

PUBLIC EDUCATION CODE REPEALS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Val L. Peterson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill repeals public education code provisions.

Highlighted Provisions:

This bill:

- ▶ repeals the Parent Choice in Education Act;
- ▶ repeals the Electronic High School Act;
- ▶ repeals the Compact for Interstate Qualification of Education Personnel;
- ▶ repeals various outdated public education code provisions; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-10-101, as last amended by Laws of Utah 2006, Chapter 88

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

53F-2-516, as renumbered and amended by Laws of Utah 2018, Chapter 2

53G-5-405, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-9-802, as renumbered and amended by Laws of Utah 2018, Chapter 3



28 **53G-10-503**, as renumbered and amended by Laws of Utah 2018, Chapter 3
29 **53G-10-508**, as renumbered and amended by Laws of Utah 2018, Chapter 3
30 **59-12-102**, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422
31 **63I-2-253**, as last amended by Laws of Utah 2017, Chapters 217, 223, 350, 365, 381,
32 386, and 468
33 **63N-3-105**, as last amended by Laws of Utah 2016, Chapter 34

34 REPEALS:

35 **53A-1a-804**, as enacted by Laws of Utah 2007, Chapter 30
36 **53A-1a-805**, as enacted by Laws of Utah 2007, Chapter 30
37 **53A-1a-806**, as last amended by Laws of Utah 2011, Chapter 342
38 **53A-1a-808**, as last amended by Laws of Utah 2008, Chapter 382
39 **53A-1a-811**, as enacted by Laws of Utah 2007, Chapter 30
40 **53A-15-1001**, as enacted by Laws of Utah 2006, Chapter 227
41 **53E-4-408**, as renumbered and amended by Laws of Utah 2018, Chapter 1
42 **53E-6-103**, as renumbered and amended by Laws of Utah 2018, Chapter 1
43 **53E-6-1001**, as renumbered and amended by Laws of Utah 2018, Chapter 1
44 **53E-6-1002**, as renumbered and amended by Laws of Utah 2018, Chapter 1
45 **53E-6-1003**, as renumbered and amended by Laws of Utah 2018, Chapter 1
46 **53E-6-1004**, as renumbered and amended by Laws of Utah 2018, Chapter 1
47 **53E-6-1005**, as renumbered and amended by Laws of Utah 2018, Chapter 1
48 **53E-6-1006**, as renumbered and amended by Laws of Utah 2018, Chapter 1
49 **53E-6-1007**, as renumbered and amended by Laws of Utah 2018, Chapter 1
50 **53E-6-1008**, as renumbered and amended by Laws of Utah 2018, Chapter 1
51 **53E-6-1009**, as renumbered and amended by Laws of Utah 2018, Chapter 1
52 **53E-6-1010**, as renumbered and amended by Laws of Utah 2018, Chapter 1
53 **53E-6-1011**, as renumbered and amended by Laws of Utah 2018, Chapter 1
54 **53E-10-601**, as renumbered and amended by Laws of Utah 2018, Chapter 1
55 **53E-10-602**, as renumbered and amended by Laws of Utah 2018, Chapter 1
56 **53E-10-603**, as renumbered and amended by Laws of Utah 2018, Chapter 1
57 **53E-10-604**, as renumbered and amended by Laws of Utah 2018, Chapter 1
58 **53E-10-605**, as renumbered and amended by Laws of Utah 2018, Chapter 1

- 59 **53E-10-606**, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 60 **53E-10-607**, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 61 **53E-10-608**, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 62 **53E-10-609**, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 63 **53F-2-313**, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 64 **53F-2-413**, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 65 **53F-2-517**, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 66 **53F-2-518**, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 67 **53F-4-206**, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 68 **53F-4-301.5**, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 69 **53F-5-208**, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 70 **53F-6-202**, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 71 **53G-3-103**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 72 **53G-4-1001.5**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 73 **53G-11-501.5**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 74 **63N-3-110**, as renumbered and amended by Laws of Utah 2015, Chapter 283

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

77 Section 1. Section **53B-10-101** is amended to read:

78 **53B-10-101. Terrel H. Bell Teaching Incentive Loans program -- Eligible**
79 **students -- Cancellation of incentive loans -- Repayment by recipient who fails to meet**
80 **requirements -- Duration of incentive loans.**

81 (1) (a) A Terrel H. Bell Teaching Incentive Loans program is established to recruit and
82 train superior candidates for teaching in Utah's public school system as a component of the
83 teacher quality continuum referred to in [~~Subsections~~] Subsection 53A-1a-104(7) [~~and~~
84 ~~53A-6-102(2)(a)~~].

85 (b) Under the program, the incentive loans may be used in any of Utah's state-operated
86 institutions of higher education or at a private institution of higher education in Utah that offers
87 a state-approved teacher education program.

88 (2) (a) The State Board of Regents shall award the incentive loans to college students
89 who have been admitted to, or have made application to and are prepared to enter into, a

90 program preparing students for licensure and who declare an intent to complete the prescribed
91 course of instruction and to teach in this state in accordance with the priorities described under
92 Subsection (5)(c).

93 (b) The incentive loan may be canceled at any time by the institution of attendance if:

94 (i) the student fails to make reasonable progress towards completion of licensing
95 requirements; or

96 (ii) it appears to be a reasonable certainty that the student does not intend to teach in
97 Utah.

98 (c) The State Board of Regents may grant leaves of absence to incentive loan holders.

99 (3) The State Board of Regents may require an incentive loan recipient who fails to
100 complete the requirements for licensing without good cause to repay all tuition and fees
101 provided by the loan, together with appropriate interest.

102 (4) (a) The State Board of Regents may require an incentive loan recipient who does
103 not work in the state's public school system or a private school within the state within two years
104 after graduation to repay all tuition and fees provided by the loan, together with appropriate
105 interest, unless waived for good cause.

106 (b) (i) A recipient who does not teach for a term equal to the number of years of the
107 incentive loan within a reasonable period of time after graduation shall repay a graduated
108 portion of the tuition and fees based upon the uncompleted term.

109 (ii) One year of teaching is credit for one year's tuition and fees.

110 (c) All repayments made under this Subsection (4) are for use in the Terrel H. Bell
111 Teaching Incentive Loans program.

112 (5) (a) Each incentive loan is valid for up to four years of full-time equivalent
113 enrollment, or until requirements for licensing or advanced licensing have been met, whichever
114 is less.

115 (b) (i) Incentive loans apply to both tuition and fees in amounts and are subject to
116 conditions approved by the State Board of Regents, based upon criteria developed to insure that
117 all recipients of the loans will pursue an education career within the state.

118 (ii) An incentive loan for tuition and fees at a private institution may not exceed the
119 average scholarship amounts granted for tuition and fees at public institutions of higher
120 education within the state.

121 (c) Incentive loans shall be awarded in accordance with prioritized critical areas of
122 need for teaching expertise within the state, as determined by the State Board of Education's
123 criticality index and school district priorities based upon data provided by the school district,
124 and may include preparing persons as:

- 125 (i) a special education teacher;
- 126 (ii) a speech or language pathologist; or
- 127 (iii) another licensed professional providing services in the public schools to pupils
128 with disabilities.

129 Section 2. Section **53E-3-502** is amended to read:

130 **53E-3-502. State Board of Education assistance to districts and schools.**

131 In order to assist school districts and individual schools in acquiring and maintaining
132 the characteristics set forth in Section **53E-2-302**, the State Board of Education shall:

- 133 (1) provide the framework for an education system, including core competency
134 standards and their assessment, in which school districts and public schools permit students to
135 advance by demonstrating competency in subject matter and mastery of skills;
- 136 (2) conduct a statewide public awareness program on competency-based educational
137 systems;
- 138 (3) compile and publish, for the state as a whole, a set of educational performance
139 indicators describing trends in student performance;
- 140 (4) promote a public education climate of high expectations and academic excellence;
- 141 (5) disseminate successful site-based decision-making models to districts and schools
142 and provide teacher professional development opportunities and evaluation programs for
143 site-based plans consistent with ~~[Subsections]~~ Subsection 53E-2-302(7) ~~[and 53E-6-103(2)(a)~~
144 ~~and (b)]~~;
- 145 (6) provide a mechanism for widespread dissemination of information about strategic
146 planning for public education, including involvement of business and industry in the education
147 process, in order to ensure the understanding and support of all the individuals and groups
148 concerned with the mission of public education as outlined in Section **53E-2-301**;
- 149 (7) provide for a research and development clearing house at the state level to receive
150 and share with school districts and public schools information on effective and innovative
151 practices and programs in education;

152 (8) help school districts develop and implement guidelines, strategies, and professional
153 development programs for administrators and teachers consistent with [Subsections]
154 Subsection 53E-2-302(7) [~~and 53E-6-103(2)(a) and (b)~~] focused on improving interaction with
155 parents and promoting greater parental involvement in the public schools; and

156 (9) in concert with the State Board of Regents and the state's colleges of education
157 review and revise teacher licensing requirements to be consistent with teacher preparation for
158 participation in personalized education programs within the public schools.

159 Section 3. Section **53F-2-516** is amended to read:

160 **53F-2-516. Critical Languages Program -- Pilot.**

161 (1) (a) As used in this section, "critical languages" means those languages described in
162 the federal National Security Language Initiative, including Chinese, Arabic, Russian, Farsi,
163 Hindi, and Korean.

164 (b) The Legislature recognizes:

165 (i) the importance of students acquiring skills in foreign languages in order for them to
166 successfully compete in a global society; and

167 (ii) the academic, societal, and economic development benefits of the acquisition of
168 critical languages.

169 (2) (a) The State Board of Education, in consultation with the Utah Education and
170 Telehealth Network, shall develop and implement courses of study in the critical languages.

171 (b) A course may be taught:

172 (i) over the state's two-way interactive video conferencing system for video and audio,
173 to students in the state's public education system;

174 [~~(ii) through the Electronic High School;~~]

175 [(iii)] (ii) through traditional instruction; or

176 [(iv)] (iii) by visiting guest teachers.

177 (3) (a) The courses authorized in Subsection (2) may use paraprofessionals in the
178 classroom who:

179 (i) are fluent in the critical language being taught; and

180 (ii) can provide reinforcement and tutoring to students on days and at times when they
181 are not receiving instruction under Subsection (2)(b).

182 (b) The State Board of Education, through the state superintendent of public

183 instruction, shall ensure that the paraprofessionals are fluent in the critical languages.

184 (4) The State Board of Education shall make rules on the critical languages courses
185 authorized under this section in accordance with Title 63G, Chapter 3, Utah Administrative
186 Rulemaking Act, to include:

- 187 (a) notification to school districts on the times and places of the course offerings; and
- 188 (b) instructional materials for the courses.

189 (5) The State Board of Education shall track and monitor the Critical Languages
190 Program and may expand the program to include more course offerings and other critical
191 languages, subject to student demand for the courses and available resources.

192 (6) (a) Subject to funding for the program, the State Board of Education shall establish
193 a pilot program for school districts and schools to initially participate in the Critical Languages
194 Program that provides:

195 (i) up to \$6,000 per language per school, for up to 60 schools, for courses offered in
196 critical languages;

197 (ii) up to \$100 per student who completes a critical languages course; and

198 (iii) up to an additional \$400 per foreign exchange student who completes a critical
199 languages course.

200 (b) If the available funding is insufficient to provide the amounts described under
201 Subsection (6)(a), the amounts provided shall be reduced pro rata so that the total provided
202 does not exceed the available funding.

203 Section 4. Section **53G-5-405** is amended to read:

204 **53G-5-405. Application of statutes and rules to charter schools.**

205 (1) A charter school shall operate in accordance with its charter and is subject to this
206 public education code and other state laws applicable to public schools, except as otherwise
207 provided in this chapter and other related provisions.

208 (2) (a) Except as provided in Subsection (2)(b), State Board of Education rules
209 governing the following do not apply to a charter school:

210 (i) school libraries;

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

212 (iii) required expenditures for instructional supplies.

213 (b) A charter school shall comply with rules implementing statutes that prescribe how

214 state appropriations may be spent.

