652 (ii) consumed primarily in the process of:
- 2653 (A) (I) manufacturing a semiconductor;
- 2654 (II) fabricating a semiconductor; or
- 2655 (III) research or development of a:
- 2656 (Aa) semiconductor; or
- 2657 (Bb) semiconductor manufacturing process; or
- 2658 (B) maintaining an environment suitable for a semiconductor.
- 2659 (b) "Semiconductor fabricating, processing, research, or development materials" includes:
- 2660 (i) parts used in the repairs or renovations of tangible personal property or a product

2661 transferred electronically described in Subsection (116)(a); or

2662 (ii) a chemical, catalyst, or other material used to:

2663 (A) produce or induce in a semiconductor a:

2664 (I) chemical change; or

2665 (II) physical change;

2666 (B) remove impurities from a semiconductor; or

2667 (C) improve the marketable condition of a semiconductor.

2668 (117) "Senior citizen center" means a facility having the primary purpose of providing

2669 services to the aged as defined in Section [62A-3-101](#).

2670 (118) (a) Subject to Subsections (118)(b) and (c), "short-term lodging consumable" means

2671 tangible personal property that:

2672 (i) a business that provides accommodations and services described in Subsection

2673 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services to

2674 a purchaser;

2675 (ii) is intended to be consumed by the purchaser; and

2676 (iii) is:

2677 (A) included in the purchase price of the accommodations and services; and

2678 (B) not separately stated on an invoice, bill of sale, or other similar document provided to

2679 the purchaser.

2680 (b) "Short-term lodging consumable" includes:

2681 (i) a beverage;

2682 (ii) a brush or comb;

2683 (iii) a cosmetic;

2684 (iv) a hair care product;

2685 (v) lotion;

2686 (vi) a magazine;

2687 (vii) makeup;

2688 (viii) a meal;

2689 (ix) mouthwash;

2690 (x) nail polish remover;

2691 (xi) a newspaper;

- 2692 (xii) a notepad;
- 2693 (xiii) a pen;
- 2694 (xiv) a pencil;
- 2695 (xv) a razor;
- 2696 (xvi) saline solution;
- 2697 (xvii) a sewing kit;
- 2698 (xviii) shaving cream;
- 2699 (xix) a shoe shine kit;
- 2700 (xx) a shower cap;
- 2701 (xxi) a snack item;
- 2702 (xxii) soap;
- 2703 (xxiii) toilet paper;
- 2704 (xxiv) a toothbrush;
- 2705 (xxv) toothpaste; or
- 2706 (xxvi) an item similar to Subsections (118)(b)(i) through (xxv) as the commission may
- 2707 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
- 2708 Act.
- 2709 (c) "Short-term lodging consumable" does not include:
- 2710 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 2711 property to be reused; or
- 2712 (ii) a product transferred electronically.
- 2713 (119) "Simplified electronic return" means the electronic return:
- 2714 (a) described in Section 318(C) of the agreement; and
- 2715 (b) approved by the governing board of the agreement.
- 2716 (120) "Solar energy" means the sun used as the sole source of energy for producing
- 2717 electricity.
- 2718 (121) (a) "Sports or recreational equipment" means an item:
- 2719 (i) designed for human use; and
- 2720 (ii) that is:
- 2721 (A) worn in conjunction with:
- 2722 (I) an athletic activity; or



- 2723 (II) a recreational activity; and  
2724 (B) not suitable for general use.  
2725 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2726 commission shall make rules:  
2727 (i) listing the items that constitute "sports or recreational equipment"; and  
2728 (ii) that are consistent with the list of items that constitute "sports or recreational  
2729 equipment" under the agreement.  
2730 (122) "State" means the state of Utah, its departments, and agencies.  
2731 (123) "Storage" means any keeping or retention of tangible personal property or any other  
2732 taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the  
2733 regular course of business.  
2734 (124) (a) Except as provided in Subsection (124)(d) or (e), "tangible personal property"  
2735 means personal property that:  
2736 (i) may be:  
2737 (A) seen;  
2738 (B) weighed;  
2739 (C) measured;  
2740 (D) felt; or  
2741 (E) touched; or  
2742 (ii) is in any manner perceptible to the senses.  
2743 (b) "Tangible personal property" includes:  
2744 (i) electricity;  
2745 (ii) water;  
2746 (iii) gas;  
2747 (iv) steam; or  
2748 (v) prewritten computer software, regardless of the manner in which the prewritten  
2749 computer software is transferred.  
2750 (c) "Tangible personal property" includes the following regardless of whether the item is  
2751 attached to real property:  
2752 (i) a dishwasher;  
2753 (ii) a dryer;

