

Representative Jim Nielson proposes the following substitute bill:

PUBLIC EDUCATION BASE BUDGET AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bradley G. Last

Senate Sponsor: Howard A. Stephenson

LONG TITLE

General Description:

This bill appropriates funds for the support and operation of public education for the fiscal year beginning July 1, 2014, and ending June 30, 2015.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of state education agencies;
 - ▶ provides appropriations for the use and support of school districts and charter schools;
 - ▶ modifies the computation of the number of weighted pupil units for the Kindergarten Program, Grades 1 - 12 Program, and Special Education - Self-contained Program;
 - ▶ sets the value of the weighted pupil unit (WPU) initially at the same WPU value set for the 2013-14 fiscal year:
 - \$2,659 for the special education and career and technology add-on programs;
- and
- \$2,899 for all other programs;
 - ▶ sets the estimated minimum basic tax rate at .001477 for fiscal year 2014-15;
 - ▶ provides appropriations for other purposes as described;



- 26 ▶ eliminates certain education programs and funding for the programs;
- 27 ▶ creates and funds the Statewide Priorities Program; and
- 28 ▶ makes technical and conforming amendments.

29 **Money Appropriated in this Bill:**

30 This bill appropriates for fiscal year 2015:

- 31 ▶ \$4,093,800 from the General Fund;
- 32 ▶ \$21,000,000 from the Uniform School Fund;
- 33 ▶ \$2,621,320,900 from the Education Fund; and
- 34 ▶ \$1,165,615,600 from various sources as detailed in this bill.

35 **Other Special Clauses:**

36 This bill takes effect on July 1, 2014.

37 **Utah Code Sections Affected:**

38 AMENDS:

- 39 **53A-13-202**, as last amended by Laws of Utah 2003, Chapter 23
- 40 **53A-13-209**, as last amended by Laws of Utah 2008, Chapter 382
- 41 **53A-17a-106**, as last amended by Laws of Utah 2001, Chapter 73
- 42 **53A-17a-111**, as last amended by Laws of Utah 2011, Chapter 342
- 43 **53A-17a-135**, as last amended by Laws of Utah 2013, Chapter 7
- 44 **53A-17a-146**, as last amended by Laws of Utah 2011, Chapters 371 and 381
- 45 **53A-17a-167**, as last amended by Laws of Utah 2013, Chapter 466
- 46 **53A-25b-402**, as enacted by Laws of Utah 2009, Chapter 294
- 47 **59-12-102 (Effective 07/01/14)**, as last amended by Laws of Utah 2013, Chapters 229,
- 48 234, 266, and 441

49 ENACTS:

- 50 **53A-1-414**, Utah Code Annotated 1953

51 REPEALS:

- 52 **53A-1a-1001**, as enacted by Laws of Utah 2008, Chapter 397
- 53 **53A-1a-1002**, as enacted by Laws of Utah 2008, Chapter 397
- 54 **53A-1a-1003**, as enacted by Laws of Utah 2008, Chapter 397
- 55 **53A-1a-1004**, as enacted by Laws of Utah 2008, Chapter 397
- 56 **53A-1a-1005**, as enacted by Laws of Utah 2008, Chapter 397

- 57 **53A-1a-1006**, as enacted by Laws of Utah 2008, Chapter 397
- 58 **53A-1a-1007**, as enacted by Laws of Utah 2008, Chapter 397
- 59 **53A-6-801**, as enacted by Laws of Utah 2008, Chapter 144
- 60 **53A-6-802**, as last amended by Laws of Utah 2010, Chapter 286
- 61 **53A-13-110**, as last amended by Laws of Utah 2013, Chapter 226
- 62 **53A-15-104**, as last amended by Laws of Utah 2008, Chapters 235 and 382
- 63 **53A-15-105**, as enacted by Laws of Utah 2008, Chapter 235
- 64 **53A-15-1001**, as enacted by Laws of Utah 2006, Chapter 227
- 65 **53A-15-1002**, as last amended by Laws of Utah 2012, Chapter 238
- 66 **53A-15-1002.5**, as enacted by Laws of Utah 2012, Chapter 238
- 67 **53A-15-1003**, as last amended by Laws of Utah 2012, Chapter 238
- 68 **53A-15-1004**, as enacted by Laws of Utah 2006, Chapter 227
- 69 **53A-15-1005**, as enacted by Laws of Utah 2006, Chapter 227
- 70 **53A-15-1006**, as last amended by Laws of Utah 2012, Chapter 238
- 71 **53A-15-1007**, as enacted by Laws of Utah 2006, Chapter 227
- 72 **53A-15-1008**, as enacted by Laws of Utah 2012, Chapter 238
- 73 **53A-17a-124.5**, as last amended by Laws of Utah 2013, Chapter 299
- 74 **53A-17a-131.15**, as last amended by Laws of Utah 2010, Chapter 3
- 75 **53A-17a-150**, as last amended by Laws of Utah 2013, Chapter 466
- 76 **53A-17a-153**, as last amended by Laws of Utah 2010, Chapter 3
- 77 **53A-17a-154**, as last amended by Laws of Utah 2010, Chapter 3
- 78 **53A-17a-155**, as last amended by Laws of Utah 2010, Chapter 3
- 79 **53A-17a-156**, as last amended by Laws of Utah 2011, Chapters 340 and 399
- 80 **53A-17a-157**, as enacted by Laws of Utah 2008, Chapter 397
- 81 **53A-17a-159**, as enacted by Laws of Utah 2008, Chapter 397

82 **Uncodified Material Affected:**
 83 ENACTS UNCODIFIED MATERIAL



85 *Be it enacted by the Legislature of the state of Utah:*
 86 Section 1. Section **53A-1-414** is enacted to read:
 87 **53A-1-414. Statewide Priorities Program.**

- 88 (1) As used in this section, "board" means the State Board of Education.
89 (2) The Statewide Priorities Program is created to allow the board to determine how to
90 allocate funding to support state education goals and student achievement.
91 (3) From money appropriated to the board for the Statewide Priorities Program, the
92 board may allocate money for statewide education programs initiated by the board that:
93 (a) support attainment of one or more of the following goals:
94 (i) 66% of the state's adult population has a postsecondary degree or certificate by
95 2020;
96 (ii) 90% of students attain proficiency in reading by the end of third grade;
97 (iii) Utah places in the top ten of states in reading and math proficiency as measured by
98 the National Assessment of Educational Progress and the ACT; or
99 (iv) Utah places in the top ten of states in high school graduation as measured by state
100 high school graduation rates calculated in accordance with the U.S. Department of Education
101 guidelines;
102 (b) broaden students' educational experiences and opportunities through programs of
103 cultural importance; or
104 (c) can be done more productively through statewide programs rather than through
105 local initiatives.
106 (5) The board shall make rules that:
107 (a) describe the statewide education programs that are eligible to receive funding
108 through the Statewide Priorities Program;
109 (b) describe how money appropriated for the Statewide Priorities Program is allocated
110 among the eligible statewide education programs; and
111 (c) provide for an evaluation of a statewide education program funded through the
112 Statewide Priorities Program to determine whether the program meets the criteria specified in
113 Subsection (4).

114 Section 2. Section **53A-13-202** is amended to read:

115 **53A-13-202. Driver education funding -- Reimbursement of school districts for**
116 **driver education class expenses -- Limitations -- Excess funds -- Student fees.**

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

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

121 (ii) student fees collected by each school.

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

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

125 (ii) classroom space and classroom maintenance.

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

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

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

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

136 (a) employ personnel who are not licensed by the board under Section 53A-6-104; or

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

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

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

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

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

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

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

153 (a) to reimburse each school district that applies for reimbursement of the cost of a fee
154 waived under Section 53A-12-103 for driver education; and

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

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

160 Section 3. Section 53A-13-209 is amended to read:

161 **53A-13-209. Programs authorized -- Minimum standards.**

162 (1) Local school districts may:

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

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

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

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

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

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

173 (i) licensed under Section 53-3-504; and

174 (ii) not associated with the school or under contract with the school under Subsection
175 53A-13-202(3); or

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

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

180 Section 4. Section 53A-17a-106 is amended to read:

181 **53A-17a-106. Determination of weighted pupil units.**

182 The number of weighted pupil units in the minimum school program for each year is
183 the total of the units for each school district determined as follows:

184 (1) The number of units is computed by adding the average daily membership of all
185 pupils of the district attending schools, other than kindergarten and self-contained classes for
186 children with a disability, and multiplying the total by 1.1694.

187 (2) The number of units is computed by adding the average daily membership of all
188 pupils of the district enrolled in kindergarten and multiplying the total by [~~.55~~] .64317.

189 (a) In those districts that do not elect to hold kindergarten for a full nine-month term,
190 the local school board may approve a shorter term of nine weeks' duration.

191 (b) Upon board approval, the number of pupils in average daily membership at the
192 short-term kindergarten shall be counted for the purpose of determining the number of units
193 allowed in the same ratio as the number of days the short-term kindergarten is held, not
194 exceeding nine weeks, compared to the total number of days schools are held in that district in
195 the regular school year.

196 (3) (a) The State Board of Education shall use prior year plus growth to determine
197 average daily membership in distributing money under the minimum school program where the
198 distribution is based on kindergarten through grade 12 ADMs or weighted pupil units.

199 (b) Under prior year plus growth, kindergarten through grade 12 average daily
200 membership for the current year is based on the actual kindergarten through grade 12 average
201 daily membership for the previous year plus an estimated percentage growth factor.

202 (c) The growth factor is the percentage increase in total average daily membership on
203 the first school day of October in the current year as compared to the total average daily
204 membership on the first school day of October of the previous year.

205 Section 5. Section **53A-17a-111** is amended to read:

206 **53A-17a-111. Weighted pupil units for programs for students with disabilities --**
207 **District allocation.**

208 (1) The number of weighted pupil units for students with disabilities shall reflect the
209 direct cost of programs for those students conducted in accordance with rules established by the
210 State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative
211 Rulemaking Act.

212 (2) Disability program money allocated to districts is restricted and shall be spent for
213 the education of students with disabilities but may include expenditures for approved programs
214 of services conducted for certified instructional personnel who have students with disabilities
215 in their classes.

216 (3) The State Board of Education shall establish and strictly interpret definitions and
217 provide standards for determining which students have disabilities and shall assist districts in
218 determining the services that should be provided to students with disabilities.

219 (4) Each year the board shall evaluate the standards and guidelines that establish the
220 identifying criteria for disability classifications to assure strict compliance with those standards
221 by the districts.

222 (5) (a) Money appropriated to the State Board of Education for add-on WPU's for
223 students with disabilities enrolled in regular programs shall be allocated to school districts as
224 provided in this Subsection (5).

225 (b) Beginning on July 1, 2003, the State Board of Education shall:

226 (i) use a district's average number of special education add-on weighted pupil units
227 determined by the previous five year's average daily membership data as a foundation for the
228 special education add-on appropriation; and

229 (ii) implement a hold harmless provision for up to three years as needed to accomplish
230 a phase-in period for school districts to accommodate the change in the special education
231 add-on WPU's foundation formula.

232 (c) A district's special education add-on WPU's for the current year may not be less than
233 the foundation special education add-on WPU's.