215 (3) The following provisions of this public education code, and rules adopted under
216 those provisions, do not apply to a charter school:

217 (a) Sections [53G-7-1202](#) and [53G-7-1204](#), requiring the establishment of a school
218 community council and school improvement plan;

219 (b) Section [53G-4-409](#), requiring the use of activity disclosure statements;

220 (c) Section [53G-7-606](#), requiring notification of intent to dispose of textbooks;

221 (d) Section [53G-10-404](#), requiring annual presentations on adoption; and

222 (e) Sections [53G-7-304](#) and [53G-7-306](#) pertaining to fiscal procedures of school
223 districts and local school boards~~;~~ and].

224 [~~(f) Section [53E-4-408](#), requiring an independent evaluation of instructional materials.~~]

225 (4) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter
226 school is considered an educational procurement unit as defined in Section [63G-6a-103](#).

227 (5) Each charter school shall be subject to:

228 (a) Title 52, Chapter 4, Open and Public Meetings Act; and

229 (b) Title 63G, Chapter 2, Government Records Access and Management Act.

230 (6) A charter school is exempt from Section [51-2a-201.5](#), requiring accounting reports
231 of certain nonprofit corporations. A charter school is subject to the requirements of Section
232 [53G-5-404](#).

233 (7) (a) The State Charter School Board shall, in concert with the charter schools, study
234 existing state law and administrative rules for the purpose of determining from which laws and
235 rules charter schools should be exempt.

236 (b) (i) The State Charter School Board shall present recommendations for exemption to
237 the State Board of Education for consideration.

238 (ii) The State Board of Education shall consider the recommendations of the State
239 Charter School Board and respond within 60 days.

240 Section 5. Section [53G-9-802](#) is amended to read:

241 **53G-9-802. Dropout prevention and recovery -- Flexible enrollment options --**

242 **Contracting -- Reporting.**

243 (1) (a) Subject to Subsection (1)(b), an LEA shall provide dropout prevention and
244 recovery services to a designated student, including:

- 245 (i) engaging with or attempting to recover a designated student;
- 246 (ii) developing a learning plan, in consultation with a designated student, to identify:
- 247 (A) barriers to regular school attendance and achievement;
- 248 (B) an attainment goal; and
- 249 (C) a means for achieving the attainment goal through enrollment in one or more of the
- 250 programs described in Subsection (2);
- 251 (iii) monitoring a designated student's progress toward reaching the designated
- 252 student's attainment goal; and
- 253 (iv) providing tiered interventions for a designated student who is not making progress
- 254 toward reaching the student's attainment goal.
- 255 (b) An LEA shall provide the dropout prevention and recovery services described in
- 256 Subsection (1)(a):
- 257 (i) throughout the calendar year; and
- 258 (ii) except as provided in Subsection (1)(c)(i), for each designated student who
- 259 becomes a designated student while enrolled in the LEA.
- 260 (c) (i) A designated student's school district of residence shall provide dropout recovery
- 261 services if the designated student:
- 262 (A) was enrolled in a charter school that does not include grade 12; and
- 263 (B) becomes a designated student in the summer after the student completes academic
- 264 instruction at the charter school through the maximum grade level the charter school is eligible
- 265 to serve under the charter school's charter agreement as described in Section [53G-5-303](#).
- 266 (ii) In accordance with Subsection (1)(c)(iii), a charter school that does not include
- 267 grade 12 shall notify each of the charter school's student's district of residence, as determined
- 268 under Section [53G-6-302](#), when the student completes academic instruction at the charter
- 269 school as described in Subsection (1)(c)(i)(B).
- 270 (iii) The notification described in Subsection (1)(c)(ii) shall include the student's name,
- 271 contact information, and student identification number.
- 272 (2) (a) An LEA shall provide flexible enrollment options for a designated student that:
- 273 (i) are tailored to the designated student's learning plan developed under Subsection
- 274 (1)(a)(ii); and
- 275 (ii) include two or more of the following:

- 276 (A) enrollment in the LEA in a traditional program;
- 277 (B) enrollment in the LEA in a nontraditional program;
- 278 (C) enrollment in a program offered by a private provider that has entered into a
- 279 contract with the LEA to provide educational services; or
- 280 (D) enrollment in a program offered by another LEA.
- 281 (b) A designated student may enroll in:
- 282 (i) a program offered by the LEA under Subsection (2)(a), in accordance with this
- 283 public education code, rules established by the State Board of Education, and policies
- 284 established by the LEA; or
- 285 [~~(ii) the Electronic High School, in accordance with Title 53E, Chapter 10, Part 6,~~
- 286 ~~Electronic High School; or]~~
- 287 [(~~iii~~) (ii) the Statewide Online Education Program, in accordance with Title 53F,
- 288 Chapter 4, Part 5, Statewide Online Education Program.
- 289 (c) An LEA shall make the LEA's best effort to accommodate a designated student's
- 290 choice of enrollment under Subsection (2)(b).
- 291 (3) Beginning with the 2017-18 school year and except as provided in Subsection (4),
- 292 an LEA shall enter into a contract with a third party to provide the dropout prevention and
- 293 recovery services described in Subsection (1)(a) for any school year in which the LEA meets
- 294 the following criteria:
- 295 (a) the LEA's graduation rate is lower than the statewide graduation rate; and
- 296 (b) (i) the LEA's graduation rate has not increased by at least 1% on average over the
- 297 previous three school years; or
- 298 (ii) during the previous calendar year, at least 10% of the LEA's designated students
- 299 have not:
- 300 (A) reached the students' attainment goals; or
- 301 (B) made a year's worth of progress toward the students' attainment goals.
- 302 (4) An LEA that is in the LEA's first three years of operation is not subject to the
- 303 requirement described in Subsection (3).
- 304 (5) An LEA described in Subsection (3) shall ensure that:
- 305 (a) a third party with whom the LEA enters into a contract under Subsection (3) has a
- 306 demonstrated record of effectiveness engaging with and recovering designated students; and

307 (b) a contract with a third party requires the third party to:

308 (i) provide the services described in Subsection (1)(a); and

309 (ii) regularly report progress to the LEA.

310 (6) An LEA shall annually submit a report to the State Board of Education on dropout
311 prevention and recovery services provided under this section, including:

312 (a) the methods the LEA or third party uses to engage with or attempt to recover
313 designated students under Subsection (1)(a)(i);

314 (b) the number of designated students who enroll in a program described in Subsection
315 (2) as a result of the efforts described in Subsection (6)(a);

316 (c) the number of designated students who reach the designated students' attainment
317 goals identified under Subsection (1)(a)(ii)(B); and

318 (d) funding allocated to provide dropout prevention and recovery services.

319 (7) The State Board of Education shall:

320 (a) ensure that an LEA described in Subsection (3) contracts with a third party to
321 provide dropout prevention and recovery services in accordance with Subsections (3) and (5);
322 and

323 (b) on or before October 30, 2017, and each year thereafter, report to the Education
324 Interim Committee on the provisions of this section, including a summary of the reports
325 submitted under Subsection (6).

326 Section 6. Section 53G-10-503 is amended to read:

327 **53G-10-503. Driver education funding -- Reimbursement of school districts for**
328 **driver education class expenses -- Limitations -- Excess funds -- Student fees.**

329 (1) (a) Except as provided in Subsection (1)(b), a school district that provides driver
330 education shall fund the program solely through:

331 (i) funds provided from the Automobile Driver Education Tax Account in the Uniform
332 School Fund as created under Section 41-1a-1205; and

333 (ii) student fees collected by each school.

334 (b) In determining the cost of driver education, a school district may exclude:

335 (i) the full-time equivalent cost of a teacher for a driver education class taught during
336 regular school hours; and

337 (ii) classroom space and classroom maintenance.

338 (c) A school district may not use any additional school funds beyond those allowed
339 under Subsection (1)(b) to subsidize driver education.

340 (2) (a) The state superintendent of public instruction shall, prior to September 2nd
341 following the school year during which it was expended, or may at earlier intervals during that
342 school year, reimburse each school district that applied for reimbursement in accordance with
343 this section.

344 (b) A school district that maintains driver education classes that conform to this part
345 and the rules prescribed by the board may apply for reimbursement for the actual cost of
346 providing the behind-the-wheel and observation training incidental to those classes.

347 (3) Under the state board's supervision for driver education, a school district may:

348 (a) employ personnel who are not licensed by the board under Section 53E-6-201; or

349 (b) contract with private parties or agencies licensed under Section 53-3-504 for the
350 behind-the-wheel phase of the driver education program.

351 (4) The reimbursement amount shall be paid out of the Automobile Driver Education
352 Tax Account in the Uniform School Fund and may not exceed:

353 (a) \$100 per student who has completed driver education during the school year;

354 (b) \$30 per student who has only completed the classroom portion in the school [~~or~~
355 ~~through the electronic high school~~] during the school year; or

356 (c) \$70 per student who has only completed the behind-the-wheel and observation
357 portion in the school during the school year.

358 (5) If the amount of money in the account at the end of a school year is less than the
359 total of the reimbursable costs, the state superintendent of public instruction shall allocate the
360 money to each school district in the same proportion that its reimbursable costs bear to the total
361 reimbursable costs of all school districts.

362 (6) If the amount of money in the account at the end of any school year is more than the
363 total of the reimbursement costs provided under Subsection (4), the superintendent may
364 allocate the excess funds to school districts:

365 (a) to reimburse each school district that applies for reimbursement of the cost of a fee
366 waived under Section 53G-7-504 for driver education; and

367 (b) to aid in the procurement of equipment and facilities which reduce the cost of
368 behind-the-wheel instruction.

369 (7) A local school board shall establish the student fee for driver education for the
370 school district. Student fees shall be reasonably associated with the costs of driver education
371 that are not otherwise covered by reimbursements and allocations made under this section.

372 Section 7. Section **53G-10-508** is amended to read:

373 **53G-10-508. Programs authorized -- Minimum standards.**

374 (1) Local school districts may:

375 (a) allow students to complete the classroom training portion of driver education
376 through [~~the following programs:~~] home study;

377 [~~(i) home study; or~~]

378 [~~(ii) the electronic high school;~~]

379 (b) provide each parent with driver education instructional materials to assist in parent
380 involvement with driver education including behind-the-wheel driving materials;

381 (c) offer driver education outside of school hours in order to reduce the cost of
382 providing driver education;

383 (d) offer driver education through community education programs;

384 (e) offer the classroom portion of driver education in the public schools and allow the
385 student to complete the behind-the-wheel portion with a private provider:

386 (i) licensed under Section [53-3-504](#); and

387 (ii) not associated with the school or under contract with the school under Subsection
388 [53G-10-503\(3\)](#); or

389 (f) any combination of Subsections (1)(a) through (e).

390 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
391 State Board of Education shall establish minimum standards for the school-related programs
392 under Subsection (1).

393 Section 8. Section **59-12-102** is amended to read:

394 **59-12-102. Definitions.**

395 As used in this chapter:

396 (1) "800 service" means a telecommunications service that:

397 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

398 (b) is typically marketed:

399 (i) under the name 800 toll-free calling;

400 (ii) under the name 855 toll-free calling;
401 (iii) under the name 866 toll-free calling;
402 (iv) under the name 877 toll-free calling;
403 (v) under the name 888 toll-free calling; or
404 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
405 Federal Communications Commission.

406 (2) (a) "900 service" means an inbound toll telecommunications service that:
407 (i) a subscriber purchases;
408 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
409 the subscriber's:

410 (A) prerecorded announcement; or
411 (B) live service; and
412 (iii) is typically marketed:
413 (A) under the name 900 service; or
414 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
415 Communications Commission.

416 (b) "900 service" does not include a charge for:
417 (i) a collection service a seller of a telecommunications service provides to a
418 subscriber; or

419 (ii) the following a subscriber sells to the subscriber's customer:
420 (A) a product; or
421 (B) a service.

422 (3) (a) "Admission or user fees" includes season passes.
423 (b) "Admission or user fees" does not include annual membership dues to private
424 organizations.

425 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
426 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
427 Agreement after November 12, 2002.

428 (5) "Agreement combined tax rate" means the sum of the tax rates:
429 (a) listed under Subsection (6); and
430 (b) that are imposed within a local taxing jurisdiction.

