

1 **PRISON DEVELOPMENT AMENDMENTS**

2 2015 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Brad R. Wilson**

5 Senate Sponsor: Jerry W. Stevenson

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies and enacts provisions relating to the development of a new prison.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ modifies the duties and authority of the Prison Relocation Commission;
- 13 ▶ creates the Prison Development Commission and provides for its membership,
14 duties, and operation;
- 15 ▶ provides for Division of Facilities Construction and Management oversight of the
16 prison design and construction project, in consultation with the Prison Development
17 Commission;
- 18 ▶ enacts a local option sales and use tax for a city or town that has a new state
19 correctional facility;
- 20 ▶ authorizes the issuance of bonds for the prison project;
- 21 ▶ creates a restricted account and capital projects fund for the prison project;
- 22 ▶ provides a process for the choice of a new prison site; and
- 23 ▶ modifies a repeal provision relating to the Prison Relocation Commission and
24 enacts a repeal provision relating to the Prison Development Commission.

25 **Money Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **59-12-102**, as last amended by Laws of Utah 2014, Chapters 380 and 414

32 **59-12-403**, as last amended by Laws of Utah 2012, Chapter 254

33 **63C-15-102**, as enacted by Laws of Utah 2014, Chapter 211

34 **63C-15-201**, as enacted by Laws of Utah 2014, Chapter 211

35 **63C-15-203**, as enacted by Laws of Utah 2014, Chapter 211

36 **63I-1-263**, as last amended by Laws of Utah 2014, Chapters 113, 189, 195, 211, 419,

37 429, and 435

38 **63I-2-263**, as last amended by Laws of Utah 2014, Chapters 172, 423, and 427

39 ENACTS:

40 **59-12-400**, Utah Code Annotated 1953

41 **59-12-402.1**, Utah Code Annotated 1953

42 **63A-5-225**, Utah Code Annotated 1953

43 **63B-24-101**, Utah Code Annotated 1953

44 **63C-16-101**, Utah Code Annotated 1953

45 **63C-16-102**, Utah Code Annotated 1953

46 **63C-16-201**, Utah Code Annotated 1953

47 **63C-16-202**, Utah Code Annotated 1953

48 **63C-16-203**, Utah Code Annotated 1953

49 **63C-16-204**, Utah Code Annotated 1953



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

52 Section 1. Section **59-12-102** is amended to read:

53 **59-12-102. Definitions.**

54 As used in this chapter:

55 (1) "800 service" means a telecommunications service that:

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

57 (b) is typically marketed:

- 58 (i) under the name 800 toll-free calling;
- 59 (ii) under the name 855 toll-free calling;
- 60 (iii) under the name 866 toll-free calling;
- 61 (iv) under the name 877 toll-free calling;
- 62 (v) under the name 888 toll-free calling; or
- 63 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
64 Federal Communications Commission.
- 65 (2) (a) "900 service" means an inbound toll telecommunications service that:
 - 66 (i) a subscriber purchases;
 - 67 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
68 the subscriber's:
 - 69 (A) prerecorded announcement; or
 - 70 (B) live service; and
 - 71 (iii) is typically marketed:
 - 72 (A) under the name 900 service; or
 - 73 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
74 Communications Commission.
 - 75 (b) "900 service" does not include a charge for:
 - 76 (i) a collection service a seller of a telecommunications service provides to a
77 subscriber; or
 - 78 (ii) the following a subscriber sells to the subscriber's customer:
 - 79 (A) a product; or
 - 80 (B) a service.
 - 81 (3) (a) "Admission or user fees" includes season passes.
 - 82 (b) "Admission or user fees" does not include annual membership dues to private
83 organizations.
 - 84 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
85 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax

86 Agreement after November 12, 2002.

87 (5) "Agreement combined tax rate" means the sum of the tax rates:

88 (a) listed under Subsection (6); and

89 (b) that are imposed within a local taxing jurisdiction.

90 (6) "Agreement sales and use tax" means a tax imposed under:

91 (a) Subsection 59-12-103(2)(a)(i)(A);

92 (b) Subsection 59-12-103(2)(b)(i);

93 (c) Subsection 59-12-103(2)(c)(i);

94 (d) Subsection 59-12-103(2)(d)(i)(A)(I);

95 (e) Section 59-12-204;

96 (f) Section 59-12-401;

97 (g) Section 59-12-402;

98 (h) Section 59-12-402.1;

99 [~~h~~] (i) Section 59-12-703;

100 [~~i~~] (j) Section 59-12-802;

101 [~~j~~] (k) Section 59-12-804;

102 [~~k~~] (l) Section 59-12-1102;

103 [~~l~~] (m) Section 59-12-1302;

104 [~~m~~] (n) Section 59-12-1402;

105 [~~n~~] (o) Section 59-12-1802;

106 [~~o~~] (p) Section 59-12-2003;

107 [~~p~~] (q) Section 59-12-2103;

108 [~~q~~] (r) Section 59-12-2213;

109 [~~r~~] (s) Section 59-12-2214;

110 [~~s~~] (t) Section 59-12-2215;

111 [~~t~~] (u) Section 59-12-2216;

112 [~~u~~] (v) Section 59-12-2217; or

113 [~~v~~] (w) Section 59-12-2218.

- 114 (7) "Aircraft" is as defined in Section 72-10-102.
- 115 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 116 (a) except for:
- 117 (i) an airline as defined in Section 59-2-102; or
- 118 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 119 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 120 state, of an airline; and
- 121 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 122 whether the business entity performs the following in this state:
- 123 (i) check, diagnose, overhaul, and repair:
- 124 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 125 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 126 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 127 engine;
- 128 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 129 aircraft:
- 130 (A) an inspection;
- 131 (B) a repair, including a structural repair or modification;
- 132 (C) changing landing gear; and
- 133 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 134 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 135 completely apply new paint to the fixed wing turbine powered aircraft; and
- 136 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 137 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 138 authority that certifies the fixed wing turbine powered aircraft.
- 139 (9) "Alcoholic beverage" means a beverage that:
- 140 (a) is suitable for human consumption; and
- 141 (b) contains .5% or more alcohol by volume.

