

Senator John L. Valentine proposes the following substitute bill:

**VEHICLE TITLE, INSPECTION AND EMISSION
TESTING EXEMPTIONS AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kenneth W. Sumsion

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill modifies the Motor Vehicles Code by amending vehicle title, inspection and emission testing provisions for certain vehicles.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides requirements for the certificate of title of a replica vehicle and cloned vehicle;
- ▶ includes street rod in the definition of a vintage vehicle;
- ▶ provides that a custom vehicle is exempt from the requirement of having a certificate of emissions inspection as a condition of registration or renewal of registration; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2010.



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **41-1a-102**, as last amended by Laws of Utah 2003, Chapter 1

29 **41-1a-514**, as last amended by Laws of Utah 1992, Chapter 218 and renumbered and
30 amended by Laws of Utah 1992, Chapter 1

31 **41-6a-1507**, as renumbered and amended by Laws of Utah 2005, Chapter 2

32 **41-6a-1633**, as renumbered and amended by Laws of Utah 2005, Chapter 2

33 **41-6a-1642**, as last amended by Laws of Utah 2008, Chapter 210

34 **41-21-1**, as last amended by Laws of Utah 1992, Chapter 218

35 **59-12-102**, as last amended by Laws of Utah 2008, Chapters 3, 28, 286, 323, 382, and
36 384



37
38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **41-1a-102** is amended to read:

40 **41-1a-102. Definitions.**

41 As used in this chapter:

42 (1) "Actual miles" means the actual distance a vehicle has traveled while in operation.

43 (2) "Actual weight" means the actual unladen weight of a vehicle or combination of
44 vehicles as operated and certified to by a weighmaster.

45 (3) "Affidavit of Mobile Home Affixture" means the affidavit of affixture described in
46 Title 59, Chapter 2, Part 6, Mobile Homes.

47 (4) "All-terrain type I vehicle" has the same meaning provided in Section 41-22-2.

48 (5) "All-terrain type II vehicle" has the same meaning provided in Section 41-22-2.

49 (6) "Amateur radio operator" means any person licensed by the Federal
50 Communications Commission to engage in private and experimental two-way radio operation
51 on the amateur band radio frequencies.

52 (7) "Branded title" means a title certificate that is labeled:

53 (a) rebuilt and restored to operation;

54 (b) flooded and restored to operation; or

55 (c) not restored to operation.

56 (8) "Camper" means any structure designed, used, and maintained primarily to be

57 mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a
58 mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for
59 camping.

60 (9) "Certificate of title" means a document issued by a jurisdiction to establish a record
61 of ownership between an identified owner and the described vehicle, vessel, or outboard motor.

62 (10) "Certified scale weigh ticket" means a weigh ticket that has been issued by a
63 weighmaster.

64 (11) "Cloned vehicle" means a vehicle that is materially altered from its original
65 construction by the removal, addition, or substitution of essential parts, new or used, to
66 resemble a vehicle that is of the same make and model year as the original vehicle.

67 ~~[(11)]~~ (12) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or
68 maintained for the transportation of persons or property that operates:

69 (a) as a carrier for hire, compensation, or profit; or

70 (b) as a carrier to transport the vehicle owner's goods or property in furtherance of the
71 owner's commercial enterprise.

72 ~~[(12)]~~ (13) "Commission" means the State Tax Commission.

73 ~~[(13)]~~ (14) "Dealer" means a person engaged or licensed to engage in the business of
74 buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright
75 or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an
76 established place of business for the sale, lease, trade, or display of vehicles, vessels, or
77 outboard motors.

78 ~~[(14)]~~ (15) "Division" means the Motor Vehicle Division of the commission, created in
79 Section 41-1a-106.

80 ~~[(15)]~~ (16) "Essential parts" means all integral and body parts of a vehicle of a type
81 required to be registered in this state, the removal, alteration, or substitution of which would
82 tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or
83 mode of operation.

84 ~~[(16)]~~ (17) "Farm tractor" means every motor vehicle designed and used primarily as a
85 farm implement for drawing plows, mowing machines, and other implements of husbandry.

86 ~~[(17)]~~ (18) (a) "Farm truck" means a truck used by the owner or operator of a farm
87 solely for his own use in the transportation of:

88 (i) farm products, including livestock and its products, poultry and its products,
89 floricultural and horticultural products;

90 (ii) farm supplies, including tile, fence, and every other thing or commodity used in
91 agricultural, floricultural, horticultural, livestock, and poultry production; and

92 (iii) livestock, poultry, and other animals and things used for breeding, feeding, or
93 other purposes connected with the operation of a farm.

94 (b) "Farm truck" does not include the operation of trucks by commercial processors of
95 agricultural products.

96 [~~(18)~~] (19) "Fleet" means one or more commercial vehicles.

97 [~~(19)~~] (20) "Foreign vehicle" means a vehicle of a type required to be registered,
98 brought into this state from another state, territory, or country other than in the ordinary course
99 of business by or through a manufacturer or dealer, and not registered in this state.

100 [~~(20)~~] (21) "Gross laden weight" means the actual weight of a vehicle or combination
101 of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

102 [~~(21)~~] (22) "Highway" or "street" means the entire width between property lines of
103 every way or place of whatever nature when any part of it is open to the public, as a matter of
104 right, for purposes of vehicular traffic.

105 [~~(22)~~] (23) (a) "Identification number" means the identifying number assigned by the
106 manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard
107 motor.

108 (b) "Identification number" includes a vehicle identification number, state assigned
109 identification number, hull identification number, and motor serial number.

110 [~~(23)~~] (24) "Implement of husbandry" means every vehicle designed or adapted and
111 used exclusively for an agricultural operation and only incidentally operated or moved upon the
112 highways.

113 [~~(24)~~] (25) (a) "In-state miles" means the total number of miles operated in this state
114 during the preceding year by fleet power units.

115 (b) If fleets are composed entirely of trailers or semitrailers, "in-state miles" means the
116 total number of miles that those vehicles were towed on Utah highways during the preceding
117 year.

118 [~~(25)~~] (26) "Interstate vehicle" means any commercial vehicle operated in more than

119 one state, province, territory, or possession of the United States or foreign country.

120 ~~[(26)]~~ (27) "Jurisdiction" means a state, district, province, political subdivision,
121 territory, or possession of the United States or any foreign country.

122 ~~[(27)]~~ (28) "Lienholder" means a person with a security interest in particular property.

123 ~~[(28)]~~ (29) "Manufactured home" means a transportable factory built housing unit
124 constructed on or after June 15, 1976, according to the Federal Home Construction and Safety
125 Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is
126 eight body feet or more in width or 40 body feet or more in length, or when erected on site, is
127 400 or more square feet, and which is built on a permanent chassis and designed to be used as a
128 dwelling with or without a permanent foundation when connected to the required utilities, and
129 includes the plumbing, heating, air-conditioning, and electrical systems.

130 ~~[(29)]~~ (30) "Manufacturer" means a person engaged in the business of constructing,
131 manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or
132 outboard motors for the purpose of sale or trade.

133 ~~[(30)]~~ (31) "Mobile home" means a transportable factory built housing unit built prior
134 to June 15, 1976, in accordance with a state mobile home code which existed prior to the
135 Federal Manufactured Housing and Safety Standards Act (HUD Code).

136 ~~[(31)]~~ (32) "Motorboat" has the same meaning as provided in Section 73-18-2.

137 ~~[(32)]~~ (33) "Motorcycle" means a motor vehicle having a saddle for the use of the rider
138 and designed to travel on not more than three wheels in contact with the ground.

139 ~~[(33)]~~ (34) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for
140 use and operation on the highways.

141 (b) "Motor vehicle" does not include an off-highway vehicle.

142 ~~[(34)]~~ (35) (a) "Nonresident" means a person who is not a resident of this state as
143 defined by Section 41-1a-202, and who does not engage in intrastate business within this state
144 and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

145 (b) A person who engages in intrastate business within this state and operates in that
146 business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in
147 interstate commerce, maintains any vehicle in this state as the home station of that vehicle is
148 considered a resident of this state, insofar as that vehicle is concerned in administering this
149 chapter.

150 [~~(35)~~] (36) "Odometer" means a device for measuring and recording the actual distance
151 a vehicle travels while in operation, but does not include any auxiliary odometer designed to be
152 periodically reset.

153 [~~(36)~~] (37) "Off-highway implement of husbandry" has the same meaning as provided
154 in Section 41-22-2.

155 [~~(37)~~] (38) "Off-highway vehicle" has the same meaning as provided in Section
156 41-22-2.

157 [~~(38)~~] (39) "Operate" means to drive or be in actual physical control of a vehicle or to
158 navigate a vessel.

159 [~~(39)~~] (40) "Outboard motor" means a detachable self-contained propulsion unit,
160 excluding fuel supply, used to propel a vessel.

161 [~~(40)~~] (41) (a) "Owner" means a person, other than a lienholder, holding title to a
162 vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is
163 subject to a security interest.

164 (b) If a vehicle is the subject of an agreement for the conditional sale or installment
165 sale or mortgage of the vehicle with the right of purchase upon performance of the conditions
166 stated in the agreement and with an immediate right of possession vested in the conditional
167 vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the
168 conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this
169 chapter.

170 (c) If a vehicle is the subject of an agreement to lease, the lessor is considered the
171 owner until the lessee exercises his option to purchase the vehicle.

172 [~~(41)~~] (42) "Personalized license plate" means a license plate that has displayed on it a
173 combination of letters, numbers, or both as requested by the owner of the vehicle and assigned
174 to the vehicle by the division.

175 [~~(42)~~] (43) (a) "Pickup truck" means a two-axle motor vehicle with motive power
176 manufactured, remanufactured, or materially altered to provide an open cargo area.

177 (b) "Pickup truck" includes motor vehicles with the open cargo area covered with a
178 camper, camper shell, tarp, removable top, or similar structure.

179 [~~(43)~~] (44) "Pneumatic tire" means every tire in which compressed air is designed to
180 support the load.

181 [~~(44)~~] (45) "Preceding year" means a period of 12 consecutive months fixed by the
182 division that is within 16 months immediately preceding the commencement of the registration
183 or license year in which proportional registration is sought. The division in fixing the period
184 shall conform it to the terms, conditions, and requirements of any applicable agreement or
185 arrangement for the proportional registration of vehicles.

186 [~~(45)~~] (46) "Public garage" means every building or other place where vehicles or
187 vessels are kept and stored and where a charge is made for the storage and keeping of vehicles
188 and vessels.

189 [~~(46)~~] (47) "Reconstructed vehicle" means every vehicle of a type required to be
190 registered in this state that is materially altered from its original construction by the removal,
191 addition, or substitution of essential parts, new or used.

192 [~~(47)~~] (48) "Recreational vehicle" has the same meaning as provided in Section
193 13-14-102.

194 [~~(48)~~] (49) "Registration" means a document issued by a jurisdiction that allows
195 operation of a vehicle or vessel on the highways or waters of this state for the time period for
196 which the registration is valid and that is evidence of compliance with the registration
197 requirements of the jurisdiction.

198 [~~(49)~~] (50) (a) "Registration year" means a 12 consecutive month period commencing
199 with the completion of all applicable registration criteria.

200 (b) For administration of a multistate agreement for proportional registration the
201 division may prescribe a different 12-month period.