- 431 (6) "Agreement sales and use tax" means a tax imposed under:
- 432 (a) Subsection 59-12-103(2)(a)(i)(A);
- 433 (b) Subsection 59-12-103(2)(b)(i);
- 434 (c) Subsection 59-12-103(2)(c)(i);
- 435 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 436 (e) Section 59-12-204;
- 437 (f) Section 59-12-401;
- 438 (g) Section 59-12-402;
- 439 (h) Section 59-12-402.1;
- 440 (i) Section 59-12-703;
- 441 (j) Section 59-12-802;
- 442 (k) Section 59-12-804;
- 443 (l) Section 59-12-1102;
- 444 (m) Section 59-12-1302;
- 445 (n) Section 59-12-1402;
- 446 (o) Section 59-12-1802;
- 447 (p) Section 59-12-2003;
- 448 (q) Section 59-12-2103;
- 449 (r) Section 59-12-2213;
- 450 (s) Section 59-12-2214;
- 451 (t) Section 59-12-2215;
- 452 (u) Section 59-12-2216;
- 453 (v) Section 59-12-2217;
- 454 (w) Section 59-12-2218; or
- 455 (x) Section 59-12-2219.
- 456 (7) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 457 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 458 (a) except for:
- 459 (i) an airline as defined in Section 59-2-102; or
- 460 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 461 includes a corporation that is qualified to do business but is not otherwise doing business in the

462 state, of an airline; and

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

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

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

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

468 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
469 engine;

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

472 (A) an inspection;

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

474 (C) changing landing gear; and

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

476 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
477 completely apply new paint to the fixed wing turbine powered aircraft; and

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

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

482 (a) is suitable for human consumption; and

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

484 (10) "Alternative energy" means:

485 (a) biomass energy;

486 (b) geothermal energy;

487 (c) hydroelectric energy;

488 (d) solar energy;

489 (e) wind energy; or

490 (f) energy that is derived from:

491 (i) coal-to-liquids;

492 (ii) nuclear fuel;

- 493 (iii) oil-impregnated diatomaceous earth;
- 494 (iv) oil sands;
- 495 (v) oil shale;
- 496 (vi) petroleum coke; or
- 497 (vii) waste heat from:
 - 498 (A) an industrial facility; or
 - 499 (B) a power station in which an electric generator is driven through a process in which
 - 500 water is heated, turns into steam, and spins a steam turbine.

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

- 503 (i) uses alternative energy to produce electricity; and
- 504 (ii) has a production capacity of two megawatts or greater.

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

- 507 (i) connected to an electric grid; or
- 508 (ii) located on the premises of an electricity consumer.

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

511 (b) "Ancillary service" includes:

- 512 (i) a conference bridging service;
- 513 (ii) a detailed communications billing service;
- 514 (iii) directory assistance;
- 515 (iv) a vertical service; or
- 516 (v) a voice mail service.

517 (13) "Area agency on aging" means the same as that term is defined in Section
518 [62A-3-101](#).

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

- 521 (a) who is not the purchaser or renter of the right to use or operate the amusement
522 device, skill device, or ride device; and
- 523 (b) at the direction of the seller of the right to use the amusement device, skill device,

524 or ride device.

525 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
526 washing of tangible personal property if the cleaning or washing labor is primarily performed
527 by an individual:

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

530 (b) at the direction of the seller of the cleaning or washing of the tangible personal
531 property.

532 (16) "Authorized carrier" means:

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

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

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

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

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

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

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

546 (B) animal waste;

547 (C) waste vegetable oil;

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

551 (E) aquatic plants; and

552 (F) agricultural products.

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

554 (i) black liquor; or

- 555 (ii) treated woods.
- 556 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
557 property, products, or services if the tangible personal property, products, or services are:
- 558 (i) distinct and identifiable; and
- 559 (ii) sold for one nonitemized price.
- 560 (b) "Bundled transaction" does not include:
- 561 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
562 the basis of the selection by the purchaser of the items of tangible personal property included in
563 the transaction;
- 564 (ii) the sale of real property;
- 565 (iii) the sale of services to real property;
- 566 (iv) the retail sale of tangible personal property and a service if:
- 567 (A) the tangible personal property:
- 568 (I) is essential to the use of the service; and
- 569 (II) is provided exclusively in connection with the service; and
- 570 (B) the service is the true object of the transaction;
- 571 (v) the retail sale of two services if:
- 572 (A) one service is provided that is essential to the use or receipt of a second service;
- 573 (B) the first service is provided exclusively in connection with the second service; and
- 574 (C) the second service is the true object of the transaction;
- 575 (vi) a transaction that includes tangible personal property or a product subject to
576 taxation under this chapter and tangible personal property or a product that is not subject to
577 taxation under this chapter if the:
- 578 (A) seller's purchase price of the tangible personal property or product subject to
579 taxation under this chapter is de minimis; or
- 580 (B) seller's sales price of the tangible personal property or product subject to taxation
581 under this chapter is de minimis; and
- 582 (vii) the retail sale of tangible personal property that is not subject to taxation under
583 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 584 (A) that retail sale includes:
- 585 (I) food and food ingredients;

- 586 (II) a drug;
- 587 (III) durable medical equipment;
- 588 (IV) mobility enhancing equipment;
- 589 (V) an over-the-counter drug;
- 590 (VI) a prosthetic device; or
- 591 (VII) a medical supply; and
- 592 (B) subject to Subsection (18)(f):
- 593 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 594 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 595 (II) the seller's sales price of the tangible personal property subject to taxation under
- 596 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 597 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
- 598 service that is distinct and identifiable does not include:
- 599 (A) packaging that:
- 600 (I) accompanies the sale of the tangible personal property, product, or service; and
- 601 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
- 602 service;
- 603 (B) tangible personal property, a product, or a service provided free of charge with the
- 604 purchase of another item of tangible personal property, a product, or a service; or
- 605 (C) an item of tangible personal property, a product, or a service included in the
- 606 definition of "purchase price."
- 607 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
- 608 product, or a service is provided free of charge with the purchase of another item of tangible
- 609 personal property, a product, or a service if the sales price of the purchased item of tangible
- 610 personal property, product, or service does not vary depending on the inclusion of the tangible
- 611 personal property, product, or service provided free of charge.
- 612 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
- 613 does not include a price that is separately identified by tangible personal property, product, or
- 614 service on the following, regardless of whether the following is in paper format or electronic
- 615 format:
- 616 (A) a binding sales document; or

- 617 (B) another supporting sales-related document that is available to a purchaser.
- 618 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
- 619 supporting sales-related document that is available to a purchaser includes:
 - 620 (A) a bill of sale;
 - 621 (B) a contract;
 - 622 (C) an invoice;
 - 623 (D) a lease agreement;
 - 624 (E) a periodic notice of rates and services;
 - 625 (F) a price list;
 - 626 (G) a rate card;
 - 627 (H) a receipt; or
 - 628 (I) a service agreement.
- 629 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
- 630 property or a product subject to taxation under this chapter is de minimis if:
 - 631 (A) the seller's purchase price of the tangible personal property or product is 10% or
 - 632 less of the seller's total purchase price of the bundled transaction; or
 - 633 (B) the seller's sales price of the tangible personal property or product is 10% or less of
 - 634 the seller's total sales price of the bundled transaction.
- 635 (ii) For purposes of Subsection (18)(b)(vi), a seller:
 - 636 (A) shall use the seller's purchase price or the seller's sales price to determine if the
 - 637 purchase price or sales price of the tangible personal property or product subject to taxation
 - 638 under this chapter is de minimis; and
 - 639 (B) may not use a combination of the seller's purchase price and the seller's sales price
 - 640 to determine if the purchase price or sales price of the tangible personal property or product
 - 641 subject to taxation under this chapter is de minimis.
- 642 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
- 643 contract to determine if the sales price of tangible personal property or a product is de minimis.
- 644 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
- 645 the seller's purchase price and the seller's sales price to determine if tangible personal property
- 646 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
- 647 price of that retail sale.

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

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

652 (i) on a transaction; and

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

654 (b) determines the amount of agreement sales and use tax to remit to a state that is a
655 member of the agreement; and

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

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

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

659 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
660 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
661 own purchases.

662 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
663 suitable for general use.

664 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
665 commission shall make rules:

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

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

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

670 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
671 fuels that does not constitute industrial use under Subsection (56) or residential use under
672 Subsection (106).

673 (24) (a) "Common carrier" means a person engaged in or transacting the business of
674 transporting passengers, freight, merchandise, or other property for hire within this state.

675 (b) (i) "Common carrier" does not include a person who, at the time the person is
676 traveling to or from that person's place of employment, transports a passenger to or from the
677 passenger's place of employment.

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

679 Utah Administrative Rulemaking Act, the commission may make rules defining what
680 constitutes a person's place of employment.

681 (c) "Common carrier" does not include a person that provides transportation network
682 services, as defined in Section 13-51-102.

683 (25) "Component part" includes:

684 (a) poultry, dairy, and other livestock feed, and their components;

685 (b) baling ties and twine used in the baling of hay and straw;

686 (c) fuel used for providing temperature control of orchards and commercial
687 greenhouses doing a majority of their business in wholesale sales, and for providing power for
688 off-highway type farm machinery; and

689 (d) feed, seeds, and seedlings.

690 (26) "Computer" means an electronic device that accepts information:

691 (a) (i) in digital form; or

692 (ii) in a form similar to digital form; and

693 (b) manipulates that information for a result based on a sequence of instructions.

694 (27) "Computer software" means a set of coded instructions designed to cause:

695 (a) a computer to perform a task; or

696 (b) automatic data processing equipment to perform a task.

697 (28) "Computer software maintenance contract" means a contract that obligates a seller
698 of computer software to provide a customer with:

699 (a) future updates or upgrades to computer software;

700 (b) support services with respect to computer software; or

701 (c) a combination of Subsections (28)(a) and (b).

702 (29) (a) "Conference bridging service" means an ancillary service that links two or
703 more participants of an audio conference call or video conference call.

704 (b) "Conference bridging service" may include providing a telephone number as part of
705 the ancillary service described in Subsection (29)(a).

706 (c) "Conference bridging service" does not include a telecommunications service used
707 to reach the ancillary service described in Subsection (29)(a).

708 (30) "Construction materials" means any tangible personal property that will be
709 converted into real property.

710 (31) "Delivered electronically" means delivered to a purchaser by means other than
711 tangible storage media.

712 (32) (a) "Delivery charge" means a charge:

713 (i) by a seller of:

714 (A) tangible personal property;

715 (B) a product transferred electronically; or

716 (C) services; and

717 (ii) for preparation and delivery of the tangible personal property, product transferred
718 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
719 purchaser.

720 (b) "Delivery charge" includes a charge for the following:

721 (i) transportation;

722 (ii) shipping;

723 (iii) postage;

724 (iv) handling;

725 (v) crating; or

726 (vi) packing.

727 (33) "Detailed telecommunications billing service" means an ancillary service of
728 separately stating information pertaining to individual calls on a customer's billing statement.

729 (34) "Dietary supplement" means a product, other than tobacco, that:

730 (a) is intended to supplement the diet;

731 (b) contains one or more of the following dietary ingredients:

732 (i) a vitamin;

733 (ii) a mineral;

734 (iii) an herb or other botanical;

735 (iv) an amino acid;

736 (v) a dietary substance for use by humans to supplement the diet by increasing the total
737 dietary intake; or

738 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
739 described in Subsections (34)(b)(i) through (v);

740 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

- 741 (A) tablet form;
- 742 (B) capsule form;
- 743 (C) powder form;
- 744 (D) softgel form;
- 745 (E) gelcap form; or
- 746 (F) liquid form; or
- 747 (ii) if the product is not intended for ingestion in a form described in Subsections
- 748 (34)(c)(i)(A) through (F), is not represented:
 - 749 (A) as conventional food; and
 - 750 (B) for use as a sole item of:
 - 751 (I) a meal; or
 - 752 (II) the diet; and
 - 753 (d) is required to be labeled as a dietary supplement:
 - 754 (i) identifiable by the "Supplemental Facts" box found on the label; and
 - 755 (ii) as required by 21 C.F.R. Sec. 101.36.
- 756 (35) "Digital audio-visual work" means a series of related images which, when shown
- 757 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 758 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 759 musical, spoken, or other sounds.
 - 760 (b) "Digital audio work" includes a ringtone.
- 761 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
- 762 sense as a book.
- 763 (38) (a) "Direct mail" means printed material delivered or distributed by United States
- 764 mail or other delivery service:
 - 765 (i) to:
 - 766 (A) a mass audience; or
 - 767 (B) addressees on a mailing list provided:
 - 768 (I) by a purchaser of the mailing list; or
 - 769 (II) at the discretion of the purchaser of the mailing list; and
 - 770 (ii) if the cost of the printed material is not billed directly to the recipients.
- 771 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a

772 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

773 (c) "Direct mail" does not include multiple items of printed material delivered to a
774 single address.