234 (d) Growth WPU's shall be added to the prior year special education add-on WPU's, and
235 growth WPU's shall be determined as follows:

236 (i) The special education student growth factor is calculated by comparing S-3 total
237 special education ADM of two years previous to the current year to the S-3 total special
238 education ADM three years previous to the current year, not to exceed the official October total
239 district growth factor from the prior year.

240 (ii) When calculating and applying the growth factor, a district's S-3 total special
241 education ADM for a given year is limited to 12.18% of the district's S-3 total student ADM
242 for the same year.

243 (iii) Growth ADMs are calculated by applying the growth factor to the S-3 total special
244 education ADM of two years previous to the current year.

245 (iv) Growth ADMs for each district are multiplied by 1.53 weighted pupil units and
246 added to the prior year special education add-on WPU to determine each district's total
247 allocation.

248 (6) If money appropriated under this chapter for programs for students with disabilities
249 does not meet the costs of districts for those programs, each district shall first receive the
250 amount generated for each student with a disability under the basic program.

251 (7) The number of weighted pupil units for students with a disability in self-contained
252 classes is computed by multiplying the average daily membership of students with a disability
253 in self-contained classes by 1.16984.

254 Section 6. Section **53A-17a-135** is amended to read:

255 **53A-17a-135. Minimum basic tax rate -- Certified revenue levy.**

256 (1) (a) In order to qualify for receipt of the state contribution toward the basic program
257 and as its contribution toward its costs of the basic program, each school district shall impose a
258 minimum basic tax rate per dollar of taxable value that generates [~~\$294,092,000~~] \$296,709,700
259 in revenues statewide.

260 (b) The preliminary estimate for the [~~2013-14~~] 2014-15 minimum basic tax rate is
261 [~~.001691~~] .001477.

262 (c) The State Tax Commission shall certify on or before June 22 the rate that generates
263 [~~\$294,092,000~~] \$296,709,700 in revenues statewide.

264 (d) If the minimum basic tax rate exceeds the certified revenue levy as defined in
265 Section **53A-17a-103**, the state is subject to the notice requirements of Section **59-2-926**.

266 (2) (a) The state shall contribute to each district toward the cost of the basic program in
267 the district that portion which exceeds the proceeds of the levy authorized under Subsection
268 (1).

269 (b) In accord with the state strategic plan for public education and to fulfill its
270 responsibility for the development and implementation of that plan, the Legislature instructs
271 the State Board of Education, the governor, and the Office of Legislative Fiscal Analyst in each
272 of the coming five years to develop budgets that will fully fund student enrollment growth.

273 (3) (a) If the proceeds of the levy authorized under Subsection (1) equal or exceed the

274 cost of the basic program in a school district, no state contribution shall be made to the basic
275 program.

276 (b) The proceeds of the levy authorized under Subsection (1) which exceed the cost of
277 the basic program shall be paid into the Uniform School Fund as provided by law.

278 Section 7. Section **53A-17a-146** is amended to read:

279 **53A-17a-146. Reduction of district allocation based on insufficient revenues.**

280 (1) As used in this section, "Minimum School Program funds" means the total of state
281 and local funds appropriated for the Minimum School Program, excluding:

282 (a) the state-supported voted local levy program pursuant to Section [53A-17a-133](#);

283 (b) the state-supported board local levy program pursuant to Section [53A-17a-164](#); and

284 (c) the appropriation to charter schools to replace local property tax revenues pursuant
285 to Section [53A-1a-513](#).

286 (2) If the Legislature reduces appropriations made to support public schools under this
287 chapter because an Education Fund budget deficit, as defined in Section [63J-1-312](#), exists, the
288 State Board of Education, after consultation with each school district and charter school, shall
289 allocate the reduction among school districts and charter schools in proportion to each school
290 district's or charter school's percentage share of Minimum School Program funds.

291 (3) Except as provided in Subsection (5) and subject to the requirements of Subsection
292 (7), a school district or charter school shall determine which programs are affected by a
293 reduction pursuant to Subsection (2) and the amount each program is reduced.

294 (4) Except as provided in Subsections (5) and (6), the requirement to spend a specified
295 amount in any particular program is waived if reductions are made pursuant to Subsection (2).

296 (5) A school district or charter school may not reduce or reallocate spending of funds
297 distributed to the school district or charter school for the following programs:

298 [~~(a) educator salary adjustments provided in Section [53A-17a-153](#);~~]

299 [~~(b) the Teacher Salary Supplement Program provided in Section [53A-17a-156](#);~~]

300 [~~(c)~~] (a) the extended year for special educators provided in Section [53A-17a-158](#);

301 [~~(d) USTAR centers provided in Section [53A-17a-159](#);~~]

302 [~~(e)~~] (b) the School LAND Trust Program created in Section [53A-16-101.5](#); or

303 [~~(f)~~] (c) a special education program within the Basic School Program.

304 (6) A school district or charter school may not reallocate spending of funds distributed

305 to the school district or charter school to a reserve account.

306 (7) A school district or charter school that reduces or reallocates funds in accordance
307 with this section shall report all transfers into, or out of, Minimum School Program programs
308 to the State Board of Education as part of the school district or charter school's Annual
309 Financial and Program report.

310 Section 8. Section **53A-17a-167** is amended to read:

311 **53A-17a-167. Early intervention program -- Enhanced kindergarten program --**
312 **Educational technology.**

313 (1) The State Board of Education shall, as described in Subsection (4), distribute funds
314 appropriated under this section for an enhanced kindergarten program described in Subsection
315 (2), to school districts and charter schools that apply for the funds.

316 (2) A school district or charter school shall use funds appropriated in this section to
317 offer an early intervention program, delivered through an enhanced kindergarten program that:

318 (a) is an academic program focused on building age-appropriate literacy and numeracy
319 skills;

320 (b) uses an evidence-based early intervention model;

321 (c) is targeted to at-risk students; and

322 (d) is delivered through additional hours or other means.

323 (3) A school district or charter school may not require a student to participate in an
324 enhanced kindergarten program described in Subsection (2).

325 (4) The State Board of Education shall distribute funds appropriated under this section
326 for an enhanced kindergarten program described in Subsection (2) as follows:

327 (a) (i) the total allocation for charter schools shall be calculated by:

328 (A) dividing the number of charter school students by the total number of students in
329 the public education system in the prior school year; and

330 (B) multiplying the resulting percentage by the total amount of available funds; and

331 (ii) the amount calculated under Subsection (4)(a) shall be distributed to charter
332 schools with the greatest need for an enhanced kindergarten program, as determined by the
333 State Board of Education in consultation with the State Charter School Board;

334 (b) each school district shall receive the amount calculated by:

335 (i) multiplying the value of the weighted pupil unit by 0.45; and

336 (ii) multiplying the result by 20; and
337 (c) the remaining funds, after the allocations described in Subsections (4)(a) and (4)(b)
338 are made, shall be distributed to applicant school districts by:

339 (i) determining the number of students eligible to receive free lunch in the prior school
340 year for each school district; and

341 (ii) prorating the remaining funds based on the number of students eligible to receive
342 free lunch in each district.

343 ~~[(5) In addition to an enhanced kindergarten program described in Subsection (2), the~~
344 ~~early intervention program includes a component to address early intervention through the use~~
345 ~~of an interactive computer software program.]~~

346 ~~[(6) (a) Subject to legislative appropriations, by September 1 of each year, the State~~
347 ~~Board of Education shall select one or more technology providers, through a request for~~
348 ~~proposals process, to provide an interactive computer software program for literacy instruction~~
349 ~~and assessments for students in kindergarten through grade 3.]~~

350 ~~[(b) The State Board of Education shall distribute licenses for an interactive computer~~
351 ~~software program described in Subsection (6)(a) to school districts and charter schools that~~
352 ~~apply for the licenses.]~~

353 ~~[(c) A school district or charter school that received a license described in Subsection~~
354 ~~(6)(b) during the prior year shall be given first priority to receive an equivalent license during~~
355 ~~the current year.]~~

356 ~~[(d) Licenses distributed to school districts and charter schools in addition to the~~
357 ~~licenses described in Subsection (6)(c) shall be distributed through a competitive process.]~~

358 ~~[(7) On or before November 1, 2013, and every year thereafter, the State Board of~~
359 ~~Education shall report final testing data regarding an interactive computer software program~~
360 ~~described in Subsection (6), including student learning gains as a result of the interactive~~
361 ~~computer software program, to:]~~

362 ~~[(a) the Education Interim Committee; and]~~

363 ~~[(b) the governor.]~~

364 Section 9. Section **53A-25b-402** is amended to read:

365 **53A-25b-402. Annual salary adjustments for educators.**

366 (1) Subject to future budget constraints, the Legislature shall annually appropriate

367 money to the board for the salary adjustments described in this section, including step and lane
368 changes.

369 (2) The board shall include in its annual budget request for the Utah Schools for the
370 Deaf and the Blind an amount of money sufficient to adjust educators' salaries as described in
371 Subsection (3) and fund step and lane changes.

372 (3) ~~[(a)]~~ The board shall determine the salary adjustment specified in Subsection (2)
373 by:

374 ~~[(i)]~~ (a) calculating a weighted average salary adjustment for nonadministrative
375 licensed staff adopted by the school districts of the state, with the average weighted by the
376 number of teachers in each school district; and

377 ~~[(ii)]~~ (b) increasing the weighted average salary adjustment by 10% in any year in
378 which teachers of the Utah Schools for the Deaf and the Blind are not ranked in the top 10 in
379 20-year earnings when compared to earnings of teachers in the school districts of the state.

380 ~~[(b) In calculating a weighted average salary adjustment for nonadministrative licensed
381 staff adopted by the school districts of the state under Subsection (3)(a), the board shall exclude
382 educator salary adjustments provided pursuant to Section 53A-17a-153.]~~

383 (4) From money appropriated to the board for salary adjustments, the board shall adjust
384 the salary schedule applicable to educators at the school each year.