2754 (iii) a freezer;  
2755 (iv) a microwave;  
2756 (v) a refrigerator;  
2757 (vi) a stove;  
2758 (vii) a washer; or  
2759 (viii) an item similar to Subsections (124)(c)(i) through (vii) as determined by the  
2760 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
2761 Rulemaking Act.

2762 (d) "Tangible personal property" does not include a product that is transferred  
2763 electronically.

2764 (e) "Tangible personal property" does not include the following if attached to real property,  
2765 regardless of whether the attachment to real property is only through a line that supplies water,  
2766 electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by  
2767 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

2768 (i) a hot water heater;  
2769 (ii) a water filtration system; or  
2770 (iii) a water softener system.

2771 (125) (a) "Telecommunications enabling or facilitating equipment, machinery, or software"  
2772 means an item listed in Subsection (125)(b) if that item is purchased or leased primarily to enable  
2773 or facilitate one or more of the following to function:

2774 (i) telecommunications switching or routing equipment, machinery, or software; or  
2775 (ii) telecommunications transmission equipment, machinery, or software.

2776 (b) The following apply to Subsection (125)(a):

2777 (i) a pole;  
2778 (ii) software;  
2779 (iii) a supplementary power supply;  
2780 (iv) temperature or environmental equipment or machinery;  
2781 (v) test equipment;  
2782 (vi) a tower; or  
2783 (vii) equipment, machinery, or software that functions similarly to an item listed in

2784 Subsections (125)(b)(i) through (vi) as determined by the commission by rule made in accordance

2785 with Subsection (125)(c).

2786 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2787 commission may by rule define what constitutes equipment, machinery, or software that functions  
2788 similarly to an item listed in Subsections (125)(b)(i) through (vi).

2789 (126) "Telecommunications equipment, machinery, or software required for 911 service"  
2790 means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

2791 (127) "Telecommunications maintenance or repair equipment, machinery, or software"  
2792 means equipment, machinery, or software purchased or leased primarily to maintain or repair one  
2793 or more of the following, regardless of whether the equipment, machinery, or software is  
2794 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
2795 following:

2796 (a) telecommunications enabling or facilitating equipment, machinery, or software;

2797 (b) telecommunications switching or routing equipment, machinery, or software; or

2798 (c) telecommunications transmission equipment, machinery, or software.

2799 (128) (a) "Telecommunications service" means the electronic conveyance, routing, or  
2800 transmission of audio, data, video, voice, or any other information or signal to a point, or among  
2801 or between points.

2802 (b) "Telecommunications service" includes:

2803 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
2804 processing application is used to act:

2805 (A) on the code, form, or protocol of the content;

2806 (B) for the purpose of electronic conveyance, routing, or transmission; and

2807 (C) regardless of whether the service:

2808 (I) is referred to as voice over Internet protocol service; or

2809 (II) is classified by the Federal Communications Commission as enhanced or value added;

2810 (ii) an 800 service;

2811 (iii) a 900 service;

2812 (iv) a fixed wireless service;

2813 (v) a mobile wireless service;

2814 (vi) a postpaid calling service;

2815 (vii) a prepaid calling service;