775 (39) "Directory assistance" means an ancillary service of providing:

776 (a) address information; or

777 (b) telephone number information.

778 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
779 or supplies that:

780 (i) cannot withstand repeated use; and

781 (ii) are purchased by, for, or on behalf of a person other than:

782 (A) a health care facility as defined in Section 26-21-2;

783 (B) a health care provider as defined in Section 78B-3-403;

784 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

785 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

786 (b) "Disposable home medical equipment or supplies" does not include:

787 (i) a drug;

788 (ii) durable medical equipment;

789 (iii) a hearing aid;

790 (iv) a hearing aid accessory;

791 (v) mobility enhancing equipment; or

792 (vi) tangible personal property used to correct impaired vision, including:

793 (A) eyeglasses; or

794 (B) contact lenses.

795 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
796 commission may by rule define what constitutes medical equipment or supplies.

797 (41) "Drilling equipment manufacturer" means a facility:

798 (a) located in the state;

799 (b) with respect to which 51% or more of the manufacturing activities of the facility
800 consist of manufacturing component parts of drilling equipment;

801 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
802 manufacturing process; and

803 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
804 manufacturing process.

805 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a
806 compound, substance, or preparation that is:

807 (i) recognized in:

808 (A) the official United States Pharmacopoeia;

809 (B) the official Homeopathic Pharmacopoeia of the United States;

810 (C) the official National Formulary; or

811 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);

812 (ii) intended for use in the:

813 (A) diagnosis of disease;

814 (B) cure of disease;

815 (C) mitigation of disease;

816 (D) treatment of disease; or

817 (E) prevention of disease; or

818 (iii) intended to affect:

819 (A) the structure of the body; or

820 (B) any function of the body.

821 (b) "Drug" does not include:

822 (i) food and food ingredients;

823 (ii) a dietary supplement;

824 (iii) an alcoholic beverage; or

825 (iv) a prosthetic device.

826 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
827 equipment that:

828 (i) can withstand repeated use;

829 (ii) is primarily and customarily used to serve a medical purpose;

830 (iii) generally is not useful to a person in the absence of illness or injury; and

831 (iv) is not worn in or on the body.

832 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
833 equipment described in Subsection (43)(a).

834 (c) "Durable medical equipment" does not include mobility enhancing equipment.

835 (44) "Electronic" means:

836 (a) relating to technology; and

837 (b) having:

838 (i) electrical capabilities;

839 (ii) digital capabilities;

840 (iii) magnetic capabilities;

841 (iv) wireless capabilities;

842 (v) optical capabilities;

843 (vi) electromagnetic capabilities; or

844 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).

845 (45) "Electronic financial payment service" means an establishment:

846 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and

847 Clearinghouse Activities, of the 2012 North American Industry Classification System of the

848 federal Executive Office of the President, Office of Management and Budget; and

849 (b) that performs electronic financial payment services.

850 (46) "Employee" means the same as that term is defined in Section [59-10-401](#).

851 (47) "Fixed guideway" means a public transit facility that uses and occupies:

852 (a) rail for the use of public transit; or

853 (b) a separate right-of-way for the use of public transit.

854 (48) "Fixed wing turbine powered aircraft" means an aircraft that:

855 (a) is powered by turbine engines;

856 (b) operates on jet fuel; and

857 (c) has wings that are permanently attached to the fuselage of the aircraft.

858 (49) "Fixed wireless service" means a telecommunications service that provides radio

859 communication between fixed points.

860 (50) (a) "Food and food ingredients" means substances:

861 (i) regardless of whether the substances are in:

862 (A) liquid form;

863 (B) concentrated form;

864 (C) solid form;

- 865 (D) frozen form;
- 866 (E) dried form; or
- 867 (F) dehydrated form; and
- 868 (ii) that are:
- 869 (A) sold for:
- 870 (I) ingestion by humans; or
- 871 (II) chewing by humans; and
- 872 (B) consumed for the substance's:
- 873 (I) taste; or
- 874 (II) nutritional value.
- 875 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
- 876 (c) "Food and food ingredients" does not include:
- 877 (i) an alcoholic beverage;
- 878 (ii) tobacco; or
- 879 (iii) prepared food.
- 880 (51) (a) "Fundraising sales" means sales:
- 881 (i) (A) made by a school; or
- 882 (B) made by a school student;
- 883 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 884 materials, or provide transportation; and
- 885 (iii) that are part of an officially sanctioned school activity.
- 886 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"
- 887 means a school activity:
- 888 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 889 district governing the authorization and supervision of fundraising activities;
- 890 (ii) that does not directly or indirectly compensate an individual teacher or other
- 891 educational personnel by direct payment, commissions, or payment in kind; and
- 892 (iii) the net or gross revenues from which are deposited in a dedicated account
- 893 controlled by the school or school district.
- 894 (52) "Geothermal energy" means energy contained in heat that continuously flows
- 895 outward from the earth that is used as the sole source of energy to produce electricity.

896 (53) "Governing board of the agreement" means the governing board of the agreement
897 that is:

- 898 (a) authorized to administer the agreement; and
- 899 (b) established in accordance with the agreement.

900 (54) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

- 901 (i) the executive branch of the state, including all departments, institutions, boards,
902 divisions, bureaus, offices, commissions, and committees;
- 903 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
904 Office of the Court Administrator, and similar administrative units in the judicial branch;
- 905 (iii) the legislative branch of the state, including the House of Representatives, the
906 Senate, the Legislative Printing Office, the Office of Legislative Research and General
907 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
908 Analyst;
- 909 (iv) the National Guard;
- 910 (v) an independent entity as defined in Section 63E-1-102; or
- 911 (vi) a political subdivision as defined in Section 17B-1-102.

912 (b) "Governmental entity" does not include the state systems of public and higher
913 education, including:

- 914 (i) a school;
- 915 (ii) the State Board of Education;
- 916 (iii) the State Board of Regents; or
- 917 (iv) an institution of higher education described in Section 53B-1-102.

918 (55) "Hydroelectric energy" means water used as the sole source of energy to produce
919 electricity.

920 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
921 other fuels:

- 922 (a) in mining or extraction of minerals;
- 923 (b) in agricultural operations to produce an agricultural product up to the time of
924 harvest or placing the agricultural product into a storage facility, including:
 - 925 (i) commercial greenhouses;
 - 926 (ii) irrigation pumps;

- 927 (iii) farm machinery;
- 928 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
- 929 under Title 41, Chapter 1a, Part 2, Registration; and
- 930 (v) other farming activities;
- 931 (c) in manufacturing tangible personal property at an establishment described in SIC
- 932 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 933 Executive Office of the President, Office of Management and Budget;
- 934 (d) by a scrap recycler if:
- 935 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 936 one or more of the following items into prepared grades of processed materials for use in new
- 937 products:
- 938 (A) iron;
- 939 (B) steel;
- 940 (C) nonferrous metal;
- 941 (D) paper;
- 942 (E) glass;
- 943 (F) plastic;
- 944 (G) textile; or
- 945 (H) rubber; and
- 946 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with
- 947 nonrecycled materials; or
- 948 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 949 cogeneration facility as defined in Section 54-2-1.
- 950 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge
- 951 for installing:
- 952 (i) tangible personal property; or
- 953 (ii) a product transferred electronically.
- 954 (b) "Installation charge" does not include a charge for:
- 955 (i) repairs or renovations of:
- 956 (A) tangible personal property; or
- 957 (B) a product transferred electronically; or

- 958 (ii) attaching tangible personal property or a product transferred electronically:
- 959 (A) to other tangible personal property; and
- 960 (B) as part of a manufacturing or fabrication process.
- 961 (58) "Institution of higher education" means an institution of higher education listed in
- 962 Section 53B-2-101.
- 963 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 964 personal property or a product transferred electronically for:
- 965 (i) (A) a fixed term; or
- 966 (B) an indeterminate term; and
- 967 (ii) consideration.
- 968 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 969 amount of consideration may be increased or decreased by reference to the amount realized
- 970 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 971 Code.
- 972 (c) "Lease" or "rental" does not include:
- 973 (i) a transfer of possession or control of property under a security agreement or
- 974 deferred payment plan that requires the transfer of title upon completion of the required
- 975 payments;
- 976 (ii) a transfer of possession or control of property under an agreement that requires the
- 977 transfer of title:
- 978 (A) upon completion of required payments; and
- 979 (B) if the payment of an option price does not exceed the greater of:
- 980 (I) \$100; or
- 981 (II) 1% of the total required payments; or
- 982 (iii) providing tangible personal property along with an operator for a fixed period of
- 983 time or an indeterminate period of time if the operator is necessary for equipment to perform as
- 984 designed.
- 985 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to
- 986 perform as designed if the operator's duties exceed the:
- 987 (i) set-up of tangible personal property;
- 988 (ii) maintenance of tangible personal property; or

989 (iii) inspection of tangible personal property.

990 (60) "Life science establishment" means an establishment in this state that is classified
991 under the following NAICS codes of the 2007 North American Industry Classification System
992 of the federal Executive Office of the President, Office of Management and Budget:

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

994 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
995 Manufacturing; or

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

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

1000 (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media
1001 if the tangible storage media is not physically transferred to the purchaser.

1002 (63) "Local taxing jurisdiction" means a:

1003 (a) county that is authorized to impose an agreement sales and use tax;

1004 (b) city that is authorized to impose an agreement sales and use tax; or

1005 (c) town that is authorized to impose an agreement sales and use tax.

1006 (64) "Manufactured home" means the same as that term is defined in Section
1007 [15A-1-302](#).

1008 (65) "Manufacturing facility" means:

1009 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
1010 Industrial Classification Manual of the federal Executive Office of the President, Office of
1011 Management and Budget;

1012 (b) a scrap recycler if:

1013 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1014 one or more of the following items into prepared grades of processed materials for use in new
1015 products:

1016 (A) iron;

1017 (B) steel;

1018 (C) nonferrous metal;

1019 (D) paper;

- 1020 (E) glass;
- 1021 (F) plastic;
- 1022 (G) textile; or
- 1023 (H) rubber; and
- 1024 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with
- 1025 nonrecycled materials; or
- 1026 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
- 1027 placed in service on or after May 1, 2006.
- 1028 (66) "Member of the immediate family of the producer" means a person who is related
- 1029 to a producer described in Subsection 59-12-104(20)(a) as a:
- 1030 (a) child or stepchild, regardless of whether the child or stepchild is:
- 1031 (i) an adopted child or adopted stepchild; or
- 1032 (ii) a foster child or foster stepchild;
- 1033 (b) grandchild or stepgrandchild;
- 1034 (c) grandparent or stepgrandparent;
- 1035 (d) nephew or stepnephew;
- 1036 (e) niece or stepniece;
- 1037 (f) parent or stepparent;
- 1038 (g) sibling or stepsibling;
- 1039 (h) spouse;
- 1040 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);
- 1041 or
- 1042 (j) person similar to a person described in Subsections (66)(a) through (i) as
- 1043 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 1044 Administrative Rulemaking Act.
- 1045 (67) "Mobile home" means the same as that term is defined in Section 15A-1-302.
- 1046 (68) "Mobile telecommunications service" is as defined in the Mobile
- 1047 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 1048 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of
- 1049 the technology used, if:
- 1050 (i) the origination point of the conveyance, routing, or transmission is not fixed;

1051 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
1052 (iii) the origination point described in Subsection (69)(a)(i) and the termination point
1053 described in Subsection (69)(a)(ii) are not fixed.