202 [~~(50)~~] (51) "Repair or replacement" means the restoration of vehicles, vessels, or
203 outboard motors to a sound working condition by substituting any inoperative part of the
204 vehicle, vessel, or outboard motor, or by correcting the inoperative part.

205 (52) "Replica vehicle" means:

206 (a) a street rod that meets the requirements under Subsection 41-21-1(1)(a)(i)(B); or

207 (b) a custom vehicle that meets the requirements under Subsection
208 41-6a-1507(1)(a)(i)(B).

209 [~~(51)~~] (53) "Road tractor" means every motor vehicle designed and used for drawing
210 other vehicles and constructed so it does not carry any load either independently or any part of
211 the weight of a vehicle or load that is drawn.

212 [~~(52)~~] (54) "Sailboat" has the same meaning as provided in Section 73-18-2.

213 [~~(53)~~] (55) "Security interest" means an interest that is reserved or created by a security
214 agreement to secure the payment or performance of an obligation and that is valid against third
215 parties.

216 [~~(54)~~] (56) "Semitrailer" means every vehicle without motive power designed for
217 carrying persons or property and for being drawn by a motor vehicle and constructed so that
218 some part of its weight and its load rests or is carried by another vehicle.

219 [~~(55)~~] (57) "Special group license plate" means a type of license plate designed for a
220 particular group of people or a license plate authorized and issued by the division in accordance
221 with Section 41-1a-418.

222 [~~(56)~~] (58) (a) "Special interest vehicle" means a vehicle used for general
223 transportation purposes and that is:

224 (i) 20 years or older from the current year; or

225 (ii) a make or model of motor vehicle recognized by the division director as having
226 unique interest or historic value.

227 (b) In making his determination under Subsection [~~(56)~~] (58)(a), the division director
228 shall give special consideration to:

229 (i) a make of motor vehicle that is no longer manufactured;

230 (ii) a make or model of motor vehicle produced in limited or token quantities;

231 (iii) a make or model of motor vehicle produced as an experimental vehicle or one
232 designed exclusively for educational purposes or museum display; or

233 (iv) a motor vehicle of any age or make that has not been substantially altered or
234 modified from original specifications of the manufacturer and because of its significance is
235 being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a
236 leisure pursuit.

237 [~~(57)~~] (59) (a) "Special mobile equipment" means every vehicle:

238 (i) not designed or used primarily for the transportation of persons or property;

239 (ii) not designed to operate in traffic; and

240 (iii) only incidentally operated or moved over the highways.

241 (b) "Special mobile equipment" includes:

242 (i) farm tractors;

243 (ii) off-road motorized construction or maintenance equipment including backhoes,
244 bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

245 (iii) ditch-digging apparatus.

246 (c) "Special mobile equipment" does not include a commercial vehicle as defined
247 under Section 72-9-102.

248 [~~(58)~~] (60) "Specially constructed vehicle" means every vehicle of a type required to be
249 registered in this state, not originally constructed under a distinctive name, make, model, or
250 type by a generally recognized manufacturer of vehicles, and not materially altered from its
251 original construction.

252 [~~(59)~~] (61) "Title" means the right to or ownership of a vehicle, vessel, or outboard
253 motor.

254 [~~(60)~~] (62) (a) "Total fleet miles" means the total number of miles operated in all
255 jurisdictions during the preceding year by power units.

256 (b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means
257 the number of miles that those vehicles were towed on the highways of all jurisdictions during
258 the preceding year.

259 [~~(61)~~] (63) "Trailer" means a vehicle without motive power designed for carrying
260 persons or property and for being drawn by a motor vehicle and constructed so that no part of
261 its weight rests upon the towing vehicle.

262 [~~(62)~~] (64) "Transferee" means a person to whom the ownership of property is
263 conveyed by sale, gift, or any other means except by the creation of a security interest.

264 [~~(63)~~] (65) "Transferor" means a person who transfers his ownership in property by
265 sale, gift, or any other means except by creation of a security interest.

266 [~~(64)~~] (66) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable
267 vehicle without motive power, designed as a temporary dwelling for travel, recreational, or
268 vacation use that does not require a special highway movement permit when drawn by a
269 self-propelled motor vehicle.

270 [~~(65)~~] (67) "Truck tractor" means a motor vehicle designed and used primarily for
271 drawing other vehicles and not constructed to carry a load other than a part of the weight of the
272 vehicle and load that is drawn.

273 [~~(66)~~] (68) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle,

274 manufactured home, and mobile home.

275 [~~(67)~~] (69) "Vessel" has the same meaning as provided in Section 73-18-2.

276 [~~(68)~~] (70) "Vintage vehicle" has the same meaning as provided in Section 41-21-1.

277 [~~(69)~~] (71) "Waters of this state" has the same meaning as provided in Section 73-18-2.

278 [~~(70)~~] (72) "Weighmaster" means a person, association of persons, or corporation
279 permitted to weigh vehicles under this chapter.

280 Section 2. Section **41-1a-514** is amended to read:

281 **41-1a-514. Certificate of title -- Contents.**

282 (1) The division upon approving an application for a certificate of title shall issue a
283 certificate of title. The face of the certificate of title shall include:

284 (a) the date issued;

285 (b) the name and address of the owner;

286 (c) a description of the vehicle, vessel, or outboard motor titled, including the year,
287 make, and identification number;

288 (d) a statement of the owner's title and of one lien or encumbrance, if any, upon the
289 vehicle, vessel, or outboard motor;

290 (e) any brand on the title; and

291 (f) an odometer statement, if applicable.

292 (2) The certificate of title shall bear the seal of the division.

293 (3) The certificate of title shall contain adequate space for:

294 (a) the assignment and warranty of title or interest by the owner;

295 (b) the release of interest by a recorded lien holder; and

296 (c) the notation of one lien or encumbrance, if any, existing at the time of transfer.

297 (4) (a) The model year that is listed on the certificate of title of a replica vehicle shall
298 be the model year that the body of the vehicle resembles.

299 (b) The certificate of title of a replica vehicle shall indicate that the vehicle is a replica
300 vehicle.

301 (5) (a) The certificate of title of a cloned vehicle shall indicate that the vehicle is a
302 cloned vehicle.

303 (b) The identification number under Subsection (1)(c) of a cloned vehicle is the same
304 as the identification number of the original vehicle.

305 Section 3. Section **41-6a-1507** is amended to read:

306 **41-6a-1507. Custom vehicles -- Defined -- Compliance with all laws and**
307 **standards -- Exceptions -- Revocation -- Signed statement required.**

308 (1) (a) As used in this section, [~~“replica”~~] “custom vehicle” means a motor vehicle that:

309 (i) (A) is at least 25 years old and of a model year after 1948; or

310 ~~[(i) with a body that is or resembles the body of a motor vehicle with a model year~~
311 ~~prior to 1975; and]~~

312 ~~[(ii) that may have a significant drive train or equipment upgrade.]~~

313 ~~[(b) A replica vehicle is for occasional pleasure rides and is not used for general daily~~
314 ~~transportation.]~~

315 ~~[(c) A replica vehicle does not include a vintage vehicle as defined in Section 41-21-1,~~
316 ~~nor a special interest vehicle as defined in Section 41-1a-102.]~~

317 (B) (I) was manufactured to resemble a vehicle that is at least 25 years old and of a
318 model year after 1948; and

319 (II) (Aa) has been altered from the manufacturer's original design; or

320 (Bb) has a body constructed of non-original materials; and

321 (ii) is primarily a collector's item that is used for:

322 (A) club activities;

323 (B) exhibitions;

324 (C) tours;

325 (D) parades;

326 (E) occasional transportation; and

327 (F) other similar uses.

328 (b) (i) “Custom vehicle” includes a cloned vehicle, as defined in Section 41-1a-102,

329 that meets the requirements of Subsections (1)(a)(i)(A) and (1)(a)(ii).

330 (ii) “Custom vehicle” does not include:

331 (A) a motor vehicle that is used for general, daily transportation;

332 (B) a vintage vehicle as defined in Section 41-21-1; or

333 (C) a special interest vehicle as defined in Section 41-1a-102.

334 (2) Except as specified under this section, a [~~replica~~] custom vehicle shall meet all
335 safety, [~~emissions,~~] registration, insurance, fees, and taxes required under this title.

336 (3) (a) Except as provided in Subsection (3)(b), all safety equipment of a [replica]
337 custom vehicle shall at least meet the safety standards applicable to the model year of the
338 vehicle being replicated. Any replacement equipment shall comply with the design standards
339 of the replacement equipment's manufacture.

340 (b) A [replica] custom vehicle shall comply with current vehicle brake and stopping
341 standards.

342 [~~(c) A replica vehicle shall comply with emissions standards applicable to the model~~
343 ~~year of the engine of the replica vehicle.~~]

344 (4) A custom vehicle is exempt from motor vehicle emissions inspection and
345 maintenance program requirements under Section 41-6a-1642.

346 [(4)] (5) The tax commission may revoke or deny the registration of a [replica] custom
347 vehicle for failure to comply with this section.

348 [(5)] (6) The owner of a [replica] custom vehicle shall provide a signed statement
349 certifying that the [replica] custom vehicle is owned and operated for the purposes enumerated
350 in this section to the safety inspection [~~and emissions inspection~~] station in order to qualify for
351 the exceptions provided under this section.

352 Section 4. Section **41-6a-1633** is amended to read:

353 **41-6a-1633. Mudguards or flaps at rear wheels of trucks, trailers, truck tractors,**
354 **or altered motor vehicles -- Exemptions.**

355 (1) (a) Except as provided in Subsection (2), when operated on a highway, the
356 following vehicles shall be equipped with wheel covers, mudguards, flaps, or splash aprons
357 behind the rearmost wheels to prevent, as far as practicable, the wheels from throwing dirt,
358 water, or other materials on other vehicles:

359 (i) a vehicle that has been altered:

360 (A) from the original manufacturer's frame height; or

361 (B) in any other manner so that the motor vehicle's wheels may throw dirt, water, or
362 other materials on other vehicles;

363 (ii) any truck with a gross vehicle weight rating of 10,500 pounds or more;

364 (iii) any truck tractor; and

365 (iv) any trailer or semitrailer with an unladen weight of 750 pounds or more.

366 (b) The wheel covers, mudguards, flaps, or splash aprons shall:

367 (i) be at least as wide as the tires they are protecting;
368 (ii) be directly in line with the tires; and
369 (iii) have a ground clearance of not more than 50% of the diameter of a rear-axle
370 wheel, under any conditions of loading of the motor vehicle.

371 (2) Wheel covers, mudguards, flaps, or splash aprons are not required:

372 (a) if the motor vehicle, trailer, or semitrailer is designed and constructed so that the
373 requirements of Subsection (1) are accomplished by means of fenders, body construction, or
374 other means of enclosure; or

375 (b) on a vehicle operated or driven during fair weather on well-maintained,
376 hard-surfaced roads if the motor vehicle:

377 (i) was made in America prior to 1935;

378 (ii) is registered as a vintage vehicle; or

379 (iii) is a [~~replica~~] custom vehicle as defined under Section 41-6a-1507.

380 (3) Except as provided in Subsection (2)(b), rear wheels not covered at the top by
381 fenders, bodies, or other parts of the vehicle shall be covered at the top by protective means
382 extending rearward at least to the center line of the rearmost axle.