- 142 (10) "Alternative energy" means:
- 143 (a) biomass energy;
- 144 (b) geothermal energy;
- 145 (c) hydroelectric energy;
- 146 (d) solar energy;
- 147 (e) wind energy; or
- 148 (f) energy that is derived from:
- 149 (i) coal-to-liquids;
- 150 (ii) nuclear fuel;
- 151 (iii) oil-impregnated diatomaceous earth;
- 152 (iv) oil sands;
- 153 (v) oil shale;
- 154 (vi) petroleum coke; or
- 155 (vii) waste heat from:
- 156 (A) an industrial facility; or
- 157 (B) a power station in which an electric generator is driven through a process in which
- 158 water is heated, turns into steam, and spins a steam turbine.
- 159 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 160 facility" means a facility that:
- 161 (i) uses alternative energy to produce electricity; and
- 162 (ii) has a production capacity of two megawatts or greater.
- 163 (b) A facility is an alternative energy electricity production facility regardless of
- 164 whether the facility is:
- 165 (i) connected to an electric grid; or
- 166 (ii) located on the premises of an electricity consumer.
- 167 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 168 provision of telecommunications service.
- 169 (b) "Ancillary service" includes:

- 170 (i) a conference bridging service;
 - 171 (ii) a detailed communications billing service;
 - 172 (iii) directory assistance;
 - 173 (iv) a vertical service; or
 - 174 (v) a voice mail service.
- 175 (13) "Area agency on aging" is as defined in Section [62A-3-101](#).
- 176 (14) "Assisted amusement device" means an amusement device, skill device, or ride
177 device that is started and stopped by an individual:
- 178 (a) who is not the purchaser or renter of the right to use or operate the amusement
179 device, skill device, or ride device; and
 - 180 (b) at the direction of the seller of the right to use the amusement device, skill device,
181 or ride device.
- 182 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
183 washing of tangible personal property if the cleaning or washing labor is primarily performed
184 by an individual:
- 185 (a) who is not the purchaser of the cleaning or washing of the tangible personal
186 property; and
 - 187 (b) at the direction of the seller of the cleaning or washing of the tangible personal
188 property.
- 189 (16) "Authorized carrier" means:
- 190 (a) in the case of vehicles operated over public highways, the holder of credentials
191 indicating that the vehicle is or will be operated pursuant to both the International Registration
192 Plan and the International Fuel Tax Agreement;
 - 193 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
194 certificate or air carrier's operating certificate; or
 - 195 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
196 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
197 stock in more than one state.

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

- 200 (i) material from a plant or tree; or
- 201 (ii) other organic matter that is available on a renewable basis, including:
 - 202 (A) slash and brush from forests and woodlands;
 - 203 (B) animal waste;
 - 204 (C) waste vegetable oil;
 - 205 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
 - 206 wastewater residuals, or through the conversion of a waste material through a nonincineration,
 - 207 thermal conversion process;
 - 208 (E) aquatic plants; and
 - 209 (F) agricultural products.

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

- 211 (i) black liquor; or
- 212 (ii) treated woods.

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

- 215 (i) distinct and identifiable; and
- 216 (ii) sold for one nonitemized price.

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

- 218 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
219 the basis of the selection by the purchaser of the items of tangible personal property included in
220 the transaction;
- 221 (ii) the sale of real property;
- 222 (iii) the sale of services to real property;
- 223 (iv) the retail sale of tangible personal property and a service if:
 - 224 (A) the tangible personal property:
 - 225 (I) is essential to the use of the service; and

- 226 (II) is provided exclusively in connection with the service; and
- 227 (B) the service is the true object of the transaction;
- 228 (v) the retail sale of two services if:
 - 229 (A) one service is provided that is essential to the use or receipt of a second service;
 - 230 (B) the first service is provided exclusively in connection with the second service; and
 - 231 (C) the second service is the true object of the transaction;
- 232 (vi) a transaction that includes tangible personal property or a product subject to
- 233 taxation under this chapter and tangible personal property or a product that is not subject to
- 234 taxation under this chapter if the:
 - 235 (A) seller's purchase price of the tangible personal property or product subject to
 - 236 taxation under this chapter is de minimis; or
 - 237 (B) seller's sales price of the tangible personal property or product subject to taxation
 - 238 under this chapter is de minimis; and
 - 239 (vii) the retail sale of tangible personal property that is not subject to taxation under
 - 240 this chapter and tangible personal property that is subject to taxation under this chapter if:
 - 241 (A) that retail sale includes:
 - 242 (I) food and food ingredients;
 - 243 (II) a drug;
 - 244 (III) durable medical equipment;
 - 245 (IV) mobility enhancing equipment;
 - 246 (V) an over-the-counter drug;
 - 247 (VI) a prosthetic device; or
 - 248 (VII) a medical supply; and
 - 249 (B) subject to Subsection (18)(f):
 - 250 (I) the seller's purchase price of the tangible personal property subject to taxation under
 - 251 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
 - 252 (II) the seller's sales price of the tangible personal property subject to taxation under
 - 253 this chapter is 50% or less of the seller's total sales price of that retail sale.

254 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
255 service that is distinct and identifiable does not include:

256 (A) packaging that:

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

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

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

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

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

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

273 (A) a binding sales document; or

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

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

277 (A) a bill of sale;

278 (B) a contract;

279 (C) an invoice;

280 (D) a lease agreement;

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

- 282 (F) a price list;
- 283 (G) a rate card;
- 284 (H) a receipt; or
- 285 (I) a service agreement.

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

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

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

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

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

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

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

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

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

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

309 (i) on a transaction; and

310 (ii) in the states that are members of the agreement;
311 (b) determines the amount of agreement sales and use tax to remit to a state that is a
312 member of the agreement; and
313 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

314 (20) "Certified service provider" means an agent certified:
315 (a) by the governing board of the agreement; and
316 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
317 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
318 own purchases.