- 2816 (viii) a prepaid wireless calling service; or
- 2817 (ix) a private communications service.
- 2818 (c) "Telecommunications service" does not include:
- 2819 (i) advertising, including directory advertising;
- 2820 (ii) an ancillary service;
- 2821 (iii) a billing and collection service provided to a third party;
- 2822 (iv) a data processing and information service if:
- 2823 (A) the data processing and information service allows data to be:
- 2824 (I) (Aa) acquired;
- 2825 (Bb) generated;
- 2826 (Cc) processed;
- 2827 (Dd) retrieved; or
- 2828 (Ee) stored; and
- 2829 (II) delivered by an electronic transmission to a purchaser; and
- 2830 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 2831 or information;
- 2832 (v) installation or maintenance of the following on a customer's premises:
- 2833 (A) equipment; or
- 2834 (B) wiring;
- 2835 (vi) Internet access service;
- 2836 (vii) a paging service;
- 2837 (viii) a product transferred electronically, including:
- 2838 (A) music;
- 2839 (B) reading material;
- 2840 (C) a ring tone;
- 2841 (D) software; or
- 2842 (E) video;
- 2843 (ix) a radio and television audio and video programming service:
- 2844 (A) regardless of the medium; and
- 2845 (B) including:
- 2846 (I) furnishing conveyance, routing, or transmission of a television audio and video

2847 programming service by a programming service provider;

2848 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or

2849 (III) audio and video programming services delivered by a commercial mobile radio

2850 service provider as defined in 47 C.F.R. Sec. 20.3;

2851 (x) a value-added nonvoice data service; or

2852 (xi) tangible personal property.

2853 (129) (a) "Telecommunications service provider" means a person that:

2854 (i) owns, controls, operates, or manages a telecommunications service; and

2855 (ii) engages in an activity described in Subsection (129)(a)(i) for the shared use with or  
2856 resale to any person of the telecommunications service.

2857 (b) A person described in Subsection (129)(a) is a telecommunications service provider  
2858 whether or not the Public Service Commission of Utah regulates:

2859 (i) that person; or

2860 (ii) the telecommunications service that the person owns, controls, operates, or manages.

2861 (130) (a) "Telecommunications switching or routing equipment, machinery, or software"

2862 means an item listed in Subsection (130)(b) if that item is purchased or leased primarily for  
2863 switching or routing:

2864 (i) an ancillary service;

2865 (ii) data communications;

2866 (iii) voice communications; or

2867 (iv) telecommunications service.

2868 (b) The following apply to Subsection (130)(a):

2869 (i) a bridge;

2870 (ii) a computer;

2871 (iii) a cross connect;

2872 (iv) a modem;

2873 (v) a multiplexer;

2874 (vi) plug in circuitry;

2875 (vii) a router;

2876 (viii) software;

2877 (ix) a switch; or

2878 (x) equipment, machinery, or software that functions similarly to an item listed in  
2879 Subsections (130)(b)(i) through (ix) as determined by the commission by rule made in accordance  
2880 with Subsection (130)(c).

2881 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2882 commission may by rule define what constitutes equipment, machinery, or software that functions  
2883 similarly to an item listed in Subsections (130)(b)(i) through (ix).

2884 (131) (a) "Telecommunications transmission equipment, machinery, or software" means  
2885 an item listed in Subsection (131)(b) if that item is purchased or leased primarily for sending,  
2886 receiving, or transporting:

- 2887 (i) an ancillary service;
  - 2888 (ii) data communications;
  - 2889 (iii) voice communications; or
  - 2890 (iv) telecommunications service.
- 2891 (b) The following apply to Subsection (131)(a):
- 2892 (i) an amplifier;
  - 2893 (ii) a cable;
  - 2894 (iii) a closure;
  - 2895 (iv) a conduit;
  - 2896 (v) a controller;
  - 2897 (vi) a duplexer;
  - 2898 (vii) a filter;
  - 2899 (viii) an input device;
  - 2900 (ix) an input/output device;
  - 2901 (x) an insulator;
  - 2902 (xi) microwave machinery or equipment;
  - 2903 (xii) an oscillator;
  - 2904 (xiii) an output device;
  - 2905 (xiv) a pedestal;
  - 2906 (xv) a power converter;
  - 2907 (xvi) a power supply;
  - 2908 (xvii) a radio channel;

