

## SB0067S01 compared with SB0067

~~{deleted text}~~ shows text that was in SB0067 but was deleted in SB0067S01.

inserted text shows text that was not in SB0067 but was inserted into SB0067S01.

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Senator J. Stuart Adams proposes the following substitute bill:

### AMENDMENTS TO PUBLIC UTILITIES TITLE

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: J. Stuart Adams**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill amends Title 54, Public Utilities, and related provisions.

##### Highlighted Provisions:

This bill:

- ▶ defines terms and modifies definitions, including addressing entities that are not included in the definition of "electrical corporation" or "public utility";
- ▶ provides that a public utility is not required to furnish or provide ~~{bundled}~~ electric service under certain circumstances;
- ▶ provides procedures for certain customers to transfer service from a public utility to a ~~{non-utility}~~ nonutility energy supplier;
- ▶ addresses the applicability of certain provisions within the Public Utilities title; and
- ▶ makes technical and conforming changes.

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### Money Appropriated in this Bill:

None

### Other Special Clauses:

~~{ This bill provides effective dates. }~~ None

### Utah Code Sections Affected:

#### AMENDS:

**17B-2a-406**, as last amended by Laws of Utah 2009, Chapter 384

**54-2-1**, as last amended by Laws of Utah 2010, Chapters 302 and 390

**54-3-8**, as last amended by Laws of Utah 2010, Chapter 390

**54-4-2**, as last amended by Laws of Utah 2010, Chapter 390

**54-15-108**, as enacted by Laws of Utah 2010, Chapter 302

~~{ **59-12-102 (Superseded 07/01/14)**, as last amended by Laws of Utah 2013, Chapters 229, 234, 266, and 441~~

~~{ **59-12-102 (Effective 07/01/14)**, as last amended by Laws of Utah 2013, Chapters 229, 234, 266, and 441~~

#### ENACTS:

~~{ **54-3-1.1** }~~ **54-3-32**, Utah Code Annotated 1953

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

Section 1. Section **17B-2a-406** is amended to read:

**17B-2a-406. Improvement districts providing electric service -- Public Service**

#### **Commission jurisdiction -- Exceptions.**

(1) As used in this section:

(a) "Commission" means the Public Service Commission of Utah established in

Section 54-1-1.

(b) "Electric corporation" has the same meaning as "electrical corporation" defined in

Section 54-2-1.

(c) "Electric improvement district" means an improvement district that provides electric service as authorized under Subsection 17B-2a-403(1)(a)(iv).

(d) "Stranded asset" means an asset that:

(i) an electric corporation owns and operates;

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(ii) is designed to serve an area that is:

(A) within the electric corporation's certificated service area before the area is removed from the certificated service area by commission order as provided in Subsection

(3)(b)(i)(B)(II); and

(B) within the boundary of an electric improvement district; and

(iii) will not be useful to or used by the electric corporation after removal of the area from the electric corporation's certificated service area.

(2) An electric improvement district is a public utility and subject to the jurisdiction of the commission.

(3) (a) Except as provided in Subsection (3)(b), an electric improvement district:

(i) may include only an area where:

(A) no retail electricity has been provided to commercial, industrial, residential, and other users of electricity from an investor-owned utility within any part of an area certificated by the commission or an area adjacent to that area, municipal agency, or electric cooperative within the five years immediately preceding September 1, 1985; and

(B) electric service is provided to at least one user of electricity within the electric service district as of September 1, 1985; and

(ii) shall have filed an application for certification and received approval by the commission by September 1, 1986.

(b) (i) An electric improvement district created after May 11, 2009 may provide electric service within the boundary of the improvement district if:

(A) no part of the boundary of the electric improvement district is closer than 40 miles to an existing service line of an electric corporation;

(B) (I) no part of the area within the boundary of the electric improvement district is within the certificated service area of an electric corporation; or

(II) the area within the boundary of the electric improvement district that is also within the certificated service area of an electric corporation is removed from the electric corporation's certificated service area by commission order in a proceeding initiated by a petition filed by and at the discretion of the electric corporation; and

(C) before January 1, 2010, the electric improvement district receives a certificate of public convenience and necessity from the commission authorizing the electric improvement

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district to provide electric service to the area within the boundary of the electric improvement district.

(ii) An electric improvement district that provides electric service as provided in Subsection (3)(b)(i) shall pay an electric corporation an amount equal to the fair market value of each stranded asset of the electric corporation.

(4) Nothing in this part may be construed to give the commission jurisdiction over:

(a) an improvement district, other than an electric improvement district;

(b) a municipality; or

(c) an association of municipalities organized under Title 11, Chapter 13, Interlocal Cooperation Act.

(5) Before an electric improvement district serves any customer, the electric improvement district shall obtain a certificate of public convenience and necessity from the commission.

(6) (a) Section 54-7-12 does not apply to rate changes of an electric improvement district if:

(i) the district is organized for the purpose of distributing electricity to customers within the boundary of the district on a not-for-profit basis;

(ii) the schedule of new rates or other change that results in new rates has been approved by the board of trustees of the district;

(iii) prior to the implementation of any rate increases, the district first holds a public meeting for all its customers to whom mailed notice of the meeting is sent at least 10 days prior to the meeting; and

(iv) the district has filed the schedule of new rates or other change with the commission.

(b) The commission shall make the district's schedule of new rates or other change available for public inspection.

Section 2. Section **54-2-1** is amended to read:

### **54-2-1. Definitions.**

As used in this title:

(1) "Avoided costs" means the incremental costs to an electrical corporation of electric energy or capacity or both that, due to the purchase of electric energy or capacity or both from

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small power production or cogeneration facilities, the electrical corporation would not have to generate itself or purchase from another electrical corporation.

~~{(2)} {"Bundled electric service" means electricity, and the necessary transmission and distribution services, that a public utility provides as a package.~~

~~—{(2)}{(3)}~~ "Cogeneration facility":

(a) means a facility that produces:

(i) electric energy; and

(ii) steam or forms of useful energy, including heat, that are used for industrial, commercial, heating, or cooling purposes; and

(b) is a qualifying cogeneration facility under federal law.

~~{(3)}{(4)}~~ "Commission" means the Public Service Commission of Utah.

~~{(4)}{(5)}~~ "Commissioner" means a member of the commission.

~~{(5)}{(6)}~~ (a) "Corporation" includes an association and a joint stock company having any powers or privileges not possessed by individuals or partnerships.

(b) "Corporation" does not include towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

~~{(6)}{(7)}~~ "Distribution electrical cooperative" includes an electrical corporation that:

(a) is a cooperative;

(b) conducts a business that includes the retail distribution of electricity the cooperative purchases or generates for the cooperative's members; and

(c) is required to allocate or distribute savings in excess of additions to reserves and surplus on the basis of patronage to the cooperative's:

(i) members; or

(ii) patrons.

~~{(7)}{(8)}~~ (a) "Electrical corporation" includes every corporation, cooperative association, and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any electric plant, or in any way furnishing electric power for public service or to its consumers or members for domestic, commercial, or industrial use, within this state~~[, except]~~.

(b) "Electrical corporation" does not include:

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(i) an independent energy [producers, and except] producer;

(ii) where electricity is generated on or distributed by the producer solely for the producer's own use, or the use of the producer's tenants ~~{or affiliates}~~, or ~~[for]~~ the use of members of an association of unit owners formed under Title 57, Chapter 8, Condominium Ownership Act, and not for sale to the public generally ~~[, and except ];~~

~~—— (iii) } where the electricity { } generated { } is consumed by an owner, lessor, or interest holder, or by an affiliate {or tenant } of an owner, lessor, or interest holder, { } who { } if that owner, lessor, interest holder, affiliate, or tenant } has provided at least \$25,000,000 in value, including credit support, relating to the electric plant furnishing { } the { } electricity { } and whose consumption does not exceed its long-term entitlement in the plant under a long-term arrangement other than a power purchase agreement, except a power purchase agreement with an electrical corporation.] { in this state};~~

(iii) an eligible customer who provides electricity for the eligible customer's own use or the use of the eligible customer's tenant or affiliate; or

(iv) a ~~{non-utility}~~ nonutility energy supplier ~~{that}~~ who sells or provides electricity to:

(A) an eligible customer {that} who has transferred the eligible customer's service to the {non-utility} nonutility energy supplier in accordance with Section {54-3-1.1} 54-3-32; or

(B) the eligible customer's tenant or affiliate.

~~{ } (8) { } (9) }~~ "Electric plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of electricity for light, heat, or power, and all conduits, ducts, or other devices, materials, apparatus, or property for containing, holding, or carrying conductors used or to be used for the transmission of electricity for light, heat, or power.

~~{ } (10) { } (9) }~~ "Eligible customer" ~~{includes a corporation, cooperative association, or person, or an affiliate, lessee, receiver, or trustee of a corporation, cooperative association, or person, if that corporation, cooperative association, person, affiliate, lessee, receiver, or trustee owns, controls, operates, or manages, in whole or in part.}~~ means a person who:

(a) on December 31, 2013:

(i) was a customer of a public utility that, on December 31, 2013, had more than 200,000 retail customers in this state; and

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(ii) owned an electric plant that is an electric generation plant that:

~~(a) has,~~ on December 31, 2013, had a generation name plate capacity of greater than ~~60~~ 150 megawatts; and

~~(b) provides service to the producer for the producer's own use or the use of~~ a ~~producer~~ produces electricity:

(i) from a qualifying power production facility for sale to a public utility in this state;

(ii) primarily for the eligible customer's own use; or

(iii) for the use of the eligible customer's tenant or affiliate ~~of the producer~~.

(10) "Eligible customer's tenant or affiliate" means one or more tenants or affiliates:

(a) of an eligible customer; and

(b) who are primarily engaged in an activity:

(i) related to the eligible customer's core mining or industrial businesses; and

(ii) performed on real property that is:

(A) within a 25-mile radius of the electric plant described in Subsection (9)(a)(ii); and

(B) owned by, controlled by, or under common control with, the eligible customer.

~~(9)~~ (11) "Gas corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any gas plant for public service within this state or for the selling or furnishing of natural gas to any consumer or consumers within the state for domestic, commercial, or industrial use, except in the situation that:

(a) gas is made or produced on, and distributed by the maker or producer through, private property:

(i) solely for the maker's or producer's own use or the use of the maker's or producer's tenants; and

(ii) not for sale to others;

(b) gas is compressed on private property solely for the owner's own use or the use of the owner's employees as a motor vehicle fuel; or

(c) gas is compressed by a retailer of motor vehicle fuel on the retailer's property solely for sale as a motor vehicle fuel.

~~(10)~~ (12) "Gas plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation,

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transmission, delivery, or furnishing of gas, natural or manufactured, for light, heat, or power.

[(11)] (13) "Heat corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any heating plant for public service within this state.

[(12)] (14) (a) "Heating plant" includes all real estate, fixtures, machinery, appliances, and personal property controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of artificial heat.

(b) "Heating plant" does not include either small power production facilities or cogeneration facilities.

[(13)] (15) "Independent energy producer" means every electrical corporation, person, corporation, or government entity, their lessees, trustees, or receivers, that own, operate, control, or manage an independent power production or cogeneration facility.

[(14)] (16) "Independent power production facility" means a facility that:

(a) produces electric energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources; or

(b) is a qualifying power production facility.

(17) "~~{Non-utility}~~ Nonutility energy supplier" means a person ~~{who}~~ that:

(a) has received market-based rate authority from the Federal Energy Regulatory Commission in accordance with 16 U.S.C. Sec. 824d, 18 C.F.R. Part 35, Filing of Rate Schedules and Tariffs, or applicable Federal Energy Regulatory Commission orders; or

(b) owns, leases, operates, or manages an electric ~~plant that is an electric~~ generation plant that:

(i) has a capacity of greater than ~~{60}~~100 megawatts; and

(ii) is hosted ~~{by}~~ ~~on the site of~~ an ~~{industrial facility}~~ eligible customer that consumes the output of the electric plant, in whole or in part, for the ~~{industrial facility's}~~ eligible customer's own use or the use of ~~{a}~~ the eligible customer's tenant or affiliate ~~{of the industrial facility}~~.

[(15)] (18) "Private telecommunications system" includes all facilities for the transmission of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means, excluding mobile radio



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facilities, that are owned, controlled, operated, or managed by a corporation or person, including their lessees, trustees, receivers, or trustees appointed by any court, for the use of that corporation or person and not for the shared use with or resale to any other corporation or person on a regular basis.

[(16)] (19) (a) "Public utility" includes every railroad corporation, gas corporation, electrical corporation, distribution electrical cooperative, wholesale electrical cooperative, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, and independent energy producer not described in Subsection [(16)] (19)(d), where the service is performed for, or the commodity delivered to, the public generally, or in the case of a gas corporation or electrical corporation where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use.

(b) (i) If any railroad corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, or independent energy producer not described in Subsection [(16)] (19)(d), performs a service for or delivers a commodity to the public, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(ii) If a gas corporation, independent energy producer not described in Subsection [(16)] (19)(d), or electrical corporation sells or furnishes gas or electricity to any member or consumers within the state, for domestic, commercial, or industrial use, for which any compensation or payment is received, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(c) Any corporation or person not engaged in business exclusively as a public utility as defined in this section is governed by this title in respect only to the public utility owned, controlled, operated, or managed by the corporation or person, and not in respect to any other business or pursuit.

(d) An independent energy producer is exempt from the jurisdiction and regulations of the commission with respect to an independent power production facility if it meets the requirements of Subsection [(16)] (19)(d)(i), (ii), (iii), or (iv), or any combination of these:

(i) the commodity or service is produced or delivered, or both, by an independent energy producer solely for ~~[the uses exempted in Subsection (7)]~~ a use described in Subsections

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~~(87)~~(b)(ii) through (iv) or for the use of state-owned facilities;

(ii) the commodity or service is sold by an independent energy producer solely to an electrical corporation or other wholesale purchaser;

(iii) (A) the commodity or service produced or delivered by the independent energy producer is delivered to an entity that controls, is controlled by, or affiliated with the independent energy producer or to a user located on real property managed or controlled by the independent energy producer; and

(B) the real property on which the service or commodity is used is contiguous to real property ~~[which]~~ that is owned or controlled by the independent energy producer~~[-Parcels of real property] or is separated [solely] only by a public [roads or easements for public roads shall be considered as contiguous for purposes of this Subsection (16)] road or an easement for a public road;~~ or

(iv) the independent energy producer:

(A) supplies energy for direct consumption by a customer that is:

(I) a county, municipality, city, town, other political subdivision, local district, special service district, state institution of higher education, school district, charter school, or any entity within the state system of public education; or

(II) an entity qualifying as a charitable organization under 26 U.S.C. Sec. 501(c)(3) operated for religious, charitable, or educational purposes that is exempt from federal income tax and able to demonstrate its tax-exempt status;

(B) supplies energy to the customer through use of a customer generation system, as defined in Section 54-15-102, for use on the real property where the customer generation system is located;

(C) supplies energy using a customer generation system designed to supply the lesser of:

(I) no more than 90% of the average annual consumption of electricity by the customer at that site, based on an annualized billing period; or

(II) the maximum size allowable under net metering provisions, defined in Section 54-15-102;

(D) notifies the customer before installing the customer generation system of:

(I) all costs the customer is required to pay for the customer generation system,

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including any interconnection costs; and

(II) the potential for future changes in amounts paid by the customer for energy received from the public utility and the possibility of changes to the customer fees or charges to the customer associated with net metering and generation;

(E) enters into and performs in accordance with an interconnection agreement with a public utility providing retail electric service where the real property on which the customer generation system is located, with the rates, terms, and conditions of the retail service and interconnection agreement subject to approval by the governing authority of the public utility, as defined in Subsection 54-15-102(8); and

(F) installs the relevant customer generation system by December 31, 2015.

(e) Any person or corporation defined as an electrical corporation or public utility under this section may continue to serve its existing customers subject to any order or future determination of the commission in reference to the right to serve those customers.

(f) (i) "Public utility" does not include any person that is otherwise considered a public utility under this Subsection [~~(16)~~] (19) solely because of that person's ownership of an interest in an electric plant, cogeneration facility, or small power production facility in this state if all of the following conditions are met:

(A) the ownership interest in the electric plant, cogeneration facility, or small power production facility is leased to:

(I) a public utility, and that lease has been approved by the commission;

(II) a person or government entity that is exempt from commission regulation as a public utility; or

(III) a combination of Subsections [~~(16)~~] (19)(f)(i)(A)(I) and (II);

(B) the lessor of the ownership interest identified in Subsection [~~(16)~~] (19)(f)(i)(A) is:

(I) primarily engaged in a business other than the business of a public utility; or

(II) a person whose total equity or beneficial ownership is held directly or indirectly by another person engaged in a business other than the business of a public utility; and

(C) the rent reserved under the lease does not include any amount based on or determined by revenues or income of the lessee.

(ii) Any person that is exempt from classification as a public utility under Subsection [~~(16)~~] (19)(f)(i) shall continue to be so exempt from classification following termination of the

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lessee's right to possession or use of the electric plant for so long as the former lessor does not operate the electric plant or sell electricity from the electric plant. If the former lessor operates the electric plant or sells electricity, the former lessor shall continue to be so exempt for a period of 90 days following termination, or for a longer period that is ordered by the commission. This period may not exceed one year. A change in rates that would otherwise require commission approval may not be effective during the 90-day or extended period without commission approval.

(g) "Public utility" does not include any person that provides financing for, but has no ownership interest in an electric plant, small power production facility, or cogeneration facility. In the event of a foreclosure in which an ownership interest in an electric plant, small power production facility, or cogeneration facility is transferred to a third-party financier of an electric plant, small power production facility, or cogeneration facility, then that third-party financier is exempt from classification as a public utility for 90 days following the foreclosure, or for a longer period that is ordered by the commission. This period may not exceed one year.

(h) (i) The distribution or transportation of natural gas for use as a motor vehicle fuel does not cause the distributor or transporter to be a "public utility," unless the commission, after notice and a public hearing, determines by rule that it is in the public interest to regulate the distributors or transporters, but the retail sale alone of compressed natural gas as a motor vehicle fuel may not cause the seller to be a "public utility."

(ii) In determining whether it is in the public interest to regulate the distributors or transporters, the commission shall consider, among other things, the impact of the regulation on the availability and price of natural gas for use as a motor fuel.

~~[(i) "Public utility" does not include any corporation, cooperative association, or person, their affiliates, lessees, trustees, or receivers, owning, controlling, operating, or managing an electric plant or in any way furnishing electricity if the electricity is consumed by an owner, lessor, or interest holder {,} or by an affiliate {or tenant} of {an} {the} owner, lessor, or interest holder, {,} who {that} has provided at least \$25,000,000 in value, including credit support, relating to the electric plant furnishing {the} {,} electricity {,} and whose consumption does not exceed its long-term entitlement in the plant under a long-term arrangement other than a power purchase agreement, except a power purchase agreement with an electrical corporation.] { in this state. }~~

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~~(i)~~ "Public utility" does not include:

(i) an eligible customer who provides electricity for the eligible customer's own use or the use of the eligible customer's tenant or affiliate; or

(ii) a ~~non-utility~~ nonutility energy supplier that sells or provides electricity to:

(A) an eligible customer ~~that~~ who has transferred the eligible customer's service to the ~~non-utility~~ nonutility energy supplier in accordance with Section ~~54-3-1.1~~ 54-3-32; or

(B) the eligible customer's tenant or affiliate.