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

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

323 (i) listing the items that constitute "clothing"; and
324 (ii) that are consistent with the list of items that constitute "clothing" under the
325 agreement.

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

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

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

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

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

- 338 (25) "Component part" includes:
- 339 (a) poultry, dairy, and other livestock feed, and their components;
- 340 (b) baling ties and twine used in the baling of hay and straw;
- 341 (c) fuel used for providing temperature control of orchards and commercial
- 342 greenhouses doing a majority of their business in wholesale sales, and for providing power for
- 343 off-highway type farm machinery; and
- 344 (d) feed, seeds, and seedlings.
- 345 (26) "Computer" means an electronic device that accepts information:
- 346 (a) (i) in digital form; or
- 347 (ii) in a form similar to digital form; and
- 348 (b) manipulates that information for a result based on a sequence of instructions.
- 349 (27) "Computer software" means a set of coded instructions designed to cause:
- 350 (a) a computer to perform a task; or
- 351 (b) automatic data processing equipment to perform a task.
- 352 (28) "Computer software maintenance contract" means a contract that obligates a seller
- 353 of computer software to provide a customer with:
- 354 (a) future updates or upgrades to computer software;
- 355 (b) support services with respect to computer software; or
- 356 (c) a combination of Subsections (28)(a) and (b).
- 357 (29) (a) "Conference bridging service" means an ancillary service that links two or
- 358 more participants of an audio conference call or video conference call.
- 359 (b) "Conference bridging service" may include providing a telephone number as part of
- 360 the ancillary service described in Subsection (29)(a).
- 361 (c) "Conference bridging service" does not include a telecommunications service used
- 362 to reach the ancillary service described in Subsection (29)(a).
- 363 (30) "Construction materials" means any tangible personal property that will be
- 364 converted into real property.
- 365 (31) "Delivered electronically" means delivered to a purchaser by means other than

366 tangible storage media.

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

368 (i) by a seller of:

369 (A) tangible personal property;

370 (B) a product transferred electronically; or

371 (C) services; and

372 (ii) for preparation and delivery of the tangible personal property, product transferred

373 electronically, or services described in Subsection (32)(a)(i) to a location designated by the

374 purchaser.

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

376 (i) transportation;

377 (ii) shipping;

378 (iii) postage;

379 (iv) handling;

380 (v) crating; or

381 (vi) packing.

382 (33) "Detailed telecommunications billing service" means an ancillary service of

383 separately stating information pertaining to individual calls on a customer's billing statement.

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

385 (a) is intended to supplement the diet;

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

387 (i) a vitamin;

388 (ii) a mineral;

389 (iii) an herb or other botanical;

390 (iv) an amino acid;

391 (v) a dietary substance for use by humans to supplement the diet by increasing the total

392 dietary intake; or

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

394 described in Subsections (34)(b)(i) through (v);
395 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
396 (A) tablet form;
397 (B) capsule form;
398 (C) powder form;
399 (D) softgel form;
400 (E) gelcap form; or
401 (F) liquid form; or
402 (ii) if the product is not intended for ingestion in a form described in Subsections
403 (34)(c)(i)(A) through (F), is not represented:
404 (A) as conventional food; and
405 (B) for use as a sole item of:
406 (I) a meal; or
407 (II) the diet; and
408 (d) is required to be labeled as a dietary supplement:
409 (i) identifiable by the "Supplemental Facts" box found on the label; and
410 (ii) as required by 21 C.F.R. Sec. 101.36.
411 [~~36~~] (35) "Digital audio-visual work" means a series of related images which, when
412 shown in succession, imparts an impression of motion, together with accompanying sounds, if
413 any.
414 [~~35~~] (36) (a) "Digital audio work" means a work that results from the fixation of a
415 series of musical, spoken, or other sounds.
416 (b) "Digital audio work" includes a ringtone.
417 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
418 sense as a book.
419 (38) (a) "Direct mail" means printed material delivered or distributed by United States
420 mail or other delivery service:
421 (i) to:

- 422 (A) a mass audience; or
- 423 (B) addressees on a mailing list provided:
 - 424 (I) by a purchaser of the mailing list; or
 - 425 (II) at the discretion of the purchaser of the mailing list; and
 - 426 (ii) if the cost of the printed material is not billed directly to the recipients.
- 427 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 428 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 429 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 430 single address.
- 431 (39) "Directory assistance" means an ancillary service of providing:
 - 432 (a) address information; or
 - 433 (b) telephone number information.
- 434 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
- 435 or supplies that:
 - 436 (i) cannot withstand repeated use; and
 - 437 (ii) are purchased by, for, or on behalf of a person other than:
 - 438 (A) a health care facility as defined in Section [26-21-2](#);
 - 439 (B) a health care provider as defined in Section [78B-3-403](#);
 - 440 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
 - 441 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
 - 442 (b) "Disposable home medical equipment or supplies" does not include:
 - 443 (i) a drug;
 - 444 (ii) durable medical equipment;
 - 445 (iii) a hearing aid;
 - 446 (iv) a hearing aid accessory;
 - 447 (v) mobility enhancing equipment; or
 - 448 (vi) tangible personal property used to correct impaired vision, including:
 - 449 (A) eyeglasses; or

450 (B) contact lenses.

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

453 (41) (a) "Drug" means a compound, substance, or preparation, or a component of a
454 compound, substance, or preparation that is:

455 (i) recognized in:

456 (A) the official United States Pharmacopoeia;

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

458 (C) the official National Formulary; or

459 (D) a supplement to a publication listed in Subsections (41)(a)(i)(A) through (C);

460 (ii) intended for use in the:

461 (A) diagnosis of disease;

462 (B) cure of disease;

463 (C) mitigation of disease;

464 (D) treatment of disease; or

465 (E) prevention of disease; or

466 (iii) intended to affect:

467 (A) the structure of the body; or

468 (B) any function of the body.

469 (b) "Drug" does not include:

470 (i) food and food ingredients;

471 (ii) a dietary supplement;

472 (iii) an alcoholic beverage; or

473 (iv) a prosthetic device.