383 Section 5. Section **41-6a-1642** is amended to read:

384 **41-6a-1642. Emissions inspection -- County program.**

385 (1) The legislative body of each county required under federal law to utilize a motor
386 vehicle emissions inspection and maintenance program or in which an emissions inspection
387 and maintenance program is necessary to attain or maintain any national ambient air quality
388 standard shall require:

389 (a) a certificate of emissions inspection, a waiver, or other evidence the motor vehicle
390 is exempt from emissions inspection and maintenance program requirements be presented:

391 (i) as a condition of registration or renewal of registration; and

392 (ii) at other times as the county legislative body may require to enforce inspection
393 requirements for individual motor vehicles, except that the county legislative body may not
394 routinely require a certificate of emission inspection, or waiver of the certificate, more often
395 than required under Subsection (6); and

396 (b) compliance with this section for a motor vehicle registered or principally operated
397 in the county and owned by or being used by a department, division, instrumentality, agency, or

398 employee of:

399 (i) the federal government;

400 (ii) the state and any of its agencies; or

401 (iii) a political subdivision of the state, including school districts.

402 (2) (a) The legislative body of a county identified in Subsection (1), in consultation
403 with the Air Quality Board created under Section 19-1-106, shall make regulations or
404 ordinances regarding:

405 (i) emissions standards;

406 (ii) test procedures;

407 (iii) inspections stations;

408 (iv) repair requirements and dollar limits for correction of deficiencies; and

409 (v) certificates of emissions inspections.

410 (b) The regulations or ordinances shall:

411 (i) be made to attain or maintain ambient air quality standards in the county, consistent
412 with the state implementation plan and federal requirements; and

413 (ii) may allow for a phase-in of the program by geographical area.

414 (c) The county legislative body and the Air Quality Board shall give preference to an
415 inspection and maintenance program that is:

416 (i) decentralized, to the extent the decentralized program will attain and maintain
417 ambient air quality standards and meet federal requirements;

418 (ii) the most cost effective means to achieve and maintain the maximum benefit with
419 regard to ambient air quality standards and to meet federal air quality requirements as related to
420 vehicle emissions; and

421 (iii) providing a reasonable phase-out period for replacement of air pollution emission
422 testing equipment made obsolete by the program.

423 (d) The provisions of Subsection (2)(c)(iii) apply only to the extent the phase-out:

424 (i) may be accomplished in accordance with applicable federal requirements; and

425 (ii) does not otherwise interfere with the attainment and maintenance of ambient air
426 quality standards.

427 (3) The following vehicles are exempt from the provisions of this section:

428 (a) an implement of husbandry;

429 (b) a motor vehicle that:

430 (i) meets the definition of a farm truck under Section 41-1a-102; and

431 (ii) has a gross vehicle weight rating of 12,001 pounds or more; [~~and~~]

432 (c) a vintage vehicle as defined in Section 41-21-1[-]; and

433 (d) a custom vehicle as defined in Section 41-6a-1507.

434 (4) (a) The legislative body of a county identified in Subsection (1) shall exempt a
435 pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight of 12,000 pounds or
436 less from the emission inspection requirements of this section, if the registered owner of the
437 pickup truck provides a signed statement to the legislative body stating the truck is used:

438 (i) by the owner or operator of a farm located on property that qualifies as land in
439 agricultural use under Sections 59-2-502 and 59-2-503; and

440 (ii) exclusively for the following purposes in operating the farm:

441 (A) for the transportation of farm products, including livestock and its products,
442 poultry and its products, floricultural and horticultural products; and

443 (B) in the transportation of farm supplies, including tile, fence, and every other thing or
444 commodity used in agricultural, floricultural, horticultural, livestock, and poultry production
445 and maintenance.

446 (b) The county shall provide to the registered owner who signs and submits a signed
447 statement under this section a certificate of exemption from emission inspection requirements
448 for purposes of registering the exempt vehicle.

449 (5) (a) Subject to Subsection (5)(c), the legislative body of each county required under
450 federal law to utilize a motor vehicle emissions inspection and maintenance program or in
451 which an emissions inspection and maintenance program is necessary to attain or maintain any
452 national ambient air quality standard may require each college or university located in a county
453 subject to this section to require its students and employees who park a motor vehicle not
454 registered in a county subject to this section to provide proof of compliance with an emissions
455 inspection accepted by the county legislative body if the motor vehicle is parked on the college
456 or university campus or property.

457 (b) College or university parking areas that are metered or for which payment is
458 required per use are not subject to the requirements of this Subsection (5).

459 (c) The legislative body of a county shall make the reasons for implementing the

460 provisions of this Subsection (5) part of the record at the time that the county legislative body
461 takes its official action to implement the provisions of this Subsection (5).

462 (6) (a) An emissions inspection station shall issue a certificate of emissions inspection
463 for each motor vehicle that meets the inspection and maintenance program requirements
464 established in rules made under Subsection (2).

465 (b) The frequency of the emissions inspection shall be determined based on the age of
466 the vehicle as determined by model year and shall be required annually subject to the
467 provisions of Subsection (6)(c).

468 (c) (i) To the extent allowed under the current federally approved state implementation
469 plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401 et seq., the legislative
470 body of a county identified in Subsection (1) shall only require the emissions inspection every
471 two years for each vehicle.

472 (ii) The provisions of Subsection (6)(c)(i) apply only to a vehicle that is less than six
473 years old on January 1.

474 (d) If an emissions inspection is only required every two years for a vehicle under
475 Subsection (6)(c), the inspection shall be required for the vehicle in:

- 476 (i) odd-numbered years for vehicles with odd-numbered model years; or
- 477 (ii) in even-numbered years for vehicles with even-numbered model years.

478 (7) The emissions inspection shall be required within the same time limit applicable to
479 a safety inspection under Section 41-1a-205.

480 (8) (a) A county identified in Subsection (1) shall collect information about and
481 monitor the program.

482 (b) A county identified in Subsection (1) shall supply this information to an appropriate
483 legislative committee, as designated by the Legislative Management Committee, at times
484 determined by the designated committee to identify program needs, including funding needs.

485 (9) If approved by the county legislative body, a county that had an established
486 emissions inspection fee as of January 1, 2002, may increase the established fee that an
487 emissions inspection station may charge by \$2.50 for each year that is exempted from
488 emissions inspections under Subsection (6)(c) up to a \$7.50 increase.

489 Section 6. Section **41-21-1** is amended to read:

490 **41-21-1. Street rod and vintage vehicle defined.**

491 (1) (a) "Street rod" means a motor vehicle that:
492 (i) (A) was manufactured in 1948 or before; or
493 (B) (I) was manufactured after 1948 to resemble a vehicle that was manufactured in
494 1948 or before; and
495 (II) (Aa) has been altered from the manufacturer's original design; or
496 (Bb) has a body constructed from non-original materials; and
497 (ii) is primarily a collector's item that is used for:
498 (A) club activities;
499 (B) exhibitions;
500 (C) tours;
501 (D) parades;
502 (E) occasional transportation; and
503 (F) other similar uses.

504 (b) (i) "Street rod" includes a cloned vehicle, as defined in Section 41-1a-102, that
505 meets the requirements of Subsections (1)(a)(i)(A) and (1)(a)(ii).

506 (ii) "Street rod" does not include a motor vehicle that is used for general, daily
507 transportation.

508 (2) (a) "Vintage vehicle" means a motor vehicle that is 40 years old or older, from the
509 current year, primarily a collector's item, and used for participation in club activities,
510 exhibitions, tours, parades, occasional transportation, and similar uses, but that is not used for
511 general daily transportation.

512 (b) "Vintage vehicle" includes a street rod.

513 Section 7. Section **59-12-102** is amended to read:

514 **59-12-102. Definitions.**

515 As used in this chapter:

- 516 (1) "800 service" means a telecommunications service that:
517 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
518 (b) is typically marketed:
519 (i) under the name 800 toll-free calling;
520 (ii) under the name 855 toll-free calling;
521 (iii) under the name 866 toll-free calling;

- 522 (iv) under the name 877 toll-free calling;
- 523 (v) under the name 888 toll-free calling; or
- 524 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
- 525 Federal Communications Commission.
- 526 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 527 (i) a subscriber purchases;
- 528 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 529 the subscriber's:
- 530 (A) prerecorded announcement; or
- 531 (B) live service; and
- 532 (iii) is typically marketed:
- 533 (A) under the name 900 service; or
- 534 (B) under a name similar to Subsection (2)(c)(iii)(A) as designated by the Federal
- 535 Communications Commission.
- 536 (b) "900 service" does not include a charge for:
- 537 (i) a collection service a seller of a telecommunications service provides to a
- 538 subscriber; or
- 539 (ii) the following a subscriber sells to the subscriber's customer:
- 540 (A) a product; or
- 541 (B) a service.
- 542 (3) (a) "Admission or user fees" includes season passes.
- 543 (b) "Admission or user fees" does not include annual membership dues to private
- 544 organizations.
- 545 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 546 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 547 Agreement after November 12, 2002.
- 548 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 549 (a) listed under Subsection (6); and
- 550 (b) that are imposed within a local taxing jurisdiction.
- 551 (6) "Agreement sales and use tax" means a tax imposed under:
- 552 (a) Subsection 59-12-103(2)(a)(i)(A);

- 553 (b) Subsection 59-12-103(2)(b)(i);
- 554 (c) Subsection 59-12-103(2)(c)(i);
- 555 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 556 (e) Section 59-12-204;
- 557 (f) Section 59-12-401;
- 558 (g) Section 59-12-402;
- 559 (h) Section 59-12-501;
- 560 (i) Section 59-12-502;
- 561 (j) Section 59-12-703;
- 562 (k) Section 59-12-802;
- 563 (l) Section 59-12-804;
- 564 (m) Section 59-12-1001;
- 565 (n) Section 59-12-1102;
- 566 (o) Section 59-12-1302;
- 567 (p) Section 59-12-1402;
- 568 (q) Section 59-12-1503;
- 569 (r) Section 59-12-1703;
- 570 (s) Section 59-12-1802;
- 571 (t) Section 59-12-1903;
- 572 (u) Section 59-12-2003; or
- 573 (v) Section 59-12-2103.
- 574 (7) "Aircraft" is as defined in Section 72-10-102.
- 575 (8) "Alcoholic beverage" means a beverage that:
 - 576 (a) is suitable for human consumption; and
 - 577 (b) contains .5% or more alcohol by volume.
- 578 (9) (a) "Ancillary service" means a service associated with, or incidental to, the
- 579 provision of telecommunications service.
- 580 (b) "Ancillary service" includes:
 - 581 (i) a conference bridging service;
 - 582 (ii) a detailed communications billing service;
 - 583 (iii) directory assistance;

584 (iv) a vertical service; or

585 (v) a voice mail service.

586 (10) "Area agency on aging" is as defined in Section 62A-3-101.

587 (11) "Assisted amusement device" means an amusement device, skill device, or ride

588 device that is started and stopped by an individual:

589 (a) who is not the purchaser or renter of the right to use or operate the amusement

590 device, skill device, or ride device; and

591 (b) at the direction of the seller of the right to use the amusement device, skill device,

592 or ride device.

593 (12) "Assisted cleaning or washing of tangible personal property" means cleaning or

594 washing of tangible personal property if the cleaning or washing labor is primarily performed

595 by an individual:

596 (a) who is not the purchaser of the cleaning or washing of the tangible personal

597 property; and

598 (b) at the direction of the seller of the cleaning or washing of the tangible personal

599 property.