385 Section 10. Section **59-12-102 (Effective 07/01/14)** is amended to read:

386 **59-12-102 (Effective 07/01/14). Definitions.**

387 As used in this chapter:

388 (1) "800 service" means a telecommunications service that:

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

390 (b) is typically marketed:

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

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

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

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

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

396 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

397 Federal Communications Commission.

- 398 (2) (a) "900 service" means an inbound toll telecommunications service that:
399 (i) a subscriber purchases;
400 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
401 the subscriber's:
402 (A) prerecorded announcement; or
403 (B) live service; and
404 (iii) is typically marketed:
405 (A) under the name 900 service; or
406 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
407 Communications Commission.
408 (b) "900 service" does not include a charge for:
409 (i) a collection service a seller of a telecommunications service provides to a
410 subscriber; or
411 (ii) the following a subscriber sells to the subscriber's customer:
412 (A) a product; or
413 (B) a service.
414 (3) (a) "Admission or user fees" includes season passes.
415 (b) "Admission or user fees" does not include annual membership dues to private
416 organizations.
417 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
418 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
419 Agreement after November 12, 2002.
420 (5) "Agreement combined tax rate" means the sum of the tax rates:
421 (a) listed under Subsection (6); and
422 (b) that are imposed within a local taxing jurisdiction.
423 (6) "Agreement sales and use tax" means a tax imposed under:
424 (a) Subsection 59-12-103(2)(a)(i)(A);
425 (b) Subsection 59-12-103(2)(b)(i);
426 (c) Subsection 59-12-103(2)(c)(i);
427 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
428 (e) Section 59-12-204;

- 429 (f) Section 59-12-401;
- 430 (g) Section 59-12-402;
- 431 (h) Section 59-12-703;
- 432 (i) Section 59-12-802;
- 433 (j) Section 59-12-804;
- 434 (k) Section 59-12-1102;
- 435 (l) Section 59-12-1302;
- 436 (m) Section 59-12-1402;
- 437 (n) Section 59-12-1802;
- 438 (o) Section 59-12-2003;
- 439 (p) Section 59-12-2103;
- 440 (q) Section 59-12-2213;
- 441 (r) Section 59-12-2214;
- 442 (s) Section 59-12-2215;
- 443 (t) Section 59-12-2216;
- 444 (u) Section 59-12-2217; or
- 445 (v) Section 59-12-2218.
- 446 (7) "Aircraft" is as defined in Section 72-10-102.
- 447 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 448 (a) except for:
- 449 (i) an airline as defined in Section 59-2-102; or
- 450 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 451 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 452 state, of an airline; and
- 453 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 454 whether the business entity performs the following in this state:
- 455 (i) check, diagnose, overhaul, and repair:
- 456 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 457 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 458 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 459 engine;

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

- 462 (A) an inspection;
- 463 (B) a repair, including a structural repair or modification;
- 464 (C) changing landing gear; and
- 465 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 466 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
467 completely apply new paint to the fixed wing turbine powered aircraft; and
- 468 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
469 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
470 authority that certifies the fixed wing turbine powered aircraft.

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

- 472 (a) is suitable for human consumption; and
- 473 (b) contains .5% or more alcohol by volume.

474 (10) "Alternative energy" means:

- 475 (a) biomass energy;
- 476 (b) geothermal energy;
- 477 (c) hydroelectric energy;
- 478 (d) solar energy;
- 479 (e) wind energy; or
- 480 (f) energy that is derived from:
 - 481 (i) coal-to-liquids;
 - 482 (ii) nuclear fuel;
 - 483 (iii) oil-impregnated diatomaceous earth;
 - 484 (iv) oil sands;
 - 485 (v) oil shale; or
 - 486 (vi) petroleum coke.

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

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

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

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

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

497 (b) "Ancillary service" includes:

- 498 (i) a conference bridging service;
- 499 (ii) a detailed communications billing service;
- 500 (iii) directory assistance;
- 501 (iv) a vertical service; or
- 502 (v) a voice mail service.

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

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

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

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

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

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

515 (b) at the direction of the seller of the cleaning or washing of the tangible personal
516 property.

517 (16) "Authorized carrier" means:

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

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

522 certificate or air carrier's operating certificate; or

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

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

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

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

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

530 (B) animal waste;

531 (C) methane produced:

532 (I) at landfills; or

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

534 (D) aquatic plants; and

535 (E) agricultural products.

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

537 (i) black liquor;

538 (ii) treated woods; or

539 (iii) biomass from municipal solid waste other than methane produced:

540 (A) at landfills; or

541 (B) as a byproduct of the treatment of wastewater residuals.

542 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
543 property, products, or services if the tangible personal property, products, or services are:

544 (i) distinct and identifiable; and

545 (ii) sold for one nonitemized price.

546 (b) "Bundled transaction" does not include:

547 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on

548 the basis of the selection by the purchaser of the items of tangible personal property included in
549 the transaction;

550 (ii) the sale of real property;

551 (iii) the sale of services to real property;

552 (iv) the retail sale of tangible personal property and a service if:

- 553 (A) the tangible personal property:
- 554 (I) is essential to the use of the service; and
- 555 (II) is provided exclusively in connection with the service; and
- 556 (B) the service is the true object of the transaction;
- 557 (v) the retail sale of two services if:
- 558 (A) one service is provided that is essential to the use or receipt of a second service;
- 559 (B) the first service is provided exclusively in connection with the second service; and
- 560 (C) the second service is the true object of the transaction;
- 561 (vi) a transaction that includes tangible personal property or a product subject to
- 562 taxation under this chapter and tangible personal property or a product that is not subject to
- 563 taxation under this chapter if the:
- 564 (A) seller's purchase price of the tangible personal property or product subject to
- 565 taxation under this chapter is de minimis; or
- 566 (B) seller's sales price of the tangible personal property or product subject to taxation
- 567 under this chapter is de minimis; and
- 568 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 569 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 570 (A) that retail sale includes:
- 571 (I) food and food ingredients;
- 572 (II) a drug;
- 573 (III) durable medical equipment;
- 574 (IV) mobility enhancing equipment;
- 575 (V) an over-the-counter drug;
- 576 (VI) a prosthetic device; or
- 577 (VII) a medical supply; and
- 578 (B) subject to Subsection (18)(f):
- 579 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 580 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 581 (II) the seller's sales price of the tangible personal property subject to taxation under
- 582 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 583 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a

584 service that is distinct and identifiable does not include:

585 (A) packaging that:

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

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

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

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

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

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

602 (A) a binding sales document; or

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

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

606 (A) a bill of sale;

607 (B) a contract;

608 (C) an invoice;

609 (D) a lease agreement;

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

611 (F) a price list;

612 (G) a rate card;

613 (H) a receipt; or

614 (I) a service agreement.

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

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

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

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

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

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

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

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

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

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

638 (i) on a transaction; and

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

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

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

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

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

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

646 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
647 own purchases.

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

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

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

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

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

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

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

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

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

667 (25) "Component part" includes:

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

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

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

673 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

697 (i) by a seller of:

698 (A) tangible personal property;

699 (B) a product transferred electronically; or

700 (C) services; and

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

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

705 (i) transportation;

706 (ii) shipping;

707 (iii) postage;

- 708 (iv) handling;
- 709 (v) crating; or
- 710 (vi) packing.
- 711 (33) "Detailed telecommunications billing service" means an ancillary service of
- 712 separately stating information pertaining to individual calls on a customer's billing statement.
- 713 (34) "Dietary supplement" means a product, other than tobacco, that:
- 714 (a) is intended to supplement the diet;
- 715 (b) contains one or more of the following dietary ingredients:
- 716 (i) a vitamin;
- 717 (ii) a mineral;
- 718 (iii) an herb or other botanical;
- 719 (iv) an amino acid;
- 720 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 721 dietary intake; or
- 722 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 723 described in Subsections (34)(b)(i) through (v);
- 724 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 725 (A) tablet form;
- 726 (B) capsule form;
- 727 (C) powder form;
- 728 (D) softgel form;
- 729 (E) gelcap form; or
- 730 (F) liquid form; or
- 731 (ii) if the product is not intended for ingestion in a form described in Subsections
- 732 (34)(c)(i)(A) through (F), is not represented:
- 733 (A) as conventional food; and
- 734 (B) for use as a sole item of:
- 735 (I) a meal; or
- 736 (II) the diet; and
- 737 (d) is required to be labeled as a dietary supplement:
- 738 (i) identifiable by the "Supplemental Facts" box found on the label; and

739 (ii) as required by 21 C.F.R. Sec. 101.36.

740 (35) (a) "Digital audio work" means a work that results from the fixation of a series of
741 musical, spoken, or other sounds.

742 (b) "Digital audio work" includes a ringtone.

743 (36) "Digital audio-visual work" means a series of related images which, when shown
744 in succession, imparts an impression of motion, together with accompanying sounds, if any.

745 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
746 sense as a book.

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

749 (i) to:

750 (A) a mass audience; or

751 (B) addressees on a mailing list provided:

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

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

754 (ii) if the cost of the printed material is not billed directly to the recipients.

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

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

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

760 (a) address information; or

761 (b) telephone number information.

762 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
763 or supplies that:

764 (i) cannot withstand repeated use; and

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

766 (A) a health care facility as defined in Section [26-21-2](#);

767 (B) a health care provider as defined in Section [78B-3-403](#);

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

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

- 770 (b) "Disposable home medical equipment or supplies" does not include:
- 771 (i) a drug;
- 772 (ii) durable medical equipment;
- 773 (iii) a hearing aid;
- 774 (iv) a hearing aid accessory;
- 775 (v) mobility enhancing equipment; or
- 776 (vi) tangible personal property used to correct impaired vision, including:
- 777 (A) eyeglasses; or
- 778 (B) contact lenses.
- 779 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 780 commission may by rule define what constitutes medical equipment or supplies.
- 781 (41) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 782 compound, substance, or preparation that is:
- 783 (i) recognized in:
- 784 (A) the official United States Pharmacopoeia;
- 785 (B) the official Homeopathic Pharmacopoeia of the United States;
- 786 (C) the official National Formulary; or
- 787 (D) a supplement to a publication listed in Subsections (41)(a)(i)(A) through (C);
- 788 (ii) intended for use in the:
- 789 (A) diagnosis of disease;
- 790 (B) cure of disease;
- 791 (C) mitigation of disease;
- 792 (D) treatment of disease; or
- 793 (E) prevention of disease; or
- 794 (iii) intended to affect:
- 795 (A) the structure of the body; or
- 796 (B) any function of the body.
- 797 (b) "Drug" does not include:
- 798 (i) food and food ingredients;
- 799 (ii) a dietary supplement;
- 800 (iii) an alcoholic beverage; or

- 801 (iv) a prosthetic device.
- 802 (42) (a) Except as provided in Subsection (42)(c), "durable medical equipment" means
- 803 equipment that:
 - 804 (i) can withstand repeated use;
 - 805 (ii) is primarily and customarily used to serve a medical purpose;
 - 806 (iii) generally is not useful to a person in the absence of illness or injury; and
 - 807 (iv) is not worn in or on the body.
- 808 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 809 equipment described in Subsection (42)(a).
- 810 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 811 (43) "Electronic" means:
 - 812 (a) relating to technology; and
 - 813 (b) having:
 - 814 (i) electrical capabilities;
 - 815 (ii) digital capabilities;
 - 816 (iii) magnetic capabilities;
 - 817 (iv) wireless capabilities;
 - 818 (v) optical capabilities;
 - 819 (vi) electromagnetic capabilities; or
 - 820 (vii) capabilities similar to Subsections (43)(b)(i) through (vi).
- 821 (44) "Electronic financial payment service" means an establishment:
 - 822 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
 - 823 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
 - 824 federal Executive Office of the President, Office of Management and Budget; and
 - 825 (b) that performs electronic financial payment services.
- 826 (45) "Employee" is as defined in Section [59-10-401](#).
- 827 (46) "Fixed guideway" means a public transit facility that uses and occupies:
 - 828 (a) rail for the use of public transit; or
 - 829 (b) a separate right-of-way for the use of public transit.
- 830 (47) "Fixed wing turbine powered aircraft" means an aircraft that:
 - 831 (a) is powered by turbine engines;

- 832 (b) operates on jet fuel; and
- 833 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 834 (48) "Fixed wireless service" means a telecommunications service that provides radio
- 835 communication between fixed points.
- 836 (49) (a) "Food and food ingredients" means substances:
- 837 (i) regardless of whether the substances are in:
- 838 (A) liquid form;
- 839 (B) concentrated form;
- 840 (C) solid form;
- 841 (D) frozen form;
- 842 (E) dried form; or
- 843 (F) dehydrated form; and
- 844 (ii) that are:
- 845 (A) sold for:
- 846 (I) ingestion by humans; or
- 847 (II) chewing by humans; and
- 848 (B) consumed for the substance's:
- 849 (I) taste; or
- 850 (II) nutritional value.
- 851 (b) "Food and food ingredients" includes an item described in Subsection (90)(b)(iii).
- 852 (c) "Food and food ingredients" does not include:
- 853 (i) an alcoholic beverage;
- 854 (ii) tobacco; or
- 855 (iii) prepared food.
- 856 (50) (a) "Fundraising sales" means sales:
- 857 (i) (A) made by a school; or
- 858 (B) made by a school student;
- 859 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 860 materials, or provide transportation; and
- 861 (iii) that are part of an officially sanctioned school activity.
- 862 (b) For purposes of Subsection (50)(a)(iii), "officially sanctioned school activity"

863 means a school activity:

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

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

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

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

872 (52) "Governing board of the agreement" means the governing board of the agreement
873 that is:

874 (a) authorized to administer the agreement; and

875 (b) established in accordance with the agreement.