~~(17)~~ (20) "Purchasing utility" means any electrical corporation that is required to purchase electricity from small power production or cogeneration facilities pursuant to the Public Utility Regulatory Policies Act, 16 U.S.C. Section 824a-3.

~~(18)~~ (21) "Qualifying power producer" means a corporation, cooperative association, or person, or the lessee, trustee, and receiver of the corporation, cooperative association, or person, who owns, controls, operates, or manages any qualifying power production facility or cogeneration facility.

~~(19)~~ (22) "Qualifying power production facility" means a facility that:

(a) produces electrical energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources;

(b) has a power production capacity that, together with any other facilities located at the same site, is no greater than 80 megawatts; and

(c) is a qualifying small power production facility under federal law.

~~(20)~~ (23) "Railroad" includes every commercial, interurban, and other railway, other than a street railway, and each branch or extension of a railway, by any power operated, together with all tracks, bridges, trestles, rights-of-way, subways, tunnels, stations, depots, union depots, yards, grounds, terminals, terminal facilities, structures, and equipment, and all other real estate, fixtures, and personal property of every kind used in connection with a railway owned, controlled, operated, or managed for public service in the transportation of persons or property.

~~(21)~~ (24) "Railroad corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any railroad for public service within this state.

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~~[(22)]~~ (25) (a) "Sewerage corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any sewerage system for public service within this state.

(b) "Sewerage corporation" does not include private sewerage companies engaged in disposing of sewage only for their stockholders, or towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

~~[(23)]~~ (26) "Telegraph corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any telegraph line for public service within this state.

~~[(24)]~~ (27) "Telegraph line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telegraph, whether that communication be had with or without the use of transmission wires.

~~[(25)]~~ (28) (a) "Telephone corporation" means any corporation or person, and their lessees, trustee, receivers, or trustees appointed by any court, who owns, controls, operates, manages, or resells a public telecommunications service as defined in Section 54-8b-2.

(b) "Telephone corporation" does not mean a corporation, partnership, or firm providing:

(i) intrastate telephone service offered by a provider of cellular, personal communication systems (PCS), or other commercial mobile radio service as defined in 47 U.S.C. Sec. 332 that has been issued a covering license by the Federal Communications Commission;

(ii) Internet service; or

(iii) resold intrastate toll service.

~~[(26)]~~ (29) "Telephone line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telephone whether that communication is had with or without the use of transmission wires.

~~[(27)]~~ (30) "Transportation of persons" includes every service in connection with or incidental to the safety, comfort, or convenience of the person transported, and the receipt,

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carriage, and delivery of that person and that person's baggage.

~~[(28)]~~ (31) "Transportation of property" includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and hauling, and the transmission of credit by express companies.

~~[(29)]~~ (32) "Water corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any water system for public service within this state. It does not include private irrigation companies engaged in distributing water only to their stockholders, or towns, cities, counties, water conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

~~[(30)]~~ (33) (a) "Water system" includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, appointment, apportionment, or measurement of water for power, fire protection, irrigation, reclamation, or manufacturing, or for municipal, domestic, or other beneficial use.

(b) "Water system" does not include private irrigation companies engaged in distributing water only to their stockholders.

~~[(31)]~~ (34) "Wholesale electrical cooperative" includes every electrical corporation that is:

(a) in the business of the wholesale distribution of electricity it has purchased or generated to its members and the public; and

(b) required to distribute or allocate savings in excess of additions to reserves and surplus to members or patrons on the basis of patronage.

Section 3. Section ~~{54-3-1.1}~~ 54-3-8 is ~~{enacted to read:~~

~~———~~ 54-3-1.1. Bundled electric service -- Public utility duties -- Procedure to transfer service to a non-utility energy supplier.

~~———~~ (1) Notwithstanding Section 54-3-1 and except as provided in Subsection (2), a public utility is not required to furnish or provide bundled electric service to an eligible customer if the eligible customer transfers service to a non-utility energy supplier in accordance with this

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section:

~~—— (2) A public utility that is not required to furnish or provide bundled electric service to an eligible customer under Subsection (1) shall continue to provide transmission or distribution service to the eligible customer:~~

~~—— (a) as necessary to facilitate the eligible customer to receive service from a non-utility energy supplier; and~~

~~—— (b) in accordance with the tariffs, contracts, or both approved by the federal or state agency that has jurisdiction over the transmission or distribution service.~~

~~—— (3) An eligible customer may initiate the transfer of service to a non-utility energy supplier by:~~

~~—— (a) providing written notice to the public utility that furnishes or provides bundled electric service to the eligible customer:~~

~~—— (i) stating the eligible customer's intent to receive service from a non-utility energy supplier; and~~

~~—— (ii) at least 180 days before the date the eligible customer intends to transfer service to the non-utility energy supplier; and~~

~~—— (b) filing a written application with the public utility's transmission provider, in accordance with the approved tariffs or contracts of the public utility's transmission provider; for:~~

~~—— (i) the transfer or assignment of the rights to transmission or distribution service described in Subsection (7); or~~

~~—— (ii) service otherwise necessary to facilitate the eligible customer to receive service from the non-utility energy supplier.~~

~~—— (4) (a) No later than 14 days after the date a public utility receives the notice described in Subsection (3)(a) from an eligible customer, the public utility shall provide to the eligible customer an agreement for the public utility to perform a study on the costs of metering, communication, and other facilities or equipment necessary for the eligible customer to receive service from a non-utility energy supplier.~~

~~—— (b) The agreement described in Subsection (4)(a) shall include:~~

~~—— (i) a statement of the estimated cost of performing the study; and~~

~~—— (ii) a provision requiring the eligible customer to reimburse the public utility for the~~



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~~actual, reasonable cost of performing the study:~~

~~—— (c) An eligible customer may, no later than 14 days after the date the eligible customer receives the agreement described in Subsection (4)(a):~~

~~—— (i) execute the agreement;~~

~~—— (ii) return the agreement to the public utility; and~~

~~—— (iii) pay the public utility the estimated cost of performing the study.~~

~~—— (d) If an eligible customer fails to take an action described in Subsection (4)(c), the notice described in Subsection (3)(a) is considered to be withdrawn.~~

~~—— (5) Unless the notice described in Subsection (3)(a) is considered to be withdrawn under Subsection (4)(d), no later than 60 days after the date a public utility receives the notice described in Subsection (3)(a) from an eligible customer, the public utility shall provide to the eligible customer:~~

~~—— (a) the results of the study described in Subsection (4);~~

~~—— (b) a statement of the estimated costs of the metering, communication, and other facilities or equipment necessary for the eligible customer to receive service from the non-utility energy supplier; and~~

~~—— (c) an estimated date by which the public utility can complete the installation of the metering, communication, and other facilities or equipment necessary for the eligible customer to receive service from the non-utility energy supplier.~~

~~—— (6) (a) No later than 14 days after the date an eligible customer receives the results of the study described in Subsection (4):~~

~~—— (i) if the estimated cost the eligible customer pays in accordance with Subsection (4)(c) exceeds the actual, reasonable cost of performing the study, the public utility shall refund the excess to the eligible customer; or~~

~~—— (ii) if the estimated cost the eligible customer pays in accordance with Subsection (4)(c) is less than the actual, reasonable cost of performing the study, the eligible customer shall pay to the public utility the difference between the estimated cost and the actual, reasonable cost of performing the study.~~

~~—— (b) (i) The notice described in Subsection (3)(a) is considered to be withdrawn if the eligible customer notifies the public utility in writing within 14 days after the date the eligible customer receives the results of the study described in Subsection (4) that the notice is~~

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withdrawn:

~~—— (ii) A customer is not relieved of the duty to pay the actual, reasonable cost of the study described in Subsection (4) if the customer provides the notice to withdraw described in Subsection (6)(b)(i):~~

~~—— (7) Unless the notice described in Subsection (3)(a) is considered to be withdrawn under Subsection (4)(d) or (6)(b)(i), no later than 180 days after the date a public utility receives the notice described in Subsection (3)(a) from an eligible customer, the public utility shall transfer and assign to the eligible customer or the eligible customer's designee the rights to transmission or distribution service as necessary to facilitate the eligible customer to receive service from a non-utility energy supplier:~~

~~—— (8) A public utility and an eligible customer may agree in writing to waive a time period described in Subsection (4), (5), (6), or (7) as necessary to facilitate the eligible customer to receive service from a non-utility energy supplier:~~

~~—— (9) An eligible customer may elect to have one of the following install the facilities and equipment necessary for the eligible customer to receive service from a non-utility energy supplier:~~

~~—— (a) the public utility;~~

~~—— (b) the non-utility energy supplier; or~~

~~—— (c) a third party contractor:~~

~~—— (10) An eligible customer may commence service from a non-utility energy supplier if:~~

~~—— (a) the eligible customer meets the requirements of Subsection (3);~~

~~—— (b) the eligible customer enters into any necessary agreements for:~~

~~—— (i) the public utility to provide transmission or distribution service; and~~

~~—— (ii) the non-utility energy supplier to provide service;~~

~~—— (c) the installation described in Subsection (9) is completed; and~~

~~—— (d) the notice described in Subsection (3)(a) is not considered to be withdrawn under Subsection (4)(d) or (6)(b)(i):~~

~~—— Section 4. Section 54-3-8 is } amended to read:~~

**54-3-8. Preferences forbidden -- Power of commission to determine facts --**

**Applicability of section.**

(1) Except as provided in Chapter 8b, Public Telecommunications Law, a public utility

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may not:

(a) as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any person, or subject any person to any prejudice or disadvantage; and

(b) establish or maintain any unreasonable difference as to rates, charges, service or facilities, or in any other respect, either as between localities or as between classes of service.

(2) The commission shall have power to determine any question of fact arising under this section.

(3) This section does not apply to, and the commission may not enforce this chapter concerning, a schedule, classification, rate, price, charge, fare, toll, rental, rule, service, facility, or contract of [a public utility or electrical corporation furnishing electricity,] an entity described in Subsection 54-2-1(~~(8)~~7)(b)(iii) or (iv), (17), or (19)(i) or (j), or if the electricity is consumed by [an owner, lessor, or interest holder or by an affiliate {or tenant} of an owner, lessor, or interest holder, {} who {} if that owner, lessor, interest holder, affiliate, or tenant} has provided at least \$25,000,000 in value, including credit support, relating to {} the {} an] electric plant {} furnishing the electricity and whose consumption does not exceed its long-term entitlement in the plant under a long-term arrangement other than a power purchase agreement, except a power purchase agreement with an electrical corporation {} in this state. }.] an eligible customer for the eligible customer's own use or the use of the eligible customer's tenant or affiliate.

Section 4. Section 54-3-32 is enacted to read:

54-3-32. Public utility duties -- Procedure to transfer service to a nonutility energy supplier.

(1) A transmission provider shall offer to an eligible customer available transmission service under the transmission provider's applicable Federal Energy Regulatory Commission approved open access transmission tariff.

(2) Notwithstanding Section 54-3-1, and except for transmission service required to be offered under Subsection (1), a public utility is not required to furnish or provide electric service to an eligible customer if the eligible customer has transferred service to a nonutility energy supplier in accordance with this section.

(3) An eligible customer may initiate the transfer of service to a nonutility energy

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supplier by:

(a) providing written notice to the public utility that provides electric service to the eligible customer:

(i) no later than 18 months before the date the eligible customer intends to transfer service to the nonutility energy supplier; and

(ii) stating:

(A) that the eligible customer intends to receive service from the nonutility energy supplier; and

(B) the date on which the eligible customer intends to commence receiving service from the nonutility energy supplier; and

(b) filing a written application with the public utility's transmission provider in accordance with the transmission provider's approved Federal Energy Regulatory Commission open access transmission tariff no later than 240 days before the intended date of transfer of service described in Subsection (3)(a)(ii).

(4) (a) Subject to Subsection (4)(c), an eligible customer shall provide written reports to the commission and the public utility updating any change in the intended date of transfer of service described in Subsection (3)(a)(ii):

(i) beginning nine months prior to the intended date of transfer of service described in Subsection (3)(a)(ii); and

(ii) no less frequently than every three months after the first written report is submitted in accordance with Subsection (4)(a)(i) until the sooner of:

(A) the date the notice described in Subsection (3)(a) is withdrawn in accordance with this section; or

(B) the date the eligible customer's service is transferred to the nonutility energy supplier.

(b) An eligible customer:

(i) may withdraw the notice described in Subsection (3)(a) at any time prior to transferring service to a nonutility energy supplier; or

(ii) subject to Subsection (4)(c), may delay the intended date of transfer of service described in Subsection (3)(a)(ii).

(c) Subject to Subsection (4)(d), the notice described in Subsection (3)(a) is considered

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to be withdrawn if a transfer of service under this section does not occur before the earlier of:

(i) December 31, 2020; or

(ii) 18 months after the intended date of transfer of service described in Subsection (3)(a)(ii).

(d) A time period provided in Subsection (4)(c) is tolled during any period of delay in a transfer of service to a nonutility energy supplier if the delay is solely attributable to the public utility, the public utility's transmission provider, or a contractor of the public utility or the public utility's transmission provider, in fulfilling the public utility's or the public utility's transmission provider's obligations under relevant law.

(5) An eligible customer that transfers service to a nonutility energy supplier shall pay, or receive credit for:

(a) any amounts due to the public utility for electric service provided to the eligible customer in accordance with a tariff or the eligible customer's contract for service;

(b) all balancing account costs, major plant addition costs, and any other surcharges or credits:

(i) attributable to the service provided to the eligible customer; and

(ii) incurred prior to the eligible customer's transfer of service to the nonutility energy supplier;

(c) all costs of metering, communication, and other facilities or equipment necessary to transfer the eligible customer's service to the nonutility energy supplier;

(d) all costs of transmission and ancillary services necessary for the eligible customer to receive service from the nonutility energy supplier; and

(e) any costs assessed to the eligible customer in accordance with Subsection (6).

(6) (a) The Division of Public Utilities shall file a petition with the commission as provided in this section:

(i) no earlier than 12 months but no later than eight months before the later of:

(A) the intended date of transfer of service described in Subsection (3)(a)(ii); or

(B) if the eligible customer updates a change in the intended date of transfer of service in accordance with Subsection (4), the intended date of transfer of service stated in the written report described in Subsection (4); or

(ii) at any time earlier than the time period described in Subsection (6)(a)(i) if agreed to

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by the public utility, the Division of Public Utilities, the Office of Consumer Services, and the eligible customer.

(b) A petition under Subsection (6)(a) shall seek a determination by the commission of whether the eligible customer's intended transfer of service to a nonutility energy supplier will result in:

(i) costs or credits allocated to Utah under any interjurisdictional cost allocation methodology the commission reasonably expects to be in effect as of:

(A) the intended date of transfer of service described in Subsection (3)(a)(ii); or

(B) if the eligible customer updates a change in the intended date of transfer of service in accordance with Subsection (4), the intended date of transfer of service stated in the written report described in Subsection (4);

(ii) (A) costs of facilities used to serve the eligible customer if the costs will not be recovered from the eligible customer and the facilities will not be used by other customers as a direct result of the eligible customer transferring service to a nonutility energy supplier; and

(B) any credits to offset the costs of facilities described in Subsection (6)(b)(ii)(A); and

(iii) any other costs to the public utility or to other customers of the public utility.

(c) In making its determination under Subsection (6)(b), the commission may consider:

(i) the benefits from resources, the costs of which are attributable to the eligible customer's load;

(ii) the cost of resources attributable to the eligible customer's load compared to the cost of new resources;

(iii) other credits and public interest considerations related to the eligible customer; and

(iv) any other issue raised by a party to the proceeding or any other issue the commission determines to be relevant.

(d) If the eligible customer's load was not substantially offset by the eligible customer's generation in the public utility's load forecast used in the public utility's 2013 integrated resource plan, the commission shall require the eligible customer to pay to the public utility, for the benefit of Utah customers, any costs described in Subsection (6)(b) the commission orders the eligible customer to pay.

(e) If the eligible customer's load was substantially offset by the eligible customer's generation in the public utility's load forecast used in the public utility's 2013 integrated

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resource plan, the commission, in its discretion, based on substantial evidence and taking into consideration the public interest, shall determine the reasonable amount:

(i) (A) the eligible customer is required to pay to the public utility, for the benefit of Utah customers, for the costs the commission determines in accordance with Subsection (6)(b)(i); and

(B) the public utility is required to pay to the eligible customer, at a cost to be recovered from Utah customers, for any credits the commission determines in accordance with Subsection (6)(b)(i);

(ii) the following are required to pay to the public utility, for the costs or credits the commission determines in accordance with Subsection (6)(b)(ii):

(A) the eligible customer;

(B) other customers of the public utility; or

(C) the eligible customer and other customers of the public utility; and

(iii) the other customers of the public utility are required to pay to the public utility, for any costs the commission determines in accordance with Subsection (6)(b)(iii).

(f) (i) The commission shall issue a decision on the petition filed in accordance with Subsection (6)(a) no later than 180 days after the Division of Public Utilities files the petition.

(ii) If the commission does not issue a decision within the time period required by Subsection (6)(f)(i), the commission shall allow the public utility to recover costs the commission determines in accordance with Subsection (6)(b), but may not impose any of those costs on the eligible customer.

(7) A public utility and an eligible customer may agree in writing to waive a time period described in Subsection (4) as necessary to facilitate the eligible customer to receive service from a nonutility energy supplier.

(8) (a) Subject to Subsection (8)(b), an eligible customer shall arrange for the installation of any facilities and equipment necessary for the eligible customer to receive service from a nonutility energy supplier:

(i) at the cost of the eligible customer; and

(ii) in compliance with the public utility's applicable equipment standards and industry codes.

(b) The facilities and equipment described in Subsection (8)(a) may be installed by:

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(i) the public utility;

(ii) the nonutility energy supplier; or

(iii) a third party contractor.

(9) An eligible customer may commence service from a nonutility energy supplier if:

(a) the eligible customer makes the payments described in Subsection (5);

(b) the eligible customer meets the requirements of Subsection (3);

(c) the eligible customer, or a designee of the eligible customer, enters into any necessary agreements for:

(i) the public utility's transmission provider to provide transmission service; and

(ii) the nonutility energy supplier to provide service;

(d) the installation described in Subsection (8) is completed; and

(e) the notice described in Subsection (3)(a) is not considered to be withdrawn under Subsection (4).

(10) (a) If an eligible customer that has been receiving electricity from a nonutility energy supplier gives the public utility and the commission at least 36 months' prior written notice of the eligible customer's intention to reinstate electric service from the public utility, the public utility shall reinstate electric service to the eligible customer:

(i) under substantially the same terms as a new customer;

(ii) beginning 36 months after the date the public utility receives the written notice; and

(iii) (A) at rates stated in the public utility's applicable rate schedule; or

(B) at a special contract rate agreed upon by the public utility and the eligible customer and approved by the commission.