2909 (xviii) a radio receiver;  
2910 (xix) a radio transmitter;  
2911 (xx) a repeater;  
2912 (xxi) software;  
2913 (xxii) a terminal;  
2914 (xxiii) a timing unit;  
2915 (xxiv) a transformer;  
2916 (xxv) a wire; or  
2917 (xxvi) equipment, machinery, or software that functions similarly to an item listed in  
2918 Subsections (131)(b)(i) through (xxv) as determined by the commission by rule made in  
2919 accordance with Subsection (131)(c).

2920 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2921 commission may by rule define what constitutes equipment, machinery, or software that functions  
2922 similarly to an item listed in Subsections (131)(b)(i) through (xxv).

2923 (132) (a) "Textbook for a higher education course" means a textbook or other printed  
2924 material that is required for a course:

2925 (i) offered by an institution of higher education; and  
2926 (ii) that the purchaser of the textbook or other printed material attends or will attend.

2927 (b) "Textbook for a higher education course" includes a textbook in electronic format.

2928 (133) "Tobacco" means:

2929 (a) a cigarette;

2930 (b) a cigar;

2931 (c) chewing tobacco;

2932 (d) pipe tobacco; or

2933 (e) any other item that contains tobacco.

2934 (134) "Unassisted amusement device" means an amusement device, skill device, or ride  
2935 device that is started and stopped by the purchaser or renter of the right to use or operate the  
2936 amusement device, skill device, or ride device.

2937 (135) (a) "Use" means the exercise of any right or power over tangible personal property,  
2938 a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the  
2939 ownership or the leasing of that tangible personal property, product transferred electronically, or

2940 service.

2941 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
2942 property, a product transferred electronically, or a service in the regular course of business and held  
2943 for resale.

2944 (136) "Value-added nonvoice data service" means a service:

2945 (a) that otherwise meets the definition of a telecommunications service except that a  
2946 computer processing application is used to act primarily for a purpose other than conveyance,  
2947 routing, or transmission; and

2948 (b) with respect to which a computer processing application is used to act on data or  
2949 information:

2950 (i) code;

2951 (ii) content;

2952 (iii) form; or

2953 (iv) protocol.

2954 (137) (a) Subject to Subsection (137)(b), "vehicle" means the following that are required  
2955 to be titled, registered, or titled and registered:

2956 (i) an aircraft as defined in Section [72-10-102](#);

2957 (ii) a vehicle as defined in Section [41-1a-102](#);

2958 (iii) an off-highway vehicle as defined in Section [41-22-2](#); or

2959 (iv) a vessel as defined in Section [41-1a-102](#).

2960 (b) For purposes of Subsection [59-12-104\(33\)](#) only, "vehicle" includes:

2961 (i) a vehicle described in Subsection (137)(a); or

2962 (ii) (A) a locomotive;

2963 (B) a freight car;

2964 (C) railroad work equipment; or

2965 (D) other railroad rolling stock.

2966 (138) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
2967 exchanging a vehicle as defined in Subsection (137).

2968 (139) (a) "Vertical service" means an ancillary service that:

2969 (i) is offered in connection with one or more telecommunications services; and

2970 (ii) offers an advanced calling feature that allows a customer to:



2971 (A) identify a caller; and

2972 (B) manage multiple calls and call connections.

2973 (b) "Vertical service" includes an ancillary service that allows a customer to manage a  
2974 conference bridging service.

2975 (140) (a) "Voice mail service" means an ancillary service that enables a customer to  
2976 receive, send, or store a recorded message.

2977 (b) "Voice mail service" does not include a vertical service that a customer is required to  
2978 have in order to utilize a voice mail service.

2979 (141) (a) Except as provided in Subsection (141)(b), "waste energy facility" means a  
2980 facility that generates electricity:

2981 (i) using as the primary source of energy waste materials that would be placed in a landfill  
2982 or refuse pit if it were not used to generate electricity, including:

2983 (A) tires;

2984 (B) waste coal;

2985 (C) oil shale; or

2986 (D) municipal solid waste; and

2987 (ii) in amounts greater than actually required for the operation of the facility.