600 (13) "Authorized carrier" means:

601 (a) in the case of vehicles operated over public highways, the holder of credentials

602 indicating that the vehicle is or will be operated pursuant to both the International Registration

603 Plan and the International Fuel Tax Agreement;

604 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating

605 certificate or air carrier's operating certificate; or

606 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling

607 stock, the holder of a certificate issued by the United States Surface Transportation Board.

608 (14) (a) Except as provided in Subsection (14)(b), "biomass energy" means any of the

609 following that is used as the primary source of energy to produce fuel or electricity:

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

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

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

613 (B) animal waste;

614 (C) methane produced:

- 615 (I) at landfills; or
- 616 (II) as a byproduct of the treatment of wastewater residuals;
- 617 (D) aquatic plants; and
- 618 (E) agricultural products.
- 619 (b) "Biomass energy" does not include:
- 620 (i) black liquor;
- 621 (ii) treated woods; or
- 622 (iii) biomass from municipal solid waste other than methane produced:
- 623 (A) at landfills; or
- 624 (B) as a byproduct of the treatment of wastewater residuals.
- 625 (15) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 626 property, products, or services if the tangible personal property, products, or services are:
- 627 (i) distinct and identifiable; and
- 628 (ii) sold for one nonitemized price.
- 629 (b) "Bundled transaction" does not include:
- 630 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 631 the basis of the selection by the purchaser of the items of tangible personal property included in
- 632 the transaction;
- 633 (ii) the sale of real property;
- 634 (iii) the sale of services to real property;
- 635 (iv) the retail sale of tangible personal property and a service if:
- 636 (A) the tangible personal property:
- 637 (I) is essential to the use of the service; and
- 638 (II) is provided exclusively in connection with the service; and
- 639 (B) the service is the true object of the transaction;
- 640 (v) the retail sale of two services if:
- 641 (A) one service is provided that is essential to the use or receipt of a second service;
- 642 (B) the first service is provided exclusively in connection with the second service; and
- 643 (C) the second service is the true object of the transaction;
- 644 (vi) a transaction that includes tangible personal property or a product subject to
- 645 taxation under this chapter and tangible personal property or a product that is not subject to

646 taxation under this chapter if the:

647 (A) seller's purchase price of the tangible personal property or product subject to
648 taxation under this chapter is de minimis; or

649 (B) seller's sales price of the tangible personal property or product subject to taxation
650 under this chapter is de minimis; and

651 (vii) the retail sale of tangible personal property that is not subject to taxation under
652 this chapter and tangible personal property that is subject to taxation under this chapter if:

653 (A) that retail sale includes:

654 (I) food and food ingredients;

655 (II) a drug;

656 (III) durable medical equipment;

657 (IV) mobility enhancing equipment;

658 (V) an over-the-counter drug;

659 (VI) a prosthetic device; or

660 (VII) a medical supply; and

661 (B) subject to Subsection (15)(f):

662 (I) the seller's purchase price of the tangible personal property subject to taxation under
663 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

664 (II) the seller's sales price of the tangible personal property subject to taxation under
665 this chapter is 50% or less of the seller's total sales price of that retail sale.

666 (c) (i) For purposes of Subsection (15)(a) (i), tangible personal property, a product, or a
667 service that is distinct and identifiable does not include:

668 (A) packaging that:

669 (I) accompanies the sale of the tangible personal property, product, or service; and

670 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
671 service;

672 (B) tangible personal property, a product, or a service provided free of charge with the
673 purchase of another item of tangible personal property, a product, or a service; or

674 (C) an item of tangible personal property, a product, or a service included in the
675 definition of "purchase price."

676 (ii) For purposes of Subsection (15)(c)(i)(B), an item of tangible personal property, a

677 product, or a service is provided free of charge with the purchase of another item of tangible
678 personal property, a product, or a service if the sales price of the purchased item of tangible
679 personal property, product, or service does not vary depending on the inclusion of the tangible
680 personal property, product, or service provided free of charge.

681 (d) (i) For purposes of Subsection (15)(a)(ii), property sold for one nonitemized price
682 does not include a price that is separately identified by product on the following, regardless of
683 whether the following is in paper format or electronic format:

684 (A) a binding sales document; or

685 (B) another supporting sales-related document that is available to a purchaser.

686 (ii) For purposes of Subsection (15)(d)(i), a binding sales document or another
687 supporting sales-related document that is available to a purchaser includes:

688 (A) a bill of sale;

689 (B) a contract;

690 (C) an invoice;

691 (D) a lease agreement;

692 (E) a periodic notice of rates and services;

693 (F) a price list;

694 (G) a rate card;

695 (H) a receipt; or

696 (I) a service agreement.

697 (e) (i) For purposes of Subsection (15)(b)(vi), the sales price of tangible personal
698 property or a product subject to taxation under this chapter is de minimis if:

699 (A) the seller's purchase price of the tangible personal property or product is 10% or
700 less of the seller's total purchase price of the bundled transaction; or

701 (B) the seller's sales price of the tangible personal property or product is 10% or less of
702 the seller's total sales price of the bundled transaction.

703 (ii) For purposes of Subsection (15)(b)(vi), a seller:

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

707 (B) may not use a combination of the seller's purchase price and the seller's sales price

708 to determine if the purchase price or sales price of the tangible personal property or product
709 subject to taxation under this chapter is de minimis.

710 (iii) For purposes of Subsection (15)(b)(vi), a seller shall use the full term of a service
711 contract to determine if the sales price of tangible personal property or a product is de minimis.

712 (f) For purposes of Subsection (15)(b)(vii)(B), a seller may not use a combination of
713 the seller's purchase price and the seller's sales price to determine if tangible personal property
714 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
715 price of that retail sale.

716 (16) "Certified automated system" means software certified by the governing board of
717 the agreement in accordance with Section 59-12-102.1 that:

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

720 (i) on a transaction; and

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

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

724 (c) maintains a record of the transaction described in Subsection (16)(a)(i).

725 (17) "Certified service provider" means an agent certified:

726 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;
727 and

728 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
729 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's
730 own purchases.

731 (18) (a) Subject to Subsection (18)(b), "clothing" means all human wearing apparel
732 suitable for general use.

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

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

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

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

739 (20) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
740 fuels that does not constitute industrial use under Subsection (46) or residential use under
741 Subsection (91).

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

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

747 (ii) For purposes of Subsection (21)(b)(i), in accordance with Title 63G, Chapter 3,
748 Utah Administrative Rulemaking Act, the commission may make rules defining what
749 constitutes a person's place of employment.

750 (22) "Component part" includes:

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

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

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

756 (d) feed, seeds, and seedlings.

757 (23) "Computer" means an electronic device that accepts information:

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

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

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

761 (24) "Computer software" means a set of coded instructions designed to cause:

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

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

764 (25) (a) "Conference bridging service" means an ancillary service that links two or
765 more participants of an audio conference call or video conference call.

766 (b) "Conference bridging service" includes providing a telephone number as part of the
767 ancillary service described in Subsection (25)(a).

768 (c) "Conference bridging service" does not include a telecommunications service used
769 to reach the ancillary service described in Subsection (25)(a).

770 (26) "Construction materials" means any tangible personal property that will be
771 converted into real property.

772 (27) "Delivered electronically" means delivered to a purchaser by means other than
773 tangible storage media.

774 (28) (a) "Delivery charge" means a charge:

775 (i) by a seller of:

776 (A) tangible personal property;

777 (B) a product transferred electronically; or

778 (C) services; and

779 (ii) for preparation and delivery of the tangible personal property, product transferred
780 electronically, or services described in Subsection (28)(a)(i) to a location designated by the
781 purchaser.

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

783 (i) transportation;

784 (ii) shipping;

785 (iii) postage;

786 (iv) handling;

787 (v) crating; or

788 (vi) packing.

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

791 (30) "Dietary supplement" means a product, other than tobacco, that:

792 (a) is intended to supplement the diet;

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

794 (i) a vitamin;

795 (ii) a mineral;

796 (iii) an herb or other botanical;

797 (iv) an amino acid;

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

800 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient

- 801 described in Subsections (30)(b)(i) through (v);
- 802 (c) (i) except as provided in Subsection (30)(c)(ii), is intended for ingestion in:
- 803 (A) tablet form;
- 804 (B) capsule form;
- 805 (C) powder form;
- 806 (D) softgel form;
- 807 (E) gelcap form; or
- 808 (F) liquid form; or
- 809 (ii) notwithstanding Subsection (30)(c)(i), if the product is not intended for ingestion in
- 810 a form described in Subsections (30)(c)(i)(A) through (F), is not represented:
- 811 (A) as conventional food; and
- 812 (B) for use as a sole item of:
- 813 (I) a meal; or
- 814 (II) the diet; and
- 815 (d) is required to be labeled as a dietary supplement:
- 816 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 817 (ii) as required by 21 C.F.R. Sec. 101.36.
- 818 (31) (a) "Direct mail" means printed material delivered or distributed by United States
- 819 mail or other delivery service:
- 820 (i) to:
- 821 (A) a mass audience; or
- 822 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
- 823 (ii) if the cost of the printed material is not billed directly to the recipients.
- 824 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 825 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 826 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 827 single address.
- 828 (32) "Directory assistance" means an ancillary service of providing:
- 829 (a) address information; or
- 830 (b) telephone number information.
- 831 (33) (a) "Disposable home medical equipment or supplies" means medical equipment

832 or supplies that:

- 833 (i) cannot withstand repeated use; and
- 834 (ii) are purchased by, for, or on behalf of a person other than:
 - 835 (A) a health care facility as defined in Section 26-21-2;
 - 836 (B) a health care provider as defined in Section 78B-3-403;
 - 837 (C) an office of a health care provider described in Subsection (33)(a)(ii)(B); or
 - 838 (D) a person similar to a person described in Subsections (33)(a)(ii)(A) through (C).

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

- 840 (i) a drug;
- 841 (ii) durable medical equipment;
- 842 (iii) a hearing aid;
- 843 (iv) a hearing aid accessory;
- 844 (v) mobility enhancing equipment; or
- 845 (vi) tangible personal property used to correct impaired vision, including:
 - 846 (A) eyeglasses; or
 - 847 (B) contact lenses.