(b) The notice described in Subsection (10)(a) is irrevocable unless, during the time period beginning on the date the eligible customer provides the notice described in Subsection (10)(a) and ending on the date the public utility reinstates service, the public utility is no longer a vertically integrated utility providing electric service that includes generation and transmission.

(c) If an eligible customer that has transferred service to a nonutility energy supplier elects to reinstate electric service from a public utility and receives the electric service from the public utility, the eligible customer may not transfer service to a nonutility energy supplier under this section.



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Section 5. Section 54-4-2 is amended to read:

### 54-4-2. Investigations -- Hearings and notice -- Findings -- Applicability of chapter.

(1) (a) ~~[Whenever the commission believes that in order]~~ The commission may conduct an investigation if the commission determines an investigation:

(i) is necessary to secure [a] compliance with [the provisions of] this title or with [the orders] an order of the commission~~[, or that it will be otherwise in the interest of the public, an investigation]~~;

(ii) is in the public interest; or

(iii) should be made of any act or omission to act, or of anything accomplished or proposed, or of any schedule, classification, rate, price, charge, fare, toll, rental, rule, regulation, service, or facility of any public utility~~[, it shall investigate the same upon its own motion, and may fix].~~

(b) If the commission conducts an investigation under Subsection (1)(a), the commission may:

(i) establish a time and place for a hearing ~~[thereof with]~~;

(ii) provide notice to the public utility concerning ~~[which such investigation shall be made, and upon such hearing shall make such]~~ the investigation; and

(iii) make findings and orders ~~[as shall be]~~ that are just and reasonable with respect to ~~[any such matter]~~ the investigation.

(2) This chapter does not apply to a schedule, classification, rate, price, charge, fare, toll, rental, rule, service, facility, or contract of ~~[a public utility or electrical corporation furnishing electricity,]~~ an entity described in Subsection 54-2-1(~~8~~7)(b)(iii) or (iv), (17), or (19)(i~~7~~) or (j), or if the electricity is consumed by ~~[an owner, lessor, or interest holder or by an affiliate~~ ~~{or tenant}~~ of an owner, lessor, or interest holder, {} who {} if that owner, lessor, interest holder, affiliate, or tenant} has provided at least \$25,000,000 in value, including credit support, relating to {} the {} an} electric plant {} furnishing the electricity and whose consumption does not exceed its long-term entitlement in the plant under a long-term arrangement other than a power purchase agreement, except a power purchase agreement with an electrical corporation {} in this state.}] an eligible customer for the eligible customer's own use or the use of the eligible customer's tenant or affiliate.

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Section 6. Section **54-15-108** is amended to read:

**54-15-108. Damages and fines for connecting a customer generation system to more than one customer.**

If an independent energy producer defined in [~~Subsection 54-2-1(13)~~] Section 54-2-1 that is supplying energy to a customer [~~under~~] as described in Subsection 54-2-1[~~(16)~~](19)(d)(iv) violates the limitations set forth in Subsection 54-2-1[~~(16)~~](19)(d)(iv)(B), the commission may:

(1) award damages to an electrical corporation for actual and consequential damages to the electrical corporation; and

(2) assess a fine against the independent energy producer or person responsible for the violation.

~~{ Section 7. Section **59-12-102 (Superseded 07/01/14)** is amended to read:~~

~~— **59-12-102 (Superseded 07/01/14). Definitions.**~~

~~— As used in this chapter:~~

~~— (1) "800 service" means a telecommunications service that:~~

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

~~— (b) is typically marketed:~~

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

~~— (ii) under the name 855 toll-free calling;~~

~~— (iii) under the name 866 toll-free calling;~~

~~— (iv) under the name 877 toll-free calling;~~

~~— (v) under the name 888 toll-free calling; or~~

~~— (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.~~

~~— (2) (a) "900 service" means an inbound toll telecommunications service that:~~

~~— (i) a subscriber purchases;~~

~~— (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:~~

~~— (A) prerecorded announcement; or~~

~~— (B) live service; and~~

~~— (iii) is typically marketed:~~

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- ~~—— (A) under the name 900 service; or~~
- ~~—— (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.~~
- ~~—— (b) "900 service" does not include a charge for:~~
  - ~~—— (i) a collection service a seller of a telecommunications service provides to a subscriber; or~~
  - ~~—— (ii) the following a subscriber sells to the subscriber's customer:~~
    - ~~—— (A) a product; or~~
    - ~~—— (B) a service.~~
- ~~—— (3) (a) "Admission or user fees" includes season passes.~~
- ~~—— (b) "Admission or user fees" does not include annual membership dues to private organizations.~~
- ~~—— (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.~~
- ~~—— (5) "Agreement combined tax rate" means the sum of the tax rates:~~
  - ~~—— (a) listed under Subsection (6); and~~
  - ~~—— (b) that are imposed within a local taxing jurisdiction.~~
- ~~—— (6) "Agreement sales and use tax" means a tax imposed under:~~
  - ~~—— (a) Subsection 59-12-103(2)(a)(i)(A);~~
  - ~~—— (b) Subsection 59-12-103(2)(b)(i);~~
  - ~~—— (c) Subsection 59-12-103(2)(c)(i);~~
  - ~~—— (d) Subsection 59-12-103(2)(d)(i)(A)(I);~~
  - ~~—— (e) Section 59-12-204;~~
  - ~~—— (f) Section 59-12-401;~~
  - ~~—— (g) Section 59-12-402;~~
  - ~~—— (h) Section 59-12-703;~~
  - ~~—— (i) Section 59-12-802;~~
  - ~~—— (j) Section 59-12-804;~~
  - ~~—— (k) Section 59-12-1102;~~
  - ~~—— (l) Section 59-12-1302;~~

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- ~~—— (m) Section 59-12-1402;~~
- ~~—— (n) Section 59-12-1802;~~
- ~~—— (o) Section 59-12-2003;~~
- ~~—— (p) Section 59-12-2103;~~
- ~~—— (q) Section 59-12-2213;~~
- ~~—— (r) Section 59-12-2214;~~
- ~~—— (s) Section 59-12-2215;~~
- ~~—— (t) Section 59-12-2216;~~
- ~~—— (u) Section 59-12-2217; or~~
- ~~—— (v) Section 59-12-2218;~~
- ~~—— (7) "Aircraft" is as defined in Section 72-10-102.~~
- ~~—— (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:~~
  - ~~—— (a) except for:~~
    - ~~—— (i) an airline as defined in Section 59-2-102; or~~
    - ~~—— (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and~~
  - ~~—— (b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:~~
    - ~~—— (i) check, diagnose, overhaul, and repair:~~
      - ~~—— (A) an onboard system of a fixed wing turbine powered aircraft; and~~
      - ~~—— (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;~~
    - ~~—— (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;~~
    - ~~—— (iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:~~
      - ~~—— (A) an inspection;~~
      - ~~—— (B) a repair, including a structural repair or modification;~~
      - ~~—— (C) changing landing gear; and~~
      - ~~—— (D) addressing issues related to an aging fixed wing turbine powered aircraft;~~
    - ~~—— (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and~~

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

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

~~—— (9) "Alcoholic beverage" means a beverage that:~~

~~—— (a) is suitable for human consumption; and~~

~~—— (b) contains 0.5% or more alcohol by volume.~~

~~—— (10) "Alternative energy" means:~~

~~—— (a) biomass energy;~~

~~—— (b) geothermal energy;~~

~~—— (c) hydroelectric energy;~~

~~—— (d) solar energy;~~

~~—— (e) wind energy; or~~

~~—— (f) energy that is derived from:~~

~~—— (i) coal-to-liquids;~~

~~—— (ii) nuclear fuel;~~

~~—— (iii) oil-impregnated diatomaceous earth;~~

~~—— (iv) oil sands;~~

~~—— (v) oil shale; or~~

~~—— (vi) petroleum coke.~~

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

~~—— (i) uses alternative energy to produce electricity; and~~

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

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

~~—— (i) connected to an electric grid; or~~

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

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

~~—— (b) "Ancillary service" includes:~~

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- ~~—— (i) a conference bridging service;~~
- ~~—— (ii) a detailed communications billing service;~~
- ~~—— (iii) directory assistance;~~
- ~~—— (iv) a vertical service; or~~
- ~~—— (v) a voice mail service.~~
- ~~—— (13) "Area agency on aging" is as defined in Section 62A-3-101.~~
- ~~—— (14) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:~~
  - ~~—— (a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and~~
  - ~~—— (b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.~~
- ~~—— (15) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:~~
  - ~~—— (a) who is not the purchaser of the cleaning or washing of the tangible personal property; and~~
  - ~~—— (b) at the direction of the seller of the cleaning or washing of the tangible personal property.~~
- ~~—— (16) "Authorized carrier" means:~~
  - ~~—— (a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;~~
  - ~~—— (b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or~~
  - ~~—— (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, the holder of a certificate issued by the United States Surface Transportation Board.~~
- ~~—— (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:~~
  - ~~—— (i) material from a plant or tree; or~~
  - ~~—— (ii) other organic matter that is available on a renewable basis, including:~~

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- ~~—— (A) slash and brush from forests and woodlands;~~
- ~~—— (B) animal waste;~~
- ~~—— (C) methane produced:~~
- ~~—— (I) at landfills; or~~
- ~~—— (H) as a byproduct of the treatment of wastewater residuals;~~
- ~~—— (D) aquatic plants; and~~
- ~~—— (E) agricultural products.~~
- ~~—— (b) "Biomass energy" does not include:~~
- ~~—— (i) black liquor;~~
- ~~—— (ii) treated woods; or~~
- ~~—— (iii) biomass from municipal solid waste other than methane produced:~~
- ~~—— (A) at landfills; or~~
- ~~—— (B) as a byproduct of the treatment of wastewater residuals.~~
- ~~—— (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:~~
- ~~—— (i) distinct and identifiable; and~~
- ~~—— (ii) sold for one nonitemized price.~~
- ~~—— (b) "Bundled transaction" does not include:~~
- ~~—— (i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;~~
- ~~—— (ii) the sale of real property;~~
- ~~—— (iii) the sale of services to real property;~~
- ~~—— (iv) the retail sale of tangible personal property and a service if:~~
- ~~—— (A) the tangible personal property:~~
- ~~—— (I) is essential to the use of the service; and~~
- ~~—— (H) is provided exclusively in connection with the service; and~~
- ~~—— (B) the service is the true object of the transaction;~~
- ~~—— (v) the retail sale of two services if:~~
- ~~—— (A) one service is provided that is essential to the use or receipt of a second service;~~
- ~~—— (B) the first service is provided exclusively in connection with the second service; and~~

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- ~~—— (C) the second service is the true object of the transaction;~~
- ~~—— (vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:~~
  - ~~—— (A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or~~
  - ~~—— (B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and~~
  - ~~—— (vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:~~
    - ~~—— (A) that retail sale includes:~~
      - ~~—— (I) food and food ingredients;~~
      - ~~—— (II) a drug;~~
      - ~~—— (III) durable medical equipment;~~
      - ~~—— (IV) mobility enhancing equipment;~~
      - ~~—— (V) an over-the-counter drug;~~
      - ~~—— (VI) a prosthetic device; or~~
      - ~~—— (VII) a medical supply; and~~
    - ~~—— (B) subject to Subsection (18)(f):~~
      - ~~—— (I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or~~
      - ~~—— (II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.~~
  - ~~—— (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:~~
    - ~~—— (A) packaging that:~~
      - ~~—— (I) accompanies the sale of the tangible personal property, product, or service; and~~
      - ~~—— (II) is incidental or immaterial to the sale of the tangible personal property, product, or service;~~
    - ~~—— (B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or~~



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

~~—— (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.~~

~~—— (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:~~

~~—— (A) a binding sales document; or~~

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

~~—— (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:~~

~~—— (A) a bill of sale;~~

~~—— (B) a contract;~~

~~—— (C) an invoice;~~

~~—— (D) a lease agreement;~~

~~—— (E) a periodic notice of rates and services;~~

~~—— (F) a price list;~~

~~—— (G) a rate card;~~

~~—— (H) a receipt; or~~

~~—— (I) a service agreement.~~

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

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

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

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

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

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

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

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

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

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

~~—— (i) on a transaction; and~~

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

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

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

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

~~—— (a) by the governing board of the agreement; and~~

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

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

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

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

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

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

~~—— (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (55) or residential use under Subsection (105).~~

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

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

~~—— (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.~~

~~—— (25) "Component part" includes:~~

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

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

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

~~—— (d) feed, seeds, and seedlings.~~

~~—— (26) "Computer" means an electronic device that:~~

~~—— (a) accepts information:~~

~~—— [(a)] (i) in digital form; or~~

~~—— (ii) in a form similar to digital form; and~~

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

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

~~—— (a) a computer to perform a task; or~~

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

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

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- ~~—— (a) future updates or upgrades to computer software;~~
- ~~—— (b) support services with respect to computer software; or~~
- ~~—— (c) a combination of Subsections (28)(a) and (b).~~
- ~~—— (29) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.~~
- ~~—— (b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (29)(a).~~
- ~~—— (c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (29)(a).~~
- ~~—— (30) "Construction materials" means any tangible personal property that will be converted into real property.~~
- ~~—— (31) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.~~
- ~~—— (32) (a) "Delivery charge" means a charge:~~
  - ~~—— (i) by a seller of:~~
    - ~~—— (A) tangible personal property;~~
    - ~~—— (B) a product transferred electronically; or~~
    - ~~—— (C) services; and~~
  - ~~—— (ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (32)(a)(i) to a location designated by the purchaser.~~
- ~~—— (b) "Delivery charge" includes a charge for the following:~~
  - ~~—— (i) transportation;~~
  - ~~—— (ii) shipping;~~
  - ~~—— (iii) postage;~~
  - ~~—— (iv) handling;~~
  - ~~—— (v) crating; or~~
  - ~~—— (vi) packing.~~
- ~~—— (33) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.~~
- ~~—— (34) "Dietary supplement" means a product, other than tobacco, that:~~

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- ~~—— (a) is intended to supplement the diet;~~
- ~~—— (b) contains one or more of the following dietary ingredients:~~
  - ~~—— (i) a vitamin;~~
  - ~~—— (ii) a mineral;~~
  - ~~—— (iii) an herb or other botanical;~~
  - ~~—— (iv) an amino acid;~~
  - ~~—— (v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or~~
  - ~~—— (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);~~
- ~~—— (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:~~
  - ~~—— (A) tablet form;~~
  - ~~—— (B) capsule form;~~
  - ~~—— (C) powder form;~~
  - ~~—— (D) softgel form;~~
  - ~~—— (E) gelcap form; or~~
  - ~~—— (F) liquid form; or~~
  - ~~—— (ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:~~
    - ~~—— (A) as conventional food; and~~
    - ~~—— (B) for use as a sole item of:~~
      - ~~—— (I) a meal; or~~
      - ~~—— (II) the diet; and~~
- ~~—— (d) is required to be labeled as a dietary supplement:~~
  - ~~—— (i) identifiable by the "Supplemental Facts" box found on the label; and~~
  - ~~—— (ii) as required by 21 C.F.R. Sec. 101.36.~~
- ~~—— (35) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds:~~
  - ~~—— (b) "Digital audio work" includes a ringtone.~~
- ~~—— (36) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.~~

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~~—— (37) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book:~~

~~—— (38) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:~~

~~—— (i) to:~~

~~—— (A) a mass audience; or~~

~~—— (B) addressees on a mailing list provided:~~

~~—— (I) by a purchaser of the mailing list; or~~

~~—— (II) at the discretion of the purchaser of the mailing list; and~~

~~—— (ii) if the cost of the printed material is not billed directly to the recipients:~~

~~—— (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material:~~

~~—— (c) "Direct mail" does not include multiple items of printed material delivered to a single address:~~

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

~~—— (a) address information; or~~

~~—— (b) telephone number information:~~

~~—— (40) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:~~

~~—— (i) cannot withstand repeated use; and~~

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

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

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

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

~~—— (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C):~~

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

~~—— (i) a drug;~~

~~—— (ii) durable medical equipment;~~

~~—— (iii) a hearing aid;~~

~~—— (iv) a hearing aid accessory;~~

~~—— (v) mobility enhancing equipment; or~~

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- ~~—— (vi) tangible personal property used to correct impaired vision, including:~~
- ~~—— (A) eyeglasses; or~~
- ~~—— (B) contact lenses.~~
- ~~—— (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.~~
- ~~—— (41) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:~~
- ~~—— (i) recognized in:~~
- ~~—— (A) the official United States Pharmacopoeia;~~
- ~~—— (B) the official Homeopathic Pharmacopoeia of the United States;~~
- ~~—— (C) the official National Formulary; or~~
- ~~—— (D) a supplement to a publication listed in Subsections (41)(a)(i)(A) through (C);~~
- ~~—— (ii) intended for use in the:~~
- ~~—— (A) diagnosis of disease;~~
- ~~—— (B) cure of disease;~~
- ~~—— (C) mitigation of disease;~~
- ~~—— (D) treatment of disease; or~~
- ~~—— (E) prevention of disease; or~~
- ~~—— (iii) intended to affect:~~
- ~~—— (A) the structure of the body; or~~
- ~~—— (B) any function of the body.~~
- ~~—— (b) "Drug" does not include:~~
- ~~—— (i) food and food ingredients;~~
- ~~—— (ii) a dietary supplement;~~
- ~~—— (iii) an alcoholic beverage; or~~
- ~~—— (iv) a prosthetic device.~~
- ~~—— (42) (a) "Durable medical equipment" means equipment that:~~
- ~~—— (i) can withstand repeated use;~~
- ~~—— (ii) is primarily and customarily used to serve a medical purpose;~~
- ~~—— (iii) generally is not useful to a person in the absence of illness or injury; and~~
- ~~—— (iv) is not worn in or on the body.~~

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~~—— (b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (42)(a).~~

~~—— (c) Notwithstanding Subsection (42)(a), "durable medical equipment" does not include mobility enhancing equipment.~~

~~—— (43) "Electronic" means:~~

~~—— (a) relating to technology; and~~

~~—— (b) having:~~

~~—— (i) electrical capabilities;~~

~~—— (ii) digital capabilities;~~

~~—— (iii) magnetic capabilities;~~

~~—— (iv) wireless capabilities;~~

~~—— (v) optical capabilities;~~

~~—— (vi) electromagnetic capabilities; or~~

~~—— (vii) capabilities similar to Subsections (43)(b)(i) through (vi).~~

~~—— (44) "Electronic financial payment service" means an establishment:~~

~~—— (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and~~

~~—— (b) that performs electronic financial payment services.~~

~~—— (45) "Employee" is as defined in Section 59-10-401.~~

~~—— (46) "Fixed guideway" means a public transit facility that uses and occupies:~~