1054 (b) "Mobile wireless service" includes a telecommunications service that is provided
1055 by a commercial mobile radio service provider.

1056 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1057 commission may by rule define "commercial mobile radio service provider."

1058 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment"
1059 means equipment that is:

1060 (i) primarily and customarily used to provide or increase the ability to move from one
1061 place to another;

1062 (ii) appropriate for use in a:

1063 (A) home; or

1064 (B) motor vehicle; and

1065 (iii) not generally used by persons with normal mobility.

1066 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
1067 the equipment described in Subsection (70)(a).

1068 (c) "Mobility enhancing equipment" does not include:

1069 (i) a motor vehicle;

1070 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
1071 vehicle manufacturer;

1072 (iii) durable medical equipment; or

1073 (iv) a prosthetic device.

1074 (71) "Model 1 seller" means a seller registered under the agreement that has selected a
1075 certified service provider as the seller's agent to perform all of the seller's sales and use tax
1076 functions for agreement sales and use taxes other than the seller's obligation under Section
1077 [59-12-124](#) to remit a tax on the seller's own purchases.

1078 (72) "Model 2 seller" means a seller registered under the agreement that:

1079 (a) except as provided in Subsection (72)(b), has selected a certified automated system
1080 to perform the seller's sales tax functions for agreement sales and use taxes; and

1081 (b) retains responsibility for remitting all of the sales tax:

1082 (i) collected by the seller; and
1083 (ii) to the appropriate local taxing jurisdiction.

1084 (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under
1085 the agreement that has:

- 1086 (i) sales in at least five states that are members of the agreement;
- 1087 (ii) total annual sales revenues of at least \$500,000,000;
- 1088 (iii) a proprietary system that calculates the amount of tax:
 - 1089 (A) for an agreement sales and use tax; and
 - 1090 (B) due to each local taxing jurisdiction; and
- 1091 (iv) entered into a performance agreement with the governing board of the agreement.

1092 (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of
1093 sellers using the same proprietary system.

1094 (74) "Model 4 seller" means a seller that is registered under the agreement and is not a
1095 model 1 seller, model 2 seller, or model 3 seller.

1096 (75) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

1097 (76) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

1098 (77) "Oil sands" means impregnated bituminous sands that:

1099 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
1100 other hydrocarbons, or otherwise treated;

1101 (b) yield mixtures of liquid hydrocarbon; and

1102 (c) require further processing other than mechanical blending before becoming finished
1103 petroleum products.

1104 (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen
1105 material that yields petroleum upon heating and distillation.

1106 (79) "Optional computer software maintenance contract" means a computer software
1107 maintenance contract that a customer is not obligated to purchase as a condition to the retail
1108 sale of computer software.

1109 (80) (a) "Other fuels" means products that burn independently to produce heat or
1110 energy.

1111 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
1112 personal property.

- 1113 (81) (a) "Paging service" means a telecommunications service that provides
1114 transmission of a coded radio signal for the purpose of activating a specific pager.
- 1115 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal
1116 includes a transmission by message or sound.
- 1117 (82) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.
- 1118 (83) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.
- 1119 (84) (a) "Permanently attached to real property" means that for tangible personal
1120 property attached to real property:
- 1121 (i) the attachment of the tangible personal property to the real property:
1122 (A) is essential to the use of the tangible personal property; and
1123 (B) suggests that the tangible personal property will remain attached to the real
1124 property in the same place over the useful life of the tangible personal property; or
1125 (ii) if the tangible personal property is detached from the real property, the detachment
1126 would:
1127 (A) cause substantial damage to the tangible personal property; or
1128 (B) require substantial alteration or repair of the real property to which the tangible
1129 personal property is attached.
- 1130 (b) "Permanently attached to real property" includes:
1131 (i) the attachment of an accessory to the tangible personal property if the accessory is:
1132 (A) essential to the operation of the tangible personal property; and
1133 (B) attached only to facilitate the operation of the tangible personal property;
1134 (ii) a temporary detachment of tangible personal property from real property for a
1135 repair or renovation if the repair or renovation is performed where the tangible personal
1136 property and real property are located; or
1137 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
1138 Subsection (84)(c)(iii) or (iv).
- 1139 (c) "Permanently attached to real property" does not include:
1140 (i) the attachment of portable or movable tangible personal property to real property if
1141 that portable or movable tangible personal property is attached to real property only for:
1142 (A) convenience;
1143 (B) stability; or

- 1144 (C) for an obvious temporary purpose;
- 1145 (ii) the detachment of tangible personal property from real property except for the
- 1146 detachment described in Subsection (84)(b)(ii);
- 1147 (iii) an attachment of the following tangible personal property to real property if the
- 1148 attachment to real property is only through a line that supplies water, electricity, gas,
- 1149 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 1150 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 1151 (A) a computer;
- 1152 (B) a telephone;
- 1153 (C) a television; or
- 1154 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as
- 1155 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 1156 Administrative Rulemaking Act; or
- 1157 (iv) an item listed in Subsection (125)(c).
- 1158 (85) "Person" includes any individual, firm, partnership, joint venture, association,
- 1159 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
- 1160 municipality, district, or other local governmental entity of the state, or any group or
- 1161 combination acting as a unit.
- 1162 (86) "Place of primary use":
- 1163 (a) for telecommunications service other than mobile telecommunications service,
- 1164 means the street address representative of where the customer's use of the telecommunications
- 1165 service primarily occurs, which shall be:
- 1166 (i) the residential street address of the customer; or
- 1167 (ii) the primary business street address of the customer; or
- 1168 (b) for mobile telecommunications service, is as defined in the Mobile
- 1169 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 1170 (87) (a) "Postpaid calling service" means a telecommunications service a person
- 1171 obtains by making a payment on a call-by-call basis:
- 1172 (i) through the use of a:
- 1173 (A) bank card;
- 1174 (B) credit card;

- 1175 (C) debit card; or
- 1176 (D) travel card; or
- 1177 (ii) by a charge made to a telephone number that is not associated with the origination
- 1178 or termination of the telecommunications service.
- 1179 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
- 1180 service, that would be a prepaid wireless calling service if the service were exclusively a
- 1181 telecommunications service.
- 1182 (88) "Postproduction" means an activity related to the finishing or duplication of a
- 1183 medium described in Subsection [59-12-104\(54\)\(a\)](#).
- 1184 (89) "Prepaid calling service" means a telecommunications service:
- 1185 (a) that allows a purchaser access to telecommunications service that is exclusively
- 1186 telecommunications service;
- 1187 (b) that:
- 1188 (i) is paid for in advance; and
- 1189 (ii) enables the origination of a call using an:
- 1190 (A) access number; or
- 1191 (B) authorization code;
- 1192 (c) that is dialed:
- 1193 (i) manually; or
- 1194 (ii) electronically; and
- 1195 (d) sold in predetermined units or dollars that decline:
- 1196 (i) by a known amount; and
- 1197 (ii) with use.
- 1198 (90) "Prepaid wireless calling service" means a telecommunications service:
- 1199 (a) that provides the right to utilize:
- 1200 (i) mobile wireless service; and
- 1201 (ii) other service that is not a telecommunications service, including:
- 1202 (A) the download of a product transferred electronically;
- 1203 (B) a content service; or
- 1204 (C) an ancillary service;
- 1205 (b) that:

- 1206 (i) is paid for in advance; and
- 1207 (ii) enables the origination of a call using an:
 - 1208 (A) access number; or
 - 1209 (B) authorization code;
- 1210 (c) that is dialed:
 - 1211 (i) manually; or
 - 1212 (ii) electronically; and
- 1213 (d) sold in predetermined units or dollars that decline:
 - 1214 (i) by a known amount; and
 - 1215 (ii) with use.
- 1216 (91) (a) "Prepared food" means:
 - 1217 (i) food:
 - 1218 (A) sold in a heated state; or
 - 1219 (B) heated by a seller;
 - 1220 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
 - 1221 item; or
 - 1222 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
 - 1223 by the seller, including a:
 - 1224 (A) plate;
 - 1225 (B) knife;
 - 1226 (C) fork;
 - 1227 (D) spoon;
 - 1228 (E) glass;
 - 1229 (F) cup;
 - 1230 (G) napkin; or
 - 1231 (H) straw.
- 1232 (b) "Prepared food" does not include:
 - 1233 (i) food that a seller only:
 - 1234 (A) cuts;
 - 1235 (B) repackages; or
 - 1236 (C) pasteurizes; or

- 1237 (ii) (A) the following:
- 1238 (I) raw egg;
- 1239 (II) raw fish;
- 1240 (III) raw meat;
- 1241 (IV) raw poultry; or
- 1242 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
- 1243 and
- 1244 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1245 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1246 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
- 1247 (iii) the following if sold without eating utensils provided by the seller:
- 1248 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1249 classification under the 2002 North American Industry Classification System of the federal
- 1250 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1251 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1252 Manufacturing;
- 1253 (B) food and food ingredients sold in an unheated state:
- 1254 (I) by weight or volume; and
- 1255 (II) as a single item; or
- 1256 (C) a bakery item, including:
- 1257 (I) a bagel;
- 1258 (II) a bar;
- 1259 (III) a biscuit;
- 1260 (IV) bread;
- 1261 (V) a bun;
- 1262 (VI) a cake;
- 1263 (VII) a cookie;
- 1264 (VIII) a croissant;
- 1265 (IX) a danish;
- 1266 (X) a donut;
- 1267 (XI) a muffin;

- 1268 (XII) a pastry;
- 1269 (XIII) a pie;
- 1270 (XIV) a roll;
- 1271 (XV) a tart;
- 1272 (XVI) a torte; or
- 1273 (XVII) a tortilla.
- 1274 (c) An eating utensil provided by the seller does not include the following used to
- 1275 transport the food:
 - 1276 (i) a container; or
 - 1277 (ii) packaging.
- 1278 (92) "Prescription" means an order, formula, or recipe that is issued:
 - 1279 (a) (i) orally;
 - 1280 (ii) in writing;
 - 1281 (iii) electronically; or
 - 1282 (iv) by any other manner of transmission; and
 - 1283 (b) by a licensed practitioner authorized by the laws of a state.
- 1284 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
- 1285 software" means computer software that is not designed and developed:
 - 1286 (i) by the author or other creator of the computer software; and
 - 1287 (ii) to the specifications of a specific purchaser.
- 1288 (b) "Prewritten computer software" includes:
 - 1289 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
 - 1290 software is not designed and developed:
 - 1291 (A) by the author or other creator of the computer software; and
 - 1292 (B) to the specifications of a specific purchaser;
 - 1293 (ii) computer software designed and developed by the author or other creator of the
 - 1294 computer software to the specifications of a specific purchaser if the computer software is sold
 - 1295 to a person other than the purchaser; or
 - 1296 (iii) except as provided in Subsection (93)(c), prewritten computer software or a
 - 1297 prewritten portion of prewritten computer software:
 - 1298 (A) that is modified or enhanced to any degree; and

1299 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is
1300 designed and developed to the specifications of a specific purchaser.

1301 (c) "Prewritten computer software" does not include a modification or enhancement
1302 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

1303 (i) reasonable; and

1304 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
1305 invoice or other statement of price provided to the purchaser at the time of sale or later, as
1306 demonstrated by:

1307 (A) the books and records the seller keeps at the time of the transaction in the regular
1308 course of business, including books and records the seller keeps at the time of the transaction in
1309 the regular course of business for nontax purposes;

1310 (B) a preponderance of the facts and circumstances at the time of the transaction; and

1311 (C) the understanding of all of the parties to the transaction.

1312 (94) (a) "Private communications service" means a telecommunications service:

1313 (i) that entitles a customer to exclusive or priority use of one or more communications
1314 channels between or among termination points; and

1315 (ii) regardless of the manner in which the one or more communications channels are
1316 connected.

1317 (b) "Private communications service" includes the following provided in connection
1318 with the use of one or more communications channels:

1319 (i) an extension line;

1320 (ii) a station;

1321 (iii) switching capacity; or

1322 (iv) another associated service that is provided in connection with the use of one or
1323 more communications channels as defined in Section 59-12-215.