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

850 (34) (a) "Drug" means a compound, substance, or preparation, or a component of a
851 compound, substance, or preparation that is:

- 852 (i) recognized in:
 - 853 (A) the official United States Pharmacopoeia;
 - 854 (B) the official Homeopathic Pharmacopoeia of the United States;
 - 855 (C) the official National Formulary; or
 - 856 (D) a supplement to a publication listed in Subsections (34)(a)(i)(A) through (C);
- 857 (ii) intended for use in the:
 - 858 (A) diagnosis of disease;
 - 859 (B) cure of disease;
 - 860 (C) mitigation of disease;
 - 861 (D) treatment of disease; or
 - 862 (E) prevention of disease; or

- 863 (iii) intended to affect:
- 864 (A) the structure of the body; or
- 865 (B) any function of the body.
- 866 (b) "Drug" does not include:
- 867 (i) food and food ingredients;
- 868 (ii) a dietary supplement;
- 869 (iii) an alcoholic beverage; or
- 870 (iv) a prosthetic device.
- 871 (35) (a) Except as provided in Subsection (35)(c), "durable medical equipment" means
- 872 equipment that:
- 873 (i) can withstand repeated use;
- 874 (ii) is primarily and customarily used to serve a medical purpose;
- 875 (iii) generally is not useful to a person in the absence of illness or injury; and
- 876 (iv) is not worn in or on the body.
- 877 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 878 equipment described in Subsection (35)(a).
- 879 (c) Notwithstanding Subsection (35)(a), "durable medical equipment" does not include
- 880 mobility enhancing equipment.
- 881 (36) "Electronic" means:
- 882 (a) relating to technology; and
- 883 (b) having:
- 884 (i) electrical capabilities;
- 885 (ii) digital capabilities;
- 886 (iii) magnetic capabilities;
- 887 (iv) wireless capabilities;
- 888 (v) optical capabilities;
- 889 (vi) electromagnetic capabilities; or
- 890 (vii) capabilities similar to Subsections (36)(b)(i) through (vi).
- 891 (37) "Employee" is as defined in Section 59-10-401.
- 892 (38) "Fixed guideway" means a public transit facility that uses and occupies:
- 893 (a) rail for the use of public transit; or

- 894 (b) a separate right-of-way for the use of public transit.
- 895 (39) "Fixed wireless service" means a telecommunications service that provides radio
896 communication between fixed points.
- 897 (40) (a) "Food and food ingredients" means substances:
- 898 (i) regardless of whether the substances are in:
- 899 (A) liquid form;
- 900 (B) concentrated form;
- 901 (C) solid form;
- 902 (D) frozen form;
- 903 (E) dried form; or
- 904 (F) dehydrated form; and
- 905 (ii) that are:
- 906 (A) sold for:
- 907 (I) ingestion by humans; or
- 908 (II) chewing by humans; and
- 909 (B) consumed for the substance's:
- 910 (I) taste; or
- 911 (II) nutritional value.
- 912 (b) "Food and food ingredients" includes an item described in Subsection (75)(b)(iii).
- 913 (c) "Food and food ingredients" does not include:
- 914 (i) an alcoholic beverage;
- 915 (ii) tobacco; or
- 916 (iii) prepared food.
- 917 (41) (a) "Fundraising sales" means sales:
- 918 (i) (A) made by a school; or
- 919 (B) made by a school student;
- 920 (ii) that are for the purpose of raising funds for the school to purchase equipment,
921 materials, or provide transportation; and
- 922 (iii) that are part of an officially sanctioned school activity.
- 923 (b) For purposes of Subsection (41)(a)(iii), "officially sanctioned school activity"
924 means a school activity:

925 (i) that is conducted in accordance with a formal policy adopted by the school or school
926 district governing the authorization and supervision of fundraising activities;

927 (ii) that does not directly or indirectly compensate an individual teacher or other
928 educational personnel by direct payment, commissions, or payment in kind; and

929 (iii) the net or gross revenues from which are deposited in a dedicated account
930 controlled by the school or school district.

931 (42) "Geothermal energy" means energy contained in heat that continuously flows
932 outward from the earth that is used as the sole source of energy to produce electricity.

933 (43) "Governing board of the agreement" means the governing board of the agreement
934 that is:

935 (a) authorized to administer the agreement; and

936 (b) established in accordance with the agreement.

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

938 (i) the executive branch of the state, including all departments, institutions, boards,
939 divisions, bureaus, offices, commissions, and committees;

940 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
941 Office of the Court Administrator, and similar administrative units in the judicial branch;

942 (iii) the legislative branch of the state, including the House of Representatives, the
943 Senate, the Legislative Printing Office, the Office of Legislative Research and General
944 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
945 Analyst;

946 (iv) the National Guard;

947 (v) an independent entity as defined in Section 63E-1-102; or

948 (vi) a political subdivision as defined in Section 17B-1-102.

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

951 (i) a college campus of the Utah College of Applied Technology;

952 (ii) a school;

953 (iii) the State Board of Education;

954 (iv) the State Board of Regents; or

955 (v) a state institution of higher education as defined in Section 53B-3-102.

956 (45) "Hydroelectric energy" means water used as the sole source of energy to produce
957 electricity.

958 (46) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
959 other fuels:

960 (a) in mining or extraction of minerals;

961 (b) in agricultural operations to produce an agricultural product up to the time of
962 harvest or placing the agricultural product into a storage facility, including:

963 (i) commercial greenhouses;

964 (ii) irrigation pumps;

965 (iii) farm machinery;

966 (iv) implements of husbandry as defined in Subsection 41-1a-102[~~(23)~~] (24) that are
967 not registered under Title 41, Chapter 1a, Part 2, Registration; and

968 (v) other farming activities;

969 (c) in manufacturing tangible personal property at an establishment described in SIC
970 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
971 Executive Office of the President, Office of Management and Budget;

972 (d) by a scrap recycler if:

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

976 (A) iron;

977 (B) steel;

978 (C) nonferrous metal;

979 (D) paper;

980 (E) glass;

981 (F) plastic;

982 (G) textile; or

983 (H) rubber; and

984 (ii) the new products under Subsection (46)(d)(i) would otherwise be made with
985 nonrecycled materials; or

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

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

988 (47) (a) Except as provided in Subsection (47)(b), "installation charge" means a charge
989 for installing:

990 (i) tangible personal property; or

991 (ii) a product transferred electronically.

992 (b) "Installation charge" does not include a charge for repairs or renovations of:

993 (i) tangible personal property; or

994 (ii) a product transferred electronically.

995 (48) (a) "Lease" or "rental" means a transfer of possession or control of tangible
996 personal property or a product transferred electronically for:

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

998 (B) an indeterminate term; and

999 (ii) consideration.

1000 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
1001 amount of consideration may be increased or decreased by reference to the amount realized
1002 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
1003 Code.

1004 (c) "Lease" or "rental" does not include:

1005 (i) a transfer of possession or control of property under a security agreement or
1006 deferred payment plan that requires the transfer of title upon completion of the required
1007 payments;

1008 (ii) a transfer of possession or control of property under an agreement that requires the
1009 transfer of title:

1010 (A) upon completion of required payments; and

1011 (B) if the payment of an option price does not exceed the greater of:

1012 (I) \$100; or

1013 (II) 1% of the total required payments; or

1014 (iii) providing tangible personal property along with an operator for a fixed period of
1015 time or an indeterminate period of time if the operator is necessary for equipment to perform as
1016 designed.

1017 (d) For purposes of Subsection (48)(c)(iii), an operator is necessary for equipment to

- 1018 perform as designed if the operator's duties exceed the:
- 1019 (i) set-up of tangible personal property;
- 1020 (ii) maintenance of tangible personal property; or
- 1021 (iii) inspection of tangible personal property.
- 1022 (49) "Load and leave" means delivery to a purchaser by use of a tangible storage media
- 1023 if the tangible storage media is not physically transferred to the purchaser.
- 1024 (50) "Local taxing jurisdiction" means a:
- 1025 (a) county that is authorized to impose an agreement sales and use tax;
- 1026 (b) city that is authorized to impose an agreement sales and use tax; or
- 1027 (c) town that is authorized to impose an agreement sales and use tax.
- 1028 (51) "Manufactured home" is as defined in Section 58-56-3.
- 1029 (52) For purposes of Section 59-12-104, "manufacturing facility" means:
- 1030 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
- 1031 Industrial Classification Manual of the federal Executive Office of the President, Office of
- 1032 Management and Budget;
- 1033 (b) a scrap recycler if:
- 1034 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 1035 one or more of the following items into prepared grades of processed materials for use in new
- 1036 products:
- 1037 (A) iron;
- 1038 (B) steel;
- 1039 (C) nonferrous metal;
- 1040 (D) paper;
- 1041 (E) glass;
- 1042 (F) plastic;
- 1043 (G) textile; or
- 1044 (H) rubber; and
- 1045 (ii) the new products under Subsection (52)(b)(i) would otherwise be made with
- 1046 nonrecycled materials; or
- 1047 (c) a cogeneration facility as defined in Section 54-2-1.
- 1048 (53) "Member of the immediate family of the producer" means a person who is related

1049 to a producer described in Subsection 59-12-104(20)(a) as a:

1050 (a) child or stepchild, regardless of whether the child or stepchild is:

1051 (i) an adopted child or adopted stepchild; or

1052 (ii) a foster child or foster stepchild;

1053 (b) grandchild or stepgrandchild;

1054 (c) grandparent or stepgrandparent;

1055 (d) nephew or stepnephew;

1056 (e) niece or stepniece;

1057 (f) parent or stepparent;

1058 (g) sibling or stepsibling;

1059 (h) spouse;

1060 (i) person who is the spouse of a person described in Subsections (53)(a) through (g);

1061 or

1062 (j) person similar to a person described in Subsections (53)(a) through (i) as

1063 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

1064 Administrative Rulemaking Act.

1065 (54) "Mobile home" is as defined in Section 58-56-3.

1066 (55) "Mobile telecommunications service" is as defined in the Mobile

1067 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1068 (56) (a) "Mobile wireless service" means a telecommunications service, regardless of
1069 the technology used, if:

1070 (i) the origination point of the conveyance, routing, or transmission is not fixed;

1071 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

1072 (iii) the origination point described in Subsection (56)(a)(i) and the termination point
1073 described in Subsection (56)(a)(ii) are not fixed.

1074 (b) "Mobile wireless service" includes a telecommunications service that is provided
1075 by a commercial mobile radio service provider.

1076 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1077 commission may by rule define "commercial mobile radio service provider."

1078 (57) (a) Except as provided in Subsection (57)(c), "mobility enhancing equipment"
1079 means equipment that is:

1080 (i) primarily and customarily used to provide or increase the ability to move from one
1081 place to another;

1082 (ii) appropriate for use in a:

1083 (A) home; or

1084 (B) motor vehicle; and

1085 (iii) not generally used by persons with normal mobility.

1086 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
1087 the equipment described in Subsection (57)(a).

1088 (c) Notwithstanding Subsection (57)(a), "mobility enhancing equipment" does not
1089 include:

1090 (i) a motor vehicle;

1091 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
1092 vehicle manufacturer;

1093 (iii) durable medical equipment; or

1094 (iv) a prosthetic device.

1095 (58) "Model 1 seller" means a seller that has selected a certified service provider as the
1096 seller's agent to perform all of the seller's sales and use tax functions for agreement sales and
1097 use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the
1098 seller's own purchases.

1099 (59) "Model 2 seller" means a seller that:

1100 (a) except as provided in Subsection (59)(b), has selected a certified automated system
1101 to perform the seller's sales tax functions for agreement sales and use taxes; and

1102 (b) notwithstanding Subsection (59)(a), retains responsibility for remitting all of the
1103 sales tax:

1104 (i) collected by the seller; and

1105 (ii) to the appropriate local taxing jurisdiction.