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

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

~~—— (47) "Fixed wing turbine powered aircraft" means an aircraft that:~~

~~—— (a) is powered by turbine engines;~~

~~—— (b) operates on jet fuel; and~~

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

~~—— (48) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.~~

~~—— (49) (a) "Food and food ingredients" means substances:~~

~~—— (i) regardless of whether the substances are in:~~



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- ~~—— (A) liquid form;~~
- ~~—— (B) concentrated form;~~
- ~~—— (C) solid form;~~
- ~~—— (D) frozen form;~~
- ~~—— (E) dried form; or~~
- ~~—— (F) dehydrated form; and~~
- ~~—— (ii) that are:~~
  - ~~—— (A) sold for:~~
    - ~~—— (I) ingestion by humans; or~~
    - ~~—— (H) chewing by humans; and~~
  - ~~—— (B) consumed for the substance's:~~
    - ~~—— (I) taste; or~~
    - ~~—— (H) nutritional value.~~
- ~~—— (b) "Food and food ingredients" includes an item described in Subsection (90)(b)(iii).~~
- ~~—— (c) "Food and food ingredients" does not include:~~
  - ~~—— (i) an alcoholic beverage;~~
  - ~~—— (ii) tobacco; or~~
  - ~~—— (iii) prepared food.~~
- ~~—— (50) (a) "Fundraising sales" means sales:~~
  - ~~—— (i) (A) made by a school; or~~
  - ~~—— (B) made by a school student;~~
  - ~~—— (ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and~~
  - ~~—— (iii) that are part of an officially sanctioned school activity.~~
- ~~—— (b) For purposes of Subsection (50)(a)(iii), "officially sanctioned school activity" means a school activity:~~
  - ~~—— (i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;~~
  - ~~—— (ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and~~
  - ~~—— (iii) the net or gross revenues from which are deposited in a dedicated account~~

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~~controlled by the school or school district.~~

~~—— (51) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.~~

~~—— (52) "Governing board of the agreement" means the governing board of the agreement that is:~~

~~—— (a) authorized to administer the agreement; and~~

~~—— (b) established in accordance with the agreement.~~

~~—— (53) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:~~

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

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

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

~~—— (iv) the National Guard;~~

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

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

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

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

~~—— (ii) a school;~~

~~—— (iii) the State Board of Education;~~

~~—— (iv) the State Board of Regents; or~~

~~—— (v) an institution of higher education.~~

~~—— (54) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.~~

~~—— (55) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:~~

~~—— (a) in mining or extraction of minerals;~~

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

~~—— (i) commercial greenhouses;~~

~~—— (ii) irrigation pumps;~~

~~—— (iii) farm machinery;~~

~~—— (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and~~

~~—— (v) other farming activities;~~

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

~~—— (d) by a scrap recycler if:~~

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

~~—— (A) iron;~~

~~—— (B) steel;~~

~~—— (C) nonferrous metal;~~

~~—— (D) paper;~~

~~—— (E) glass;~~

~~—— (F) plastic;~~

~~—— (G) textile; or~~

~~—— (H) rubber; and~~

~~—— (ii) the new products under Subsection (55)(d)(i) would otherwise be made with nonrecycled materials; or~~

~~—— (e) in producing a form of energy or steam described in Subsection 54-2-1[(2)](3)(a) by a cogeneration facility as defined in Section 54-2-1.~~

~~—— (56) (a) Except as provided in Subsection (56)(b), "installation charge" means a charge for installing:~~

~~—— (i) tangible personal property; or~~

~~—— (ii) a product transferred electronically.~~

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- ~~—— (b) "Installation charge" does not include a charge for:~~
- ~~—— (i) repairs or renovations of:~~
  - ~~—— (A) tangible personal property; or~~
  - ~~—— (B) a product transferred electronically; or~~
- ~~—— (ii) attaching tangible personal property or a product transferred electronically:~~
  - ~~—— (A) to other tangible personal property; and~~
  - ~~—— (B) as part of a manufacturing or fabrication process.~~
- ~~—— (57) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.~~
- ~~—— (58) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:~~
  - ~~—— (i) (A) a fixed term; or~~
  - ~~—— (B) an indeterminate term; and~~
  - ~~—— (ii) consideration.~~
- ~~—— (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.~~
- ~~—— (c) "Lease" or "rental" does not include:~~
  - ~~—— (i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;~~
  - ~~—— (ii) a transfer of possession or control of property under an agreement that requires the transfer of title:~~
    - ~~—— (A) upon completion of required payments; and~~
    - ~~—— (B) if the payment of an option price does not exceed the greater of:~~
      - ~~—— (I) \$100; or~~
      - ~~—— (II) 1% of the total required payments; or~~
    - ~~—— (iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.~~

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~~—— (d) For purposes of Subsection (58)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:~~

~~—— (i) set-up of tangible personal property;~~

~~—— (ii) maintenance of tangible personal property; or~~

~~—— (iii) inspection of tangible personal property.~~

~~—— (59) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:~~

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

~~—— (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or~~

~~—— (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.~~

~~—— (60) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility:~~

~~—— (61) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.~~

~~—— (62) "Local taxing jurisdiction" means a:~~

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

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

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

~~—— (63) "Manufactured home" is as defined in Section 15A-1-302.~~

~~—— (64) For purposes of Section 59-12-104, "manufacturing facility" means:~~

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

~~—— (b) a scrap recycler if:~~

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

~~—— (A) iron;~~

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- ~~—— (B) steel;~~
- ~~—— (C) nonferrous metal;~~
- ~~—— (D) paper;~~
- ~~—— (E) glass;~~
- ~~—— (F) plastic;~~
- ~~—— (G) textile; or~~
- ~~—— (H) rubber; and~~
- ~~—— (ii) the new products under Subsection (64)(b)(i) would otherwise be made with nonrecycled materials; or~~
- ~~—— (c) a cogeneration facility as defined in Section 54-2-1.~~
- ~~—— (65) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:~~
  - ~~—— (a) child or stepchild, regardless of whether the child or stepchild is:~~
    - ~~—— (i) an adopted child or adopted stepchild; or~~
    - ~~—— (ii) a foster child or foster stepchild;~~
  - ~~—— (b) grandchild or stepgrandchild;~~
  - ~~—— (c) grandparent or stepgrandparent;~~
  - ~~—— (d) nephew or stepnephew;~~
  - ~~—— (e) niece or stepniece;~~
  - ~~—— (f) parent or stepparent;~~
  - ~~—— (g) sibling or stepsibling;~~
  - ~~—— (h) spouse;~~
  - ~~—— (i) person who is the spouse of a person described in Subsections (65)(a) through (g);~~
- ~~or~~
- ~~—— (j) person similar to a person described in Subsections (65)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~
- ~~—— (66) "Mobile home" is as defined in Section 15A-1-302.~~
- ~~—— (67) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.~~
- ~~—— (68) (a) "Mobile wireless service" means a telecommunications service, regardless of~~

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the technology used, if:

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

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

~~—— (iii) the origination point described in Subsection (68)(a)(i) and the termination point described in Subsection (68)(a)(ii) are not fixed.~~

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

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

~~—— (69) (a) Except as provided in Subsection (69)(c), "mobility enhancing equipment" means equipment that is:~~

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

~~—— (ii) appropriate for use in a:~~

~~—— (A) home; or~~

~~—— (B) motor vehicle; and~~

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

~~—— (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (69)(a).~~

~~—— (c) "Mobility enhancing equipment" does not include:~~

~~—— (i) a motor vehicle;~~

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

~~—— (iii) durable medical equipment; or~~

~~—— (iv) a prosthetic device.~~

~~—— (70) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.~~

~~—— (71) "Model 2 seller" means a seller registered under the agreement that:~~

~~—— (a) except as provided in Subsection (71)(b), has selected a certified automated system~~

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~~to perform the seller's sales tax functions for agreement sales and use taxes; and~~

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

~~—— (i) collected by the seller; and~~

~~—— (ii) to the appropriate local taxing jurisdiction.~~

~~—— (72) (a) Subject to Subsection (72)(b), "model 3 seller" means a seller registered under the agreement that has:~~

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

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

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

~~—— (A) for an agreement sales and use tax; and~~

~~—— (B) due to each local taxing jurisdiction; and~~

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

~~—— (b) For purposes of Subsection (72)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.~~

~~—— (73) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.~~

~~—— (74) "Modular home" means a modular unit as defined in Section 15A-1-302.~~

~~—— (75) "Motor vehicle" is as defined in Section 41-1a-102.~~

~~—— (76) "Oil sands" means impregnated bituminous sands that:~~

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

~~—— (b) yield mixtures of liquid hydrocarbon; and~~

~~—— (c) require further processing other than mechanical blending before becoming finished petroleum products:~~

~~—— (77) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.~~

~~—— (78) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.~~

~~—— (79) (a) "Other fuels" means products that burn independently to produce heat or energy.~~



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~~—— (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property:~~

~~—— (80) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager:~~

~~—— (b) For purposes of Subsection (80)(a), the transmission of a coded radio signal includes a transmission by message or sound:~~

~~—— (81) "Pawnbroker" is as defined in Section 13-32a-102:~~

~~—— (82) "Pawn transaction" is as defined in Section 13-32a-102:~~

~~—— (83) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:~~

~~—— (i) the attachment of the tangible personal property to the real property:~~

~~—— (A) is essential to the use of the tangible personal property; and~~

~~—— (B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or~~

~~—— (ii) if the tangible personal property is detached from the real property, the detachment would:~~

~~—— (A) cause substantial damage to the tangible personal property; or~~

~~—— (B) require substantial alteration or repair of the real property to which the tangible personal property is attached.~~

~~—— (b) "Permanently attached to real property" includes:~~

~~—— (i) the attachment of an accessory to the tangible personal property if the accessory is:~~

~~—— (A) essential to the operation of the tangible personal property; and~~

~~—— (B) attached only to facilitate the operation of the tangible personal property;~~

~~—— (ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or~~

~~—— (iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (83)(c)(iii) or (iv):~~

~~—— (c) "Permanently attached to real property" does not include:~~

~~—— (i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:~~

## SB0067S01 compared with SB0067

- ~~—— (A) convenience;~~
- ~~—— (B) stability; or~~
- ~~—— (C) for an obvious temporary purpose;~~
- ~~—— (ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (83)(b)(ii);~~
- ~~—— (iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:~~
  - ~~—— (A) a computer;~~
  - ~~—— (B) a telephone;~~
  - ~~—— (C) a television; or~~
  - ~~—— (D) tangible personal property similar to Subsections (83)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or~~
- ~~—— (iv) an item listed in Subsection (123)(c).~~
- ~~—— (84) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.~~
- ~~—— (85) "Place of primary use":~~
  - ~~—— (a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:~~
    - ~~—— (i) the residential street address of the customer; or~~
    - ~~—— (ii) the primary business street address of the customer; or~~
  - ~~—— (b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.~~
- ~~—— (86) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:~~
  - ~~—— (i) through the use of a:~~

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- ~~—— (A) bank card;~~
- ~~—— (B) credit card;~~
- ~~—— (C) debit card; or~~
- ~~—— (D) travel card; or~~
- ~~—— (ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.~~
- ~~—— (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.~~
- ~~—— (87) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a):~~
- ~~—— (88) "Prepaid calling service" means a telecommunications service:~~
  - ~~—— (a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;~~
  - ~~—— (b) that:~~
    - ~~—— (i) is paid for in advance; and~~
    - ~~—— (ii) enables the origination of a call using an:~~
      - ~~—— (A) access number; or~~
      - ~~—— (B) authorization code;~~
    - ~~—— (c) that is dialed:~~
      - ~~—— (i) manually; or~~
      - ~~—— (ii) electronically; and~~
    - ~~—— (d) sold in predetermined units or dollars that decline:~~
      - ~~—— (i) by a known amount; and~~
      - ~~—— (ii) with use.~~
- ~~—— (89) "Prepaid wireless calling service" means a telecommunications service:~~
  - ~~—— (a) that provides the right to utilize:~~
    - ~~—— (i) mobile wireless service; and~~
    - ~~—— (ii) other service that is not a telecommunications service, including:~~
      - ~~—— (A) the download of a product transferred electronically;~~
      - ~~—— (B) a content service; or~~

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- ~~—— (C) an ancillary service;~~
- ~~—— (b) that:~~
  - ~~—— (i) is paid for in advance; and~~
  - ~~—— (ii) enables the origination of a call using an:~~
    - ~~—— (A) access number; or~~
    - ~~—— (B) authorization code;~~
  - ~~—— (c) that is dialed:~~
    - ~~—— (i) manually; or~~
    - ~~—— (ii) electronically; and~~
  - ~~—— (d) sold in predetermined units or dollars that decline:~~
    - ~~—— (i) by a known amount; and~~
    - ~~—— (ii) with use:~~
- ~~—— (90) (a) "Prepared food" means:~~
  - ~~—— (i) food:~~
    - ~~—— (A) sold in a heated state; or~~
    - ~~—— (B) heated by a seller;~~
    - ~~—— (ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or~~
    - ~~—— (iii) except as provided in Subsection (90)(c), food sold with an eating utensil provided by the seller, including a:~~
      - ~~—— (A) plate;~~
      - ~~—— (B) knife;~~
      - ~~—— (C) fork;~~
      - ~~—— (D) spoon;~~
      - ~~—— (E) glass;~~
      - ~~—— (F) cup;~~
      - ~~—— (G) napkin; or~~
      - ~~—— (H) straw.~~
  - ~~—— (b) "Prepared food" does not include:~~
    - ~~—— (i) food that a seller only:~~
      - ~~—— (A) cuts;~~

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- ~~—— (B) repackages; or~~
- ~~—— (C) pasteurizes; or~~
- ~~—— (ii) (A) the following:~~
  - ~~—— (I) raw egg;~~
  - ~~—— (II) raw fish;~~
  - ~~—— (III) raw meat;~~
  - ~~—— (IV) raw poultry; or~~
  - ~~—— (V) a food containing an item described in Subsections (90)(b)(ii)(A)(I) through (IV);~~
- ~~and~~
- ~~—— (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (90)(b)(ii)(A) to prevent food borne illness; or~~
- ~~—— (iii) the following if sold without eating utensils provided by the seller:~~
  - ~~—— (A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;~~
    - ~~—— (B) food and food ingredients sold in an unheated state:~~
      - ~~—— (I) by weight or volume; and~~
      - ~~—— (II) as a single item; or~~
    - ~~—— (C) a bakery item, including:~~
      - ~~—— (I) a bagel;~~
      - ~~—— (II) a bar;~~
      - ~~—— (III) a biscuit;~~
      - ~~—— (IV) bread;~~
      - ~~—— (V) a bun;~~
      - ~~—— (VI) a cake;~~
      - ~~—— (VII) a cookie;~~
      - ~~—— (VIII) a croissant;~~
      - ~~—— (IX) a danish;~~

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~~—— (X) a donut;~~

~~—— (XI) a muffin;~~

~~—— (XII) a pastry;~~

~~—— (XIII) a pie;~~

~~—— (XIV) a roll;~~

~~—— (XV) a tart;~~

~~—— (XVI) a torte; or~~

~~—— (XVII) a tortilla.~~

~~—— (c) An eating utensil provided by the seller does not include the following used to transport the food:~~

~~—— (i) a container; or~~

~~—— (ii) packaging.~~

~~—— (91) "Prescription" means an order, formula, or recipe that is issued:~~

~~—— (a) (i) orally;~~

~~—— (ii) in writing;~~

~~—— (iii) electronically; or~~

~~—— (iv) by any other manner of transmission; and~~

~~—— (b) by a licensed practitioner authorized by the laws of a state.~~

~~—— (92) (a) Except as provided in Subsection (92)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:~~

~~—— (i) by the author or other creator of the computer software; and~~

~~—— (ii) to the specifications of a specific purchaser.~~

~~—— (b) "Prewritten computer software" includes:~~

~~—— (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:~~

~~—— (A) by the author or other creator of the computer software; and~~

~~—— (B) to the specifications of a specific purchaser;~~

~~—— (ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or~~

~~—— (iii) except as provided in Subsection (92)(c), prewritten computer software or a~~

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~~prewritten portion of prewritten computer software:~~

~~—— (A) that is modified or enhanced to any degree; and~~

~~—— (B) if the modification or enhancement described in Subsection (92)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.~~

~~—— (c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (92)(b)(iii) if the charges for the modification or enhancement are:~~

~~—— (i) reasonable; and~~

~~—— (ii) separately stated on the invoice or other statement of price provided to the purchaser.~~

~~—— (93) (a) "Private communication service" means a telecommunications service:~~

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

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

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

~~—— (i) an extension line;~~

~~—— (ii) a station;~~

~~—— (iii) switching capacity; or~~

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

~~—— (94) (a) Except as provided in Subsection (94)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.~~

~~—— (b) "Product transferred electronically" does not include:~~

~~—— (i) an ancillary service;~~

~~—— (ii) computer software; or~~

~~—— (iii) a telecommunications service.~~

~~—— (95) (a) "Prosthetic device" means a device that is worn on or in the body to:~~

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

~~—— (ii) prevent or correct a physical deformity or physical malfunction; or~~

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- ~~—— (iii) support a weak or deformed portion of the body.~~
- ~~—— (b) "Prosthetic device" includes:~~
  - ~~—— (i) parts used in the repairs or renovation of a prosthetic device;~~
  - ~~—— (ii) replacement parts for a prosthetic device;~~
  - ~~—— (iii) a dental prosthesis; or~~
  - ~~—— (iv) a hearing aid.~~
- ~~—— (c) "Prosthetic device" does not include:~~
  - ~~—— (i) corrective eyeglasses; or~~
  - ~~—— (ii) contact lenses.~~
- ~~—— (96) (a) "Protective equipment" means an item:~~
  - ~~—— (i) for human wear; and~~
  - ~~—— (ii) that is:~~
    - ~~—— (A) designed as protection:~~
      - ~~—— (I) to the wearer against injury or disease; or~~
      - ~~—— (II) against damage or injury of other persons or property; and~~
    - ~~—— (B) not suitable for general use.~~
- ~~—— (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:~~
  - ~~—— (i) listing the items that constitute "protective equipment"; and~~
  - ~~—— (ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.~~
- ~~—— (97) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:~~
  - ~~—— (i) regardless of:~~
    - ~~—— (A) characteristics;~~
    - ~~—— (B) copyright;~~
    - ~~—— (C) form;~~
    - ~~—— (D) format;~~
    - ~~—— (E) method of reproduction; or~~
    - ~~—— (F) source; and~~
  - ~~—— (ii) made available in printed or electronic format.~~



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

~~\_\_\_\_\_ (98) (a) "Purchase price" and "sales price" mean the total amount of consideration:~~

~~\_\_\_\_\_ (i) valued in money; and~~

~~\_\_\_\_\_ (ii) for which tangible personal property, a product transferred electronically, or services are:~~

~~\_\_\_\_\_ (A) sold;~~

~~\_\_\_\_\_ (B) leased; or~~

~~\_\_\_\_\_ (C) rented.~~

~~\_\_\_\_\_ (b) "Purchase price" and "sales price" include:~~

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

~~\_\_\_\_\_ (ii) expenses of the seller, including:~~

~~\_\_\_\_\_ (A) the cost of materials used;~~

~~\_\_\_\_\_ (B) a labor cost;~~

~~\_\_\_\_\_ (C) a service cost;~~

~~\_\_\_\_\_ (D) interest;~~

~~\_\_\_\_\_ (E) a loss;~~

~~\_\_\_\_\_ (F) the cost of transportation to the seller; or~~

~~\_\_\_\_\_ (G) a tax imposed on the seller;~~

~~\_\_\_\_\_ (iii) a charge by the seller for any service necessary to complete the sale; or~~