1324 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"
1325 means a product transferred electronically that would be subject to a tax under this chapter if
1326 that product was transferred in a manner other than electronically.

1327 (b) "Product transferred electronically" does not include:

1328 (i) an ancillary service;

1329 (ii) computer software; or

- 1330 (iii) a telecommunications service.
- 1331 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 1332 (i) artificially replace a missing portion of the body;
- 1333 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1334 (iii) support a weak or deformed portion of the body.
- 1335 (b) "Prosthetic device" includes:
- 1336 (i) parts used in the repairs or renovation of a prosthetic device;
- 1337 (ii) replacement parts for a prosthetic device;
- 1338 (iii) a dental prosthesis; or
- 1339 (iv) a hearing aid.
- 1340 (c) "Prosthetic device" does not include:
- 1341 (i) corrective eyeglasses; or
- 1342 (ii) contact lenses.
- 1343 (97) (a) "Protective equipment" means an item:
- 1344 (i) for human wear; and
- 1345 (ii) that is:
- 1346 (A) designed as protection:
- 1347 (I) to the wearer against injury or disease; or
- 1348 (II) against damage or injury of other persons or property; and
- 1349 (B) not suitable for general use.
- 1350 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1351 commission shall make rules:
- 1352 (i) listing the items that constitute "protective equipment"; and
- 1353 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1354 under the agreement.
- 1355 (98) (a) For purposes of Subsection [59-12-104\(41\)](#), "publication" means any written or
- 1356 printed matter, other than a photocopy:
- 1357 (i) regardless of:
- 1358 (A) characteristics;
- 1359 (B) copyright;
- 1360 (C) form;

- 1361 (D) format;
- 1362 (E) method of reproduction; or
- 1363 (F) source; and
- 1364 (ii) made available in printed or electronic format.
- 1365 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1366 commission may by rule define the term "photocopy."
- 1367 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 1368 (i) valued in money; and
- 1369 (ii) for which tangible personal property, a product transferred electronically, or
- 1370 services are:
 - 1371 (A) sold;
 - 1372 (B) leased; or
 - 1373 (C) rented.
- 1374 (b) "Purchase price" and "sales price" include:
- 1375 (i) the seller's cost of the tangible personal property, a product transferred
- 1376 electronically, or services sold;
- 1377 (ii) expenses of the seller, including:
 - 1378 (A) the cost of materials used;
 - 1379 (B) a labor cost;
 - 1380 (C) a service cost;
 - 1381 (D) interest;
 - 1382 (E) a loss;
 - 1383 (F) the cost of transportation to the seller; or
 - 1384 (G) a tax imposed on the seller;
- 1385 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1386 (iv) consideration a seller receives from a person other than the purchaser if:
 - 1387 (A) (I) the seller actually receives consideration from a person other than the purchaser;
 - 1388 and
 - 1389 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
 - 1390 price reduction or discount on the sale;
 - 1391 (B) the seller has an obligation to pass the price reduction or discount through to the

1392 purchaser;

1393 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1394 the seller at the time of the sale to the purchaser; and

1395 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1396 seller to claim a price reduction or discount; and

1397 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1398 coupon, or other documentation with the understanding that the person other than the seller
1399 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1400 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1401 organization allowed a price reduction or discount, except that a preferred customer card that is
1402 available to any patron of a seller does not constitute membership in a group or organization
1403 allowed a price reduction or discount; or

1404 (III) the price reduction or discount is identified as a third party price reduction or
1405 discount on the:

1406 (Aa) invoice the purchaser receives; or

1407 (Bb) certificate, coupon, or other documentation the purchaser presents.

1408 (c) "Purchase price" and "sales price" do not include:

1409 (i) a discount:

1410 (A) in a form including:

1411 (I) cash;

1412 (II) term; or

1413 (III) coupon;

1414 (B) that is allowed by a seller;

1415 (C) taken by a purchaser on a sale; and

1416 (D) that is not reimbursed by a third party; or

1417 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
1418 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
1419 sale or later, as demonstrated by the books and records the seller keeps at the time of the
1420 transaction in the regular course of business, including books and records the seller keeps at the
1421 time of the transaction in the regular course of business for nontax purposes, by a
1422 preponderance of the facts and circumstances at the time of the transaction, and by the

1423 understanding of all of the parties to the transaction:

1424 (A) the following from credit extended on the sale of tangible personal property or
1425 services:

1426 (I) a carrying charge;

1427 (II) a financing charge; or

1428 (III) an interest charge;

1429 (B) a delivery charge;

1430 (C) an installation charge;

1431 (D) a manufacturer rebate on a motor vehicle; or

1432 (E) a tax or fee legally imposed directly on the consumer.

1433 (100) "Purchaser" means a person to whom:

1434 (a) a sale of tangible personal property is made;

1435 (b) a product is transferred electronically; or

1436 (c) a service is furnished.

1437 (101) "Qualifying enterprise data center" means an establishment that will:

1438 (a) own and operate a data center facility that will house a group of networked server
1439 computers in one physical location in order to centralize the dissemination, management, and
1440 storage of data and information;

1441 (b) be located in the state;

1442 (c) be a new operation constructed on or after July 1, 2016;

1443 (d) consist of one or more buildings that total 150,000 or more square feet;

1444 (e) be owned or leased by:

1445 (i) the establishment; or

1446 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1447 establishment; and

1448 (f) be located on one or more parcels of land that are owned or leased by:

1449 (i) the establishment; or

1450 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1451 establishment.

1452 (102) "Regularly rented" means:

1453 (a) rented to a guest for value three or more times during a calendar year; or

1454 (b) advertised or held out to the public as a place that is regularly rented to guests for
1455 value.

1456 (103) "Rental" means the same as that term is defined in Subsection (59).

1457 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible
1458 personal property" means:

1459 (i) a repair or renovation of tangible personal property that is not permanently attached
1460 to real property; or

1461 (ii) attaching tangible personal property or a product transferred electronically to other
1462 tangible personal property or detaching tangible personal property or a product transferred
1463 electronically from other tangible personal property if:

1464 (A) the other tangible personal property to which the tangible personal property or
1465 product transferred electronically is attached or from which the tangible personal property or
1466 product transferred electronically is detached is not permanently attached to real property; and

1467 (B) the attachment of tangible personal property or a product transferred electronically
1468 to other tangible personal property or detachment of tangible personal property or a product
1469 transferred electronically from other tangible personal property is made in conjunction with a
1470 repair or replacement of tangible personal property or a product transferred electronically.

1471 (b) "Repairs or renovations of tangible personal property" does not include:

1472 (i) attaching prewritten computer software to other tangible personal property if the
1473 other tangible personal property to which the prewritten computer software is attached is not
1474 permanently attached to real property; or

1475 (ii) detaching prewritten computer software from other tangible personal property if the
1476 other tangible personal property from which the prewritten computer software is detached is
1477 not permanently attached to real property.

1478 (105) "Research and development" means the process of inquiry or experimentation
1479 aimed at the discovery of facts, devices, technologies, or applications and the process of
1480 preparing those devices, technologies, or applications for marketing.

1481 (106) (a) "Residential telecommunications services" means a telecommunications
1482 service or an ancillary service that is provided to an individual for personal use:

1483 (i) at a residential address; or

1484 (ii) at an institution, including a nursing home or a school, if the telecommunications

1485 service or ancillary service is provided to and paid for by the individual residing at the
1486 institution rather than the institution.

1487 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

1488 (i) apartment; or

1489 (ii) other individual dwelling unit.

1490 (107) "Residential use" means the use in or around a home, apartment building,
1491 sleeping quarters, and similar facilities or accommodations.

1492 (108) (a) "Retailer" means any person engaged in a regularly organized business in
1493 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1494 who is selling to the user or consumer and not for resale.

1495 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1496 engaged in the business of selling to users or consumers within the state.

1497 (109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1498 than:

1499 (a) resale;

1500 (b) sublease; or

1501 (c) subrent.

1502 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1503 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1504 Subsection 59-12-103(1), for consideration.

1505 (b) "Sale" includes:

1506 (i) installment and credit sales;

1507 (ii) any closed transaction constituting a sale;

1508 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1509 chapter;

1510 (iv) any transaction if the possession of property is transferred but the seller retains the
1511 title as security for the payment of the price; and

1512 (v) any transaction under which right to possession, operation, or use of any article of
1513 tangible personal property is granted under a lease or contract and the transfer of possession
1514 would be taxable if an outright sale were made.

1515 (111) "Sale at retail" means the same as that term is defined in Subsection (109).

1516 (112) "Sale-leaseback transaction" means a transaction by which title to tangible
1517 personal property or a product transferred electronically that is subject to a tax under this
1518 chapter is transferred:

1519 (a) by a purchaser-lessee;

1520 (b) to a lessor;

1521 (c) for consideration; and

1522 (d) if:

1523 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1524 of the tangible personal property or product transferred electronically;

1525 (ii) the sale of the tangible personal property or product transferred electronically to the
1526 lessor is intended as a form of financing:

1527 (A) for the tangible personal property or product transferred electronically; and

1528 (B) to the purchaser-lessee; and

1529 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1530 is required to:

1531 (A) capitalize the tangible personal property or product transferred electronically for
1532 financial reporting purposes; and

1533 (B) account for the lease payments as payments made under a financing arrangement.

1534 (113) "Sales price" means the same as that term is defined in Subsection (99).

1535 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
1536 amounts charged by a school:

1537 (i) sales that are directly related to the school's educational functions or activities
1538 including:

1539 (A) the sale of:

1540 (I) textbooks;

1541 (II) textbook fees;

1542 (III) laboratory fees;

1543 (IV) laboratory supplies; or

1544 (V) safety equipment;

1545 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1546 that:

- 1547 (I) a student is specifically required to wear as a condition of participation in a
 1548 school-related event or school-related activity; and
- 1549 (II) is not readily adaptable to general or continued usage to the extent that it takes the
 1550 place of ordinary clothing;
- 1551 (C) sales of the following if the net or gross revenues generated by the sales are
 1552 deposited into a school district fund or school fund dedicated to school meals:
- 1553 (I) food and food ingredients; or
- 1554 (II) prepared food; or
- 1555 (D) transportation charges for official school activities; or
- 1556 (ii) amounts paid to or amounts charged by a school for admission to a school-related
 1557 event or school-related activity.
- 1558 (b) "Sales relating to schools" does not include:
- 1559 (i) bookstore sales of items that are not educational materials or supplies;
- 1560 (ii) except as provided in Subsection (114)(a)(i)(B):
- 1561 (A) clothing;
- 1562 (B) clothing accessories or equipment;
- 1563 (C) protective equipment; or
- 1564 (D) sports or recreational equipment; or
- 1565 (iii) amounts paid to or amounts charged by a school for admission to a school-related
 1566 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1567 (A) other than a:
- 1568 (I) school;
- 1569 (II) nonprofit organization authorized by a school board or a governing body of a
 1570 private school to organize and direct a competitive secondary school activity; or
- 1571 (III) nonprofit association authorized by a school board or a governing body of a
 1572 private school to organize and direct a competitive secondary school activity; and
- 1573 (B) that is required to collect sales and use taxes under this chapter.
- 1574 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 1575 commission may make rules defining the term "passed through."
- 1576 (115) For purposes of this section and Section 59-12-104, "school" means:
- 1577 [~~(a) means:~~]

1578 [(i)] (a) an elementary school or a secondary school that:

1579 [(A)] (i) is a:

1580 [(F)] (A) public school; or

1581 [(H)] (B) private school; and

1582 [(B)] (ii) provides instruction for one or more grades kindergarten through 12; or

1583 [(ii)] (b) a public school district~~[-and].~~

1584 ~~[(b) includes the Electronic High School as defined in Section 53A-15-1002.]~~

1585 (116) "Seller" means a person that makes a sale, lease, or rental of:

1586 (a) tangible personal property;

1587 (b) a product transferred electronically; or

1588 (c) a service.