474 (42) (a) Except as provided in Subsection (42)(c), "durable medical equipment" means
475 equipment that:

476 (i) can withstand repeated use;

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

- 478 (iii) generally is not useful to a person in the absence of illness or injury; and
- 479 (iv) is not worn in or on the body.
- 480 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 481 equipment described in Subsection (42)(a).
- 482 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 483 (43) "Electronic" means:
- 484 (a) relating to technology; and
- 485 (b) having:
- 486 (i) electrical capabilities;
- 487 (ii) digital capabilities;
- 488 (iii) magnetic capabilities;
- 489 (iv) wireless capabilities;
- 490 (v) optical capabilities;
- 491 (vi) electromagnetic capabilities; or
- 492 (vii) capabilities similar to Subsections (43)(b)(i) through (vi).
- 493 (44) "Electronic financial payment service" means an establishment:
- 494 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 495 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 496 federal Executive Office of the President, Office of Management and Budget; and
- 497 (b) that performs electronic financial payment services.
- 498 (45) "Employee" is as defined in Section [59-10-401](#).
- 499 (46) "Fixed guideway" means a public transit facility that uses and occupies:
- 500 (a) rail for the use of public transit; or
- 501 (b) a separate right-of-way for the use of public transit.
- 502 (47) "Fixed wing turbine powered aircraft" means an aircraft that:
- 503 (a) is powered by turbine engines;
- 504 (b) operates on jet fuel; and
- 505 (c) has wings that are permanently attached to the fuselage of the aircraft.

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

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

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

510 (A) liquid form;

511 (B) concentrated form;

512 (C) solid form;

513 (D) frozen form;

514 (E) dried form; or

515 (F) dehydrated form; and

516 (ii) that are:

517 (A) sold for:

518 (I) ingestion by humans; or

519 (II) chewing by humans; and

520 (B) consumed for the substance's:

521 (I) taste; or

522 (II) nutritional value.

523 (b) "Food and food ingredients" includes an item described in Subsection (90)(b)(iii).

524 (c) "Food and food ingredients" does not include:

525 (i) an alcoholic beverage;

526 (ii) tobacco; or

527 (iii) prepared food.

528 (50) (a) "Fundraising sales" means sales:

529 (i) (A) made by a school; or

530 (B) made by a school student;

531 (ii) that are for the purpose of raising funds for the school to purchase equipment,
532 materials, or provide transportation; and

533 (iii) that are part of an officially sanctioned school activity.

534 (b) For purposes of Subsection (50)(a)(iii), "officially sanctioned school activity"
535 means a school activity:

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

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

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

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

544 (52) "Governing board of the agreement" means the governing board of the agreement
545 that is:

546 (a) authorized to administer the agreement; and

547 (b) established in accordance with the agreement.

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

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

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

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

557 (iv) the National Guard;

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

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

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

- 562 (i) a college campus of the Utah College of Applied Technology;
- 563 (ii) a school;
- 564 (iii) the State Board of Education;
- 565 (iv) the State Board of Regents; or
- 566 (v) an institution of higher education.
- 567 (54) "Hydroelectric energy" means water used as the sole source of energy to produce
- 568 electricity.
- 569 (55) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 570 other fuels:
- 571 (a) in mining or extraction of minerals;
- 572 (b) in agricultural operations to produce an agricultural product up to the time of
- 573 harvest or placing the agricultural product into a storage facility, including:
- 574 (i) commercial greenhouses;
- 575 (ii) irrigation pumps;
- 576 (iii) farm machinery;
- 577 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered
- 578 under Title 41, Chapter 1a, Part 2, Registration; and
- 579 (v) other farming activities;
- 580 (c) in manufacturing tangible personal property at an establishment described in SIC
- 581 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 582 Executive Office of the President, Office of Management and Budget;
- 583 (d) by a scrap recycler if:
- 584 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 585 one or more of the following items into prepared grades of processed materials for use in new
- 586 products:
- 587 (A) iron;
- 588 (B) steel;
- 589 (C) nonferrous metal;

- 590 (D) paper;
- 591 (E) glass;
- 592 (F) plastic;
- 593 (G) textile; or
- 594 (H) rubber; and

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

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

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

- 601 (i) tangible personal property; or
- 602 (ii) a product transferred electronically.

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

- 604 (i) repairs or renovations of:
 - 605 (A) tangible personal property; or
 - 606 (B) a product transferred electronically; or
- 607 (ii) attaching tangible personal property or a product transferred electronically:
 - 608 (A) to other tangible personal property; and
 - 609 (B) as part of a manufacturing or fabrication process.

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

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

- 614 (i) (A) a fixed term; or
- 615 (B) an indeterminate term; and
- 616 (ii) consideration.

617 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the

618 amount of consideration may be increased or decreased by reference to the amount realized
619 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
620 Code.

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

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

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

627 (A) upon completion of required payments; and

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

629 (I) \$100; or

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

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

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

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

637 (ii) maintenance of tangible personal property; or

638 (iii) inspection of tangible personal property.

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

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

643 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
644 Manufacturing; or

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

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

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

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

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

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

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

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

656 (64) "Manufacturing facility" means:

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

660 (b) a scrap recycler if:

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

664 (A) iron;

665 (B) steel;

666 (C) nonferrous metal;

667 (D) paper;

668 (E) glass;

669 (F) plastic;

670 (G) textile; or

671 (H) rubber; and

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

674 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
675 placed in service on or after May 1, 2006.

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

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

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

680 (ii) a foster child or foster stepchild;

681 (b) grandchild or stepgrandchild;

682 (c) grandparent or stepgrandparent;

683 (d) nephew or stepnephew;

684 (e) niece or stepniece;

685 (f) parent or stepparent;

686 (g) sibling or stepsibling;

687 (h) spouse;

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

689 or

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

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

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

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

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

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

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

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

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

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

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

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

710 (ii) appropriate for use in a:

711 (A) home; or

712 (B) motor vehicle; and

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

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

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

717 (i) a motor vehicle;

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

720 (iii) durable medical equipment; or

721 (iv) a prosthetic device.