1106 (60) (a) Subject to Subsection (60)(b), "model 3 seller" means a seller that has:

1107 (i) sales in at least five states that are members of the agreement;

1108 (ii) total annual sales revenues of at least \$500,000,000;

1109 (iii) a proprietary system that calculates the amount of tax:

1110 (A) for an agreement sales and use tax; and

- 1111 (B) due to each local taxing jurisdiction; and
- 1112 (iv) entered into a performance agreement with the governing board of the agreement.
- 1113 (b) For purposes of Subsection (60)(a), "model 3 seller" includes an affiliated group of
- 1114 sellers using the same proprietary system.
- 1115 (61) "Modular home" means a modular unit as defined in Section 58-56-3.
- 1116 (62) "Motor vehicle" is as defined in Section 41-1a-102.
- 1117 (63) "Oil shale" means a group of fine black to dark brown shales containing
- 1118 bituminous material that yields petroleum upon distillation.
- 1119 (64) (a) "Other fuels" means products that burn independently to produce heat or
- 1120 energy.
- 1121 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 1122 personal property.
- 1123 (65) (a) "Paging service" means a telecommunications service that provides
- 1124 transmission of a coded radio signal for the purpose of activating a specific pager.
- 1125 (b) For purposes of Subsection (65)(a), the transmission of a coded radio signal
- 1126 includes a transmission by message or sound.
- 1127 (66) "Pawnbroker" is as defined in Section 13-32a-102.
- 1128 (67) "Pawn transaction" is as defined in Section 13-32a-102.
- 1129 (68) (a) "Permanently attached to real property" means that for tangible personal
- 1130 property attached to real property:
- 1131 (i) the attachment of the tangible personal property to the real property:
- 1132 (A) is essential to the use of the tangible personal property; and
- 1133 (B) suggests that the tangible personal property will remain attached to the real
- 1134 property in the same place over the useful life of the tangible personal property; or
- 1135 (ii) if the tangible personal property is detached from the real property, the detachment
- 1136 would:
- 1137 (A) cause substantial damage to the tangible personal property; or
- 1138 (B) require substantial alteration or repair of the real property to which the tangible
- 1139 personal property is attached.
- 1140 (b) "Permanently attached to real property" includes:
- 1141 (i) the attachment of an accessory to the tangible personal property if the accessory is:

- 1142 (A) essential to the operation of the tangible personal property; and
- 1143 (B) attached only to facilitate the operation of the tangible personal property;
- 1144 (ii) a temporary detachment of tangible personal property from real property for a
- 1145 repair or renovation if the repair or renovation is performed where the tangible personal
- 1146 property and real property are located; or
- 1147 (iii) property attached to oil, gas, or water pipelines, other than the property listed in
- 1148 Subsection (68)(c)(iii).
- 1149 (c) "Permanently attached to real property" does not include:
- 1150 (i) the attachment of portable or movable tangible personal property to real property if
- 1151 that portable or movable tangible personal property is attached to real property only for:
- 1152 (A) convenience;
- 1153 (B) stability; or
- 1154 (C) for an obvious temporary purpose;
- 1155 (ii) the detachment of tangible personal property from real property other than the
- 1156 detachment described in Subsection (68)(b)(ii);
- 1157 (iii) an attachment of the following tangible personal property to real property if the
- 1158 attachment to real property is only through a line that supplies water, electricity, gas,
- 1159 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 1160 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 1161 (A) a refrigerator;
- 1162 (B) a washer;
- 1163 (C) a dryer;
- 1164 (D) a stove;
- 1165 (E) a television;
- 1166 (F) a computer;
- 1167 (G) a telephone; or
- 1168 (H) tangible personal property similar to Subsections (68)(c)(iii)(A) through (G) as
- 1169 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 1170 Administrative Rulemaking Act; or
- 1171 (iv) the following if attached to real property, regardless of whether the attachment to
- 1172 real property is only through a line that supplies water, electricity, gas, telephone, cable, or

1173 supplies a similar item as determined by the commission by rule made in accordance with Title
1174 63G, Chapter 3, Utah Administrative Rulemaking Act:

- 1175 (A) a hot water heater;
- 1176 (B) a water softener system; or
- 1177 (C) a water filtration system.

1178 (69) "Person" includes any individual, firm, partnership, joint venture, association,
1179 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
1180 municipality, district, or other local governmental entity of the state, or any group or
1181 combination acting as a unit.

1182 (70) "Place of primary use":

1183 (a) for telecommunications service other than mobile telecommunications service,
1184 means the street address representative of where the purchaser's use of the telecommunications
1185 service primarily occurs, which shall be:

- 1186 (i) the residential street address of the purchaser; or
- 1187 (ii) the primary business street address of the purchaser; or
- 1188 (b) for mobile telecommunications service, is as defined in the Mobile
1189 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1190 (71) (a) "Postpaid calling service" means a telecommunications service a person
1191 obtains by making a payment on a call-by-call basis:

- 1192 (i) through the use of a:
 - 1193 (A) bank card;
 - 1194 (B) credit card;
 - 1195 (C) debit card; or
 - 1196 (D) travel card; or
- 1197 (ii) by a charge made to a telephone number that is not associated with the origination
1198 or termination of the telecommunications service.

1199 (b) "Postpaid calling service" includes a service that would be a prepaid wireless
1200 calling service if the service were exclusively a telecommunications service.

1201 (72) "Postproduction" means an activity related to the finishing or duplication of a
1202 medium described in Subsection 59-12-104 (55)(a).

1203 (73) "Prepaid calling service" means a telecommunications service:

- 1204 (a) that allows a purchaser access to telecommunications service that is exclusively
1205 telecommunications service;
- 1206 (b) that:
- 1207 (i) is paid for in advance; and
- 1208 (ii) enables the origination of a call using an:
- 1209 (A) access number; or
- 1210 (B) authorization code;
- 1211 (c) that is dialed:
- 1212 (i) manually; or
- 1213 (ii) electronically; and
- 1214 (d) sold in predetermined units or dollars that decline:
- 1215 (i) by a known amount; and
- 1216 (ii) with use.
- 1217 (74) "Prepaid wireless calling service" means a telecommunications service:
- 1218 (a) that provides the right to utilize:
- 1219 (i) mobile wireless service; and
- 1220 (ii) other service that is not a telecommunications service, including:
- 1221 (A) the download of a product transferred electronically;
- 1222 (B) a content service; or
- 1223 (C) an ancillary service;
- 1224 (b) that:
- 1225 (i) is paid for in advance; and
- 1226 (ii) enables the origination of a call using an:
- 1227 (A) access number; or
- 1228 (B) authorization code;
- 1229 (c) that is dialed:
- 1230 (i) manually; or
- 1231 (ii) electronically; and
- 1232 (d) sold in predetermined units or dollars that decline:
- 1233 (i) by a known amount; and
- 1234 (ii) with use.

1235 (75) (a) "Prepared food" means:
1236 (i) food:
1237 (A) sold in a heated state; or
1238 (B) heated by a seller;
1239 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
1240 item; or
1241 (iii) except as provided in Subsection (75)(c), food sold with an eating utensil provided
1242 by the seller, including a:
1243 (A) plate;
1244 (B) knife;
1245 (C) fork;
1246 (D) spoon;
1247 (E) glass;
1248 (F) cup;
1249 (G) napkin; or
1250 (H) straw.
1251 (b) "Prepared food" does not include:
1252 (i) food that a seller only:
1253 (A) cuts;
1254 (B) repackages; or
1255 (C) pasteurizes; or
1256 (ii) (A) the following:
1257 (I) raw egg;
1258 (II) raw fish;
1259 (III) raw meat;
1260 (IV) raw poultry; or
1261 (V) a food containing an item described in Subsections (75)(b)(ii)(A)(I) through (IV);
1262 and
1263 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
1264 Food and Drug Administration's Food Code that a consumer cook the items described in
1265 Subsection (75)(b)(ii)(A) to prevent food borne illness; or

- 1266 (iii) the following if sold without eating utensils provided by the seller:
- 1267 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1268 classification under the 2002 North American Industry Classification System of the federal
- 1269 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1270 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1271 Manufacturing;
- 1272 (B) food and food ingredients sold in an unheated state:
- 1273 (I) by weight or volume; and
- 1274 (II) as a single item; or
- 1275 (C) a bakery item, including:
- 1276 (I) a bagel;
- 1277 (II) a bar;
- 1278 (III) a biscuit;
- 1279 (IV) bread;
- 1280 (V) a bun;
- 1281 (VI) a cake;
- 1282 (VII) a cookie;
- 1283 (VIII) a croissant;
- 1284 (IX) a danish;
- 1285 (X) a donut;
- 1286 (XI) a muffin;
- 1287 (XII) a pastry;
- 1288 (XIII) a pie;
- 1289 (XIV) a roll;
- 1290 (XV) a tart;
- 1291 (XVI) a torte; or
- 1292 (XVII) a tortilla.
- 1293 (c) Notwithstanding Subsection (75)(a)(iii), an eating utensil provided by the seller
- 1294 does not include the following used to transport the food:
- 1295 (i) a container; or
- 1296 (ii) packaging.

- 1297 (76) "Prescription" means an order, formula, or recipe that is issued:
- 1298 (a) (i) orally;
- 1299 (ii) in writing;
- 1300 (iii) electronically; or
- 1301 (iv) by any other manner of transmission; and
- 1302 (b) by a licensed practitioner authorized by the laws of a state.
- 1303 (77) (a) Except as provided in Subsection (77)(b)(ii) or (iii), "prewritten computer
- 1304 software" means computer software that is not designed and developed:
- 1305 (i) by the author or other creator of the computer software; and
- 1306 (ii) to the specifications of a specific purchaser.
- 1307 (b) "Prewritten computer software" includes:
- 1308 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 1309 software is not designed and developed:
- 1310 (A) by the author or other creator of the computer software; and
- 1311 (B) to the specifications of a specific purchaser;
- 1312 (ii) notwithstanding Subsection (77)(a), computer software designed and developed by
- 1313 the author or other creator of the computer software to the specifications of a specific purchaser
- 1314 if the computer software is sold to a person other than the purchaser; or
- 1315 (iii) notwithstanding Subsection (77)(a) and except as provided in Subsection (77)(c),
- 1316 prewritten computer software or a prewritten portion of prewritten computer software:
- 1317 (A) that is modified or enhanced to any degree; and
- 1318 (B) if the modification or enhancement described in Subsection (77)(b)(iii)(A) is
- 1319 designed and developed to the specifications of a specific purchaser.
- 1320 (c) Notwithstanding Subsection (77)(b)(iii), "prewritten computer software" does not
- 1321 include a modification or enhancement described in Subsection (77)(b)(iii) if the charges for
- 1322 the modification or enhancement are:
- 1323 (i) reasonable; and
- 1324 (ii) separately stated on the invoice or other statement of price provided to the
- 1325 purchaser.
- 1326 (78) (a) "Private communication service" means a telecommunications service:
- 1327 (i) that entitles a customer to exclusive or priority use of one or more communications

1328 channels between or among termination points; and

1329 (ii) regardless of the manner in which the one or more communications channels are
1330 connected.

1331 (b) "Private communications service" includes the following provided in connection
1332 with the use of one or more communications channels:

1333 (i) an extension line;

1334 (ii) a station; or

1335 (iii) switching capacity.

1336 (79) (a) "Prosthetic device" means a device that is worn on or in the body to:

1337 (i) artificially replace a missing portion of the body;

1338 (ii) prevent or correct a physical deformity or physical malfunction; or

1339 (iii) support a weak or deformed portion of the body.

1340 (b) "Prosthetic device" includes:

1341 (i) parts used in the repairs or renovation of a prosthetic device;

1342 (ii) replacement parts for a prosthetic device;

1343 (iii) a dental prosthesis; or

1344 (iv) a hearing aid.

1345 (c) "Prosthetic device" does not include:

1346 (i) corrective eyeglasses; or

1347 (ii) contact lenses.