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

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

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

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

885 (iv) the National Guard;

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

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

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

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

891 (ii) a school;

892 (iii) the State Board of Education;

893 (iv) the State Board of Regents; or

894 (v) an institution of higher education.

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

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

899 (a) in mining or extraction of minerals;

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

902 (i) commercial greenhouses;

903 (ii) irrigation pumps;

904 (iii) farm machinery;

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

907 (v) other farming activities;

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

911 (d) by a scrap recycler if:

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

915 (A) iron;

916 (B) steel;

917 (C) nonferrous metal;

918 (D) paper;

919 (E) glass;

920 (F) plastic;

921 (G) textile; or

922 (H) rubber; and

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

925 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
926 cogeneration facility as defined in Section 54-2-1.

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

929 (i) tangible personal property; or

930 (ii) a product transferred electronically.

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

932 (i) repairs or renovations of:

933 (A) tangible personal property; or

934 (B) a product transferred electronically; or

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

936 (A) to other tangible personal property; and

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

938 (57) "Institution of higher education" means an institution of higher education listed in
939 Section 53B-2-101.

940 (58) (a) "Lease" or "rental" means a transfer of possession or control of tangible
941 personal property or a product transferred electronically for:

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

943 (B) an indeterminate term; and

944 (ii) consideration.

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

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

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

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

955 (A) upon completion of required payments; and

956 (B) if the payment of an option price does not exceed the greater of:
957 (I) \$100; or
958 (II) 1% of the total required payments; or
959 (iii) providing tangible personal property along with an operator for a fixed period of
960 time or an indeterminate period of time if the operator is necessary for equipment to perform as
961 designed.

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

- 964 (i) set-up of tangible personal property;
- 965 (ii) maintenance of tangible personal property; or
- 966 (iii) inspection of tangible personal property.

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

- 970 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 971 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
972 Manufacturing; or
- 973 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

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

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

979 (62) "Local taxing jurisdiction" means a:

- 980 (a) county that is authorized to impose an agreement sales and use tax;
- 981 (b) city that is authorized to impose an agreement sales and use tax; or
- 982 (c) town that is authorized to impose an agreement sales and use tax.

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

984 (64) For purposes of Section [59-12-104](#), "manufacturing facility" means:

- 985 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
986 Industrial Classification Manual of the federal Executive Office of the President, Office of

987 Management and Budget;

988 (b) a scrap recycler if:

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

992 (A) iron;

993 (B) steel;

994 (C) nonferrous metal;

995 (D) paper;

996 (E) glass;

997 (F) plastic;

998 (G) textile; or

999 (H) rubber; and

1000 (ii) the new products under Subsection (64)(b)(i) would otherwise be made with
1001 nonrecycled materials; or

1002 (c) a cogeneration facility as defined in Section [54-2-1](#).

1003 (65) "Member of the immediate family of the producer" means a person who is related
1004 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:

1005 (a) child or stepchild, regardless of whether the child or stepchild is:

1006 (i) an adopted child or adopted stepchild; or

1007 (ii) a foster child or foster stepchild;

1008 (b) grandchild or stepgrandchild;

1009 (c) grandparent or stepgrandparent;

1010 (d) nephew or stepnephew;

1011 (e) niece or stepniece;

1012 (f) parent or stepparent;

1013 (g) sibling or stepsibling;

1014 (h) spouse;

1015 (i) person who is the spouse of a person described in Subsections (65)(a) through (g);

1016 or

1017 (j) person similar to a person described in Subsections (65)(a) through (i) as

1018 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
1019 Administrative Rulemaking Act.

1020 (66) "Mobile home" is as defined in Section 15A-1-302.

1021 (67) "Mobile telecommunications service" is as defined in the Mobile
1022 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1023 (68) (a) "Mobile wireless service" means a telecommunications service, regardless of
1024 the technology used, if:

1025 (i) the origination point of the conveyance, routing, or transmission is not fixed;

1026 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

1027 (iii) the origination point described in Subsection (68)(a)(i) and the termination point
1028 described in Subsection (68)(a)(ii) are not fixed.

1029 (b) "Mobile wireless service" includes a telecommunications service that is provided
1030 by a commercial mobile radio service provider.

1031 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1032 commission may by rule define "commercial mobile radio service provider."

1033 (69) (a) Except as provided in Subsection (69)(c), "mobility enhancing equipment"
1034 means equipment that is:

1035 (i) primarily and customarily used to provide or increase the ability to move from one
1036 place to another;

1037 (ii) appropriate for use in a:

1038 (A) home; or

1039 (B) motor vehicle; and

1040 (iii) not generally used by persons with normal mobility.

1041 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
1042 the equipment described in Subsection (69)(a).

1043 (c) "Mobility enhancing equipment" does not include:

1044 (i) a motor vehicle;

1045 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
1046 vehicle manufacturer;

1047 (iii) durable medical equipment; or

1048 (iv) a prosthetic device.

1049 (70) "Model 1 seller" means a seller registered under the agreement that has selected a
1050 certified service provider as the seller's agent to perform all of the seller's sales and use tax
1051 functions for agreement sales and use taxes other than the seller's obligation under Section
1052 [59-12-124](#) to remit a tax on the seller's own purchases.

1053 (71) "Model 2 seller" means a seller registered under the agreement that:

1054 (a) except as provided in Subsection (71)(b), has selected a certified automated system
1055 to perform the seller's sales tax functions for agreement sales and use taxes; and

1056 (b) retains responsibility for remitting all of the sales tax:

1057 (i) collected by the seller; and

1058 (ii) to the appropriate local taxing jurisdiction.

1059 (72) (a) Subject to Subsection (72)(b), "model 3 seller" means a seller registered under
1060 the agreement that has:

1061 (i) sales in at least five states that are members of the agreement;

1062 (ii) total annual sales revenues of at least \$500,000,000;

1063 (iii) a proprietary system that calculates the amount of tax:

1064 (A) for an agreement sales and use tax; and

1065 (B) due to each local taxing jurisdiction; and

1066 (iv) entered into a performance agreement with the governing board of the agreement.

1067 (b) For purposes of Subsection (72)(a), "model 3 seller" includes an affiliated group of
1068 sellers using the same proprietary system.

1069 (73) "Model 4 seller" means a seller that is registered under the agreement and is not a
1070 model 1 seller, model 2 seller, or model 3 seller.

1071 (74) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

1072 (75) "Motor vehicle" is as defined in Section [41-1a-102](#).

1073 (76) "Oil sands" means impregnated bituminous sands that:

1074 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
1075 other hydrocarbons, or otherwise treated;

1076 (b) yield mixtures of liquid hydrocarbon; and

1077 (c) require further processing other than mechanical blending before becoming finished
1078 petroleum products.

1079 (77) "Oil shale" means a group of fine black to dark brown shales containing kerogen

1080 material that yields petroleum upon heating and distillation.

1081 (78) "Optional computer software maintenance contract" means a computer software
1082 maintenance contract that a customer is not obligated to purchase as a condition to the retail
1083 sale of computer software.

1084 (79) (a) "Other fuels" means products that burn independently to produce heat or
1085 energy.

1086 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
1087 personal property.

1088 (80) (a) "Paging service" means a telecommunications service that provides
1089 transmission of a coded radio signal for the purpose of activating a specific pager.

1090 (b) For purposes of Subsection (80)(a), the transmission of a coded radio signal
1091 includes a transmission by message or sound.

1092 (81) "Pawnbroker" is as defined in Section [13-32a-102](#).

1093 (82) "Pawn transaction" is as defined in Section [13-32a-102](#).

1094 (83) (a) "Permanently attached to real property" means that for tangible personal
1095 property attached to real property:

1096 (i) the attachment of the tangible personal property to the real property:

1097 (A) is essential to the use of the tangible personal property; and

1098 (B) suggests that the tangible personal property will remain attached to the real
1099 property in the same place over the useful life of the tangible personal property; or

1100 (ii) if the tangible personal property is detached from the real property, the detachment
1101 would:

1102 (A) cause substantial damage to the tangible personal property; or

1103 (B) require substantial alteration or repair of the real property to which the tangible
1104 personal property is attached.

1105 (b) "Permanently attached to real property" includes:

1106 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1107 (A) essential to the operation of the tangible personal property; and

1108 (B) attached only to facilitate the operation of the tangible personal property;

1109 (ii) a temporary detachment of tangible personal property from real property for a
1110 repair or renovation if the repair or renovation is performed where the tangible personal

1111 property and real property are located; or
1112 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
1113 Subsection (83)(c)(iii) or (iv).
1114 (c) "Permanently attached to real property" does not include:
1115 (i) the attachment of portable or movable tangible personal property to real property if
1116 that portable or movable tangible personal property is attached to real property only for:
1117 (A) convenience;
1118 (B) stability; or
1119 (C) for an obvious temporary purpose;
1120 (ii) the detachment of tangible personal property from real property except for the
1121 detachment described in Subsection (83)(b)(ii);
1122 (iii) an attachment of the following tangible personal property to real property if the
1123 attachment to real property is only through a line that supplies water, electricity, gas,
1124 telecommunications, cable, or supplies a similar item as determined by the commission by rule
1125 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
1126 (A) a computer;
1127 (B) a telephone;
1128 (C) a television; or
1129 (D) tangible personal property similar to Subsections (83)(c)(iii)(A) through (C) as
1130 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
1131 Administrative Rulemaking Act; or
1132 (iv) an item listed in Subsection (123)(c).
1133 (84) "Person" includes any individual, firm, partnership, joint venture, association,
1134 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
1135 municipality, district, or other local governmental entity of the state, or any group or
1136 combination acting as a unit.
1137 (85) "Place of primary use":
1138 (a) for telecommunications service other than mobile telecommunications service,
1139 means the street address representative of where the customer's use of the telecommunications
1140 service primarily occurs, which shall be:
1141 (i) the residential street address of the customer; or

- 1142 (ii) the primary business street address of the customer; or
1143 (b) for mobile telecommunications service, is as defined in the Mobile
1144 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 1145 (86) (a) "Postpaid calling service" means a telecommunications service a person
1146 obtains by making a payment on a call-by-call basis:
- 1147 (i) through the use of a:
- 1148 (A) bank card;
1149 (B) credit card;
1150 (C) debit card; or
1151 (D) travel card; or
- 1152 (ii) by a charge made to a telephone number that is not associated with the origination
1153 or termination of the telecommunications service.
- 1154 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
1155 service, that would be a prepaid wireless calling service if the service were exclusively a
1156 telecommunications service.
- 1157 (87) "Postproduction" means an activity related to the finishing or duplication of a
1158 medium described in Subsection [59-12-104\(54\)\(a\)](#).
- 1159 (88) "Prepaid calling service" means a telecommunications service:
- 1160 (a) that allows a purchaser access to telecommunications service that is exclusively
1161 telecommunications service;
- 1162 (b) that:
- 1163 (i) is paid for in advance; and
1164 (ii) enables the origination of a call using an:
- 1165 (A) access number; or
1166 (B) authorization code;
- 1167 (c) that is dialed:
- 1168 (i) manually; or
1169 (ii) electronically; and
1170 (d) sold in predetermined units or dollars that decline:
- 1171 (i) by a known amount; and
1172 (ii) with use.