1589 (117) (a) "Semiconductor fabricating, processing, research, or development materials"

1590 means tangible personal property or a product transferred electronically if the tangible personal

1591 property or product transferred electronically is:

1592 (i) used primarily in the process of:

1593 (A) (I) manufacturing a semiconductor;

1594 (II) fabricating a semiconductor; or

1595 (III) research or development of a:

1596 (Aa) semiconductor; or

1597 (Bb) semiconductor manufacturing process; or

1598 (B) maintaining an environment suitable for a semiconductor; or

1599 (ii) consumed primarily in the process of:

1600 (A) (I) manufacturing a semiconductor;

1601 (II) fabricating a semiconductor; or

1602 (III) research or development of a:

1603 (Aa) semiconductor; or

1604 (Bb) semiconductor manufacturing process; or

1605 (B) maintaining an environment suitable for a semiconductor.

1606 (b) "Semiconductor fabricating, processing, research, or development materials"

1607 includes:

1608 (i) parts used in the repairs or renovations of tangible personal property or a product

1609 transferred electronically described in Subsection (117)(a); or

1610 (ii) a chemical, catalyst, or other material used to:

1611 (A) produce or induce in a semiconductor a:

1612 (I) chemical change; or

1613 (II) physical change;

1614 (B) remove impurities from a semiconductor; or

1615 (C) improve the marketable condition of a semiconductor.

1616 (118) "Senior citizen center" means a facility having the primary purpose of providing

1617 services to the aged as defined in Section [62A-3-101](#).

1618 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"

1619 means tangible personal property that:

1620 (i) a business that provides accommodations and services described in Subsection

1621 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services

1622 to a purchaser;

1623 (ii) is intended to be consumed by the purchaser; and

1624 (iii) is:

1625 (A) included in the purchase price of the accommodations and services; and

1626 (B) not separately stated on an invoice, bill of sale, or other similar document provided

1627 to the purchaser.

1628 (b) "Short-term lodging consumable" includes:

1629 (i) a beverage;

1630 (ii) a brush or comb;

1631 (iii) a cosmetic;

1632 (iv) a hair care product;

1633 (v) lotion;

1634 (vi) a magazine;

1635 (vii) makeup;

1636 (viii) a meal;

1637 (ix) mouthwash;

1638 (x) nail polish remover;

1639 (xi) a newspaper;

- 1640 (xii) a notepad;
- 1641 (xiii) a pen;
- 1642 (xiv) a pencil;
- 1643 (xv) a razor;
- 1644 (xvi) saline solution;
- 1645 (xvii) a sewing kit;
- 1646 (xviii) shaving cream;
- 1647 (xix) a shoe shine kit;
- 1648 (xx) a shower cap;
- 1649 (xxi) a snack item;
- 1650 (xxii) soap;
- 1651 (xxiii) toilet paper;
- 1652 (xxiv) a toothbrush;
- 1653 (xxv) toothpaste; or
- 1654 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may
- 1655 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1656 Rulemaking Act.
- 1657 (c) "Short-term lodging consumable" does not include:
- 1658 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1659 property to be reused; or
- 1660 (ii) a product transferred electronically.
- 1661 (120) "Simplified electronic return" means the electronic return:
- 1662 (a) described in Section 318(C) of the agreement; and
- 1663 (b) approved by the governing board of the agreement.
- 1664 (121) "Solar energy" means the sun used as the sole source of energy for producing
- 1665 electricity.
- 1666 (122) (a) "Sports or recreational equipment" means an item:
- 1667 (i) designed for human use; and
- 1668 (ii) that is:
- 1669 (A) worn in conjunction with:
- 1670 (I) an athletic activity; or

- 1671 (II) a recreational activity; and
- 1672 (B) not suitable for general use.
- 1673 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1674 commission shall make rules:
 - 1675 (i) listing the items that constitute "sports or recreational equipment"; and
 - 1676 (ii) that are consistent with the list of items that constitute "sports or recreational
 - 1677 equipment" under the agreement.
- 1678 (123) "State" means the state of Utah, its departments, and agencies.
- 1679 (124) "Storage" means any keeping or retention of tangible personal property or any
- 1680 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
- 1681 sale in the regular course of business.
- 1682 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"
- 1683 means personal property that:
 - 1684 (i) may be:
 - 1685 (A) seen;
 - 1686 (B) weighed;
 - 1687 (C) measured;
 - 1688 (D) felt; or
 - 1689 (E) touched; or
 - 1690 (ii) is in any manner perceptible to the senses.
- 1691 (b) "Tangible personal property" includes:
 - 1692 (i) electricity;
 - 1693 (ii) water;
 - 1694 (iii) gas;
 - 1695 (iv) steam; or
 - 1696 (v) prewritten computer software, regardless of the manner in which the prewritten
 - 1697 computer software is transferred.
- 1698 (c) "Tangible personal property" includes the following regardless of whether the item
- 1699 is attached to real property:
 - 1700 (i) a dishwasher;
 - 1701 (ii) a dryer;

- 1702 (iii) a freezer;
- 1703 (iv) a microwave;
- 1704 (v) a refrigerator;
- 1705 (vi) a stove;
- 1706 (vii) a washer; or
- 1707 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the
- 1708 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1709 Rulemaking Act.
- 1710 (d) "Tangible personal property" does not include a product that is transferred
- 1711 electronically.
- 1712 (e) "Tangible personal property" does not include the following if attached to real
- 1713 property, regardless of whether the attachment to real property is only through a line that
- 1714 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 1715 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1716 Rulemaking Act:
- 1717 (i) a hot water heater;
- 1718 (ii) a water filtration system; or
- 1719 (iii) a water softener system.
- 1720 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or
- 1721 software" means an item listed in Subsection (126)(b) if that item is purchased or leased
- 1722 primarily to enable or facilitate one or more of the following to function:
- 1723 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1724 (ii) telecommunications transmission equipment, machinery, or software.
- 1725 (b) The following apply to Subsection (126)(a):
- 1726 (i) a pole;
- 1727 (ii) software;
- 1728 (iii) a supplementary power supply;
- 1729 (iv) temperature or environmental equipment or machinery;
- 1730 (v) test equipment;
- 1731 (vi) a tower; or
- 1732 (vii) equipment, machinery, or software that functions similarly to an item listed in

1733 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in
1734 accordance with Subsection (126)(c).

1735 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1736 commission may by rule define what constitutes equipment, machinery, or software that
1737 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

1738 (127) "Telecommunications equipment, machinery, or software required for 911
1739 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
1740 Sec. 20.18.

1741 (128) "Telecommunications maintenance or repair equipment, machinery, or software"
1742 means equipment, machinery, or software purchased or leased primarily to maintain or repair
1743 one or more of the following, regardless of whether the equipment, machinery, or software is
1744 purchased or leased as a spare part or as an upgrade or modification to one or more of the
1745 following:

1746 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1747 (b) telecommunications switching or routing equipment, machinery, or software; or

1748 (c) telecommunications transmission equipment, machinery, or software.

1749 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or
1750 transmission of audio, data, video, voice, or any other information or signal to a point, or
1751 among or between points.

1752 (b) "Telecommunications service" includes:

1753 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1754 processing application is used to act:

1755 (A) on the code, form, or protocol of the content;

1756 (B) for the purpose of electronic conveyance, routing, or transmission; and

1757 (C) regardless of whether the service:

1758 (I) is referred to as voice over Internet protocol service; or

1759 (II) is classified by the Federal Communications Commission as enhanced or value
1760 added;

1761 (ii) an 800 service;

1762 (iii) a 900 service;

1763 (iv) a fixed wireless service;

- 1764 (v) a mobile wireless service;
- 1765 (vi) a postpaid calling service;
- 1766 (vii) a prepaid calling service;
- 1767 (viii) a prepaid wireless calling service; or
- 1768 (ix) a private communications service.
- 1769 (c) "Telecommunications service" does not include:
- 1770 (i) advertising, including directory advertising;
- 1771 (ii) an ancillary service;
- 1772 (iii) a billing and collection service provided to a third party;
- 1773 (iv) a data processing and information service if:
- 1774 (A) the data processing and information service allows data to be:
- 1775 (I) (Aa) acquired;
- 1776 (Bb) generated;
- 1777 (Cc) processed;
- 1778 (Dd) retrieved; or
- 1779 (Ee) stored; and
- 1780 (II) delivered by an electronic transmission to a purchaser; and
- 1781 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1782 or information;
- 1783 (v) installation or maintenance of the following on a customer's premises:
- 1784 (A) equipment; or
- 1785 (B) wiring;
- 1786 (vi) Internet access service;
- 1787 (vii) a paging service;
- 1788 (viii) a product transferred electronically, including:
- 1789 (A) music;
- 1790 (B) reading material;
- 1791 (C) a ring tone;
- 1792 (D) software; or
- 1793 (E) video;
- 1794 (ix) a radio and television audio and video programming service;

- 1795 (A) regardless of the medium; and
- 1796 (B) including:
 - 1797 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 1798 programming service by a programming service provider;
 - 1799 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 1800 (III) audio and video programming services delivered by a commercial mobile radio
 - 1801 service provider as defined in 47 C.F.R. Sec. 20.3;
 - 1802 (x) a value-added nonvoice data service; or
 - 1803 (xi) tangible personal property.
- 1804 (130) (a) "Telecommunications service provider" means a person that:
 - 1805 (i) owns, controls, operates, or manages a telecommunications service; and
 - 1806 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or
 - 1807 resale to any person of the telecommunications service.
- 1808 (b) A person described in Subsection (130)(a) is a telecommunications service provider
- 1809 whether or not the Public Service Commission of Utah regulates:
 - 1810 (i) that person; or
 - 1811 (ii) the telecommunications service that the person owns, controls, operates, or
 - 1812 manages.
- 1813 (131) (a) "Telecommunications switching or routing equipment, machinery, or
- 1814 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
- 1815 primarily for switching or routing:
 - 1816 (i) an ancillary service;
 - 1817 (ii) data communications;
 - 1818 (iii) voice communications; or
 - 1819 (iv) telecommunications service.
- 1820 (b) The following apply to Subsection (131)(a):
 - 1821 (i) a bridge;
 - 1822 (ii) a computer;
 - 1823 (iii) a cross connect;
 - 1824 (iv) a modem;
 - 1825 (v) a multiplexer;

- 1826 (vi) plug in circuitry;
- 1827 (vii) a router;
- 1828 (viii) software;
- 1829 (ix) a switch; or
- 1830 (x) equipment, machinery, or software that functions similarly to an item listed in
- 1831 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in
- 1832 accordance with Subsection (131)(c).

1833 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1834 commission may by rule define what constitutes equipment, machinery, or software that

1835 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

1836 (132) (a) "Telecommunications transmission equipment, machinery, or software"

1837 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for

1838 sending, receiving, or transporting:

- 1839 (i) an ancillary service;
 - 1840 (ii) data communications;
 - 1841 (iii) voice communications; or
 - 1842 (iv) telecommunications service.
- 1843 (b) The following apply to Subsection (132)(a):
- 1844 (i) an amplifier;
 - 1845 (ii) a cable;
 - 1846 (iii) a closure;
 - 1847 (iv) a conduit;
 - 1848 (v) a controller;
 - 1849 (vi) a duplexer;
 - 1850 (vii) a filter;
 - 1851 (viii) an input device;
 - 1852 (ix) an input/output device;
 - 1853 (x) an insulator;
 - 1854 (xi) microwave machinery or equipment;
 - 1855 (xii) an oscillator;
 - 1856 (xiii) an output device;

- 1857 (xiv) a pedestal;
- 1858 (xv) a power converter;
- 1859 (xvi) a power supply;
- 1860 (xvii) a radio channel;
- 1861 (xviii) a radio receiver;
- 1862 (xix) a radio transmitter;
- 1863 (xx) a repeater;
- 1864 (xxi) software;
- 1865 (xxii) a terminal;
- 1866 (xxiii) a timing unit;
- 1867 (xxiv) a transformer;
- 1868 (xxv) a wire; or
- 1869 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1870 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in
- 1871 accordance with Subsection (132)(c).