722 (70) "Model 1 seller" means a seller registered under the agreement that has selected a
723 certified service provider as the seller's agent to perform all of the seller's sales and use tax
724 functions for agreement sales and use taxes other than the seller's obligation under Section
725 [59-12-124](#) to remit a tax on the seller's own purchases.

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

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

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

- 730 (i) collected by the seller; and
- 731 (ii) to the appropriate local taxing jurisdiction.
- 732 (72) (a) Subject to Subsection (72)(b), "model 3 seller" means a seller registered under
- 733 the agreement that has:
 - 734 (i) sales in at least five states that are members of the agreement;
 - 735 (ii) total annual sales revenues of at least \$500,000,000;
 - 736 (iii) a proprietary system that calculates the amount of tax:
 - 737 (A) for an agreement sales and use tax; and
 - 738 (B) due to each local taxing jurisdiction; and
 - 739 (iv) entered into a performance agreement with the governing board of the agreement.
- 740 (b) For purposes of Subsection (72)(a), "model 3 seller" includes an affiliated group of
- 741 sellers using the same proprietary system.
- 742 (73) "Model 4 seller" means a seller that is registered under the agreement and is not a
- 743 model 1 seller, model 2 seller, or model 3 seller.
- 744 (74) "Modular home" means a modular unit as defined in Section [15A-1-302](#).
- 745 (75) "Motor vehicle" is as defined in Section [41-1a-102](#).
- 746 (76) "Oil sands" means impregnated bituminous sands that:
 - 747 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
 - 748 other hydrocarbons, or otherwise treated;
 - 749 (b) yield mixtures of liquid hydrocarbon; and
 - 750 (c) require further processing other than mechanical blending before becoming finished
 - 751 petroleum products.
- 752 (77) "Oil shale" means a group of fine black to dark brown shales containing kerogen
- 753 material that yields petroleum upon heating and distillation.
- 754 (78) "Optional computer software maintenance contract" means a computer software
- 755 maintenance contract that a customer is not obligated to purchase as a condition to the retail
- 756 sale of computer software.
- 757 (79) (a) "Other fuels" means products that burn independently to produce heat or

758 energy.

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

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

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

765 (81) "Pawnbroker" is as defined in Section 13-32a-102.

766 (82) "Pawn transaction" is as defined in Section 13-32a-102.

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

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

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

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

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

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

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

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

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

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

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

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

785 (iii) property attached to oil, gas, or water pipelines, except for the property listed in

786 Subsection (83)(c)(iii) or (iv).

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

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

790 (A) convenience;

791 (B) stability; or

792 (C) for an obvious temporary purpose;

793 (ii) the detachment of tangible personal property from real property except for the
794 detachment described in Subsection (83)(b)(ii);

795 (iii) an attachment of the following tangible personal property to real property if the
796 attachment to real property is only through a line that supplies water, electricity, gas,
797 telecommunications, cable, or supplies a similar item as determined by the commission by rule
798 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

799 (A) a computer;

800 (B) a telephone;

801 (C) a television; or

802 (D) tangible personal property similar to Subsections (83)(c)(iii)(A) through (C) as
803 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
804 Administrative Rulemaking Act; or

805 (iv) an item listed in Subsection (123)(c).

806 (84) "Person" includes any individual, firm, partnership, joint venture, association,
807 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
808 municipality, district, or other local governmental entity of the state, or any group or
809 combination acting as a unit.

810 (85) "Place of primary use":

811 (a) for telecommunications service other than mobile telecommunications service,
812 means the street address representative of where the customer's use of the telecommunications
813 service primarily occurs, which shall be:

- 814 (i) the residential street address of the customer; or
- 815 (ii) the primary business street address of the customer; or
- 816 (b) for mobile telecommunications service, is as defined in the Mobile
- 817 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 818 (86) (a) "Postpaid calling service" means a telecommunications service a person
- 819 obtains by making a payment on a call-by-call basis:
- 820 (i) through the use of a:
- 821 (A) bank card;
- 822 (B) credit card;
- 823 (C) debit card; or
- 824 (D) travel card; or
- 825 (ii) by a charge made to a telephone number that is not associated with the origination
- 826 or termination of the telecommunications service.
- 827 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
- 828 service, that would be a prepaid wireless calling service if the service were exclusively a
- 829 telecommunications service.
- 830 (87) "Postproduction" means an activity related to the finishing or duplication of a
- 831 medium described in Subsection [59-12-104\(54\)\(a\)](#).
- 832 (88) "Prepaid calling service" means a telecommunications service:
- 833 (a) that allows a purchaser access to telecommunications service that is exclusively
- 834 telecommunications service;
- 835 (b) that:
- 836 (i) is paid for in advance; and
- 837 (ii) enables the origination of a call using an:
- 838 (A) access number; or
- 839 (B) authorization code;
- 840 (c) that is dialed:
- 841 (i) manually; or

- 842 (ii) electronically; and
- 843 (d) sold in predetermined units or dollars that decline:
- 844 (i) by a known amount; and
- 845 (ii) with use.
- 846 (89) "Prepaid wireless calling service" means a telecommunications service:
- 847 (a) that provides the right to utilize:
- 848 (i) mobile wireless service; and
- 849 (ii) other service that is not a telecommunications service, including:
- 850 (A) the download of a product transferred electronically;
- 851 (B) a content service; or
- 852 (C) an ancillary service;
- 853 (b) that:
- 854 (i) is paid for in advance; and
- 855 (ii) enables the origination of a call using an:
- 856 (A) access number; or
- 857 (B) authorization code;
- 858 (c) that is dialed:
- 859 (i) manually; or
- 860 (ii) electronically; and
- 861 (d) sold in predetermined units or dollars that decline:
- 862 (i) by a known amount; and
- 863 (ii) with use.
- 864 (90) (a) "Prepared food" means:
- 865 (i) food:
- 866 (A) sold in a heated state; or
- 867 (B) heated by a seller;
- 868 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 869 item; or

870 (iii) except as provided in Subsection (90)(c), food sold with an eating utensil provided
871 by the seller, including a:

- 872 (A) plate;
- 873 (B) knife;
- 874 (C) fork;
- 875 (D) spoon;
- 876 (E) glass;
- 877 (F) cup;
- 878 (G) napkin; or
- 879 (H) straw.