- 1173 (89) "Prepaid wireless calling service" means a telecommunications service:
1174 (a) that provides the right to utilize:
1175 (i) mobile wireless service; and
1176 (ii) other service that is not a telecommunications service, including:
1177 (A) the download of a product transferred electronically;
1178 (B) a content service; or
1179 (C) an ancillary service;
1180 (b) that:
1181 (i) is paid for in advance; and
1182 (ii) enables the origination of a call using an:
1183 (A) access number; or
1184 (B) authorization code;
1185 (c) that is dialed:
1186 (i) manually; or
1187 (ii) electronically; and
1188 (d) sold in predetermined units or dollars that decline:
1189 (i) by a known amount; and
1190 (ii) with use.
1191 (90) (a) "Prepared food" means:
1192 (i) food:
1193 (A) sold in a heated state; or
1194 (B) heated by a seller;
1195 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
1196 item; or
1197 (iii) except as provided in Subsection (90)(c), food sold with an eating utensil provided
1198 by the seller, including a:
1199 (A) plate;
1200 (B) knife;
1201 (C) fork;
1202 (D) spoon;
1203 (E) glass;

- 1204 (F) cup;
- 1205 (G) napkin; or
- 1206 (H) straw.
- 1207 (b) "Prepared food" does not include:
- 1208 (i) food that a seller only:
- 1209 (A) cuts;
- 1210 (B) repackages; or
- 1211 (C) pasteurizes; or
- 1212 (ii) (A) the following:
- 1213 (I) raw egg;
- 1214 (II) raw fish;
- 1215 (III) raw meat;
- 1216 (IV) raw poultry; or
- 1217 (V) a food containing an item described in Subsections (90)(b)(ii)(A)(I) through (IV);
- 1218 and
- 1219 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1220 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1221 Subsection (90)(b)(ii)(A) to prevent food borne illness; or
- 1222 (iii) the following if sold without eating utensils provided by the seller:
- 1223 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1224 classification under the 2002 North American Industry Classification System of the federal
- 1225 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1226 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1227 Manufacturing;
- 1228 (B) food and food ingredients sold in an unheated state:
- 1229 (I) by weight or volume; and
- 1230 (II) as a single item; or
- 1231 (C) a bakery item, including:
- 1232 (I) a bagel;
- 1233 (II) a bar;
- 1234 (III) a biscuit;

- 1235 (IV) bread;
- 1236 (V) a bun;
- 1237 (VI) a cake;
- 1238 (VII) a cookie;
- 1239 (VIII) a croissant;
- 1240 (IX) a danish;
- 1241 (X) a donut;
- 1242 (XI) a muffin;
- 1243 (XII) a pastry;
- 1244 (XIII) a pie;
- 1245 (XIV) a roll;
- 1246 (XV) a tart;
- 1247 (XVI) a torte; or
- 1248 (XVII) a tortilla.
- 1249 (c) An eating utensil provided by the seller does not include the following used to
- 1250 transport the food:
 - 1251 (i) a container; or
 - 1252 (ii) packaging.
- 1253 (91) "Prescription" means an order, formula, or recipe that is issued:
 - 1254 (a) (i) orally;
 - 1255 (ii) in writing;
 - 1256 (iii) electronically; or
 - 1257 (iv) by any other manner of transmission; and
 - 1258 (b) by a licensed practitioner authorized by the laws of a state.
- 1259 (92) (a) Except as provided in Subsection (92)(b)(ii) or (iii), "prewritten computer
- 1260 software" means computer software that is not designed and developed:
 - 1261 (i) by the author or other creator of the computer software; and
 - 1262 (ii) to the specifications of a specific purchaser.
 - 1263 (b) "Prewritten computer software" includes:
 - 1264 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
 - 1265 software is not designed and developed:

- 1266 (A) by the author or other creator of the computer software; and
1267 (B) to the specifications of a specific purchaser;
1268 (ii) computer software designed and developed by the author or other creator of the
1269 computer software to the specifications of a specific purchaser if the computer software is sold
1270 to a person other than the purchaser; or
1271 (iii) except as provided in Subsection (92)(c), prewritten computer software or a
1272 prewritten portion of prewritten computer software:
1273 (A) that is modified or enhanced to any degree; and
1274 (B) if the modification or enhancement described in Subsection (92)(b)(iii)(A) is
1275 designed and developed to the specifications of a specific purchaser.
1276 (c) "Prewritten computer software" does not include a modification or enhancement
1277 described in Subsection (92)(b)(iii) if the charges for the modification or enhancement are:
1278 (i) reasonable; and
1279 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
1280 invoice or other statement of price provided to the purchaser at the time of sale or later, as
1281 demonstrated by:
1282 (A) the books and records the seller keeps at the time of the transaction in the regular
1283 course of business, including books and records the seller keeps at the time of the transaction in
1284 the regular course of business for nontax purposes;
1285 (B) a preponderance of the facts and circumstances at the time of the transaction; and
1286 (C) the understanding of all of the parties to the transaction.
1287 (93) (a) "Private communication service" means a telecommunications service:
1288 (i) that entitles a customer to exclusive or priority use of one or more communications
1289 channels between or among termination points; and
1290 (ii) regardless of the manner in which the one or more communications channels are
1291 connected.
1292 (b) "Private communications service" includes the following provided in connection
1293 with the use of one or more communications channels:
1294 (i) an extension line;
1295 (ii) a station;
1296 (iii) switching capacity; or

1297 (iv) another associated service that is provided in connection with the use of one or
1298 more communications channels as defined in Section 59-12-215.

1299 (94) (a) Except as provided in Subsection (94)(b), "product transferred electronically"
1300 means a product transferred electronically that would be subject to a tax under this chapter if
1301 that product was transferred in a manner other than electronically.

1302 (b) "Product transferred electronically" does not include:

1303 (i) an ancillary service;

1304 (ii) computer software; or

1305 (iii) a telecommunications service.

1306 (95) (a) "Prosthetic device" means a device that is worn on or in the body to:

1307 (i) artificially replace a missing portion of the body;

1308 (ii) prevent or correct a physical deformity or physical malfunction; or

1309 (iii) support a weak or deformed portion of the body.

1310 (b) "Prosthetic device" includes:

1311 (i) parts used in the repairs or renovation of a prosthetic device;

1312 (ii) replacement parts for a prosthetic device;

1313 (iii) a dental prosthesis; or

1314 (iv) a hearing aid.

1315 (c) "Prosthetic device" does not include:

1316 (i) corrective eyeglasses; or

1317 (ii) contact lenses.

1318 (96) (a) "Protective equipment" means an item:

1319 (i) for human wear; and

1320 (ii) that is:

1321 (A) designed as protection:

1322 (I) to the wearer against injury or disease; or

1323 (II) against damage or injury of other persons or property; and

1324 (B) not suitable for general use.

1325 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1326 commission shall make rules:

1327 (i) listing the items that constitute "protective equipment"; and

1328 (ii) that are consistent with the list of items that constitute "protective equipment"
1329 under the agreement.

1330 (97) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
1331 printed matter, other than a photocopy:

1332 (i) regardless of:

1333 (A) characteristics;

1334 (B) copyright;

1335 (C) form;

1336 (D) format;

1337 (E) method of reproduction; or

1338 (F) source; and

1339 (ii) made available in printed or electronic format.

1340 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1341 commission may by rule define the term "photocopy."

1342 (98) (a) "Purchase price" and "sales price" mean the total amount of consideration:

1343 (i) valued in money; and

1344 (ii) for which tangible personal property, a product transferred electronically, or
1345 services are:

1346 (A) sold;

1347 (B) leased; or

1348 (C) rented.

1349 (b) "Purchase price" and "sales price" include:

1350 (i) the seller's cost of the tangible personal property, a product transferred
1351 electronically, or services sold;

1352 (ii) expenses of the seller, including:

1353 (A) the cost of materials used;

1354 (B) a labor cost;

1355 (C) a service cost;

1356 (D) interest;

1357 (E) a loss;

1358 (F) the cost of transportation to the seller; or

- 1359 (G) a tax imposed on the seller;
- 1360 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1361 (iv) consideration a seller receives from a person other than the purchaser if:
- 1362 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 1363 and
- 1364 (II) the consideration described in Subsection (98)(b)(iv)(A)(I) is directly related to a
- 1365 price reduction or discount on the sale;
- 1366 (B) the seller has an obligation to pass the price reduction or discount through to the
- 1367 purchaser;
- 1368 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 1369 the seller at the time of the sale to the purchaser; and
- 1370 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 1371 seller to claim a price reduction or discount; and
- 1372 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 1373 coupon, or other documentation with the understanding that the person other than the seller
- 1374 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 1375 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 1376 organization allowed a price reduction or discount, except that a preferred customer card that is
- 1377 available to any patron of a seller does not constitute membership in a group or organization
- 1378 allowed a price reduction or discount; or
- 1379 (III) the price reduction or discount is identified as a third party price reduction or
- 1380 discount on the:
- 1381 (Aa) invoice the purchaser receives; or
- 1382 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1383 (c) "Purchase price" and "sales price" do not include:
- 1384 (i) a discount:
- 1385 (A) in a form including:
- 1386 (I) cash;
- 1387 (II) term; or
- 1388 (III) coupon;
- 1389 (B) that is allowed by a seller;