1872 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1873 commission may by rule define what constitutes equipment, machinery, or software that

1874 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

1875 (133) (a) "Textbook for a higher education course" means a textbook or other printed

1876 material that is required for a course:

- 1877 (i) offered by an institution of higher education; and
- 1878 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1879 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1880 (134) "Tobacco" means:

- 1881 (a) a cigarette;
- 1882 (b) a cigar;
- 1883 (c) chewing tobacco;
- 1884 (d) pipe tobacco; or
- 1885 (e) any other item that contains tobacco.

1886 (135) "Unassisted amusement device" means an amusement device, skill device, or

1887 ride device that is started and stopped by the purchaser or renter of the right to use or operate

1888 the amusement device, skill device, or ride device.

1889 (136) (a) "Use" means the exercise of any right or power over tangible personal
1890 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1891 incident to the ownership or the leasing of that tangible personal property, product transferred
1892 electronically, or service.

1893 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1894 property, a product transferred electronically, or a service in the regular course of business and
1895 held for resale.

1896 (137) "Value-added nonvoice data service" means a service:

1897 (a) that otherwise meets the definition of a telecommunications service except that a
1898 computer processing application is used to act primarily for a purpose other than conveyance,
1899 routing, or transmission; and

1900 (b) with respect to which a computer processing application is used to act on data or
1901 information:

- 1902 (i) code;
- 1903 (ii) content;
- 1904 (iii) form; or
- 1905 (iv) protocol.

1906 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are
1907 required to be titled, registered, or titled and registered:

- 1908 (i) an aircraft as defined in Section 72-10-102;
- 1909 (ii) a vehicle as defined in Section 41-1a-102;
- 1910 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1911 (iv) a vessel as defined in Section 41-1a-102.

1912 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1913 (i) a vehicle described in Subsection (138)(a); or
- 1914 (ii) (A) a locomotive;
- 1915 (B) a freight car;
- 1916 (C) railroad work equipment; or
- 1917 (D) other railroad rolling stock.

1918 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or

1919 exchanging a vehicle as defined in Subsection (138).

1920 (140) (a) "Vertical service" means an ancillary service that:

1921 (i) is offered in connection with one or more telecommunications services; and

1922 (ii) offers an advanced calling feature that allows a customer to:

1923 (A) identify a caller; and

1924 (B) manage multiple calls and call connections.

1925 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1926 conference bridging service.

1927 (141) (a) "Voice mail service" means an ancillary service that enables a customer to
1928 receive, send, or store a recorded message.

1929 (b) "Voice mail service" does not include a vertical service that a customer is required
1930 to have in order to utilize a voice mail service.

1931 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a
1932 facility that generates electricity:

1933 (i) using as the primary source of energy waste materials that would be placed in a
1934 landfill or refuse pit if it were not used to generate electricity, including:

1935 (A) tires;

1936 (B) waste coal;

1937 (C) oil shale; or

1938 (D) municipal solid waste; and

1939 (ii) in amounts greater than actually required for the operation of the facility.

1940 (b) "Waste energy facility" does not include a facility that incinerates:

1941 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1942 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1943 (143) "Watercraft" means a vessel as defined in Section [73-18-2](#).

1944 (144) "Wind energy" means wind used as the sole source of energy to produce
1945 electricity.

1946 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
1947 location by the United States Postal Service.

1948 Section 9. Section **63I-2-253** is amended to read:

1949 **63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.**

- 1950 [~~(1)~~ Section ~~53A-1-403.5~~ is repealed July 1, 2017.]
- 1951 [~~(2)~~ Section ~~53A-1-411~~ is repealed July 1, 2017.]
- 1952 [~~(3)~~ Section ~~53A-1-415~~ is repealed July 1, 2019.]
- 1953 [~~(4)~~ Section ~~53A-1-709~~ is repealed July 1, 2020.]
- 1954 [~~(5)~~ Subsection ~~53A-1-1207(3)(b)(ii)(B)~~ is repealed July 1, 2020.]
- 1955 [~~(6)~~ Section ~~53A-1-1208~~ is repealed July 1, 2020.]
- 1956 [~~(7)~~ Subsection ~~53A-1a-513(4)~~ is repealed July 1, 2017.]
- 1957 [~~(8)~~ Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is
1958 repealed July 1, 2017.]
- 1959 [~~(9)~~ Section ~~53A-24-601~~ is repealed January 1, 2018.]
- 1960 [~~(10)~~] (1) Section ~~53A-24-602~~ is repealed July 1, 2018.
- 1961 [~~(11)~~] (2) (a) Subsections ~~53B-2a-103(2)~~ and (4) are repealed July 1, 2019.
- 1962 (b) When repealing Subsections ~~53B-2a-103(2)~~ and (4), the Office of Legislative
1963 Research and General Counsel shall, in addition to its authority under Subsection ~~36-12-12(3)~~,
1964 make necessary changes to subsection numbering and cross references.
- 1965 [~~(12)~~ Subsections ~~53B-7-101(2)(b)(iii)(A)~~ and (3) are repealed January 1, 2018.]
- 1966 [~~(13)~~] (3) Subsection ~~53B-7-705(6)(b)(ii)(B)~~ is repealed July 1, 2021.
- 1967 [~~(14)~~] (4) Subsection ~~53B-7-707(4)(b)~~ is repealed July 1, 2021.
- 1968 [~~(15)~~] (5) (a) The following sections are repealed on July 1, 2023:
- 1969 (i) Section ~~53B-8-202~~;
- 1970 (ii) Section ~~53B-8-203~~;
- 1971 (iii) Section ~~53B-8-204~~; and
- 1972 (iv) Section ~~53B-8-205~~.
- 1973 (b) (i) Subsection ~~53B-8-201(2)~~ is repealed on July 1, 2023.
- 1974 (ii) When repealing Subsection ~~53B-8-201(2)~~, the Office of Legislative Research and
1975 General Counsel shall, in addition to its authority under Subsection ~~36-12-12(3)~~, make
1976 necessary changes to subsection numbering and cross references.
- 1977 [~~(16)~~] (6) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is
1978 repealed July 1, 2023.
- 1979 (7) Subsection ~~53E-5-306(3)(b)(ii)(B)~~ is repealed July 1, 2020.
- 1980 (8) Section ~~53E-5-307~~ is repealed July 1, 2020.

1981 (9) Section 53F-4-204 is repealed July 1, 2019.

1982 Section 10. Section 63N-3-105 is amended to read:

1983 **63N-3-105. Qualification for assistance.**

1984 (1) Except as provided in Section 63N-3-108, 63N-3-109, or 63N-3-109.5, [~~or~~
1985 ~~63N-3-110;~~] the administrator shall determine which industries, companies, and individuals
1986 qualify to receive money from the Industrial Assistance Account. Except as provided by
1987 Subsection (2), to qualify for financial assistance from the restricted account, an applicant
1988 shall:

1989 (a) demonstrate to the satisfaction of the administrator that the applicant will expend
1990 funds in Utah with employees, vendors, subcontractors, or other businesses in an amount
1991 proportional with money provided from the restricted account at a minimum ratio of 2 to 1 per
1992 year or other more stringent requirements as established from time to time by the board for a
1993 minimum period of five years beginning with the date the loan or grant was approved;

1994 (b) demonstrate to the satisfaction of the administrator the applicant's ability to sustain
1995 economic activity in the state sufficient to repay, by means of cash or appropriate credits, the
1996 loan provided by the restricted account; and

1997 (c) satisfy other criteria the administrator considers appropriate.

1998 (2) (a) The administrator may exempt an applicant from the requirements of Subsection
1999 (1)(a) or (b) if:

2000 (i) the financial assistance is provided to an applicant for the purpose of locating all or
2001 any portion of its operations to an economically disadvantaged rural area;

2002 (ii) the applicant is part of a targeted industry;

2003 (iii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a,
2004 Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations
2005 Act, and its operations, as demonstrated to the satisfaction of the administrator, will provide
2006 significant economic stimulus to the growth of commerce and industry in the state; or

2007 (iv) the applicant is an entity offering an economic opportunity under Section
2008 63N-3-109.

2009 (b) The administrator may not exempt the applicant from the requirement under
2010 Subsection 63N-3-106(2)(b) that the loan be structured so that the repayment or return to the
2011 state equals at least the amount of the assistance together with an annual interest charge.

- 2012 (3) The administrator shall:
- 2013 (a) for applicants not described in Subsection (2)(a):
- 2014 (i) make findings as to whether or not each applicant has satisfied each of the
- 2015 conditions set forth in Subsection (1); and
- 2016 (ii) monitor the continued compliance by each applicant with each of the conditions set
- 2017 forth in Subsection (1) for five years;
- 2018 (b) for applicants described in Subsection (2)(a), make findings as to whether the
- 2019 economic activities of each applicant has resulted in the creation of new jobs on a per capita
- 2020 basis in the economically disadvantaged rural area or targeted industry in which the applicant is
- 2021 located;
- 2022 (c) monitor the compliance by each applicant with the provisions of any contract or
- 2023 agreement entered into between the applicant and the state as provided in Section [63N-3-107](#);
- 2024 and
- 2025 (d) make funding decisions based upon appropriate findings and compliance.

2026 Section 11. **Repealer.**

2027 This bill repeals:

2028 Section [53A-1a-804](#), **Scholarship program created -- Qualifications -- Application.**

2029 Section [53A-1a-805](#), **Eligible private schools.**

2030 Section [53A-1a-806](#), **Scholarship payments.**

2031 Section [53A-1a-808](#), **Board to make rules.**

2032 Section [53A-1a-811](#), **Review by legislative auditor general.**

2033 Section [53A-15-1001](#), **Title.**

2034 Section [53E-4-408](#), **Instructional materials alignment with core standards for Utah**
2035 **public schools.**

2036 Section [53E-6-103](#), **Legislative findings on teacher quality -- Declaration of**
2037 **education as a profession.**

2038 Section [53E-6-1001](#), **Enactment of compact.**

2039 Section [53E-6-1002](#), **Purpose and intent of compact -- Findings.**

2040 Section [53E-6-1003](#), **Definitions.**

2041 Section [53E-6-1004](#), **Contracts for acceptance of educational personnel.**

2042 Section [53E-6-1005](#), **Effect of compact on other state laws and regulations.**

- 2043 Section **53E-6-1006**, Agreement by party states.
- 2044 Section **53E-6-1007**, Evaluation of compact.
- 2045 Section **53E-6-1008**, Scope of compact.
- 2046 Section **53E-6-1009**, Effective date -- Withdrawal from compact -- Continuing
- 2047 **obligations.**
- 2048 Section **53E-6-1010**, Construction of compact.
- 2049 Section **53E-6-1011**, Superintendent of public instruction as designated state
- 2050 **official.**
- 2051 Section **53E-10-601**, Definitions.
- 2052 Section **53E-10-602**, Electronic High School created -- Purpose.
- 2053 Section **53E-10-603**, Courses and credit.
- 2054 Section **53E-10-604**, Student eligibility for enrollment.
- 2055 Section **53E-10-605**, Services to students with disabilities.
- 2056 Section **53E-10-606**, Payment for an Electronic High School course.
- 2057 Section **53E-10-607**, Electronic High School diploma.
- 2058 Section **53E-10-608**, Review by legislative auditor general.
- 2059 Section **53E-10-609**, State contribution for the Electronic High School.
- 2060 Section **53F-2-313**, Weighted pupil units for career and technical education
- 2061 **set-aside programs.**
- 2062 Section **53F-2-413**, Alternative programs.
- 2063 Section **53F-2-517**, Quality Teaching Block Grant Program -- State contributions.
- 2064 Section **53F-2-518**, Appropriation for retirement and social security.
- 2065 Section **53F-4-206**, Computer program for students with autism and other special
- 2066 **needs.**
- 2067 Section **53F-4-301.5**, Findings and purpose.
- 2068 Section **53F-5-208**, Reading Performance Improvement Scholarship Program.
- 2069 Section **53F-6-202**, Smart School Technology Program.
- 2070 Section **53G-3-103**, Legislative findings.
- 2071 Section **53G-4-1001.5**, Purpose of part.
- 2072 Section **53G-11-501.5**, Legislative findings.
- 2073 Section **63N-3-110**, Selection of educational technology provider to implement

2074 **whole-school one-to-one mobile device technology deployment plan for schools.**

Legislative Review Note
Office of Legislative Research and General Counsel