1348 (80) (a) "Protective equipment" means an item:

1349 (i) for human wear; and

1350 (ii) that is:

1351 (A) designed as protection:

1352 (I) to the wearer against injury or disease; or

1353 (II) against damage or injury of other persons or property; and

1354 (B) not suitable for general use.

1355 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1356 commission shall make rules:

1357 (i) listing the items that constitute "protective equipment"; and

1358 (ii) that are consistent with the list of items that constitute "protective equipment"

1359 under the agreement.

1360 (81) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
1361 printed matter, other than a photocopy:

1362 (i) regardless of:

1363 (A) characteristics;

1364 (B) copyright;

1365 (C) form;

1366 (D) format;

1367 (E) method of reproduction; or

1368 (F) source; and

1369 (ii) made available in printed or electronic format.

1370 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1371 commission may by rule define the term "photocopy."

1372 (82) (a) "Purchase price" and "sales price" mean the total amount of consideration:

1373 (i) valued in money; and

1374 (ii) for which tangible personal property, a product transferred electronically, or
1375 services are:

1376 (A) sold;

1377 (B) leased; or

1378 (C) rented.

1379 (b) "Purchase price" and "sales price" include:

1380 (i) the seller's cost of the tangible personal property, a product transferred
1381 electronically, or services sold;

1382 (ii) expenses of the seller, including:

1383 (A) the cost of materials used;

1384 (B) a labor cost;

1385 (C) a service cost;

1386 (D) interest;

1387 (E) a loss;

1388 (F) the cost of transportation to the seller; or

1389 (G) a tax imposed on the seller;

- 1390 (iii) a charge by the seller for any service necessary to complete the sale; or
1391 (iv) consideration a seller receives from a person other than the purchaser if:
1392 (A) (I) the seller actually receives consideration from a person other than the purchaser;
1393 and
1394 (II) the consideration described in Subsection (82)(b)(iv)(A)(I) is directly related to a
1395 price reduction or discount on the sale;
1396 (B) the seller has an obligation to pass the price reduction or discount through to the
1397 purchaser;
1398 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1399 the seller at the time of the sale to the purchaser; and
1400 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1401 seller to claim a price reduction or discount; and
1402 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1403 coupon, or other documentation with the understanding that the person other than the seller
1404 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
1405 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1406 organization allowed a price reduction or discount, except that a preferred customer card that is
1407 available to any patron of a seller does not constitute membership in a group or organization
1408 allowed a price reduction or discount; or
1409 (III) the price reduction or discount is identified as a third party price reduction or
1410 discount on the:
1411 (Aa) invoice the purchaser receives; or
1412 (Bb) certificate, coupon, or other documentation the purchaser presents.
1413 (c) "Purchase price" and "sales price" do not include:
1414 (i) a discount:
1415 (A) in a form including:
1416 (I) cash;
1417 (II) term; or
1418 (III) coupon;
1419 (B) that is allowed by a seller;
1420 (C) taken by a purchaser on a sale; and

1421 (D) that is not reimbursed by a third party; or
1422 (ii) the following if separately stated on an invoice, bill of sale, or similar document
1423 provided to the purchaser:

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 (83) "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 (84) "Regularly rented" means:

1438 (a) rented to a guest for value three or more times during a calendar year; or

1439 (b) advertised or held out to the public as a place that is regularly rented to guests for
1440 value.

1441 (85) "Renewable energy" means:

1442 (a) biomass energy;

1443 (b) hydroelectric energy;

1444 (c) geothermal energy;

1445 (d) solar energy; or

1446 (e) wind energy.

1447 (86) (a) "Renewable energy production facility" means a facility that:

1448 (i) uses renewable energy to produce electricity; and

1449 (ii) has a production capacity of 20 kilowatts or greater.

1450 (b) A facility is a renewable energy production facility regardless of whether the
1451 facility is:

1452 (i) connected to an electric grid; or
1453 (ii) located on the premises of an electricity consumer.
1454 (87) "Rental" is as defined in Subsection (48).
1455 (88) "Repairs or renovations of tangible personal property" means:
1456 (a) a repair or renovation of tangible personal property that is not permanently attached
1457 to real property; or
1458 (b) attaching tangible personal property or a product that is transferred electronically to
1459 other tangible personal property if the other tangible personal property to which the tangible
1460 personal property or product that is transferred electronically is attached is not permanently
1461 attached to real property.
1462 (89) "Research and development" means the process of inquiry or experimentation
1463 aimed at the discovery of facts, devices, technologies, or applications and the process of
1464 preparing those devices, technologies, or applications for marketing.
1465 (90) (a) "Residential telecommunications services" means a telecommunications
1466 service or an ancillary service that is provided to an individual for personal use:
1467 (i) at a residential address; or
1468 (ii) at an institution, including a nursing home or a school, if the telecommunications
1469 service or ancillary service is provided to and paid for by the individual residing at the
1470 institution rather than the institution.
1471 (b) For purposes of Subsection (90)(a), a residential address includes an:
1472 (i) apartment; or
1473 (ii) other individual dwelling unit.
1474 (91) "Residential use" means the use in or around a home, apartment building, sleeping
1475 quarters, and similar facilities or accommodations.
1476 (92) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1477 than:
1478 (a) resale;
1479 (b) sublease; or
1480 (c) subrent.
1481 (93) (a) "Retailer" means any person engaged in a regularly organized business in
1482 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and

1483 who is selling to the user or consumer and not for resale.

1484 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1485 engaged in the business of selling to users or consumers within the state.

1486 (94) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1487 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1488 Subsection 59-12-103(1), for consideration.

1489 (b) "Sale" includes:

1490 (i) installment and credit sales;

1491 (ii) any closed transaction constituting a sale;

1492 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1493 chapter;

1494 (iv) any transaction if the possession of property is transferred but the seller retains the
1495 title as security for the payment of the price; and

1496 (v) any transaction under which right to possession, operation, or use of any article of
1497 tangible personal property is granted under a lease or contract and the transfer of possession
1498 would be taxable if an outright sale were made.

1499 (95) "Sale at retail" is as defined in Subsection (92).

1500 (96) "Sale-leaseback transaction" means a transaction by which title to tangible
1501 personal property or a product transferred electronically that is subject to a tax under this
1502 chapter is transferred:

1503 (a) by a purchaser-lessee;

1504 (b) to a lessor;

1505 (c) for consideration; and

1506 (d) if:

1507 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1508 of the tangible personal property or product transferred electronically;

1509 (ii) the sale of the tangible personal property or product transferred electronically to the
1510 lessor is intended as a form of financing:

1511 (A) for the tangible personal property or product transferred electronically; and

1512 (B) to the purchaser-lessee; and

1513 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

1514 is required to:

1515 (A) capitalize the tangible personal property or product transferred electronically for
1516 financial reporting purposes; and

1517 (B) account for the lease payments as payments made under a financing arrangement.

1518 (97) "Sales price" is as defined in Subsection (82).

1519 (98) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
1520 amounts charged by a school:

1521 (i) sales that are directly related to the school's educational functions or activities

1522 including:

1523 (A) the sale of:

1524 (I) textbooks;

1525 (II) textbook fees;

1526 (III) laboratory fees;

1527 (IV) laboratory supplies; or

1528 (V) safety equipment;

1529 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1530 that:

1531 (I) a student is specifically required to wear as a condition of participation in a
1532 school-related event or school-related activity; and

1533 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1534 place of ordinary clothing;

1535 (C) sales of the following if the net or gross revenues generated by the sales are
1536 deposited into a school district fund or school fund dedicated to school meals:

1537 (I) food and food ingredients; or

1538 (II) prepared food; or

1539 (D) transportation charges for official school activities; or

1540 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1541 event or school-related activity.

1542 (b) "Sales relating to schools" does not include:

1543 (i) bookstore sales of items that are not educational materials or supplies;

1544 (ii) except as provided in Subsection (98)(a)(i)(B):

- 1545 (A) clothing;
- 1546 (B) clothing accessories or equipment;
- 1547 (C) protective equipment; or
- 1548 (D) sports or recreational equipment; or
- 1549 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1550 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1551 (A) other than a:
- 1552 (I) school;
- 1553 (II) nonprofit organization authorized by a school board or a governing body of a
- 1554 private school to organize and direct a competitive secondary school activity; or
- 1555 (III) nonprofit association authorized by a school board or a governing body of a
- 1556 private school to organize and direct a competitive secondary school activity; and
- 1557 (B) that is required to collect sales and use taxes under this chapter.
- 1558 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1559 commission may make rules defining the term "passed through."
- 1560 (99) For purposes of this section and Section 59-12-104, "school":
- 1561 (a) means:
- 1562 (i) an elementary school or a secondary school that:
- 1563 (A) is a:
- 1564 (I) public school; or
- 1565 (II) private school; and
- 1566 (B) provides instruction for one or more grades kindergarten through 12; or
- 1567 (ii) a public school district; and
- 1568 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1569 (100) "Seller" means a person that makes a sale, lease, or rental of:
- 1570 (a) tangible personal property;
- 1571 (b) a product transferred electronically; or
- 1572 (c) a service.
- 1573 (101) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1574 means tangible personal property or a product transferred electronically if the tangible personal
- 1575 property or product transferred electronically is:

- 1576 (i) used primarily in the process of:
- 1577 (A) (I) manufacturing a semiconductor;
- 1578 (II) fabricating a semiconductor; or
- 1579 (III) research or development of a:
- 1580 (Aa) semiconductor; or
- 1581 (Bb) semiconductor manufacturing process; or
- 1582 (B) maintaining an environment suitable for a semiconductor; or
- 1583 (ii) consumed primarily in the process of:
- 1584 (A) (I) manufacturing a semiconductor;
- 1585 (II) fabricating a semiconductor; or
- 1586 (III) research or development of a:
- 1587 (Aa) semiconductor; or
- 1588 (Bb) semiconductor manufacturing process; or
- 1589 (B) maintaining an environment suitable for a semiconductor.
- 1590 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1591 includes:
- 1592 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1593 transferred electronically described in Subsection (101)(a); or
- 1594 (ii) a chemical, catalyst, or other material used to:
- 1595 (A) produce or induce in a semiconductor a:
- 1596 (I) chemical change; or
- 1597 (II) physical change;
- 1598 (B) remove impurities from a semiconductor; or
- 1599 (C) improve the marketable condition of a semiconductor.
- 1600 (102) "Senior citizen center" means a facility having the primary purpose of providing
- 1601 services to the aged as defined in Section 62A-3-101.
- 1602 (103) "Simplified electronic return" means the electronic return:
- 1603 (a) described in Section 318(C) of the agreement; and
- 1604 (b) approved by the governing board of the agreement.
- 1605 (104) "Solar energy" means the sun used as the sole source of energy for producing
- 1606 electricity.

- 1607 (105) (a) "Sports or recreational equipment" means an item:
- 1608 (i) designed for human use; and
- 1609 (ii) that is:
- 1610 (A) worn in conjunction with:
- 1611 (I) an athletic activity; or
- 1612 (II) a recreational activity; and
- 1613 (B) not suitable for general use.
- 1614 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1615 commission shall make rules:
- 1616 (i) listing the items that constitute "sports or recreational equipment"; and
- 1617 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1618 equipment" under the agreement.
- 1619 (106) "State" means the state of Utah, its departments, and agencies.
- 1620 (107) "Storage" means any keeping or retention of tangible personal property or any
- 1621 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
- 1622 sale in the regular course of business.
- 1623 (108) (a) Except as provided in Subsection (108)(c), "tangible personal property"
- 1624 means personal property that:
- 1625 (i) may be:
- 1626 (A) seen;
- 1627 (B) weighed;
- 1628 (C) measured;
- 1629 (D) felt; or
- 1630 (E) touched; or
- 1631 (ii) is in any manner perceptible to the senses.
- 1632 (b) "Tangible personal property" includes:
- 1633 (i) electricity;
- 1634 (ii) water;
- 1635 (iii) gas;
- 1636 (iv) steam; or
- 1637 (v) prewritten computer software.