1390 (C) taken by a purchaser on a sale; and
1391 (D) that is not reimbursed by a third party; or
1392 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
1393 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
1394 sale or later, as demonstrated by the books and records the seller keeps at the time of the
1395 transaction in the regular course of business, including books and records the seller keeps at the
1396 time of the transaction in the regular course of business for nontax purposes, by a
1397 preponderance of the facts and circumstances at the time of the transaction, and by the
1398 understanding of all of the parties to the transaction:
1399 (A) the following from credit extended on the sale of tangible personal property or
1400 services:
1401 (I) a carrying charge;
1402 (II) a financing charge; or
1403 (III) an interest charge;
1404 (B) a delivery charge;
1405 (C) an installation charge;
1406 (D) a manufacturer rebate on a motor vehicle; or
1407 (E) a tax or fee legally imposed directly on the consumer.
1408 (99) "Purchaser" means a person to whom:
1409 (a) a sale of tangible personal property is made;
1410 (b) a product is transferred electronically; or
1411 (c) a service is furnished.
1412 (100) "Regularly rented" means:
1413 (a) rented to a guest for value three or more times during a calendar year; or
1414 (b) advertised or held out to the public as a place that is regularly rented to guests for
1415 value.
1416 (101) "Rental" is as defined in Subsection (58).
1417 (102) (a) Except as provided in Subsection (102)(b), "repairs or renovations of tangible
1418 personal property" means:
1419 (i) a repair or renovation of tangible personal property that is not permanently attached
1420 to real property; or

1421 (ii) attaching tangible personal property or a product transferred electronically to other
1422 tangible personal property or detaching tangible personal property or a product transferred
1423 electronically from other tangible personal property if:

1424 (A) the other tangible personal property to which the tangible personal property or
1425 product transferred electronically is attached or from which the tangible personal property or
1426 product transferred electronically is detached is not permanently attached to real property; and

1427 (B) the attachment of tangible personal property or a product transferred electronically
1428 to other tangible personal property or detachment of tangible personal property or a product
1429 transferred electronically from other tangible personal property is made in conjunction with a
1430 repair or replacement of tangible personal property or a product transferred electronically.

1431 (b) "Repairs or renovations of tangible personal property" does not include:

1432 (i) attaching prewritten computer software to other tangible personal property if the
1433 other tangible personal property to which the prewritten computer software is attached is not
1434 permanently attached to real property; or

1435 (ii) detaching prewritten computer software from other tangible personal property if the
1436 other tangible personal property from which the prewritten computer software is detached is
1437 not permanently attached to real property.

1438 (103) "Research and development" means the process of inquiry or experimentation
1439 aimed at the discovery of facts, devices, technologies, or applications and the process of
1440 preparing those devices, technologies, or applications for marketing.

1441 (104) (a) "Residential telecommunications services" means a telecommunications
1442 service or an ancillary service that is provided to an individual for personal use:

1443 (i) at a residential address; or

1444 (ii) at an institution, including a nursing home or a school, if the telecommunications
1445 service or ancillary service is provided to and paid for by the individual residing at the
1446 institution rather than the institution.

1447 (b) For purposes of Subsection (104)(a)(i), a residential address includes an:

1448 (i) apartment; or

1449 (ii) other individual dwelling unit.

1450 (105) "Residential use" means the use in or around a home, apartment building,
1451 sleeping quarters, and similar facilities or accommodations.

1452 (106) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1453 than:

- 1454 (a) resale;
- 1455 (b) sublease; or
- 1456 (c) subrent.

1457 (107) (a) "Retailer" means any person engaged in a regularly organized business in
1458 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1459 who is selling to the user or consumer and not for resale.

1460 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1461 engaged in the business of selling to users or consumers within the state.

1462 (108) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1463 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1464 Subsection 59-12-103(1), for consideration.

1465 (b) "Sale" includes:

- 1466 (i) installment and credit sales;
- 1467 (ii) any closed transaction constituting a sale;
- 1468 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1469 chapter;

1470 (iv) any transaction if the possession of property is transferred but the seller retains the
1471 title as security for the payment of the price; and

1472 (v) any transaction under which right to possession, operation, or use of any article of
1473 tangible personal property is granted under a lease or contract and the transfer of possession
1474 would be taxable if an outright sale were made.

1475 (109) "Sale at retail" is as defined in Subsection (106).

1476 (110) "Sale-leaseback transaction" means a transaction by which title to tangible
1477 personal property or a product transferred electronically that is subject to a tax under this
1478 chapter is transferred:

- 1479 (a) by a purchaser-lessee;
- 1480 (b) to a lessor;
- 1481 (c) for consideration; and
- 1482 (d) if:

1483 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1484 of the tangible personal property or product transferred electronically;

1485 (ii) the sale of the tangible personal property or product transferred electronically to the
1486 lessor is intended as a form of financing:

1487 (A) for the tangible personal property or product transferred electronically; and

1488 (B) to the purchaser-lessee; and

1489 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1490 is required to:

1491 (A) capitalize the tangible personal property or product transferred electronically for
1492 financial reporting purposes; and

1493 (B) account for the lease payments as payments made under a financing arrangement.

1494 (111) "Sales price" is as defined in Subsection (98).

1495 (112) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
1496 amounts charged by a school:

1497 (i) sales that are directly related to the school's educational functions or activities
1498 including:

1499 (A) the sale of:

1500 (I) textbooks;

1501 (II) textbook fees;

1502 (III) laboratory fees;

1503 (IV) laboratory supplies; or

1504 (V) safety equipment;

1505 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
1506 that:

1507 (I) a student is specifically required to wear as a condition of participation in a
1508 school-related event or school-related activity; and

1509 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1510 place of ordinary clothing;

1511 (C) sales of the following if the net or gross revenues generated by the sales are
1512 deposited into a school district fund or school fund dedicated to school meals:

1513 (I) food and food ingredients; or

- 1514 (II) prepared food; or
- 1515 (D) transportation charges for official school activities; or
- 1516 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1517 event or school-related activity.
- 1518 (b) "Sales relating to schools" does not include:
- 1519 (i) bookstore sales of items that are not educational materials or supplies;
- 1520 (ii) except as provided in Subsection (112)(a)(i)(B):
- 1521 (A) clothing;
- 1522 (B) clothing accessories or equipment;
- 1523 (C) protective equipment; or
- 1524 (D) sports or recreational equipment; or
- 1525 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1526 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1527 (A) other than a:
- 1528 (I) school;
- 1529 (II) nonprofit organization authorized by a school board or a governing body of a
- 1530 private school to organize and direct a competitive secondary school activity; or
- 1531 (III) nonprofit association authorized by a school board or a governing body of a
- 1532 private school to organize and direct a competitive secondary school activity; and
- 1533 (B) that is required to collect sales and use taxes under this chapter.
- 1534 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1535 commission may make rules defining the term "passed through."
- 1536 (113) For purposes of this section and Section 59-12-104, "school"[:-(a)] means:
- 1537 [(†)] (a) an elementary school or a secondary school that:
- 1538 [(A)] (i) is a:
- 1539 [(†)] (A) public school; or
- 1540 [(†)] (B) private school; and
- 1541 [(†)] (ii) provides instruction for one or more grades kindergarten through 12; or
- 1542 [(†)] (b) a [public] school district[; and].
- 1543 [(b) includes the Electronic High School as defined in Section 53A-15-1002.]
- 1544 (114) "Seller" means a person that makes a sale, lease, or rental of:

- 1545 (a) tangible personal property;
- 1546 (b) a product transferred electronically; or
- 1547 (c) a service.
- 1548 (115) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1549 means tangible personal property or a product transferred electronically if the tangible personal
- 1550 property or product transferred electronically is:
 - 1551 (i) used primarily in the process of:
 - 1552 (A) (I) manufacturing a semiconductor;
 - 1553 (II) fabricating a semiconductor; or
 - 1554 (III) research or development of a:
 - 1555 (Aa) semiconductor; or
 - 1556 (Bb) semiconductor manufacturing process; or
 - 1557 (B) maintaining an environment suitable for a semiconductor; or
 - 1558 (ii) consumed primarily in the process of:
 - 1559 (A) (I) manufacturing a semiconductor;
 - 1560 (II) fabricating a semiconductor; or
 - 1561 (III) research or development of a:
 - 1562 (Aa) semiconductor; or
 - 1563 (Bb) semiconductor manufacturing process; or
 - 1564 (B) maintaining an environment suitable for a semiconductor.
- 1565 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1566 includes:
 - 1567 (i) parts used in the repairs or renovations of tangible personal property or a product
 - 1568 transferred electronically described in Subsection (115)(a); or
 - 1569 (ii) a chemical, catalyst, or other material used to:
 - 1570 (A) produce or induce in a semiconductor a:
 - 1571 (I) chemical change; or
 - 1572 (II) physical change;
 - 1573 (B) remove impurities from a semiconductor; or
 - 1574 (C) improve the marketable condition of a semiconductor.
 - 1575 (116) "Senior citizen center" means a facility having the primary purpose of providing

1576 services to the aged as defined in Section 62A-3-101.

1577 (117) (a) Subject to Subsections (117)(b) and (c), "short-term lodging consumable"

1578 means tangible personal property that:

1579 (i) a business that provides accommodations and services described in Subsection

1580 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services

1581 to a purchaser;

1582 (ii) is intended to be consumed by the purchaser; and

1583 (iii) is:

1584 (A) included in the purchase price of the accommodations and services; and

1585 (B) not separately stated on an invoice, bill of sale, or other similar document provided

1586 to the purchaser.

1587 (b) "Short-term lodging consumable" includes:

1588 (i) a beverage;

1589 (ii) a brush or comb;

1590 (iii) a cosmetic;

1591 (iv) a hair care product;

1592 (v) lotion;

1593 (vi) a magazine;

1594 (vii) makeup;

1595 (viii) a meal;

1596 (ix) mouthwash;

1597 (x) nail polish remover;

1598 (xi) a newspaper;

1599 (xii) a notepad;

1600 (xiii) a pen;

1601 (xiv) a pencil;

1602 (xv) a razor;

1603 (xvi) saline solution;

1604 (xvii) a sewing kit;

1605 (xviii) shaving cream;

1606 (xix) a shoe shine kit;

- 1607 (xx) a shower cap;
- 1608 (xxi) a snack item;
- 1609 (xxii) soap;
- 1610 (xxiii) toilet paper;
- 1611 (xxiv) a toothbrush;
- 1612 (xxv) toothpaste; or
- 1613 (xxvi) an item similar to Subsections (117)(b)(i) through (xxv) as the commission may
- 1614 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1615 Rulemaking Act.
- 1616 (c) "Short-term lodging consumable" does not include:
- 1617 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1618 property to be reused; or
- 1619 (ii) a product transferred electronically.
- 1620 (118) "Simplified electronic return" means the electronic return:
- 1621 (a) described in Section 318(C) of the agreement; and
- 1622 (b) approved by the governing board of the agreement.
- 1623 (119) "Solar energy" means the sun used as the sole source of energy for producing
- 1624 electricity.
- 1625 (120) (a) "Sports or recreational equipment" means an item:
- 1626 (i) designed for human use; and
- 1627 (ii) that is:
- 1628 (A) worn in conjunction with:
- 1629 (I) an athletic activity; or
- 1630 (II) a recreational activity; and
- 1631 (B) not suitable for general use.
- 1632 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1633 commission shall make rules:
- 1634 (i) listing the items that constitute "sports or recreational equipment"; and
- 1635 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1636 equipment" under the agreement.
- 1637 (121) "State" means the state of Utah, its departments, and agencies.