~~\_\_\_\_\_ (iv) consideration a seller receives from a person other than the purchaser if:~~

~~\_\_\_\_\_ (A) (I) the seller actually receives consideration from a person other than the purchaser; and~~

~~\_\_\_\_\_ (II) the consideration described in Subsection (98)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;~~

~~\_\_\_\_\_ (B) the seller has an obligation to pass the price reduction or discount through to the purchaser;~~

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

~~\_\_\_\_\_ (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the~~

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~~seller to claim a price reduction or discount; and~~

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

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

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

~~—— (Aa) invoice the purchaser receives; or~~

~~—— (Bb) certificate, coupon, or other documentation the purchaser presents:~~

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

~~—— (i) a discount:~~

~~—— (A) in a form including:~~

~~—— (I) cash;~~

~~—— (II) term; or~~

~~—— (III) coupon;~~

~~—— (B) that is allowed by a seller;~~

~~—— (C) taken by a purchaser on a sale; and~~

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

~~—— (ii) the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser:~~

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

~~—— (I) a carrying charge;~~

~~—— (II) a financing charge; or~~

~~—— (III) an interest charge;~~

~~—— (B) a delivery charge;~~

~~—— (C) an installation charge;~~

~~—— (D) a manufacturer rebate on a motor vehicle; or~~

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

~~—— (99) "Purchaser" means a person to whom:~~

~~—— (a) a sale of tangible personal property is made;~~

~~—— (b) a product is transferred electronically; or~~

~~—— (c) a service is furnished.~~

~~—— (100) "Regularly rented" means:~~

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

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

~~—— (101) "Rental" is as defined in Subsection (58):~~

~~—— (102) (a) Except as provided in Subsection (102)(b), "repairs or renovations of tangible personal property" means:~~

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

~~—— (ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:~~

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

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

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

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

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

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~~—— (103) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.~~

~~—— (104) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:~~

~~—— (i) at a residential address; or~~

~~—— (ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.~~

~~—— (b) For purposes of Subsection (104)(a)(i), a residential address includes an:~~

~~—— (i) apartment; or~~

~~—— (ii) other individual dwelling unit.~~

~~—— (105) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.~~

~~—— (106) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:~~

~~—— (a) resale;~~

~~—— (b) sublease; or~~

~~—— (c) subrent.~~

~~—— (107) (a) "Retailer" means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.~~

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

~~—— (108) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.~~

~~—— (b) "Sale" includes:~~

~~—— (i) installment and credit sales;~~

~~—— (ii) any closed transaction constituting a sale;~~

~~—— (iii) any sale of electrical energy, gas, services, or entertainment taxable under this~~

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chapter;

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

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

~~—— (109) "Sale at retail" is as defined in Subsection (106).~~

~~—— (110) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:~~

~~—— (a) by a purchaser-lessee;~~

~~—— (b) to a lessor;~~

~~—— (c) for consideration; and~~

~~—— (d) if:~~

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

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

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

~~—— (B) to the purchaser-lessee; and~~

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

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

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

~~—— (111) "Sales price" is as defined in Subsection (98).~~

~~—— (112) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:~~

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

~~—— (A) the sale of:~~

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- ~~—— (I) textbooks;~~
- ~~—— (II) textbook fees;~~
- ~~—— (III) laboratory fees;~~
- ~~—— (IV) laboratory supplies; or~~
- ~~—— (V) safety equipment;~~
- ~~—— (B) the sale of a uniform, protective equipment, or sports or recreational equipment that:~~
  - ~~—— (I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and~~
  - ~~—— (II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;~~
  - ~~—— (C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:~~
    - ~~—— (I) food and food ingredients; or~~
    - ~~—— (II) prepared food; or~~
    - ~~—— (D) transportation charges for official school activities; or~~
    - ~~—— (ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.~~
  - ~~—— (b) "Sales relating to schools" does not include:~~
    - ~~—— (i) bookstore sales of items that are not educational materials or supplies;~~
    - ~~—— (ii) except as provided in Subsection (112)(a)(i)(B):~~
      - ~~—— (A) clothing;~~
      - ~~—— (B) clothing accessories or equipment;~~
      - ~~—— (C) protective equipment; or~~
      - ~~—— (D) sports or recreational equipment; or~~
    - ~~—— (iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:~~
      - ~~—— (A) other than a:~~
        - ~~—— (I) school;~~
        - ~~—— (II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or~~

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- ~~—— (III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and~~
- ~~—— (B) that is required to collect sales and use taxes under this chapter.~~
- ~~—— (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."~~
- ~~—— (113) For purposes of this section and Section 59-12-104, "school":~~
  - ~~—— (a) means:~~
    - ~~—— (i) an elementary school or a secondary school that:~~
      - ~~—— (A) is a:~~
        - ~~—— (I) public school; or~~
        - ~~—— (II) private school; and~~
      - ~~—— (B) provides instruction for one or more grades kindergarten through 12; or~~
    - ~~—— (ii) a public school district; and~~
  - ~~—— (b) includes the Electronic High School as defined in Section 53A-15-1002.~~
- ~~—— (114) "Seller" means a person that makes a sale, lease, or rental of:~~
  - ~~—— (a) tangible personal property;~~
  - ~~—— (b) a product transferred electronically; or~~
  - ~~—— (c) a service.~~
- ~~—— (115) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:~~
  - ~~—— (i) used primarily in the process of:~~
    - ~~—— (A) (I) manufacturing a semiconductor;~~
    - ~~—— (II) fabricating a semiconductor; or~~
    - ~~—— (III) research or development of a:~~
      - ~~—— (Aa) semiconductor; or~~
      - ~~—— (Bb) semiconductor manufacturing process; or~~
    - ~~—— (B) maintaining an environment suitable for a semiconductor; or~~
  - ~~—— (ii) consumed primarily in the process of:~~
    - ~~—— (A) (I) manufacturing a semiconductor;~~
    - ~~—— (II) fabricating a semiconductor; or~~

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~~— (H) research or development of a:~~

~~— (Aa) semiconductor; or~~

~~— (Bb) semiconductor manufacturing process; or~~

~~— (B) maintaining an environment suitable for a semiconductor.~~

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

~~includes:~~

~~— (i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (115)(a); or~~

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

~~— (A) produce or induce in a semiconductor a:~~

~~— (I) chemical change; or~~

~~— (H) physical change;~~

~~— (B) remove impurities from a semiconductor; or~~

~~— (C) improve the marketable condition of a semiconductor.~~

~~— (116) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.~~

~~— (117) (a) Subject to Subsections (117)(b) and (c), "short-term lodging consumable" means tangible personal property that:~~

~~— (i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;~~

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

~~— (iii) is:~~

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

~~— (B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.~~

~~— (b) "Short-term lodging consumable" includes:~~

~~— (i) a beverage;~~

~~— (ii) a brush or comb;~~

~~— (iii) a cosmetic;~~

~~— (iv) a hair care product;~~



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- ~~—— (v) lotion;~~
- ~~—— (vi) a magazine;~~
- ~~—— (vii) makeup;~~
- ~~—— (viii) a meal;~~
- ~~—— (ix) mouthwash;~~
- ~~—— (x) nail polish remover;~~
- ~~—— (xi) a newspaper;~~
- ~~—— (xii) a notepad;~~
- ~~—— (xiii) a pen;~~
- ~~—— (xiv) a pencil;~~
- ~~—— (xv) a razor;~~
- ~~—— (xvi) saline solution;~~
- ~~—— (xvii) a sewing kit;~~
- ~~—— (xviii) shaving cream;~~
- ~~—— (xix) a shoe shine kit;~~
- ~~—— (xx) a shower cap;~~
- ~~—— (xxi) a snack item;~~
- ~~—— (xxii) soap;~~
- ~~—— (xxiii) toilet paper;~~
- ~~—— (xxiv) a toothbrush;~~
- ~~—— (xxv) toothpaste; or~~
- ~~—— (xxvi) an item similar to Subsections (117)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~
- ~~—— (c) "Short-term lodging consumable" does not include:~~
  - ~~—— (i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or~~
  - ~~—— (ii) a product transferred electronically.~~
- ~~—— (118) "Simplified electronic return" means the electronic return:~~
  - ~~—— (a) described in Section 318(C) of the agreement; and~~
  - ~~—— (b) approved by the governing board of the agreement.~~

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~~—— (119) "Solar energy" means the sun used as the sole source of energy for producing electricity.~~

~~—— (120) (a) "Sports or recreational equipment" means an item:~~

~~—— (i) designed for human use; and~~

~~—— (ii) that is:~~

~~—— (A) worn in conjunction with:~~

~~—— (I) an athletic activity; or~~

~~—— (II) a recreational activity; and~~

~~—— (B) not suitable for general use.~~

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

~~—— (i) listing the items that constitute "sports or recreational equipment"; and~~

~~—— (ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.~~

~~—— (121) "State" means the state of Utah, its departments, and agencies.~~

~~—— (122) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.~~

~~—— (123) (a) Except as provided in Subsection (123)(d) or (e), "tangible personal property" means personal property that:~~

~~—— (i) may be:~~

~~—— (A) seen;~~

~~—— (B) weighed;~~

~~—— (C) measured;~~

~~—— (D) felt; or~~

~~—— (E) touched; or~~

~~—— (ii) is in any manner perceptible to the senses.~~

~~—— (b) "Tangible personal property" includes:~~

~~—— (i) electricity;~~

~~—— (ii) water;~~

~~—— (iii) gas;~~

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~~—— (iv) steam; or~~

~~—— (v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.~~

~~—— (c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:~~

~~—— (i) a dishwasher;~~

~~—— (ii) a dryer;~~

~~—— (iii) a freezer;~~

~~—— (iv) a microwave;~~

~~—— (v) a refrigerator;~~

~~—— (vi) a stove;~~

~~—— (vii) a washer; or~~

~~—— (viii) an item similar to Subsections (123)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~

~~—— (d) "Tangible personal property" does not include a product that is transferred electronically.~~

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

~~—— (i) a hot water heater;~~

~~—— (ii) a water filtration system; or~~

~~—— (iii) a water softener system.~~

~~—— (124) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (124)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:~~

~~—— (i) telecommunications switching or routing equipment, machinery, or software; or~~

~~—— (ii) telecommunications transmission equipment, machinery, or software.~~

~~—— (b) The following apply to Subsection (124)(a):~~

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- ~~—— (i) a pole;~~
- ~~—— (ii) software;~~
- ~~—— (iii) a supplementary power supply;~~
- ~~—— (iv) temperature or environmental equipment or machinery;~~
- ~~—— (v) test equipment;~~
- ~~—— (vi) a tower; or~~
- ~~—— (vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (124)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (124)(c):~~
- ~~—— (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (124)(b)(i) through (vi):~~
- ~~—— (125) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18:~~
- ~~—— (126) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:~~
  - ~~—— (a) telecommunications enabling or facilitating equipment, machinery, or software;~~
  - ~~—— (b) telecommunications switching or routing equipment, machinery, or software; or~~
  - ~~—— (c) telecommunications transmission equipment, machinery, or software:~~
- ~~—— (127) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.~~
  - ~~—— (b) "Telecommunications service" includes:~~
    - ~~—— (i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:~~
      - ~~—— (A) on the code, form, or protocol of the content;~~
      - ~~—— (B) for the purpose of electronic conveyance, routing, or transmission; and~~

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- ~~—— (C) regardless of whether the service:~~
- ~~—— (I) is referred to as voice over Internet protocol service; or~~
- ~~—— (H) is classified by the Federal Communications Commission as enhanced or value added;~~
- ~~—— (ii) an 800 service;~~
- ~~—— (iii) a 900 service;~~
- ~~—— (iv) a fixed wireless service;~~
- ~~—— (v) a mobile wireless service;~~
- ~~—— (vi) a postpaid calling service;~~
- ~~—— (vii) a prepaid calling service;~~
- ~~—— (viii) a prepaid wireless calling service; or~~
- ~~—— (ix) a private communications service.~~
- ~~—— (c) "Telecommunications service" does not include:~~
- ~~—— (i) advertising, including directory advertising;~~
- ~~—— (ii) an ancillary service;~~
- ~~—— (iii) a billing and collection service provided to a third party;~~
- ~~—— (iv) a data processing and information service if:~~
- ~~—— (A) the data processing and information service allows data to be:~~
- ~~—— (I) (Aa) acquired;~~
- ~~—— (Bb) generated;~~
- ~~—— (Cc) processed;~~
- ~~—— (Dd) retrieved; or~~
- ~~—— (Ee) stored; and~~
- ~~—— (H) delivered by an electronic transmission to a purchaser; and~~
- ~~—— (B) the purchaser's primary purpose for the underlying transaction is the processed data or information;~~
- ~~—— (v) installation or maintenance of the following on a customer's premises:~~
- ~~—— (A) equipment; or~~
- ~~—— (B) wiring;~~
- ~~—— (vi) Internet access service;~~
- ~~—— (vii) a paging service;~~

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- ~~—— (viii) a product transferred electronically, including:~~
- ~~—— (A) music;~~
- ~~—— (B) reading material;~~
- ~~—— (C) a ring tone;~~
- ~~—— (D) software; or~~
- ~~—— (E) video;~~
- ~~—— (ix) a radio and television audio and video programming service:~~
- ~~—— (A) regardless of the medium; and~~
- ~~—— (B) including:~~
- ~~—— (I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;~~
- ~~—— (II) cable service as defined in 47 U.S.C. Sec. 522(6); or~~
- ~~—— (III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;~~
- ~~—— (x) a value-added nonvoice data service; or~~
- ~~—— (xi) tangible personal property.~~
- ~~—— (128) (a) "Telecommunications service provider" means a person that:~~
- ~~—— (i) owns, controls, operates, or manages a telecommunications service; and~~
- ~~—— (ii) engages in an activity described in Subsection (128)(a)(i) for the shared use with or resale to any person of the telecommunications service.~~
- ~~—— (b) A person described in Subsection (128)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:~~
- ~~—— (i) that person; or~~
- ~~—— (ii) the telecommunications service that the person owns, controls, operates, or manages.~~
- ~~—— (129) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (129)(b) if that item is purchased or leased primarily for switching or routing:~~
- ~~—— (i) an ancillary service;~~
- ~~—— (ii) data communications;~~
- ~~—— (iii) voice communications; or~~

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~~—— (iv) telecommunications service.~~

~~—— (b) The following apply to Subsection (129)(a):~~

~~—— (i) a bridge;~~

~~—— (ii) a computer;~~

~~—— (iii) a cross connect;~~

~~—— (iv) a modem;~~

~~—— (v) a multiplexer;~~

~~—— (vi) plug-in circuitry;~~

~~—— (vii) a router;~~

~~—— (viii) software;~~

~~—— (ix) a switch; or~~

~~—— (x) equipment, machinery, or software that functions similarly to an item listed in Subsections (129)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (129)(c):~~

~~—— (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (129)(b)(i) through (ix):~~

~~—— (130) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (130)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:~~

~~—— (i) an ancillary service;~~

~~—— (ii) data communications;~~

~~—— (iii) voice communications; or~~

~~—— (iv) telecommunications service.~~

~~—— (b) The following apply to Subsection (130)(a):~~

~~—— (i) an amplifier;~~

~~—— (ii) a cable;~~

~~—— (iii) a closure;~~

~~—— (iv) a conduit;~~

~~—— (v) a controller;~~

~~—— (vi) a duplexer;~~

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- ~~—— (vii) a filter;~~
- ~~—— (viii) an input device;~~
- ~~—— (ix) an input/output device;~~
- ~~—— (x) an insulator;~~
- ~~—— (xi) microwave machinery or equipment;~~
- ~~—— (xii) an oscillator;~~
- ~~—— (xiii) an output device;~~
- ~~—— (xiv) a pedestal;~~
- ~~—— (xv) a power converter;~~
- ~~—— (xvi) a power supply;~~
- ~~—— (xvii) a radio channel;~~
- ~~—— (xviii) a radio receiver;~~
- ~~—— (xix) a radio transmitter;~~
- ~~—— (xx) a repeater;~~
- ~~—— (xxi) software;~~
- ~~—— (xxii) a terminal;~~
- ~~—— (xxiii) a timing unit;~~
- ~~—— (xxiv) a transformer;~~
- ~~—— (xxv) a wire; or~~
- ~~—— (xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (130)(c):~~
- ~~—— (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (xxv):~~
- ~~—— (131) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:~~
  - ~~—— (i) offered by an institution of higher education; and~~
  - ~~—— (ii) that the purchaser of the textbook or other printed material attends or will attend.~~
- ~~—— (b) "Textbook for a higher education course" includes a textbook in electronic format.~~
- ~~—— (132) "Tobacco" means:~~



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~~—— (a) a cigarette;~~

~~—— (b) a cigar;~~

~~—— (c) chewing tobacco;~~

~~—— (d) pipe tobacco; or~~

~~—— (e) any other item that contains tobacco.~~

~~—— (133) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.~~

~~—— (134) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.~~

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

~~—— (135) "Value-added nonvoice data service" means a service:~~

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

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

~~—— (i) code;~~

~~—— (ii) content;~~

~~—— (iii) form; or~~

~~—— (iv) protocol.~~

~~—— (136) (a) Subject to Subsection (136)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:~~

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

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

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

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

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- ~~—— (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:~~
- ~~—— (i) a vehicle described in Subsection (136)(a); or~~
- ~~—— (ii) (A) a locomotive;~~
- ~~—— (B) a freight car;~~
- ~~—— (C) railroad work equipment; or~~
- ~~—— (D) other railroad rolling stock.~~
- ~~—— (137) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (136):~~
- ~~—— (138) (a) "Vertical service" means an ancillary service that:~~
- ~~—— (i) is offered in connection with one or more telecommunications services; and~~
- ~~—— (ii) offers an advanced calling feature that allows a customer to:~~
- ~~—— (A) identify a caller; and~~
- ~~—— (B) manage multiple calls and call connections.~~
- ~~—— (b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.~~
- ~~—— (139) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message:~~
- ~~—— (b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.~~
- ~~—— (140) (a) Except as provided in Subsection (140)(b), "waste energy facility" means a facility that generates electricity:~~
- ~~—— (i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:~~
- ~~—— (A) tires;~~
- ~~—— (B) waste coal;~~
- ~~—— (C) oil shale; or~~
- ~~—— (D) municipal solid waste; and~~
- ~~—— (ii) in amounts greater than actually required for the operation of the facility.~~
- ~~—— (b) "Waste energy facility" does not include a facility that incinerates:~~
- ~~—— (i) hospital waste as defined in 40 C.F.R. 60.51c; or~~
- ~~—— (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.~~

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~~(141) "Watercraft" means a vessel as defined in Section 73-18-2.~~

~~(142) "Wind energy" means wind used as the sole source of energy to produce electricity.~~

~~(143) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.~~

~~Section 8. Section 59-12-102 (Effective 07/01/14) is amended to read:~~

~~59-12-102 (Effective 07/01/14). Definitions:~~

~~As used in this chapter:~~

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

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

~~(b) is typically marketed:~~

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

~~(ii) under the name 855 toll-free calling;~~

~~(iii) under the name 866 toll-free calling;~~

~~(iv) under the name 877 toll-free calling;~~

~~(v) under the name 888 toll-free calling; or~~

~~(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.~~

~~(2) (a) "900 service" means an inbound toll telecommunications service that:~~

~~(i) a subscriber purchases;~~

~~(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:~~

~~(A) prerecorded announcement; or~~

~~(B) live service; and~~

~~(iii) is typically marketed:~~

~~(A) under the name 900 service; or~~

~~(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.~~

~~(b) "900 service" does not include a charge for:~~

~~(i) a collection service a seller of a telecommunications service provides to a subscriber; or~~