1638 (c) "Tangible personal property" does not include a product that is transferred
1639 electronically.

1640 (d) "Tangible personal property" does not include the following if attached to real
1641 property, regardless of whether the attachment to real property is only through a line that
1642 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1643 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1644 Rulemaking Act:

- 1645 (i) a hot water heater;
- 1646 (ii) a water softener system; or
- 1647 (iii) a water filtration system.

1648 (109) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
1649 and require further processing other than mechanical blending before becoming finished
1650 petroleum products.

1651 (110) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1652 software" means an item listed in Subsection (110)(b) if that item is purchased or leased
1653 primarily to enable or facilitate one or more of the following to function:

- 1654 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1655 (ii) telecommunications transmission equipment, machinery, or software.

1656 (b) The following apply to Subsection (110)(a):

- 1657 (i) a pole;
- 1658 (ii) software;
- 1659 (iii) a supplementary power supply;
- 1660 (iv) temperature or environmental equipment or machinery;
- 1661 (v) test equipment;
- 1662 (vi) a tower; or

1663 (vii) equipment, machinery, or software that functions similarly to an item listed in
1664 Subsections (110)(b)(i) through (vi) as determined by the commission by rule made in
1665 accordance with Subsection (110)(c).

1666 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1667 commission may by rule define what constitutes equipment, machinery, or software that
1668 functions similarly to an item listed in Subsections (110)(b)(i) through (vi).

1669 (111) "Telecommunications equipment, machinery, or software required for 911
1670 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
1671 Sec. 20.18.

1672 (112) "Telecommunications maintenance or repair equipment, machinery, or software"
1673 means equipment, machinery, or software purchased or leased primarily to maintain or repair
1674 one or more of the following, regardless of whether the equipment, machinery, or software is
1675 purchased or leased as a spare part or as an upgrade or modification to one or more of the
1676 following:

- 1677 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1678 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1679 (c) telecommunications transmission equipment, machinery, or software.

1680 (113) (a) "Telecommunications service" means the electronic conveyance, routing, or
1681 transmission of audio, data, video, voice, or any other information or signal to a point, or
1682 among or between points.

1683 (b) "Telecommunications service" includes:

1684 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1685 processing application is used to act:

- 1686 (A) on the code, form, or protocol of the content;
- 1687 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 1688 (C) regardless of whether the service:

1689 (I) is referred to as voice over Internet protocol service; or

1690 (II) is classified by the Federal Communications Commission as enhanced or value
1691 added;

1692 (ii) an 800 service;

1693 (iii) a 900 service;

1694 (iv) a fixed wireless service;

1695 (v) a mobile wireless service;

1696 (vi) a postpaid calling service;

1697 (vii) a prepaid calling service;

1698 (viii) a prepaid wireless calling service; or

1699 (ix) a private communications service.

- 1700 (c) "Telecommunications service" does not include:
- 1701 (i) advertising, including directory advertising;
- 1702 (ii) an ancillary service;
- 1703 (iii) a billing and collection service provided to a third party;
- 1704 (iv) a data processing and information service if:
- 1705 (A) the data processing and information service allows data to be:
- 1706 (I) (Aa) acquired;
- 1707 (Bb) generated;
- 1708 (Cc) processed;
- 1709 (Dd) retrieved; or
- 1710 (Ee) stored; and
- 1711 (II) delivered by an electronic transmission to a purchaser; and
- 1712 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1713 or information;
- 1714 (v) installation or maintenance of the following on a customer's premises:
- 1715 (A) equipment; or
- 1716 (B) wiring;
- 1717 (vi) Internet access service;
- 1718 (vii) a paging service;
- 1719 (viii) a product transferred electronically, including:
- 1720 (A) music;
- 1721 (B) reading material;
- 1722 (C) a ring tone;
- 1723 (D) software; or
- 1724 (E) video;
- 1725 (ix) a radio and television audio and video programming service:
- 1726 (A) regardless of the medium; and
- 1727 (B) including:
- 1728 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1729 programming service by a programming service provider;
- 1730 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or

1731 (III) audio and video programming services delivered by a commercial mobile radio
1732 service provider as defined in 47 C.F.R. Sec. 20.3;

1733 (x) a value-added nonvoice data service; or

1734 (xi) tangible personal property.

1735 (114) (a) " Telecommunications service provider" means a person that:

1736 (i) owns, controls, operates, or manages a telecommunications service; and

1737 (ii) engages in an activity described in Subsection (114)(a)(i) for the shared use with or
1738 resale to any person of the telecommunications service.

1739 (b) A person described in Subsection (114)(a) is a telecommunications service provider
1740 whether or not the Public Service Commission of Utah regulates:

1741 (i) that person; or

1742 (ii) the telecommunications service that the person owns, controls, operates, or
1743 manages.

1744 (115) (a) "Telecommunications switching or routing equipment, machinery, or
1745 software" means an item listed in Subsection (115)(b) if that item is purchased or leased
1746 primarily for switching or routing:

1747 (i) an ancillary service;

1748 (ii) data communications;

1749 (iii) voice communications; or

1750 (iv) telecommunications service.

1751 (b) The following apply to Subsection (115)(a):

1752 (i) a bridge;

1753 (ii) a computer;

1754 (iii) a cross connect;

1755 (iv) a modem;

1756 (v) a multiplexer;

1757 (vi) plug in circuitry;

1758 (vii) a router;

1759 (viii) software;

1760 (ix) a switch; or

1761 (x) equipment, machinery, or software that functions similarly to an item listed in

1762 Subsections (115)(b)(i) through (ix) as determined by the commission by rule made in
1763 accordance with Subsection (115)(c).

1764 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1765 commission may by rule define what constitutes equipment, machinery, or software that
1766 functions similarly to an item listed in Subsections (115)(b)(i) through (ix).

1767 (116) (a) "Telecommunications transmission equipment, machinery, or software"
1768 means an item listed in Subsection (116)(b) if that item is purchased or leased primarily for
1769 sending, receiving, or transporting:

- 1770 (i) an ancillary service;
- 1771 (ii) data communications;
- 1772 (iii) voice communications; or
- 1773 (iv) telecommunications service.
- 1774 (b) The following apply to Subsection (116)(a):
- 1775 (i) an amplifier;
- 1776 (ii) a cable;
- 1777 (iii) a closure;
- 1778 (iv) a conduit;
- 1779 (v) a controller;
- 1780 (vi) a duplexer;
- 1781 (vii) a filter;
- 1782 (viii) an input device;
- 1783 (ix) an input/output device;
- 1784 (x) an insulator;
- 1785 (xi) microwave machinery or equipment;
- 1786 (xii) an oscillator;
- 1787 (xiii) an output device;
- 1788 (xiv) a pedestal;
- 1789 (xv) a power converter;
- 1790 (xvi) a power supply;
- 1791 (xvii) a radio channel;
- 1792 (xviii) a radio receiver;

1793 (xix) a radio transmitter;

1794 (xx) a repeater;

1795 (xxi) software;

1796 (xxii) a terminal;

1797 (xxiii) a timing unit;

1798 (xxiv) a transformer;

1799 (xxv) a wire; or

1800 (xxvi) equipment, machinery, or software that functions similarly to an item listed in

1801 Subsections (116)(b)(i) through (xxv) as determined by the commission by rule made in

1802 accordance with Subsection (116)(c).

1803 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1804 commission may by rule define what constitutes equipment, machinery, or software that

1805 functions similarly to an item listed in Subsections (116)(b)(i) through (xxv).

1806 (117) "Tobacco" means:

1807 (a) a cigarette;

1808 (b) a cigar;

1809 (c) chewing tobacco;

1810 (d) pipe tobacco; or

1811 (e) any other item that contains tobacco.

1812 (118) "Unassisted amusement device" means an amusement device, skill device, or

1813 ride device that is started and stopped by the purchaser or renter of the right to use or operate

1814 the amusement device, skill device, or ride device.

1815 (119) (a) "Use" means the exercise of any right or power over tangible personal

1816 property, a product transferred electronically, or a service under Subsection 59-12-103(1),

1817 incident to the ownership or the leasing of that tangible personal property, product transferred

1818 electronically, or service.

1819 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal

1820 property, a product transferred electronically, or a service in the regular course of business and

1821 held for resale.

1822 (120) "Value-added nonvoice data service" means a service:

1823 (a) that otherwise meets the definition of a telecommunications service except that a

1824 computer processing application is used to act primarily for a purpose other than conveyance,
1825 routing, or transmission; and

1826 (b) with respect to which a computer processing application is used to act on data or
1827 information:

1828 (i) code;

1829 (ii) content;

1830 (iii) form; or

1831 (iv) protocol.

1832 (121) (a) Subject to Subsection (121)(b), "vehicle" means the following that are
1833 required to be titled, registered, or titled and registered:

1834 (i) an aircraft as defined in Section 72-10-102;

1835 (ii) a vehicle as defined in Section 41-1a-102;

1836 (iii) an off-highway vehicle as defined in Section 41-22-2; or

1837 (iv) a vessel as defined in Section 41-1a-102.

1838 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

1839 (i) a vehicle described in Subsection (121)(a); or

1840 (ii) (A) a locomotive;

1841 (B) a freight car;

1842 (C) railroad work equipment; or

1843 (D) other railroad rolling stock.

1844 (122) "Vehicle dealer" means a person engaged in the business of buying, selling, or
1845 exchanging a vehicle as defined in Subsection (121).

1846 (123) (a) "Vertical service" means an ancillary service that:

1847 (i) is offered in connection with one or more telecommunications services; and

1848 (ii) offers an advanced calling feature that allows a customer to:

1849 (A) identify a caller; and

1850 (B) manage multiple calls and call connections.

1851 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1852 conference bridging service.

1853 (124) (a) "Voice mail service" means an ancillary service that enables a customer to
1854 receive, send, or store a recorded message.

1855 (b) "Voice mail service" does not include a vertical service that a customer is required
1856 to have in order to utilize a voice mail service.

1857 (125) (a) Except as provided in Subsection (125)(b), "waste energy facility" means a
1858 facility that generates electricity:

1859 (i) using as the primary source of energy waste materials that would be placed in a
1860 landfill or refuse pit if it were not used to generate electricity, including:

1861 (A) tires;

1862 (B) waste coal; or

1863 (C) oil shale; and

1864 (ii) in amounts greater than actually required for the operation of the facility.

1865 (b) "Waste energy facility" does not include a facility that incinerates:

1866 (i) municipal solid waste;

1867 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

1868 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1869 (126) "Watercraft" means a vessel as defined in Section 73-18-2.

1870 (127) "Wind energy" means wind used as the sole source of energy to produce
1871 electricity.

1872 (128) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
1873 location by the United States Postal Service.

1874 Section 8. **Effective date.**

1875 This bill takes effect on January 1, 2010.