1638 (122) "Storage" means any keeping or retention of tangible personal property or any
1639 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
1640 sale in the regular course of business.

1641 (123) (a) Except as provided in Subsection (123)(d) or (e), "tangible personal property"
1642 means personal property that:

1643 (i) may be:

1644 (A) seen;

1645 (B) weighed;

1646 (C) measured;

1647 (D) felt; or

1648 (E) touched; or

1649 (ii) is in any manner perceptible to the senses.

1650 (b) "Tangible personal property" includes:

1651 (i) electricity;

1652 (ii) water;

1653 (iii) gas;

1654 (iv) steam; or

1655 (v) prewritten computer software, regardless of the manner in which the prewritten
1656 computer software is transferred.

1657 (c) "Tangible personal property" includes the following regardless of whether the item
1658 is attached to real property:

1659 (i) a dishwasher;

1660 (ii) a dryer;

1661 (iii) a freezer;

1662 (iv) a microwave;

1663 (v) a refrigerator;

1664 (vi) a stove;

1665 (vii) a washer; or

1666 (viii) an item similar to Subsections (123)(c)(i) through (vii) as determined by the
1667 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1668 Rulemaking Act.

1669 (d) "Tangible personal property" does not include a product that is transferred
1670 electronically.

1671 (e) "Tangible personal property" does not include the following if attached to real
1672 property, regardless of whether the attachment to real property is only through a line that
1673 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1674 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1675 Rulemaking Act:

1676 (i) a hot water heater;

1677 (ii) a water filtration system; or

1678 (iii) a water softener system.

1679 (124) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1680 software" means an item listed in Subsection (124)(b) if that item is purchased or leased
1681 primarily to enable or facilitate one or more of the following to function:

1682 (i) telecommunications switching or routing equipment, machinery, or software; or

1683 (ii) telecommunications transmission equipment, machinery, or software.

1684 (b) The following apply to Subsection (124)(a):

1685 (i) a pole;

1686 (ii) software;

1687 (iii) a supplementary power supply;

1688 (iv) temperature or environmental equipment or machinery;

1689 (v) test equipment;

1690 (vi) a tower; or

1691 (vii) equipment, machinery, or software that functions similarly to an item listed in
1692 Subsections (124)(b)(i) through (vi) as determined by the commission by rule made in
1693 accordance with Subsection (124)(c).

1694 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1695 commission may by rule define what constitutes equipment, machinery, or software that
1696 functions similarly to an item listed in Subsections (124)(b)(i) through (vi).

1697 (125) "Telecommunications equipment, machinery, or software required for 911
1698 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
1699 Sec. 20.18.

1700 (126) "Telecommunications maintenance or repair equipment, machinery, or software"
1701 means equipment, machinery, or software purchased or leased primarily to maintain or repair
1702 one or more of the following, regardless of whether the equipment, machinery, or software is
1703 purchased or leased as a spare part or as an upgrade or modification to one or more of the
1704 following:

- 1705 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1706 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1707 (c) telecommunications transmission equipment, machinery, or software.

1708 (127) (a) "Telecommunications service" means the electronic conveyance, routing, or
1709 transmission of audio, data, video, voice, or any other information or signal to a point, or
1710 among or between points.

1711 (b) "Telecommunications service" includes:

1712 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1713 processing application is used to act:

1714 (A) on the code, form, or protocol of the content;

1715 (B) for the purpose of electronic conveyance, routing, or transmission; and

1716 (C) regardless of whether the service:

1717 (I) is referred to as voice over Internet protocol service; or

1718 (II) is classified by the Federal Communications Commission as enhanced or value
1719 added;

1720 (ii) an 800 service;

1721 (iii) a 900 service;

1722 (iv) a fixed wireless service;

1723 (v) a mobile wireless service;

1724 (vi) a postpaid calling service;

1725 (vii) a prepaid calling service;

1726 (viii) a prepaid wireless calling service; or

1727 (ix) a private communications service.

1728 (c) "Telecommunications service" does not include:

1729 (i) advertising, including directory advertising;

1730 (ii) an ancillary service;

- 1731 (iii) a billing and collection service provided to a third party;
- 1732 (iv) a data processing and information service if:
- 1733 (A) the data processing and information service allows data to be:
- 1734 (I) (Aa) acquired;
- 1735 (Bb) generated;
- 1736 (Cc) processed;
- 1737 (Dd) retrieved; or
- 1738 (Ee) stored; and
- 1739 (II) delivered by an electronic transmission to a purchaser; and
- 1740 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1741 or information;
- 1742 (v) installation or maintenance of the following on a customer's premises:
- 1743 (A) equipment; or
- 1744 (B) wiring;
- 1745 (vi) Internet access service;
- 1746 (vii) a paging service;
- 1747 (viii) a product transferred electronically, including:
- 1748 (A) music;
- 1749 (B) reading material;
- 1750 (C) a ring tone;
- 1751 (D) software; or
- 1752 (E) video;
- 1753 (ix) a radio and television audio and video programming service:
- 1754 (A) regardless of the medium; and
- 1755 (B) including:
- 1756 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1757 programming service by a programming service provider;
- 1758 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1759 (III) audio and video programming services delivered by a commercial mobile radio
- 1760 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1761 (x) a value-added nonvoice data service; or

- 1762 (xi) tangible personal property.
- 1763 (128) (a) "Telecommunications service provider" means a person that:
- 1764 (i) owns, controls, operates, or manages a telecommunications service; and
- 1765 (ii) engages in an activity described in Subsection (128)(a)(i) for the shared use with or
- 1766 resale to any person of the telecommunications service.
- 1767 (b) A person described in Subsection (128)(a) is a telecommunications service provider
- 1768 whether or not the Public Service Commission of Utah regulates:
- 1769 (i) that person; or
- 1770 (ii) the telecommunications service that the person owns, controls, operates, or
- 1771 manages.
- 1772 (129) (a) "Telecommunications switching or routing equipment, machinery, or
- 1773 software" means an item listed in Subsection (129)(b) if that item is purchased or leased
- 1774 primarily for switching or routing:
- 1775 (i) an ancillary service;
- 1776 (ii) data communications;
- 1777 (iii) voice communications; or
- 1778 (iv) telecommunications service.
- 1779 (b) The following apply to Subsection (129)(a):
- 1780 (i) a bridge;
- 1781 (ii) a computer;
- 1782 (iii) a cross connect;
- 1783 (iv) a modem;
- 1784 (v) a multiplexer;
- 1785 (vi) plug in circuitry;
- 1786 (vii) a router;
- 1787 (viii) software;
- 1788 (ix) a switch; or
- 1789 (x) equipment, machinery, or software that functions similarly to an item listed in
- 1790 Subsections (129)(b)(i) through (ix) as determined by the commission by rule made in
- 1791 accordance with Subsection (129)(c).
- 1792 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1793 commission may by rule define what constitutes equipment, machinery, or software that
1794 functions similarly to an item listed in Subsections (129)(b)(i) through (ix).

1795 (130) (a) "Telecommunications transmission equipment, machinery, or software"
1796 means an item listed in Subsection (130)(b) if that item is purchased or leased primarily for
1797 sending, receiving, or transporting:

- 1798 (i) an ancillary service;
- 1799 (ii) data communications;
- 1800 (iii) voice communications; or
- 1801 (iv) telecommunications service.
- 1802 (b) The following apply to Subsection (130)(a):
- 1803 (i) an amplifier;
- 1804 (ii) a cable;
- 1805 (iii) a closure;
- 1806 (iv) a conduit;
- 1807 (v) a controller;
- 1808 (vi) a duplexer;
- 1809 (vii) a filter;
- 1810 (viii) an input device;
- 1811 (ix) an input/output device;
- 1812 (x) an insulator;
- 1813 (xi) microwave machinery or equipment;
- 1814 (xii) an oscillator;
- 1815 (xiii) an output device;
- 1816 (xiv) a pedestal;
- 1817 (xv) a power converter;
- 1818 (xvi) a power supply;
- 1819 (xvii) a radio channel;
- 1820 (xviii) a radio receiver;
- 1821 (xix) a radio transmitter;
- 1822 (xx) a repeater;
- 1823 (xxi) software;

1824 (xxii) a terminal;
1825 (xxiii) a timing unit;
1826 (xxiv) a transformer;
1827 (xxv) a wire; or
1828 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
1829 Subsections (130)(b)(i) through (xxv) as determined by the commission by rule made in
1830 accordance with Subsection (130)(c).

1831 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1832 commission may by rule define what constitutes equipment, machinery, or software that
1833 functions similarly to an item listed in Subsections (130)(b)(i) through (xxv).

1834 (131) (a) "Textbook for a higher education course" means a textbook or other printed
1835 material that is required for a course:

1836 (i) offered by an institution of higher education; and
1837 (ii) that the purchaser of the textbook or other printed material attends or will attend.
1838 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1839 (132) "Tobacco" means:

1840 (a) a cigarette;
1841 (b) a cigar;
1842 (c) chewing tobacco;
1843 (d) pipe tobacco; or
1844 (e) any other item that contains tobacco.

1845 (133) "Unassisted amusement device" means an amusement device, skill device, or
1846 ride device that is started and stopped by the purchaser or renter of the right to use or operate
1847 the amusement device, skill device, or ride device.

1848 (134) (a) "Use" means the exercise of any right or power over tangible personal
1849 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),
1850 incident to the ownership or the leasing of that tangible personal property, product transferred
1851 electronically, or service.

1852 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1853 property, a product transferred electronically, or a service in the regular course of business and
1854 held for resale.

1855 (135) "Value-added nonvoice data service" means a service:

1856 (a) that otherwise meets the definition of a telecommunications service except that a
1857 computer processing application is used to act primarily for a purpose other than conveyance,
1858 routing, or transmission; and

1859 (b) with respect to which a computer processing application is used to act on data or
1860 information:

- 1861 (i) code;
- 1862 (ii) content;
- 1863 (iii) form; or
- 1864 (iv) protocol.

1865 (136) (a) Subject to Subsection (136)(b), "vehicle" means the following that are
1866 required to be titled, registered, or titled and registered:

- 1867 (i) an aircraft as defined in Section 72-10-102;
- 1868 (ii) a vehicle as defined in Section 41-1a-102;
- 1869 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1870 (iv) a vessel as defined in Section 41-1a-102.

1871 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1872 (i) a vehicle described in Subsection (136)(a); or
- 1873 (ii) (A) a locomotive;
- 1874 (B) a freight car;
- 1875 (C) railroad work equipment; or
- 1876 (D) other railroad rolling stock.

1877 (137) "Vehicle dealer" means a person engaged in the business of buying, selling, or
1878 exchanging a vehicle as defined in Subsection (136).

1879 (138) (a) "Vertical service" means an ancillary service that:

- 1880 (i) is offered in connection with one or more telecommunications services; and
- 1881 (ii) offers an advanced calling feature that allows a customer to:
 - 1882 (A) identify a caller; and
 - 1883 (B) manage multiple calls and call connections.

1884 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1885 conference bridging service.

1886 (139) (a) "Voice mail service" means an ancillary service that enables a customer to
1887 receive, send, or store a recorded message.