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- ~~—— (ii) the following a subscriber sells to the subscriber's customer:~~
- ~~—— (A) a product; or~~
- ~~—— (B) a service.~~
- ~~—— (3) (a) "Admission or user fees" includes season passes.~~
- ~~—— (b) "Admission or user fees" does not include annual membership dues to private organizations.~~
- ~~—— (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.~~
- ~~—— (5) "Agreement combined tax rate" means the sum of the tax rates:~~
  - ~~—— (a) listed under Subsection (6); and~~
  - ~~—— (b) that are imposed within a local taxing jurisdiction.~~
- ~~—— (6) "Agreement sales and use tax" means a tax imposed under:~~
  - ~~—— (a) Subsection 59-12-103(2)(a)(i)(A);~~
  - ~~—— (b) Subsection 59-12-103(2)(b)(i);~~
  - ~~—— (c) Subsection 59-12-103(2)(c)(i);~~
  - ~~—— (d) Subsection 59-12-103(2)(d)(i)(A)(I);~~
  - ~~—— (e) Section 59-12-204;~~
  - ~~—— (f) Section 59-12-401;~~
  - ~~—— (g) Section 59-12-402;~~
  - ~~—— (h) Section 59-12-703;~~
  - ~~—— (i) Section 59-12-802;~~
  - ~~—— (j) Section 59-12-804;~~
  - ~~—— (k) Section 59-12-1102;~~
  - ~~—— (l) Section 59-12-1302;~~
  - ~~—— (m) Section 59-12-1402;~~
  - ~~—— (n) Section 59-12-1802;~~
  - ~~—— (o) Section 59-12-2003;~~
  - ~~—— (p) Section 59-12-2103;~~
  - ~~—— (q) Section 59-12-2213;~~
  - ~~—— (r) Section 59-12-2214;~~

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- ~~—— (s) Section 59-12-2215;~~
- ~~—— (t) Section 59-12-2216;~~
- ~~—— (u) Section 59-12-2217; or~~
- ~~—— (v) Section 59-12-2218.~~
- ~~—— (7) "Aircraft" is as defined in Section 72-10-102.~~
- ~~—— (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:~~
  - ~~—— (a) except for:~~
    - ~~—— (i) an airline as defined in Section 59-2-102; or~~
    - ~~—— (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and~~
  - ~~—— (b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:~~
    - ~~—— (i) check, diagnose, overhaul, and repair:~~
      - ~~—— (A) an onboard system of a fixed wing turbine powered aircraft; and~~
      - ~~—— (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;~~
    - ~~—— (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;~~
    - ~~—— (iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:~~
      - ~~—— (A) an inspection;~~
      - ~~—— (B) a repair, including a structural repair or modification;~~
      - ~~—— (C) changing landing gear; and~~
      - ~~—— (D) addressing issues related to an aging fixed wing turbine powered aircraft;~~
    - ~~—— (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and~~
    - ~~—— (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.~~
- ~~—— (9) "Alcoholic beverage" means a beverage that:~~
  - ~~—— (a) is suitable for human consumption; and~~

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- ~~\_\_\_\_\_ (b) contains .5% or more alcohol by volume.~~
- ~~\_\_\_\_\_ (10) "Alternative energy" means:~~
  - ~~\_\_\_\_\_ (a) biomass energy;~~
  - ~~\_\_\_\_\_ (b) geothermal energy;~~
  - ~~\_\_\_\_\_ (c) hydroelectric energy;~~
  - ~~\_\_\_\_\_ (d) solar energy;~~
  - ~~\_\_\_\_\_ (e) wind energy; or~~
  - ~~\_\_\_\_\_ (f) energy that is derived from:~~
    - ~~\_\_\_\_\_ (i) coal-to-liquids;~~
    - ~~\_\_\_\_\_ (ii) nuclear fuel;~~
    - ~~\_\_\_\_\_ (iii) oil-impregnated diatomaceous earth;~~
    - ~~\_\_\_\_\_ (iv) oil sands;~~
    - ~~\_\_\_\_\_ (v) oil shale; or~~
    - ~~\_\_\_\_\_ (vi) petroleum coke.~~
- ~~\_\_\_\_\_ (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production facility" means a facility that:~~
  - ~~\_\_\_\_\_ (i) uses alternative energy to produce electricity; and~~
  - ~~\_\_\_\_\_ (ii) has a production capacity of two megawatts or greater.~~
- ~~\_\_\_\_\_ (b) A facility is an alternative energy electricity production facility regardless of whether the facility is:~~
  - ~~\_\_\_\_\_ (i) connected to an electric grid; or~~
  - ~~\_\_\_\_\_ (ii) located on the premises of an electricity consumer.~~
- ~~\_\_\_\_\_ (12) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service:~~
  - ~~\_\_\_\_\_ (b) "Ancillary service" includes:~~
    - ~~\_\_\_\_\_ (i) a conference bridging service;~~
    - ~~\_\_\_\_\_ (ii) a detailed communications billing service;~~
    - ~~\_\_\_\_\_ (iii) directory assistance;~~
    - ~~\_\_\_\_\_ (iv) a vertical service; or~~
    - ~~\_\_\_\_\_ (v) a voice mail service.~~
- ~~\_\_\_\_\_ (13) "Area agency on aging" is as defined in Section 62A-3-101.~~

## **SB0067S01 compared with SB0067**

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

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

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

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

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

~~—— (b) at the direction of the seller of the cleaning or washing of the tangible personal property.~~

~~—— (16) "Authorized carrier" means:~~

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

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

~~—— (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, the holder of a certificate issued by the United States Surface Transportation Board.~~

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

~~—— (i) material from a plant or tree; or~~

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

~~—— (A) slash and brush from forests and woodlands;~~

~~—— (B) animal waste;~~

~~—— (C) methane produced:~~

~~—— (I) at landfills; or~~

~~—— (II) as a byproduct of the treatment of wastewater residuals;~~

~~—— (D) aquatic plants; and~~

## SB0067S01 compared with SB0067

- ~~—— (E) agricultural products;~~
- ~~—— (b) "Biomass energy" does not include:~~
  - ~~—— (i) black liquor;~~
  - ~~—— (ii) treated woods; or~~
  - ~~—— (iii) biomass from municipal solid waste other than methane produced:~~
    - ~~—— (A) at landfills; or~~
    - ~~—— (B) as a byproduct of the treatment of wastewater residuals;~~
- ~~—— (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:~~
  - ~~—— (i) distinct and identifiable; and~~
  - ~~—— (ii) sold for one nonitemized price;~~
  - ~~—— (b) "Bundled transaction" does not include:~~
    - ~~—— (i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;~~
    - ~~—— (ii) the sale of real property;~~
    - ~~—— (iii) the sale of services to real property;~~
    - ~~—— (iv) the retail sale of tangible personal property and a service if:~~
      - ~~—— (A) the tangible personal property:~~
        - ~~—— (I) is essential to the use of the service; and~~
        - ~~—— (II) is provided exclusively in connection with the service; and~~
      - ~~—— (B) the service is the true object of the transaction;~~
    - ~~—— (v) the retail sale of two services if:~~
      - ~~—— (A) one service is provided that is essential to the use or receipt of a second service;~~
      - ~~—— (B) the first service is provided exclusively in connection with the second service; and~~
      - ~~—— (C) the second service is the true object of the transaction;~~
    - ~~—— (vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:~~
      - ~~—— (A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or~~



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- ~~—— (B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and~~
- ~~—— (vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:~~
  - ~~—— (A) that retail sale includes:~~
    - ~~—— (I) food and food ingredients;~~
    - ~~—— (II) a drug;~~
    - ~~—— (III) durable medical equipment;~~
    - ~~—— (IV) mobility enhancing equipment;~~
    - ~~—— (V) an over-the-counter drug;~~
    - ~~—— (VI) a prosthetic device; or~~
    - ~~—— (VII) a medical supply; and~~
  - ~~—— (B) subject to Subsection (18)(f):~~
    - ~~—— (I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or~~
    - ~~—— (II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.~~
- ~~—— (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:~~
  - ~~—— (A) packaging that:~~
    - ~~—— (I) accompanies the sale of the tangible personal property, product, or service; and~~
    - ~~—— (II) is incidental or immaterial to the sale of the tangible personal property, product, or service;~~
  - ~~—— (B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or~~
  - ~~—— (C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."~~
- ~~—— (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible~~

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~~personal property, product, or service provided free of charge.~~

~~—— (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:~~

~~—— (A) a binding sales document; or~~

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

~~—— (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:~~

~~—— (A) a bill of sale;~~

~~—— (B) a contract;~~

~~—— (C) an invoice;~~

~~—— (D) a lease agreement;~~

~~—— (E) a periodic notice of rates and services;~~

~~—— (F) a price list;~~

~~—— (G) a rate card;~~

~~—— (H) a receipt; or~~

~~—— (I) a service agreement.~~

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

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

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

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

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

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

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

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

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

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

~~—— (i) on a transaction; and~~

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

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

~~—— (c) maintains a record of the transaction described in Subsection (19)(a)(i):~~

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

~~—— (a) by the governing board of the agreement; and~~

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

~~—— (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel suitable for general use:~~

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

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

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

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

~~—— (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (55) or residential use under Subsection (105):~~

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

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

~~—— (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.~~

~~—— (25) "Component part" includes:~~

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

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

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

~~—— (d) feed, seeds, and seedlings.~~

~~—— (26) "Computer" means an electronic device that:~~

~~—— (a) accepts information:~~

~~—— [(a)] (i) in digital form; or~~

~~—— (ii) in a form similar to digital form; and~~

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

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

~~—— (a) a computer to perform a task; or~~

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

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

~~—— (a) future updates or upgrades to computer software;~~

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

~~—— (c) a combination of Subsections (28)(a) and (b).~~

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

~~—— (b) "Conference bridging service" may include providing a telephone number as part of~~

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~~the ancillary service described in Subsection (29)(a):~~

~~—— (c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (29)(a):~~

~~—— (30) "Construction materials" means any tangible personal property that will be converted into real property:~~

~~—— (31) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media:~~

~~—— (32) (a) "Delivery charge" means a charge:~~

~~—— (i) by a seller of:~~

~~—— (A) tangible personal property;~~

~~—— (B) a product transferred electronically; or~~

~~—— (C) services; and~~

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

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

~~—— (i) transportation;~~

~~—— (ii) shipping;~~

~~—— (iii) postage;~~

~~—— (iv) handling;~~

~~—— (v) crating; or~~

~~—— (vi) packing:~~

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

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

~~—— (a) is intended to supplement the diet;~~

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

~~—— (i) a vitamin;~~

~~—— (ii) a mineral;~~

~~—— (iii) an herb or other botanical;~~

~~—— (iv) an amino acid;~~

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- ~~—— (v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or~~
- ~~—— (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);~~
- ~~—— (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:~~
  - ~~—— (A) tablet form;~~
  - ~~—— (B) capsule form;~~
  - ~~—— (C) powder form;~~
  - ~~—— (D) softgel form;~~
  - ~~—— (E) gelcap form; or~~
  - ~~—— (F) liquid form; or~~
- ~~—— (ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:~~
  - ~~—— (A) as conventional food; and~~
  - ~~—— (B) for use as a sole item of:~~
    - ~~—— (I) a meal; or~~
    - ~~—— (II) the diet; and~~
  - ~~—— (d) is required to be labeled as a dietary supplement:~~
    - ~~—— (i) identifiable by the "Supplemental Facts" box found on the label; and~~
    - ~~—— (ii) as required by 21 C.F.R. Sec. 101.36.~~
- ~~—— (35) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds:~~
- ~~—— (b) "Digital audio work" includes a ringtone.~~
- ~~—— (36) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.~~
- ~~—— (37) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.~~
- ~~—— (38) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:~~
  - ~~—— (i) to:~~
    - ~~—— (A) a mass audience; or~~

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- ~~—— (B) addressees on a mailing list provided;~~
- ~~—— (F) by a purchaser of the mailing list; or~~
- ~~—— (H) at the discretion of the purchaser of the mailing list; and~~
- ~~—— (ii) if the cost of the printed material is not billed directly to the recipients;~~
- ~~—— (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material;~~
- ~~—— (c) "Direct mail" does not include multiple items of printed material delivered to a single address;~~
- ~~—— (39) "Directory assistance" means an ancillary service of providing:~~
  - ~~—— (a) address information; or~~
  - ~~—— (b) telephone number information;~~
- ~~—— (40) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:~~
  - ~~—— (i) cannot withstand repeated use; and~~
  - ~~—— (ii) are purchased by, for, or on behalf of a person other than:~~
    - ~~—— (A) a health care facility as defined in Section 26-21-2;~~
    - ~~—— (B) a health care provider as defined in Section 78B-3-403;~~
    - ~~—— (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or~~
    - ~~—— (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).~~
  - ~~—— (b) "Disposable home medical equipment or supplies" does not include:~~
    - ~~—— (i) a drug;~~
    - ~~—— (ii) durable medical equipment;~~
    - ~~—— (iii) a hearing aid;~~
    - ~~—— (iv) a hearing aid accessory;~~
    - ~~—— (v) mobility enhancing equipment; or~~
    - ~~—— (vi) tangible personal property used to correct impaired vision, including:~~
      - ~~—— (A) eyeglasses; or~~
      - ~~—— (B) contact lenses.~~
  - ~~—— (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.~~
- ~~—— (41) (a) "Drug" means a compound, substance, or preparation, or a component of a~~

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~~compound, substance, or preparation that is:~~

- ~~—— (i) recognized in:~~
- ~~—— (A) the official United States Pharmacopoeia;~~
- ~~—— (B) the official Homeopathic Pharmacopoeia of the United States;~~
- ~~—— (C) the official National Formulary; or~~
- ~~—— (D) a supplement to a publication listed in Subsections (41)(a)(i)(A) through (C);~~
- ~~—— (ii) intended for use in the:~~
- ~~—— (A) diagnosis of disease;~~
- ~~—— (B) cure of disease;~~
- ~~—— (C) mitigation of disease;~~
- ~~—— (D) treatment of disease; or~~
- ~~—— (E) prevention of disease; or~~
- ~~—— (iii) intended to affect:~~
- ~~—— (A) the structure of the body; or~~
- ~~—— (B) any function of the body.~~
- ~~—— (b) "Drug" does not include:~~
- ~~—— (i) food and food ingredients;~~
- ~~—— (ii) a dietary supplement;~~
- ~~—— (iii) an alcoholic beverage; or~~
- ~~—— (iv) a prosthetic device.~~
- ~~—— (42) (a) Except as provided in Subsection (42)(c), "durable medical equipment" means equipment that:~~
- ~~—— (i) can withstand repeated use;~~
- ~~—— (ii) is primarily and customarily used to serve a medical purpose;~~
- ~~—— (iii) generally is not useful to a person in the absence of illness or injury; and~~
- ~~—— (iv) is not worn in or on the body.~~
- ~~—— (b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (42)(a).~~
- ~~—— (c) "Durable medical equipment" does not include mobility enhancing equipment.~~
- ~~—— (43) "Electronic" means:~~
- ~~—— (a) relating to technology; and~~



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- ~~—— (b) having:~~
- ~~—— (i) electrical capabilities;~~
- ~~—— (ii) digital capabilities;~~
- ~~—— (iii) magnetic capabilities;~~
- ~~—— (iv) wireless capabilities;~~
- ~~—— (v) optical capabilities;~~
- ~~—— (vi) electromagnetic capabilities; or~~
- ~~—— (vii) capabilities similar to Subsections (43)(b)(i) through (vi).~~
- ~~—— (44) "Electronic financial payment service" means an establishment:~~
  - ~~—— (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and~~
  - ~~—— (b) that performs electronic financial payment services.~~
- ~~—— (45) "Employee" is as defined in Section 59-10-401.~~
- ~~—— (46) "Fixed guideway" means a public transit facility that uses and occupies:~~
  - ~~—— (a) rail for the use of public transit; or~~
  - ~~—— (b) a separate right-of-way for the use of public transit.~~
- ~~—— (47) "Fixed wing turbine powered aircraft" means an aircraft that:~~
  - ~~—— (a) is powered by turbine engines;~~
  - ~~—— (b) operates on jet fuel; and~~
  - ~~—— (c) has wings that are permanently attached to the fuselage of the aircraft.~~
- ~~—— (48) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.~~
- ~~—— (49) (a) "Food and food ingredients" means substances:~~
  - ~~—— (i) regardless of whether the substances are in:~~
    - ~~—— (A) liquid form;~~
    - ~~—— (B) concentrated form;~~
    - ~~—— (C) solid form;~~
    - ~~—— (D) frozen form;~~
    - ~~—— (E) dried form; or~~
    - ~~—— (F) dehydrated form; and~~

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- ~~—— (ii) that are:~~
- ~~—— (A) sold for:~~
- ~~—— (I) ingestion by humans; or~~
- ~~—— (II) chewing by humans; and~~
- ~~—— (B) consumed for the substance's:~~
- ~~—— (I) taste; or~~
- ~~—— (II) nutritional value.~~
- ~~—— (b) "Food and food ingredients" includes an item described in Subsection (90)(b)(iii).~~
- ~~—— (c) "Food and food ingredients" does not include:~~
- ~~—— (i) an alcoholic beverage;~~
- ~~—— (ii) tobacco; or~~
- ~~—— (iii) prepared food.~~
- ~~—— (50) (a) "Fundraising sales" means sales:~~
- ~~—— (i) (A) made by a school; or~~
- ~~—— (B) made by a school student;~~
- ~~—— (ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and~~
- ~~—— (iii) that are part of an officially sanctioned school activity.~~
- ~~—— (b) For purposes of Subsection (50)(a)(iii), "officially sanctioned school activity" means a school activity:~~
- ~~—— (i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;~~
- ~~—— (ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and~~
- ~~—— (iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.~~
- ~~—— (51) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.~~
- ~~—— (52) "Governing board of the agreement" means the governing board of the agreement that is:~~
- ~~—— (a) authorized to administer the agreement; and~~

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- ~~—— (b) established in accordance with the agreement.~~
- ~~—— (53) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:~~
  - ~~—— (i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;~~
  - ~~—— (ii) the judicial branch of the state, including the courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;~~
  - ~~—— (iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;~~
  - ~~—— (iv) the National Guard;~~
  - ~~—— (v) an independent entity as defined in Section 63E-1-102; or~~
  - ~~—— (vi) a political subdivision as defined in Section 17B-1-102.~~
- ~~—— (b) "Governmental entity" does not include the state systems of public and higher education, including:~~
  - ~~—— (i) a college campus of the Utah College of Applied Technology;~~
  - ~~—— (ii) a school;~~
  - ~~—— (iii) the State Board of Education;~~
  - ~~—— (iv) the State Board of Regents; or~~
  - ~~—— (v) an institution of higher education.~~
- ~~—— (54) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.~~
- ~~—— (55) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:~~
  - ~~—— (a) in mining or extraction of minerals;~~
  - ~~—— (b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:~~
    - ~~—— (i) commercial greenhouses;~~
    - ~~—— (ii) irrigation pumps;~~
    - ~~—— (iii) farm machinery;~~
    - ~~—— (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered~~