880 (b) "Prepared food" does not include:

881 (i) food that a seller only:

- 882 (A) cuts;
- 883 (B) repackages; or
- 884 (C) pasteurizes; or

885 (ii) (A) the following:

- 886 (I) raw egg;
- 887 (II) raw fish;
- 888 (III) raw meat;
- 889 (IV) raw poultry; or

890 (V) a food containing an item described in Subsections (90)(b)(ii)(A)(I) through (IV);

891 and

892 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
893 Food and Drug Administration's Food Code that a consumer cook the items described in
894 Subsection (90)(b)(ii)(A) to prevent food borne illness; or

895 (iii) the following if sold without eating utensils provided by the seller:

896 (A) food and food ingredients sold by a seller if the seller's proper primary
897 classification under the 2002 North American Industry Classification System of the federal

898 Executive Office of the President, Office of Management and Budget, is manufacturing in
899 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
900 Manufacturing;

901 (B) food and food ingredients sold in an unheated state:

902 (I) by weight or volume; and

903 (II) as a single item; or

904 (C) a bakery item, including:

905 (I) a bagel;

906 (II) a bar;

907 (III) a biscuit;

908 (IV) bread;

909 (V) a bun;

910 (VI) a cake;

911 (VII) a cookie;

912 (VIII) a croissant;

913 (IX) a danish;

914 (X) a donut;

915 (XI) a muffin;

916 (XII) a pastry;

917 (XIII) a pie;

918 (XIV) a roll;

919 (XV) a tart;

920 (XVI) a torte; or

921 (XVII) a tortilla.

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

924 (i) a container; or

925 (ii) packaging.

926 (91) "Prescription" means an order, formula, or recipe that is issued:
927 (a) (i) orally;
928 (ii) in writing;
929 (iii) electronically; or
930 (iv) by any other manner of transmission; and
931 (b) by a licensed practitioner authorized by the laws of a state.

932 (92) (a) Except as provided in Subsection (92)(b)(ii) or (iii), "prewritten computer
933 software" means computer software that is not designed and developed:
934 (i) by the author or other creator of the computer software; and
935 (ii) to the specifications of a specific purchaser.

936 (b) "Prewritten computer software" includes:
937 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
938 software is not designed and developed:
939 (A) by the author or other creator of the computer software; and
940 (B) to the specifications of a specific purchaser;
941 (ii) computer software designed and developed by the author or other creator of the
942 computer software to the specifications of a specific purchaser if the computer software is sold
943 to a person other than the purchaser; or
944 (iii) except as provided in Subsection (92)(c), prewritten computer software or a
945 prewritten portion of prewritten computer software:
946 (A) that is modified or enhanced to any degree; and
947 (B) if the modification or enhancement described in Subsection (92)(b)(iii)(A) is
948 designed and developed to the specifications of a specific purchaser.

949 (c) "Prewritten computer software" does not include a modification or enhancement
950 described in Subsection (92)(b)(iii) if the charges for the modification or enhancement are:
951 (i) reasonable; and
952 (ii) subject to Subsections [59-12-103\(2\)\(e\)\(ii\)](#) and [\(2\)\(f\)\(i\)](#), separately stated on the
953 invoice or other statement of price provided to the purchaser at the time of sale or later, as

954 demonstrated by:

955 (A) the books and records the seller keeps at the time of the transaction in the regular
956 course of business, including books and records the seller keeps at the time of the transaction in
957 the regular course of business for nontax purposes;

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

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

960 (93) (a) "Private communication service" means a telecommunications service:

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

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

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

967 (i) an extension line;

968 (ii) a station;

969 (iii) switching capacity; or

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

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

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

976 (i) an ancillary service;

977 (ii) computer software; or

978 (iii) a telecommunications service.

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

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

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

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

983 (b) "Prosthetic device" includes:

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

985 (ii) replacement parts for a prosthetic device;

986 (iii) a dental prosthesis; or

987 (iv) a hearing aid.

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

989 (i) corrective eyeglasses; or

990 (ii) contact lenses.

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

992 (i) for human wear; and

993 (ii) that is:

994 (A) designed as protection:

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

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

997 (B) not suitable for general use.

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

1000 (i) listing the items that constitute "protective equipment"; and

1001 (ii) that are consistent with the list of items that constitute "protective equipment"
1002 under the agreement.

1003 (97) (a) For purposes of Subsection [59-12-104](#)(41), "publication" means any written or
1004 printed matter, other than a photocopy:

1005 (i) regardless of:

1006 (A) characteristics;

1007 (B) copyright;

1008 (C) form;

1009 (D) format;

1010 (E) method of reproduction; or
1011 (F) source; and
1012 (ii) made available in printed or electronic format.
1013 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1014 commission may by rule define the term "photocopy."
1015 (98) (a) "Purchase price" and "sales price" mean the total amount of consideration:
1016 (i) valued in money; and
1017 (ii) for which tangible personal property, a product transferred electronically, or
1018 services are:
1019 (A) sold;
1020 (B) leased; or
1021 (C) rented.
1022 (b) "Purchase price" and "sales price" include:
1023 (i) the seller's cost of the tangible personal property, a product transferred
1024 electronically, or services sold;
1025 (ii) expenses of the seller, including:
1026 (A) the cost of materials used;
1027 (B) a labor cost;
1028 (C) a service cost;
1029 (D) interest;
1030 (E) a loss;
1031 (F) the cost of transportation to the seller; or
1032 (G) a tax imposed on the seller;
1033 (iii) a charge by the seller for any service necessary to complete the sale; or
1034 (iv) consideration a seller receives from a person other than the purchaser if:
1035 (A) (I) the seller actually receives consideration from a person other than the purchaser;
1036 and
1037 (II) the consideration described in Subsection (98)(b)(iv)(A)(I) is directly related to a

1038 price reduction or discount on the sale;

1039 (B) the seller has an obligation to pass the price reduction or discount through to the
1040 purchaser;

1041 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1042 the seller at the time of the sale to the purchaser; and

1043 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1044 seller to claim a price reduction or discount; and

1045 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1046 coupon, or other documentation with the understanding that the person other than the seller
1047 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1048 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1049 organization allowed a price reduction or discount, except that a preferred customer card that is
1050 available to any patron of a seller does not constitute membership in a group or organization
1051 allowed a price reduction or discount; or

1052 (III) the price reduction or discount is identified as a third party price reduction or
1053 discount on the:

1054 (Aa) invoice the purchaser receives; or

1055 (Bb) certificate, coupon, or other documentation the purchaser presents.