1888 (b) "Voice mail service" does not include a vertical service that a customer is required
1889 to have in order to utilize a voice mail service.

1890 (140) (a) Except as provided in Subsection (140)(b), "waste energy facility" means a
1891 facility that generates electricity:

1892 (i) using as the primary source of energy waste materials that would be placed in a
1893 landfill or refuse pit if it were not used to generate electricity, including:

1894 (A) tires;

1895 (B) waste coal;

1896 (C) oil shale; or

1897 (D) municipal solid waste; and

1898 (ii) in amounts greater than actually required for the operation of the facility.

1899 (b) "Waste energy facility" does not include a facility that incinerates:

1900 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1901 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1902 (141) "Watercraft" means a vessel as defined in Section 73-18-2.

1903 (142) "Wind energy" means wind used as the sole source of energy to produce
1904 electricity.

1905 (143) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
1906 location by the United States Postal Service.

1907 Section 11. **Repealer.**

1908 This bill repeals:

1909 Section 53A-1a-1001, **Definitions.**

1910 Section 53A-1a-1002, **Pilot project to develop school readiness skills of preschool**
1911 **children.**

1912 Section 53A-1a-1003, **School district participation in UPSTART.**

1913 Section 53A-1a-1004, **Family participation in UPSTART.**

1914 Section 53A-1a-1005, **Purchase of equipment and service through cooperative**
1915 **purchasing contracts.**

1916 Section 53A-1a-1006, **Audit and evaluation.**

- 1917 Section **53A-1a-1007**, Annual report.
- 1918 Section **53A-6-801**, Definition.
- 1919 Section **53A-6-802**, Paraeducator to Teacher Scholarship Program.
- 1920 Section **53A-13-110**, Financial and economic literacy education.
- 1921 Section **53A-15-104**, Critical Languages Program -- Pilot.
- 1922 Section **53A-15-105**, Dual Language Immersion Program -- Pilot.
- 1923 Section **53A-15-1001**, Title.
- 1924 Section **53A-15-1002**, Definitions.
- 1925 Section **53A-15-1002.5**, Electronic High School created -- Purpose.
- 1926 Section **53A-15-1003**, Courses and credit.
- 1927 Section **53A-15-1004**, Student eligibility for enrollment.
- 1928 Section **53A-15-1005**, Services to students with disabilities.
- 1929 Section **53A-15-1006**, Payment for an Electronic High School course.
- 1930 Section **53A-15-1007**, Electronic High School diploma.
- 1931 Section **53A-15-1008**, Review by legislative auditor general.
- 1932 Section **53A-17a-124.5**, Appropriation for class size reduction.
- 1933 Section **53A-17a-131.15**, State contribution for the Electronic High School.
- 1934 Section **53A-17a-150**, K-3 Reading Improvement Program.
- 1935 Section **53A-17a-153**, Educator salary adjustments.
- 1936 Section **53A-17a-154**, Appropriation for school nurses.
- 1937 Section **53A-17a-155**, Appropriation for library books and electronic resources.
- 1938 Section **53A-17a-156**, Teacher Salary Supplement Program -- Appeal process.
- 1939 Section **53A-17a-157**, Teacher Salary Supplement Restricted Account.
- 1940 Section **53A-17a-159**, Utah Science Technology and Research Initiative Centers
- 1941 **Program.**
- 1942 Section 12. **Appropriations for state education agencies, school districts, and**
- 1943 **charter schools -- Value of the weighted pupil unit.**
- 1944 (1) Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act,
- 1945 for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of
- 1946 money are appropriated from resources not otherwise appropriated, or reduced from amounts
- 1947 previously appropriated, out of the funds or accounts indicated. These sums of money are in

1948	<u>addition to any amounts previously appropriated for fiscal year 2015.</u>	
1949	<u>(2) The value of the weighted pupil unit for fiscal year 2014-15 is initially set at:</u>	
1950	<u>(a) \$2,659 for:</u>	
1951	<u>(i) Special Education - Add-on; and</u>	
1952	<u>(ii) Career & Technical Education - Add-on; and</u>	
1953	<u>(b) \$2,899 for all other programs.</u>	
1954	BASIC SCHOOL PROGRAM	
1955	ITEM 1 To Basic School Program	
1956	From Uniform School Fund	21,000,000
1957	From Education Fund	2,191,620,600
1958	From Local Revenue	294,092,000
1959	From Beginning Nonlapsing Appropriation Balances	31,504,000
1960	From Closing Nonlapsing Appropriation Balances	(31,504,000)
1961	Schedule of Programs:	
1962	Kindergarten (32,764 WPU's)	94,982,800
1963	Grades 1 - 12 (638,303 WPU's)	1,850,440,400
1964	Necessarily Existent Small Schools (9,357 WPU's)	27,125,900
1965	Professional Staff (61,537 WPU's)	178,395,700
1966	Administrative Costs (1,500 WPU's)	4,348,500
1967	Special Education - Add-on (70,704 WPU's)	188,001,900
1968	Special Education - Preschool (9,590 WPU's)	27,801,400
1969	Special Education - Self-contained (16,622 WPU's)	48,187,200
1970	Special Education - Extended School Year (423 WPU's)	1,226,300
1971	Special Education - State Programs (2,871 WPU's)	8,323,000
1972	Career & Technical Education - Add-on (29,289 WPU's)	77,879,500
1973	RELATED TO BASIC PROGRAMS	
1974	ITEM 2 To Related to Basic Programs - Related to Basic School Programs	
1975	From Education Fund	232,703,300
1976	From Interest and Dividends Account	28,710,000
1977	From Beginning Nonlapsing Appropriation Balances	10,648,500
1978	From Closing Nonlapsing Appropriation Balances	(10,648,500)

1979	Schedule of Programs:		
1980	To and From School - Pupil Transportation	69,048,600	
1981	Guarantee Transportation Program	500,000	
1982	Enhancement for At-Risk Students	23,384,300	
1983	Youth in Custody	19,098,700	
1984	Enhancement for Accelerated Students	4,148,700	
1985	Adult Education	9,382,000	
1986	Concurrent Enrollment	8,893,300	
1987	School LAND Trust Program	28,710,000	
1988	Charter School Local Replacement	84,755,000	
1989	Charter School Administration	5,692,700	
1990	Early Intervention	7,500,000	
1991	Title I Schools Paraeducators Program	300,000	
1992	VOTED AND BOARD LEEWAY PROGRAMS		
1993	ITEM 3 To Voted and Board Leeway Programs - Voted and Board Local Levy Programs		
1994	From Education Fund		99,590,700
1995	From Local Revenue		305,524,300
1996	Schedule of Programs:		
1997	Voted Local Levy Program	299,283,800	
1998	Board Local Levy Program	90,831,200	
1999	Board Local Levy Program - Reading		
2000	Improvement	15,000,000	
2001	SCHOOL BUILDING PROGRAMS		
2002	ITEM 4 To School Building Programs		
2003	From Education Fund		14,499,700
2004	Schedule of Programs:		
2005	Capital Outlay Foundation Program	12,610,900	
2006	Capital Outlay Enrollment Growth Program	1,888,800	
2007	STATE BOARD OF EDUCATION		
2008	ITEM 5 To State Board of Education - State Office of Education		
2009	From General Fund		100,000

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2010	From Education Fund	29,216,800
2011	From Federal Funds	340,263,900
2012	From Dedicated Credits Revenue	5,868,200
2013	From General Fund Restricted - Mineral Lease	3,095,800
2014	From General Fund Restricted - Land Exchange Distribution Account	236,600
2015	From General Fund Restricted - Substance Abuse Prevention	499,400
2016	From Interest and Dividends Account	536,000
2017	From Revenue Transfers	688,800
2018	From Beginning Nonlapsing Appropriation Balances	17,934,400
2019	From Closing Nonlapsing Appropriation Balances	(17,934,400)
2020	Schedule of Programs:	
2021	Assessment and Accountability	11,498,300
2022	Educational Equity	359,000
2023	Board and Administration	13,262,200
2024	Business Services	1,651,300
2025	Career and Technical Education	20,968,200
2026	District Computer Services	6,901,000
2027	Educational Technology	834,200
2028	Federal Elementary and Secondary Education Act	112,643,600
2029	Law and Legislation	274,400
2030	Math Teacher Training	500,000
2031	Public Relations	134,500
2032	School Trust	599,500
2033	Special Education	181,182,400
2034	Teaching and Learning	29,696,900
2035	ITEM 6 To State Board of Education - Utah State Office of Education - Initiative Programs	
2036	From General Fund	3,993,800
2037	From General Fund Restricted - Autism Awareness Account	5,000
2038	From Beginning Nonlapsing Appropriation Balances	3,701,500
2039	From Closing Nonlapsing Appropriation Balances	(3,701,500)
2040	Schedule of Programs:	

2041	Contracts and Grants	3,998,800
2042	ITEM 7 To State Board of Education - State Charter School Board	
2043	From Education Fund	3,089,400
2044	From Beginning Nonlapsing Appropriation Balances	586,900
2045	From Closing Nonlapsing Appropriation Balances	(586,900)
2046	Schedule of Programs:	
2047	State Charter School Board	3,089,400
2048	ITEM 8 To State Board of Education - Educator Licensing Professional Practices	
2049	From Professional Practices Restricted Subfund	1,772,400
2050	Schedule of Programs:	
2051	Educator Licensing	1,772,400
2052	ITEM 9 To State Board of Education - State Office of Education - Child Nutrition	
2053	From Education Fund	139,600
2054	From Federal Funds	141,394,300
2055	From Dedicated Credit - Liquor Tax	37,251,300
2056	From Beginning Nonlapsing Appropriation Balances	53,800
2057	From Closing Nonlapsing Appropriation Balances	(53,800)
2058	Schedule of Programs:	
2059	Child Nutrition	178,785,200
2060	ITEM 10 To State Board of Education - State Office of Education - Educational Contracts	
2061	From Education Fund	3,137,800
2062	From Beginning Nonlapsing Appropriation Balances	46,900
2063	From Closing Nonlapsing Appropriation Balances	(46,900)
2064	Schedule of Programs:	
2065	Youth Center	1,153,200
2066	Corrections Institutions	1,984,600
2067	ITEM 11 To State Board of Education - Utah Schools for the Deaf and the Blind	
2068	From Education Fund	23,249,500
2069	From Federal Funds	94,500
2070	From Dedicated Credits Revenue	1,020,000
2071	From Revenue Transfers	2,758,100

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2072	From Revenue Transfers - Medicaid	1,755,000
2073	Schedule of Programs:	
2074	Instructional Services	14,107,500
2075	Support Services	14,769,600
2076	ITEM 12 To State Board of Education - Charter School Finance Authority	
2077	From Education Fund Restricted - Charter School Reserve Account	50,000
2078	Schedule of Programs:	
2079	Charter School Finance Authority	50,000
2080	ITEM 13 To State Board of Education - Statewide Priorities	
2081	From Education Fund	24,073,500
2082	Schedule of Programs:	
2083	Statewide Priorities Program	24,073,500
2084	Section 13. Effective date.	
2085	<u>This bill takes effect on July 1, 2014.</u>	