2988 (b) "Waste energy facility" does not include a facility that incinerates:

2989 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

2990 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

2991 (142) "Watercraft" means a vessel as defined in Section [73-18-2](#).

2992 (143) "Wind energy" means wind used as the sole source of energy to produce electricity.

2993 (144) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
2994 location by the United States Postal Service.

2995 Section 29. Section **63A-9-101** is amended to read:

2996 **63A-9-101. Definitions.**

2997 (1) (a) "Agency" means each department, commission, board, council, agency, institution,  
2998 officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau,  
2999 panel, or other administrative unit of the state.

3000 (b) "Agency" includes the State Board of Education, the Office of Education, [~~each~~  
3001 ~~Applied Technology Center~~] an applied technology college within the Utah College of Applied

3002 Technology, the board of regents, the institutional councils of each higher education institution,  
3003 and each higher education institution.

3004 (c) "Agency" includes the legislative and judicial branches.

3005 (2) "Committee" means the Motor Vehicle Review Committee created by this chapter.

3006 (3) "Director" means the director of the division.

3007 (4) "Division" means the Division of Fleet Operations created by this chapter.

3008 (5) "Executive director" means the executive director of the Department of Administrative  
3009 Services.

3010 (6) "Local agency" means:

3011 (a) a county;

3012 (b) a municipality;

3013 (c) a school district;

3014 (d) a local district;

3015 (e) a special service district;

3016 (f) an interlocal entity as defined under Section 11-13-103; or

3017 (g) any other political subdivision of the state, including a local commission, board, or  
3018 other governmental entity that is vested with the authority to make decisions regarding the public's  
3019 business.

3020 (7) (a) "Motor vehicle" means a self-propelled vehicle capable of carrying passengers.

3021 (b) "Motor vehicle" includes vehicles used for construction and other nontransportation  
3022 purposes.

3023 (8) "State vehicle" means each motor vehicle owned, operated, or in the possession of an  
3024 agency.

3025 Section 30. Section 63I-2-253 is amended to read:

3026 **63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.**

3027 (1) Section 53A-1-403.5 is repealed July 1, 2017.

3028 [~~(2) Subsection 53A-1-410(5) is repealed July 1, 2015.~~]

3029 [~~(3)~~] (2) Section 53A-1-411 is repealed July 1, 2017.

3030 [~~(4)~~] (3) Section 53A-1a-513.5 is repealed July 1, 2017.

3031 [~~(5)~~] (4) Title 53A, Chapter 1a, Part 10, UPSTART, is repealed July 1, 2019.

3032 [~~(6)~~] (5) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is

3033 repealed July 1, 2017.

3034 (6) (a) Subsections 53B-2a-103(2) and (4) are repealed July 1, 2019.

3035 (b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research  
3036 and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make  
3037 necessary changes to subsection numbering and cross references.

3038 Section 31. Section **63M-2-202** is amended to read:

3039 **63M-2-202. Technology outreach innovation program.**

3040 (1) As funding becomes available from the Legislature or other sources, the USTAR  
3041 governing authority shall establish a technology outreach innovation program, also known as the  
3042 TOIP, at up to five locations distributed strategically throughout Utah.

3043 (2) The USTAR governing authority shall ensure that the technology innovation outreach  
3044 program acts as a resource to:

3045 (a) broker ideas, new technologies, and services to entrepreneurs and businesses  
3046 throughout a defined service area;

3047 (b) engage local entrepreneurs and professors at applied technology [~~centers~~] colleges  
3048 within the Utah College of Applied Technology, colleges, and universities by connecting them to  
3049 Utah's research universities;

3050 (c) screen business ideas and new technologies to ensure that the ones with the highest  
3051 growth potential receive the most targeted services and attention;

3052 (d) connect market ideas and technologies in new or existing businesses or industries or  
3053 in regional colleges and universities with the expertise of Utah's research universities;

3054 (e) assist businesses, [~~applied technology centers~~] applied technology colleges within the  
3055 Utah College of Applied Technology, colleges, and universities in developing commercial  
3056 applications for their research; and

3057 (f) disseminate and share discoveries and technologies emanating from Utah's research  
3058 universities to local entrepreneurs, businesses, [~~applied technology centers~~] applied technology  
3059 colleges within the Utah College of Applied Technology, colleges, and universities.