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~~under Title 41, Chapter 1a, Part 2, Registration; and~~

~~—— (v) other farming activities;~~

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

~~—— (d) by a scrap recycler if:~~

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

~~—— (A) iron;~~

~~—— (B) steel;~~

~~—— (C) nonferrous metal;~~

~~—— (D) paper;~~

~~—— (E) glass;~~

~~—— (F) plastic;~~

~~—— (G) textile; or~~

~~—— (H) rubber; and~~

~~—— (ii) the new products under Subsection (55)(d)(i) would otherwise be made with nonrecycled materials; or~~

~~—— (e) in producing a form of energy or steam described in Subsection 54-2-1[(2)](3)(a) by a cogeneration facility as defined in Section 54-2-1.~~

~~—— (56) (a) Except as provided in Subsection (56)(b), "installation charge" means a charge for installing:~~

~~—— (i) tangible personal property; or~~

~~—— (ii) a product transferred electronically.~~

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

~~—— (i) repairs or renovations of:~~

~~—— (A) tangible personal property; or~~

~~—— (B) a product transferred electronically; or~~

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

~~—— (A) to other tangible personal property; and~~

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- ~~—— (B) as part of a manufacturing or fabrication process.~~
- ~~—— (57) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.~~
- ~~—— (58) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:~~
  - ~~—— (i) (A) a fixed term; or~~
  - ~~—— (B) an indeterminate term; and~~
  - ~~—— (ii) consideration.~~
  - ~~—— (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.~~
  - ~~—— (c) "Lease" or "rental" does not include:~~
    - ~~—— (i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;~~
    - ~~—— (ii) a transfer of possession or control of property under an agreement that requires the transfer of title:~~
      - ~~—— (A) upon completion of required payments; and~~
      - ~~—— (B) if the payment of an option price does not exceed the greater of:~~
        - ~~—— (I) \$100; or~~
        - ~~—— (II) 1% of the total required payments; or~~
    - ~~—— (iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.~~
  - ~~—— (d) For purposes of Subsection (58)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:~~
    - ~~—— (i) set-up of tangible personal property;~~
    - ~~—— (ii) maintenance of tangible personal property; or~~
    - ~~—— (iii) inspection of tangible personal property.~~
- ~~—— (59) "Life science establishment" means an establishment in this state that is classified~~

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~~under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:~~

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

~~—— (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or~~

~~—— (c) NAICS Code 334517, Irradiation Apparatus Manufacturing;~~

~~—— (60) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility;~~

~~—— (61) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser;~~

~~—— (62) "Local taxing jurisdiction" means a:~~

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

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

~~—— (c) town that is authorized to impose an agreement sales and use tax;~~

~~—— (63) "Manufactured home" is as defined in Section 15A-1-302.~~

~~—— (64) For purposes of Section 59-12-104, "manufacturing facility" means:~~

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

~~—— (b) a scrap recycler if:~~

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

~~—— (A) iron;~~

~~—— (B) steel;~~

~~—— (C) nonferrous metal;~~

~~—— (D) paper;~~

~~—— (E) glass;~~

~~—— (F) plastic;~~

~~—— (G) textile; or~~

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- ~~—— (H) rubber; and~~
- ~~—— (ii) the new products under Subsection (64)(b)(i) would otherwise be made with nonrecycled materials; or~~
- ~~—— (c) a cogeneration facility as defined in Section 54-2-1.~~
- ~~—— (65) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:~~
  - ~~—— (a) child or stepchild, regardless of whether the child or stepchild is:~~
    - ~~—— (i) an adopted child or adopted stepchild; or~~
    - ~~—— (ii) a foster child or foster stepchild;~~
  - ~~—— (b) grandchild or stepgrandchild;~~
  - ~~—— (c) grandparent or stepgrandparent;~~
  - ~~—— (d) nephew or stepnephew;~~
  - ~~—— (e) niece or stepniece;~~
  - ~~—— (f) parent or stepparent;~~
  - ~~—— (g) sibling or stepsibling;~~
  - ~~—— (h) spouse;~~
  - ~~—— (i) person who is the spouse of a person described in Subsections (65)(a) through (g);~~
- ~~or~~
- ~~—— (j) person similar to a person described in Subsections (65)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~
- ~~—— (66) "Mobile home" is as defined in Section 15A-1-302.~~
- ~~—— (67) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.~~
- ~~—— (68) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:~~
  - ~~—— (i) the origination point of the conveyance, routing, or transmission is not fixed;~~
  - ~~—— (ii) the termination point of the conveyance, routing, or transmission is not fixed; or~~
  - ~~—— (iii) the origination point described in Subsection (68)(a)(i) and the termination point described in Subsection (68)(a)(ii) are not fixed.~~
- ~~—— (b) "Mobile wireless service" includes a telecommunications service that is provided~~

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~~by a commercial mobile radio service provider:~~

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

~~—— (69) (a) Except as provided in Subsection (69)(c), "mobility enhancing equipment" means equipment that is:~~

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

~~—— (ii) appropriate for use in a:~~

~~—— (A) home; or~~

~~—— (B) motor vehicle; and~~

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

~~—— (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (69)(a).~~

~~—— (c) "Mobility enhancing equipment" does not include:~~

~~—— (i) a motor vehicle;~~

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

~~—— (iii) durable medical equipment; or~~

~~—— (iv) a prosthetic device.~~

~~—— (70) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.~~

~~—— (71) "Model 2 seller" means a seller registered under the agreement that:~~

~~—— (a) except as provided in Subsection (71)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and~~

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

~~—— (i) collected by the seller; and~~

~~—— (ii) to the appropriate local taxing jurisdiction.~~

~~—— (72) (a) Subject to Subsection (72)(b), "model 3 seller" means a seller registered under the agreement that has:~~



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- ~~—— (i) sales in at least five states that are members of the agreement;~~
- ~~—— (ii) total annual sales revenues of at least \$500,000,000;~~
- ~~—— (iii) a proprietary system that calculates the amount of tax:~~
  - ~~—— (A) for an agreement sales and use tax; and~~
  - ~~—— (B) due to each local taxing jurisdiction; and~~
- ~~—— (iv) entered into a performance agreement with the governing board of the agreement.~~
- ~~—— (b) For purposes of Subsection (72)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.~~
- ~~—— (73) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.~~
- ~~—— (74) "Modular home" means a modular unit as defined in Section 15A-1-302.~~
- ~~—— (75) "Motor vehicle" is as defined in Section 41-1a-102.~~
- ~~—— (76) "Oil sands" means impregnated bituminous sands that:~~
  - ~~—— (a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;~~
  - ~~—— (b) yield mixtures of liquid hydrocarbon; and~~
  - ~~—— (c) require further processing other than mechanical blending before becoming finished petroleum products.~~
- ~~—— (77) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.~~
- ~~—— (78) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.~~
- ~~—— (79) (a) "Other fuels" means products that burn independently to produce heat or energy.~~
  - ~~—— (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.~~
- ~~—— (80) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.~~
  - ~~—— (b) For purposes of Subsection (80)(a), the transmission of a coded radio signal includes a transmission by message or sound.~~

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- ~~—— (81) "Pawnbroker" is as defined in Section 13-32a-102.~~
- ~~—— (82) "Pawn transaction" is as defined in Section 13-32a-102.~~
- ~~—— (83) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:
  - ~~—— (i) the attachment of the tangible personal property to the real property:
    - ~~—— (A) is essential to the use of the tangible personal property; and~~
    - ~~—— (B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or~~~~
  - ~~—— (ii) if the tangible personal property is detached from the real property, the detachment would:
    - ~~—— (A) cause substantial damage to the tangible personal property; or~~
    - ~~—— (B) require substantial alteration or repair of the real property to which the tangible personal property is attached.~~~~~~
- ~~—— (b) "Permanently attached to real property" includes:
  - ~~—— (i) the attachment of an accessory to the tangible personal property if the accessory is:
    - ~~—— (A) essential to the operation of the tangible personal property; and~~
    - ~~—— (B) attached only to facilitate the operation of the tangible personal property;~~~~
  - ~~—— (ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or~~
  - ~~—— (iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (83)(c)(iii) or (iv).~~~~
- ~~—— (c) "Permanently attached to real property" does not include:
  - ~~—— (i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:
    - ~~—— (A) convenience;~~
    - ~~—— (B) stability; or~~
    - ~~—— (C) for an obvious temporary purpose;~~~~
  - ~~—— (ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (83)(b)(ii);~~
  - ~~—— (iii) an attachment of the following tangible personal property to real property if the~~~~

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~~attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:~~

~~—— (A) a computer;~~

~~—— (B) a telephone;~~

~~—— (C) a television; or~~

~~—— (D) tangible personal property similar to Subsections (83)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or~~

~~—— (iv) an item listed in Subsection (123)(c).~~

~~(84) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.~~

~~—— (85) "Place of primary use":~~

~~—— (a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:~~

~~—— (i) the residential street address of the customer; or~~

~~—— (ii) the primary business street address of the customer; or~~

~~—— (b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.~~

~~—— (86) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:~~

~~—— (i) through the use of a:~~

~~—— (A) bank card;~~

~~—— (B) credit card;~~

~~—— (C) debit card; or~~

~~—— (D) travel card; or~~

~~—— (ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.~~

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~~—— (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.~~

~~—— (87) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).~~

~~—— (88) "Prepaid calling service" means a telecommunications service:~~

~~—— (a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;~~

~~—— (b) that:~~

~~—— (i) is paid for in advance; and~~

~~—— (ii) enables the origination of a call using an:~~

~~—— (A) access number; or~~

~~—— (B) authorization code;~~

~~—— (c) that is dialed:~~

~~—— (i) manually; or~~

~~—— (ii) electronically; and~~

~~—— (d) sold in predetermined units or dollars that decline:~~

~~—— (i) by a known amount; and~~

~~—— (ii) with use.~~

~~—— (89) "Prepaid wireless calling service" means a telecommunications service:~~

~~—— (a) that provides the right to utilize:~~

~~—— (i) mobile wireless service; and~~

~~—— (ii) other service that is not a telecommunications service, including:~~

~~—— (A) the download of a product transferred electronically;~~

~~—— (B) a content service; or~~

~~—— (C) an ancillary service;~~

~~—— (b) that:~~

~~—— (i) is paid for in advance; and~~

~~—— (ii) enables the origination of a call using an:~~

~~—— (A) access number; or~~

~~—— (B) authorization code;~~

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- ~~—— (c) that is dialed:~~
- ~~—— (i) manually; or~~
- ~~—— (ii) electronically; and~~
- ~~—— (d) sold in predetermined units or dollars that decline:~~
- ~~—— (i) by a known amount; and~~
- ~~—— (ii) with use:~~
- ~~—— (90) (a) "Prepared food" means:~~
- ~~—— (i) food:~~
- ~~—— (A) sold in a heated state; or~~
- ~~—— (B) heated by a seller;~~
- ~~—— (ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or~~
- ~~—— (iii) except as provided in Subsection (90)(c), food sold with an eating utensil provided by the seller, including a:~~
- ~~—— (A) plate;~~
- ~~—— (B) knife;~~
- ~~—— (C) fork;~~
- ~~—— (D) spoon;~~
- ~~—— (E) glass;~~
- ~~—— (F) cup;~~
- ~~—— (G) napkin; or~~
- ~~—— (H) straw:~~
- ~~—— (b) "Prepared food" does not include:~~
- ~~—— (i) food that a seller only:~~
- ~~—— (A) cuts;~~
- ~~—— (B) repackages; or~~
- ~~—— (C) pasteurizes; or~~
- ~~—— (ii) (A) the following:~~
- ~~—— (I) raw egg;~~
- ~~—— (II) raw fish;~~
- ~~—— (III) raw meat;~~

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- ~~—— (IV) raw poultry; or~~
- ~~—— (V) a food containing an item described in Subsections (90)(b)(ii)(A)(I) through (IV); and~~
- ~~—— (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (90)(b)(ii)(A) to prevent food borne illness; or~~
- ~~—— (iii) the following if sold without eating utensils provided by the seller:~~
  - ~~—— (A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;~~
  - ~~—— (B) food and food ingredients sold in an unheated state:~~
    - ~~—— (I) by weight or volume; and~~
    - ~~—— (II) as a single item; or~~
    - ~~—— (C) a bakery item, including:~~
      - ~~—— (I) a bagel;~~
      - ~~—— (II) a bar;~~
      - ~~—— (III) a biscuit;~~
      - ~~—— (IV) bread;~~
      - ~~—— (V) a bun;~~
      - ~~—— (VI) a cake;~~
      - ~~—— (VII) a cookie;~~
      - ~~—— (VIII) a croissant;~~
      - ~~—— (IX) a danish;~~
      - ~~—— (X) a donut;~~
      - ~~—— (XI) a muffin;~~
      - ~~—— (XII) a pastry;~~
      - ~~—— (XIII) a pie;~~
      - ~~—— (XIV) a roll;~~
      - ~~—— (XV) a tart;~~

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~~—— (XVI) a torte; or~~

~~—— (XVII) a tortilla.~~

~~—— (c) An eating utensil provided by the seller does not include the following used to transport the food:~~

~~—— (i) a container; or~~

~~—— (ii) packaging.~~

~~—— (91) "Prescription" means an order, formula, or recipe that is issued:~~

~~—— (a) (i) orally;~~

~~—— (ii) in writing;~~

~~—— (iii) electronically; or~~

~~—— (iv) by any other manner of transmission; and~~

~~—— (b) by a licensed practitioner authorized by the laws of a state.~~

~~—— (92) (a) Except as provided in Subsection (92)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:~~

~~—— (i) by the author or other creator of the computer software; and~~

~~—— (ii) to the specifications of a specific purchaser.~~

~~—— (b) "Prewritten computer software" includes:~~

~~—— (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:~~

~~—— (A) by the author or other creator of the computer software; and~~

~~—— (B) to the specifications of a specific purchaser;~~

~~—— (ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or~~

~~—— (iii) except as provided in Subsection (92)(c), prewritten computer software or a prewritten portion of prewritten computer software:~~

~~—— (A) that is modified or enhanced to any degree; and~~

~~—— (B) if the modification or enhancement described in Subsection (92)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.~~

~~—— (c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (92)(b)(iii) if the charges for the modification or enhancement are:~~

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~~—— (i) reasonable; and~~

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

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

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

~~—— (C) the understanding of all of the parties to the transaction.~~

~~—— (93) (a) "Private communication service" means a telecommunications service:~~

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

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

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

~~—— (i) an extension line;~~

~~—— (ii) a station;~~

~~—— (iii) switching capacity; or~~

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

~~—— (94) (a) Except as provided in Subsection (94)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.~~

~~—— (b) "Product transferred electronically" does not include:~~

~~—— (i) an ancillary service;~~

~~—— (ii) computer software; or~~

~~—— (iii) a telecommunications service.~~

~~—— (95) (a) "Prosthetic device" means a device that is worn on or in the body to:~~

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

~~—— (ii) prevent or correct a physical deformity or physical malfunction; or~~



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- ~~—— (iii) support a weak or deformed portion of the body.~~
- ~~—— (b) "Prosthetic device" includes:~~
  - ~~—— (i) parts used in the repairs or renovation of a prosthetic device;~~
  - ~~—— (ii) replacement parts for a prosthetic device;~~
  - ~~—— (iii) a dental prosthesis; or~~
  - ~~—— (iv) a hearing aid.~~
- ~~—— (c) "Prosthetic device" does not include:~~
  - ~~—— (i) corrective eyeglasses; or~~
  - ~~—— (ii) contact lenses.~~
- ~~—— (96) (a) "Protective equipment" means an item:~~
  - ~~—— (i) for human wear; and~~
  - ~~—— (ii) that is:~~
    - ~~—— (A) designed as protection:~~
      - ~~—— (I) to the wearer against injury or disease; or~~
      - ~~—— (II) against damage or injury of other persons or property; and~~
    - ~~—— (B) not suitable for general use.~~
- ~~—— (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:~~
  - ~~—— (i) listing the items that constitute "protective equipment"; and~~
  - ~~—— (ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.~~
- ~~—— (97) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:~~
  - ~~—— (i) regardless of:~~
    - ~~—— (A) characteristics;~~
    - ~~—— (B) copyright;~~
    - ~~—— (C) form;~~
    - ~~—— (D) format;~~
    - ~~—— (E) method of reproduction; or~~
    - ~~—— (F) source; and~~
  - ~~—— (ii) made available in printed or electronic format.~~

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

~~\_\_\_\_\_ (98) (a) "Purchase price" and "sales price" mean the total amount of consideration:~~

~~\_\_\_\_\_ (i) valued in money; and~~

~~\_\_\_\_\_ (ii) for which tangible personal property, a product transferred electronically, or services are:~~

~~\_\_\_\_\_ (A) sold;~~

~~\_\_\_\_\_ (B) leased; or~~

~~\_\_\_\_\_ (C) rented.~~

~~\_\_\_\_\_ (b) "Purchase price" and "sales price" include:~~

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

~~\_\_\_\_\_ (ii) expenses of the seller, including:~~

~~\_\_\_\_\_ (A) the cost of materials used;~~

~~\_\_\_\_\_ (B) a labor cost;~~

~~\_\_\_\_\_ (C) a service cost;~~

~~\_\_\_\_\_ (D) interest;~~

~~\_\_\_\_\_ (E) a loss;~~

~~\_\_\_\_\_ (F) the cost of transportation to the seller; or~~

~~\_\_\_\_\_ (G) a tax imposed on the seller;~~

~~\_\_\_\_\_ (iii) a charge by the seller for any service necessary to complete the sale; or~~

~~\_\_\_\_\_ (iv) consideration a seller receives from a person other than the purchaser if:~~

~~\_\_\_\_\_ (A) (I) the seller actually receives consideration from a person other than the purchaser; and~~

~~\_\_\_\_\_ (II) the consideration described in Subsection (98)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;~~

~~\_\_\_\_\_ (B) the seller has an obligation to pass the price reduction or discount through to the purchaser;~~

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

~~\_\_\_\_\_ (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the~~

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~~seller to claim a price reduction or discount; and~~

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

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

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

~~—— (Aa) invoice the purchaser receives; or~~

~~—— (Bb) certificate, coupon, or other documentation the purchaser presents:~~

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

~~—— (i) a discount:~~

~~—— (A) in a form including:~~

~~—— (I) cash;~~

~~—— (II) term; or~~

~~—— (III) coupon;~~

~~—— (B) that is allowed by a seller;~~

~~—— (C) taken by a purchaser on a sale; and~~

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

~~—— (ii) subject to Subsections 59-12-103(2)(c)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:~~