1056 (c) "Purchase price" and "sales price" do not include:

1057 (i) a discount:

1058 (A) in a form including:

1059 (I) cash;

1060 (II) term; or

1061 (III) coupon;

1062 (B) that is allowed by a seller;

1063 (C) taken by a purchaser on a sale; and

1064 (D) that is not reimbursed by a third party; or

1065 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately

1066 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
1067 sale or later, as demonstrated by the books and records the seller keeps at the time of the
1068 transaction in the regular course of business, including books and records the seller keeps at the
1069 time of the transaction in the regular course of business for nontax purposes, by a
1070 preponderance of the facts and circumstances at the time of the transaction, and by the
1071 understanding of all of the parties to the transaction:

1072 (A) the following from credit extended on the sale of tangible personal property or
1073 services:

- 1074 (I) a carrying charge;
- 1075 (II) a financing charge; or
- 1076 (III) an interest charge;
- 1077 (B) a delivery charge;
- 1078 (C) an installation charge;
- 1079 (D) a manufacturer rebate on a motor vehicle; or
- 1080 (E) a tax or fee legally imposed directly on the consumer.

1081 (99) "Purchaser" means a person to whom:

- 1082 (a) a sale of tangible personal property is made;
- 1083 (b) a product is transferred electronically; or
- 1084 (c) a service is furnished.

1085 (100) "Regularly rented" means:

- 1086 (a) rented to a guest for value three or more times during a calendar year; or
- 1087 (b) advertised or held out to the public as a place that is regularly rented to guests for
1088 value.

1089 (101) "Rental" is as defined in Subsection (58).

1090 (102) (a) Except as provided in Subsection (102)(b), "repairs or renovations of tangible
1091 personal property" means:

- 1092 (i) a repair or renovation of tangible personal property that is not permanently attached
1093 to real property; or

1094 (ii) attaching tangible personal property or a product transferred electronically to other
1095 tangible personal property or detaching tangible personal property or a product transferred
1096 electronically from other tangible personal property if:

1097 (A) the other tangible personal property to which the tangible personal property or
1098 product transferred electronically is attached or from which the tangible personal property or
1099 product transferred electronically is detached is not permanently attached to real property; and

1100 (B) the attachment of tangible personal property or a product transferred electronically
1101 to other tangible personal property or detachment of tangible personal property or a product
1102 transferred electronically from other tangible personal property is made in conjunction with a
1103 repair or replacement of tangible personal property or a product transferred electronically.

1104 (b) "Repairs or renovations of tangible personal property" does not include:

1105 (i) attaching prewritten computer software to other tangible personal property if the
1106 other tangible personal property to which the prewritten computer software is attached is not
1107 permanently attached to real property; or

1108 (ii) detaching prewritten computer software from other tangible personal property if the
1109 other tangible personal property from which the prewritten computer software is detached is
1110 not permanently attached to real property.

1111 (103) "Research and development" means the process of inquiry or experimentation
1112 aimed at the discovery of facts, devices, technologies, or applications and the process of
1113 preparing those devices, technologies, or applications for marketing.

1114 (104) (a) "Residential telecommunications services" means a telecommunications
1115 service or an ancillary service that is provided to an individual for personal use:

1116 (i) at a residential address; or

1117 (ii) at an institution, including a nursing home or a school, if the telecommunications
1118 service or ancillary service is provided to and paid for by the individual residing at the
1119 institution rather than the institution.

1120 (b) For purposes of Subsection (104)(a)(i), a residential address includes an:

1121 (i) apartment; or

- 1122 (ii) other individual dwelling unit.
- 1123 (105) "Residential use" means the use in or around a home, apartment building,
1124 sleeping quarters, and similar facilities or accommodations.
- 1125 (106) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1126 than:
 - 1127 (a) resale;
 - 1128 (b) sublease; or
 - 1129 (c) subrent.
- 1130 (107) (a) "Retailer" means any person engaged in a regularly organized business in
1131 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1132 who is selling to the user or consumer and not for resale.
 - 1133 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1134 engaged in the business of selling to users or consumers within the state.
- 1135 (108) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1136 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1137 Subsection 59-12-103(1), for consideration.
 - 1138 (b) "Sale" includes:
 - 1139 (i) installment and credit sales;
 - 1140 (ii) any closed transaction constituting a sale;
 - 1141 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1142 chapter;
 - 1143 (iv) any transaction if the possession of property is transferred but the seller retains the
1144 title as security for the payment of the price; and
 - 1145 (v) any transaction under which right to possession, operation, or use of any article of
1146 tangible personal property is granted under a lease or contract and the transfer of possession
1147 would be taxable if an outright sale were made.
 - 1148 (109) "Sale at retail" is as defined in Subsection (106).
 - 1149 (110) "Sale-leaseback transaction" means a transaction by which title to tangible

1150 personal property or a product transferred electronically that is subject to a tax under this
1151 chapter is transferred:

- 1152 (a) by a purchaser-lessee;
- 1153 (b) to a lessor;
- 1154 (c) for consideration; and
- 1155 (d) if:
 - 1156 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1157 of the tangible personal property or product transferred electronically;
 - 1158 (ii) the sale of the tangible personal property or product transferred electronically to the
1159 lessor is intended as a form of financing:
 - 1160 (A) for the tangible personal property or product transferred electronically; and
 - 1161 (B) to the purchaser-lessee; and
 - 1162 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1163 is required to:
 - 1164 (A) capitalize the tangible personal property or product transferred electronically for
1165 financial reporting purposes; and
 - 1166 (B) account for the lease payments as payments made under a financing arrangement.