3060 (3) In designing and operating the TOIP, for each TOIP location the USTAR governing  
3061 authority:

3062 (a) may hire a TOIP director;

3063 (b) shall establish written performance standards and expectations; and

3064 (c) shall require reporting related to those performance standards and expectations on at  
3065 least an annual basis.

3066 (4) A TOIP director hired under Subsection (3) shall:

3067 (a) be categorized as a schedule AC employee in accordance with Section 67-19-15;

3068 (b) report to, and be supervised by, the executive director;

3069 (c) ensure the TOIP serves to further the vision and mission of the USTAR initiative; and

3070 (d) as directed by the executive director, implement the policies and procedures adopted  
3071 by the USTAR governing authority.

3072 Section 32. Section 63N-12-203 is amended to read:

3073 **63N-12-203. STEM Action Center Board creation -- Membership.**

3074 (1) There is created the STEM Action Center Board within the office, composed of the  
3075 following members:

3076 (a) six private sector members who represent business, appointed by the governor;

3077 (b) the state superintendent of public instruction or the state superintendent of public  
3078 instruction's designee;

3079 (c) the commissioner of higher education or the commissioner of higher education's  
3080 designee;

3081 (d) one member appointed by the governor;

3082 (e) a member of the State Board of Education, chosen by the chair of the State Board of  
3083 Education;

3084 (f) the executive director of the office or the executive director's designee;

3085 (g) the ~~[president of the]~~ Utah College of Applied Technology commissioner of technical  
3086 education or ~~[the president of]~~ the Utah College of Applied ~~[Technology's]~~ Technology  
3087 commissioner of technical education's designee; and

3088 (h) one member who has a degree in engineering and experience working in a government  
3089 military installation, appointed by the governor.

3090 (2) (a) The private sector members appointed by the governor in Subsection (1)(a) shall  
3091 represent a business or trade association whose primary focus is science, technology, or  
3092 engineering.

3093 (b) Except as required by Subsection (2)(c), members appointed by the governor shall be  
3094 appointed to four-year terms.

3095 (c) The length of terms of the members shall be staggered so that approximately half of  
3096 the committee is appointed every two years.

3097 (d) The members may not serve more than two full consecutive terms except where the  
3098 governor determines that an additional term is in the best interest of the state.

3099 (e) When a vacancy occurs in the membership for any reason, the replacement shall be  
3100 appointed for the unexpired term.

3101 (3) Attendance of a simple majority of the members constitutes a quorum for the  
3102 transaction of official committee business.

3103 (4) Formal action by the committee requires a majority vote of a quorum.

3104 (5) A member may not receive compensation or benefits for the member's service, but may  
3105 receive per diem and travel expenses in accordance with:

3106 (a) Section [63A-3-106](#);

3107 (b) Section [63A-3-107](#); and

3108 (c) rules made by the Division of Finance under Sections [63A-3-106](#) and [63A-3-107](#).

3109 (6) The governor shall select the chair of the board to serve a one-year term.

3110 (7) The executive director of the office or the executive director's designee shall serve as  
3111 the vice chair of the board.

3112 Section 33. Section **63N-12-212** is amended to read:

3113 **63N-12-212. High school STEM education initiative.**

3114 (1) Subject to legislative appropriations, after consulting with State Board of Education  
3115 staff, the STEM Action Center shall award grants to school districts and charter schools to fund  
3116 STEM related certification for high school students.

3117 (2) (a) A school district or charter school may apply for a grant from the STEM Action  
3118 Center, through a competitive process, to fund the school district's or charter school's STEM  
3119 related certification training program.