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

~~—— (I) a carrying charge;~~

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- ~~—— (H) a financing charge; or~~
- ~~—— (III) an interest charge;~~
- ~~—— (B) a delivery charge;~~
- ~~—— (C) an installation charge;~~
- ~~—— (D) a manufacturer rebate on a motor vehicle; or~~
- ~~—— (E) a tax or fee legally imposed directly on the consumer.~~
- ~~—— (99) "Purchaser" means a person to whom:~~
  - ~~—— (a) a sale of tangible personal property is made;~~
  - ~~—— (b) a product is transferred electronically; or~~
  - ~~—— (c) a service is furnished.~~
- ~~—— (100) "Regularly rented" means:~~
  - ~~—— (a) rented to a guest for value three or more times during a calendar year; or~~
  - ~~—— (b) advertised or held out to the public as a place that is regularly rented to guests for value.~~
- ~~—— (101) "Rental" is as defined in Subsection (58).~~
- ~~—— (102) (a) Except as provided in Subsection (102)(b), "repairs or renovations of tangible personal property" means:~~
  - ~~—— (i) a repair or renovation of tangible personal property that is not permanently attached to real property; or~~
  - ~~—— (ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:~~
    - ~~—— (A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and~~
    - ~~—— (B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.~~
  - ~~—— (b) "Repairs or renovations of tangible personal property" does not include:~~
    - ~~—— (i) attaching prewritten computer software to other tangible personal property if the~~

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~~other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or~~

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

~~—— (103) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.~~

~~—— (104) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:~~

~~—— (i) at a residential address; or~~

~~—— (ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.~~

~~—— (b) For purposes of Subsection (104)(a)(i), a residential address includes an:~~

~~—— (i) apartment; or~~

~~—— (ii) other individual dwelling unit.~~

~~—— (105) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.~~

~~—— (106) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:~~

~~—— (a) resale;~~

~~—— (b) sublease; or~~

~~—— (c) subrent.~~

~~—— (107) (a) "Retailer" means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale:~~

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

~~—— (108) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under~~

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~~Subsection 59-12-103(1), for consideration:~~

~~—— (b) "Sale" includes:~~

~~—— (i) installment and credit sales;~~

~~—— (ii) any closed transaction constituting a sale;~~

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

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

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

~~—— (109) "Sale at retail" is as defined in Subsection (106):~~

~~—— (110) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:~~

~~—— (a) by a purchaser-lessee;~~

~~—— (b) to a lessor;~~

~~—— (c) for consideration; and~~

~~—— (d) if:~~

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

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

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

~~—— (B) to the purchaser-lessee; and~~

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

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

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

~~—— (111) "Sales price" is as defined in Subsection (98):~~

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~~———— (112) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:~~

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

~~———— (A) the sale of:~~

~~———— (I) textbooks;~~

~~———— (II) textbook fees;~~

~~———— (III) laboratory fees;~~

~~———— (IV) laboratory supplies; or~~

~~———— (V) safety equipment;~~

~~———— (B) the sale of a uniform, protective equipment, or sports or recreational equipment that:~~

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

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

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

~~———— (I) food and food ingredients; or~~

~~———— (II) prepared food; or~~

~~———— (D) transportation charges for official school activities; or~~

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

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

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

~~———— (ii) except as provided in Subsection (112)(a)(i)(B):~~

~~———— (A) clothing;~~

~~———— (B) clothing accessories or equipment;~~

~~———— (C) protective equipment; or~~

~~———— (D) sports or recreational equipment; or~~

~~———— (iii) amounts paid to or amounts charged by a school for admission to a school-related~~

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~~event or school-related activity if the amounts paid or charged are passed through to a person:~~

~~—— (A) other than a:~~

~~—— (I) school;~~

~~—— (II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or~~

~~—— (III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and~~

~~—— (B) that is required to collect sales and use taxes under this chapter.~~

~~—— (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."~~

~~—— (113) For purposes of this section and Section 59-12-104, "school":~~

~~—— (a) means:~~

~~—— (i) an elementary school or a secondary school that:~~

~~—— (A) is a:~~

~~—— (I) public school; or~~

~~—— (II) private school; and~~

~~—— (B) provides instruction for one or more grades kindergarten through 12; or~~

~~—— (ii) a public school district; and~~

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

~~—— (114) "Seller" means a person that makes a sale, lease, or rental of:~~

~~—— (a) tangible personal property;~~

~~—— (b) a product transferred electronically; or~~

~~—— (c) a service.~~

~~—— (115) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:~~

~~—— (i) used primarily in the process of:~~

~~—— (A) (I) manufacturing a semiconductor;~~

~~—— (II) fabricating a semiconductor; or~~

~~—— (III) research or development of a:~~

~~—— (Aa) semiconductor; or~~



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- ~~—— (Bb) semiconductor manufacturing process; or~~
  - ~~—— (B) maintaining an environment suitable for a semiconductor; or~~
  - ~~—— (ii) consumed primarily in the process of:~~
    - ~~—— (A) (I) manufacturing a semiconductor;~~
    - ~~—— (II) fabricating a semiconductor; or~~
    - ~~—— (III) research or development of a:~~
      - ~~—— (Aa) semiconductor; or~~
      - ~~—— (Bb) semiconductor manufacturing process; or~~
      - ~~—— (B) maintaining an environment suitable for a semiconductor.~~
  - ~~—— (b) "Semiconductor fabricating, processing, research, or development materials" includes:~~
    - ~~—— (i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (115)(a); or~~
    - ~~—— (ii) a chemical, catalyst, or other material used to:~~
      - ~~—— (A) produce or induce in a semiconductor a:~~
        - ~~—— (I) chemical change; or~~
        - ~~—— (II) physical change;~~
      - ~~—— (B) remove impurities from a semiconductor; or~~
      - ~~—— (C) improve the marketable condition of a semiconductor.~~
- ~~—— (116) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.~~
- ~~—— (117) (a) Subject to Subsections (117)(b) and (c), "short-term lodging consumable" means tangible personal property that:~~
  - ~~—— (i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;~~
  - ~~—— (ii) is intended to be consumed by the purchaser; and~~
  - ~~—— (iii) is:~~
    - ~~—— (A) included in the purchase price of the accommodations and services; and~~
    - ~~—— (B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.~~

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- ~~\_\_\_\_\_ (b) "Short-term lodging consumable" includes:~~
- ~~\_\_\_\_\_ (i) a beverage;~~
  - ~~\_\_\_\_\_ (ii) a brush or comb;~~
  - ~~\_\_\_\_\_ (iii) a cosmetic;~~
  - ~~\_\_\_\_\_ (iv) a hair care product;~~
  - ~~\_\_\_\_\_ (v) lotion;~~
  - ~~\_\_\_\_\_ (vi) a magazine;~~
  - ~~\_\_\_\_\_ (vii) makeup;~~
  - ~~\_\_\_\_\_ (viii) a meal;~~
  - ~~\_\_\_\_\_ (ix) mouthwash;~~
  - ~~\_\_\_\_\_ (x) nail polish remover;~~
  - ~~\_\_\_\_\_ (xi) a newspaper;~~
  - ~~\_\_\_\_\_ (xii) a notepad;~~
  - ~~\_\_\_\_\_ (xiii) a pen;~~
  - ~~\_\_\_\_\_ (xiv) a pencil;~~
  - ~~\_\_\_\_\_ (xv) a razor;~~
  - ~~\_\_\_\_\_ (xvi) saline solution;~~
  - ~~\_\_\_\_\_ (xvii) a sewing kit;~~
  - ~~\_\_\_\_\_ (xviii) shaving cream;~~
  - ~~\_\_\_\_\_ (xix) a shoe shine kit;~~
  - ~~\_\_\_\_\_ (xx) a shower cap;~~
  - ~~\_\_\_\_\_ (xxi) a snack item;~~
  - ~~\_\_\_\_\_ (xxii) soap;~~
  - ~~\_\_\_\_\_ (xxiii) toilet paper;~~
  - ~~\_\_\_\_\_ (xxiv) a toothbrush;~~
  - ~~\_\_\_\_\_ (xxv) toothpaste; or~~
  - ~~\_\_\_\_\_ (xxvi) an item similar to Subsections (117)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~
- ~~\_\_\_\_\_ (c) "Short-term lodging consumable" does not include:~~
- ~~\_\_\_\_\_ (i) tangible personal property that is cleaned or washed to allow the tangible personal~~

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~~property to be reused; or~~

~~—— (ii) a product transferred electronically;~~

~~—— (118) "Simplified electronic return" means the electronic return:~~

~~—— (a) described in Section 318(C) of the agreement; and~~

~~—— (b) approved by the governing board of the agreement.~~

~~—— (119) "Solar energy" means the sun used as the sole source of energy for producing electricity:~~

~~—— (120) (a) "Sports or recreational equipment" means an item:~~

~~—— (i) designed for human use; and~~

~~—— (ii) that is:~~

~~—— (A) worn in conjunction with:~~

~~—— (I) an athletic activity; or~~

~~—— (II) a recreational activity; and~~

~~—— (B) not suitable for general use.~~

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

~~—— (i) listing the items that constitute "sports or recreational equipment"; and~~

~~—— (ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.~~

~~—— (121) "State" means the state of Utah, its departments, and agencies.~~

~~—— (122) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business:~~

~~—— (123) (a) Except as provided in Subsection (123)(d) or (e), "tangible personal property" means personal property that:~~

~~—— (i) may be:~~

~~—— (A) seen;~~

~~—— (B) weighed;~~

~~—— (C) measured;~~

~~—— (D) felt; or~~

~~—— (E) touched; or~~

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~~—— (ii) is in any manner perceptible to the senses.~~

~~—— (b) "Tangible personal property" includes:~~

~~—— (i) electricity;~~

~~—— (ii) water;~~

~~—— (iii) gas;~~

~~—— (iv) steam; or~~

~~—— (v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.~~

~~—— (c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:~~

~~—— (i) a dishwasher;~~

~~—— (ii) a dryer;~~

~~—— (iii) a freezer;~~

~~—— (iv) a microwave;~~

~~—— (v) a refrigerator;~~

~~—— (vi) a stove;~~

~~—— (vii) a washer; or~~

~~—— (viii) an item similar to Subsections (123)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~

~~—— (d) "Tangible personal property" does not include a product that is transferred electronically.~~

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

~~—— (i) a hot water heater;~~

~~—— (ii) a water filtration system; or~~

~~—— (iii) a water softener system.~~

~~—— (124) (a) "Telecommunications enabling or facilitating equipment, machinery, or~~

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~~software" means an item listed in Subsection (124)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:~~

~~—— (i) telecommunications switching or routing equipment, machinery, or software; or~~

~~—— (ii) telecommunications transmission equipment, machinery, or software.~~

~~—— (b) The following apply to Subsection (124)(a):~~

~~—— (i) a pole;~~

~~—— (ii) software;~~

~~—— (iii) a supplementary power supply;~~

~~—— (iv) temperature or environmental equipment or machinery;~~

~~—— (v) test equipment;~~

~~—— (vi) a tower; or~~

~~—— (vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (124)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (124)(c):~~

~~—— (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (124)(b)(i) through (vi):~~

~~—— (125) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18:~~

~~—— (126) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:~~

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

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

~~—— (c) telecommunications transmission equipment, machinery, or software.~~

~~—— (127) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.~~

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- ~~—— (b) "Telecommunications service" includes:~~
- ~~—— (i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:~~
- ~~—— (A) on the code, form, or protocol of the content;~~
- ~~—— (B) for the purpose of electronic conveyance, routing, or transmission; and~~
- ~~—— (C) regardless of whether the service:~~
- ~~—— (I) is referred to as voice over Internet protocol service; or~~
- ~~—— (H) is classified by the Federal Communications Commission as enhanced or value added;~~
- ~~—— (ii) an 800 service;~~
- ~~—— (iii) a 900 service;~~
- ~~—— (iv) a fixed wireless service;~~
- ~~—— (v) a mobile wireless service;~~
- ~~—— (vi) a postpaid calling service;~~
- ~~—— (vii) a prepaid calling service;~~
- ~~—— (viii) a prepaid wireless calling service; or~~
- ~~—— (ix) a private communications service.~~
- ~~—— (c) "Telecommunications service" does not include:~~
- ~~—— (i) advertising, including directory advertising;~~
- ~~—— (ii) an ancillary service;~~
- ~~—— (iii) a billing and collection service provided to a third party;~~
- ~~—— (iv) a data processing and information service if:~~
- ~~—— (A) the data processing and information service allows data to be:~~
- ~~—— (I) (Aa) acquired;~~
- ~~—— (Bb) generated;~~
- ~~—— (Cc) processed;~~
- ~~—— (Dd) retrieved; or~~
- ~~—— (Ee) stored; and~~
- ~~—— (H) delivered by an electronic transmission to a purchaser; and~~
- ~~—— (B) the purchaser's primary purpose for the underlying transaction is the processed data or information;~~

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- ~~—— (v) installation or maintenance of the following on a customer's premises:~~
- ~~—— (A) equipment; or~~
- ~~—— (B) wiring;~~
- ~~—— (vi) Internet access service;~~
- ~~—— (vii) a paging service;~~
- ~~—— (viii) a product transferred electronically, including:~~
- ~~—— (A) music;~~
- ~~—— (B) reading material;~~
- ~~—— (C) a ring tone;~~
- ~~—— (D) software; or~~
- ~~—— (E) video;~~
- ~~—— (ix) a radio and television audio and video programming service:~~
- ~~—— (A) regardless of the medium; and~~
- ~~—— (B) including:~~
- ~~—— (I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;~~
- ~~—— (II) cable service as defined in 47 U.S.C. Sec. 522(6); or~~
- ~~—— (III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;~~
- ~~—— (x) a value-added nonvoice data service; or~~
- ~~—— (xi) tangible personal property.~~
- ~~—— (128) (a) "Telecommunications service provider" means a person that:~~
- ~~—— (i) owns, controls, operates, or manages a telecommunications service; and~~
- ~~—— (ii) engages in an activity described in Subsection (128)(a)(i) for the shared use with or resale to any person of the telecommunications service.~~
- ~~—— (b) A person described in Subsection (128)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:~~
- ~~—— (i) that person; or~~
- ~~—— (ii) the telecommunications service that the person owns, controls, operates, or manages.~~
- ~~—— (129) (a) "Telecommunications switching or routing equipment, machinery, or~~

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~~software" means an item listed in Subsection (129)(b) if that item is purchased or leased primarily for switching or routing:~~

- ~~—— (i) an ancillary service;~~
- ~~—— (ii) data communications;~~
- ~~—— (iii) voice communications; or~~
- ~~—— (iv) telecommunications service.~~

~~(b) The following apply to Subsection (129)(a):~~

- ~~—— (i) a bridge;~~
- ~~—— (ii) a computer;~~
- ~~—— (iii) a cross connect;~~
- ~~—— (iv) a modem;~~
- ~~—— (v) a multiplexer;~~
- ~~—— (vi) plug in circuitry;~~
- ~~—— (vii) a router;~~
- ~~—— (viii) software;~~
- ~~—— (ix) a switch; or~~
- ~~—— (x) equipment, machinery, or software that functions similarly to an item listed in Subsections (129)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (129)(c):~~

~~(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (129)(b)(i) through (ix):~~

~~(130) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (130)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:~~

- ~~—— (i) an ancillary service;~~
- ~~—— (ii) data communications;~~
- ~~—— (iii) voice communications; or~~
- ~~—— (iv) telecommunications service.~~

~~(b) The following apply to Subsection (130)(a):~~

- ~~—— (i) an amplifier;~~



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- ~~—— (ii) a cable;~~
- ~~—— (iii) a closure;~~
- ~~—— (iv) a conduit;~~
- ~~—— (v) a controller;~~
- ~~—— (vi) a duplexer;~~
- ~~—— (vii) a filter;~~
- ~~—— (viii) an input device;~~
- ~~—— (ix) an input/output device;~~
- ~~—— (x) an insulator;~~
- ~~—— (xi) microwave machinery or equipment;~~
- ~~—— (xii) an oscillator;~~
- ~~—— (xiii) an output device;~~
- ~~—— (xiv) a pedestal;~~
- ~~—— (xv) a power converter;~~
- ~~—— (xvi) a power supply;~~
- ~~—— (xvii) a radio channel;~~
- ~~—— (xviii) a radio receiver;~~
- ~~—— (xix) a radio transmitter;~~
- ~~—— (xx) a repeater;~~
- ~~—— (xxi) software;~~
- ~~—— (xxii) a terminal;~~
- ~~—— (xxiii) a timing unit;~~
- ~~—— (xxiv) a transformer;~~
- ~~—— (xxv) a wire; or~~
- ~~—— (xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (130)(c).~~
- ~~—— (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (xxv).~~
- ~~—— (131) (a) "Textbook for a higher education course" means a textbook or other printed~~

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~~material that is required for a course:~~

~~—— (i) offered by an institution of higher education; and~~

~~—— (ii) that the purchaser of the textbook or other printed material attends or will attend.~~

~~—— (b) "Textbook for a higher education course" includes a textbook in electronic format.~~

~~—— (132) "Tobacco" means:~~

~~—— (a) a cigarette;~~

~~—— (b) a cigar;~~

~~—— (c) chewing tobacco;~~

~~—— (d) pipe tobacco; or~~

~~—— (e) any other item that contains tobacco.~~

~~—— (133) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.~~

~~—— (134) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.~~

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

~~—— (135) "Value-added nonvoice data service" means a service:~~

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

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

~~—— (i) code;~~

~~—— (ii) content;~~

~~—— (iii) form; or~~

~~—— (iv) protocol.~~

~~—— (136) (a) Subject to Subsection (136)(b), "vehicle" means the following that are~~

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~~required to be titled, registered, or titled and registered:~~

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

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

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

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

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

~~—— (i) a vehicle described in Subsection (136)(a); or~~

~~—— (ii) (A) a locomotive;~~

~~—— (B) a freight car;~~

~~—— (C) railroad work equipment; or~~

~~—— (D) other railroad rolling stock.~~

~~—— (137) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (136):~~

~~—— (138) (a) "Vertical service" means an ancillary service that:~~

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

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

~~—— (A) identify a caller; and~~

~~—— (B) manage multiple calls and call connections.~~

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

~~—— (139) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message:~~

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

~~—— (140) (a) Except as provided in Subsection (140)(b), "waste energy facility" means a facility that generates electricity:~~

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

~~—— (A) tires;~~

~~—— (B) waste coal;~~

~~—— (C) oil shale; or~~

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- ~~—— (D) municipal solid waste; and~~
- ~~—— (ii) in amounts greater than actually required for the operation of the facility.~~
- ~~—— (b) "Waste energy facility" does not include a facility that incinerates:~~
  - ~~—— (i) hospital waste as defined in 40 C.F.R. 60.51c; or~~
  - ~~—— (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.~~
- ~~—— (141) "Watercraft" means a vessel as defined in Section 73-18-2.~~
- ~~—— (142) "Wind energy" means wind used as the sole source of energy to produce electricity.~~
- ~~—— (143) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.~~
- ~~—— Section 9. **Effective dates:**~~
  - ~~—— (1) Except as provided in Subsection (2), this bill takes effect on May 13, 2014.~~
  - ~~—— (2) The actions affecting Section 59-12-102 (Effective 07/01/14) take effect on July 1, 2014.~~

### **Legislative Review Note**

~~—— as of 1-20-14 2:57 PM~~

~~—— Office of Legislative Research and General Counsel}~~