3120 (b) A school district's or charter school's STEM related certification training program shall:

3121 (i) prepare high school students to be job ready for available STEM related positions of  
3122 employment; and

3123 (ii) when a student completes the program, result in the student gaining a nationally  
3124 industry-recognized employer STEM related certification.

3125 (3) A school district or charter school may partner with one or more of the following to

3126 provide a STEM related certification program:

3127 (a) [a] an applied technology college within the Utah College of Applied Technology

3128 [~~college campus~~];

3129 (b) Salt Lake Community College;

3130 (c) Snow College; or

3131 (d) a private sector employer.

3132 Section 34. Section **67-1-12** is amended to read:

3133 **67-1-12. Displaced defense workers.**

3134 (1) The governor, through the Department of Workforce Services, may use funds  
3135 specifically appropriated by the Legislature to benefit, in a manner prescribed by Subsection (2):

3136 (a) Department of Defense employees within the state who lose their employment because  
3137 of reductions in defense spending by the federal government;

3138 (b) persons dismissed by a defense-related industry employer because of reductions in  
3139 federal government defense contracts received by the employer; and

3140 (c) defense-related businesses in the state that have been severely and adversely impacted  
3141 because of reductions in defense spending.

3142 (2) Funds appropriated under this section before fiscal year 1999-2000 but not expended  
3143 shall remain with the agency that possesses the funds and shall be used in a manner consistent with  
3144 this section. Any amount appropriated under this section in fiscal year 1999-2000 or thereafter may  
3145 be used to:

3146 (a) provide matching or enhancement funds for grants, loans, or other assistance received  
3147 by the state from the United States Department of Labor, Department of Defense, or other federal  
3148 agency to assist in retraining, community assistance, or technology transfer activities;

3149 (b) fund or match available private or public funds from the state or local level to be used  
3150 for retraining, community assistance, technology transfer, or educational projects coordinated by  
3151 state or federal agencies;

3152 (c) provide for retraining, upgraded services, and programs at applied technology [~~centers~~]  
3153 colleges, public schools, higher education institutions, or any other appropriate public or private  
3154 entity that are designed to teach specific job skills requested by a private employer in the state or  
3155 required for occupations that are in demand in the state;

3156 (d) aid public or private entities that provide assistance in locating new employment;

- 3157 (e) inform the public of assistance programs available for persons who have lost their  
3158 employment;
- 3159 (f) increase funding for assistance and retraining programs;
- 3160 (g) provide assistance for small start-up companies owned or operated by persons who  
3161 have lost their employment;
- 3162 (h) enhance the implementation of dual-use technologies programs, community adjustment  
3163 assistance programs, or other relevant programs under Pub. L. No. 102-484; and
- 3164 (i) coordinate local and national resources to protect and enhance current Utah defense  
3165 installations and related operations and to facilitate conversion or enhancement efforts by:
- 3166 (i) creating and operating state information clearinghouse operations that monitor relevant  
3167 activities on the federal, state, and local level;
- 3168 (ii) identifying, seeking, and matching funds from federal and other public agencies and  
3169 private donors;
- 3170 (iii) identifying and coordinating needs in different geographic areas;
- 3171 (iv) coordinating training and retraining centers;
- 3172 (v) coordinating technology transfer efforts between public entities, private entities, and  
3173 institutions of higher education;
- 3174 (vi) facilitating the development of local and national awareness and support for Utah  
3175 defense installations;
- 3176 (vii) studying the creation of strategic alliances, tax incentives, and relocation and  
3177 consolidation assistance; and
- 3178 (viii) exploring feasible alternative uses for the physical and human resources at defense  
3179 installations and in related industries should reductions in mission occur.
- 3180 (3) The governor, through the Department of Workforce Services, may coordinate and  
3181 administer the expenditure of money under this section and collaborate with applied technology  
3182 centers, public institutions of higher learning, or other appropriate public or private entities to  
3183 provide retraining and other services described in Subsection (2).