1167 (111) "Sales price" is as defined in Subsection (98).

1168 (112) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
1169 amounts charged by a school:

- 1170 (i) sales that are directly related to the school's educational functions or activities
1171 including:
 - 1172 (A) the sale of:
 - 1173 (I) textbooks;
 - 1174 (II) textbook fees;
 - 1175 (III) laboratory fees;
 - 1176 (IV) laboratory supplies; or
 - 1177 (V) safety equipment;

- 1178 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
1179 that:
- 1180 (I) a student is specifically required to wear as a condition of participation in a
1181 school-related event or school-related activity; and
- 1182 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1183 place of ordinary clothing;
- 1184 (C) sales of the following if the net or gross revenues generated by the sales are
1185 deposited into a school district fund or school fund dedicated to school meals:
- 1186 (I) food and food ingredients; or
1187 (II) prepared food; or
1188 (D) transportation charges for official school activities; or
1189 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1190 event or school-related activity.
- 1191 (b) "Sales relating to schools" does not include:
- 1192 (i) bookstore sales of items that are not educational materials or supplies;
1193 (ii) except as provided in Subsection (112)(a)(i)(B):
- 1194 (A) clothing;
1195 (B) clothing accessories or equipment;
1196 (C) protective equipment; or
1197 (D) sports or recreational equipment; or
1198 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1199 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1200 (A) other than a:
- 1201 (I) school;
1202 (II) nonprofit organization authorized by a school board or a governing body of a
1203 private school to organize and direct a competitive secondary school activity; or
1204 (III) nonprofit association authorized by a school board or a governing body of a
1205 private school to organize and direct a competitive secondary school activity; and

- 1206 (B) that is required to collect sales and use taxes under this chapter.
- 1207 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1208 commission may make rules defining the term "passed through."
- 1209 (113) For purposes of this section and Section 59-12-104, "school":
- 1210 (a) means:
- 1211 (i) an elementary school or a secondary school that:
- 1212 (A) is a:
- 1213 (I) public school; or
- 1214 (II) private school; and
- 1215 (B) provides instruction for one or more grades kindergarten through 12; or
- 1216 (ii) a public school district; and
- 1217 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1218 (114) "Seller" means a person that makes a sale, lease, or rental of:
- 1219 (a) tangible personal property;
- 1220 (b) a product transferred electronically; or
- 1221 (c) a service.
- 1222 (115) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1223 means tangible personal property or a product transferred electronically if the tangible personal
- 1224 property or product transferred electronically is:
- 1225 (i) used primarily in the process of:
- 1226 (A) (I) manufacturing a semiconductor;
- 1227 (II) fabricating a semiconductor; or
- 1228 (III) research or development of a:
- 1229 (Aa) semiconductor; or
- 1230 (Bb) semiconductor manufacturing process; or
- 1231 (B) maintaining an environment suitable for a semiconductor; or
- 1232 (ii) consumed primarily in the process of:
- 1233 (A) (I) manufacturing a semiconductor;

- 1234 (II) fabricating a semiconductor; or
- 1235 (III) research or development of a:
- 1236 (Aa) semiconductor; or
- 1237 (Bb) semiconductor manufacturing process; or
- 1238 (B) maintaining an environment suitable for a semiconductor.
- 1239 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1240 includes:
- 1241 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1242 transferred electronically described in Subsection (115)(a); or
- 1243 (ii) a chemical, catalyst, or other material used to:
- 1244 (A) produce or induce in a semiconductor a:
- 1245 (I) chemical change; or
- 1246 (II) physical change;
- 1247 (B) remove impurities from a semiconductor; or
- 1248 (C) improve the marketable condition of a semiconductor.
- 1249 (116) "Senior citizen center" means a facility having the primary purpose of providing
- 1250 services to the aged as defined in Section [62A-3-101](#).
- 1251 (117) (a) Subject to Subsections (117)(b) and (c), "short-term lodging consumable"
- 1252 means tangible personal property that:
- 1253 (i) a business that provides accommodations and services described in Subsection
- 1254 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services
- 1255 to a purchaser;
- 1256 (ii) is intended to be consumed by the purchaser; and
- 1257 (iii) is:
- 1258 (A) included in the purchase price of the accommodations and services; and
- 1259 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 1260 to the purchaser.
- 1261 (b) "Short-term lodging consumable" includes:

- 1262 (i) a beverage;
- 1263 (ii) a brush or comb;
- 1264 (iii) a cosmetic;
- 1265 (iv) a hair care product;
- 1266 (v) lotion;
- 1267 (vi) a magazine;
- 1268 (vii) makeup;
- 1269 (viii) a meal;
- 1270 (ix) mouthwash;
- 1271 (x) nail polish remover;
- 1272 (xi) a newspaper;
- 1273 (xii) a notepad;
- 1274 (xiii) a pen;
- 1275 (xiv) a pencil;
- 1276 (xv) a razor;
- 1277 (xvi) saline solution;
- 1278 (xvii) a sewing kit;
- 1279 (xviii) shaving cream;
- 1280 (xix) a shoe shine kit;
- 1281 (xx) a shower cap;
- 1282 (xxi) a snack item;
- 1283 (xxii) soap;
- 1284 (xxiii) toilet paper;
- 1285 (xxiv) a toothbrush;
- 1286 (xxv) toothpaste; or
- 1287 (xxvi) an item similar to Subsections (117)(b)(i) through (xxv) as the commission may
- 1288 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1289 Rulemaking Act.

- 1290 (c) "Short-term lodging consumable" does not include:
- 1291 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1292 property to be reused; or
- 1293 (ii) a product transferred electronically.
- 1294 (118) "Simplified electronic return" means the electronic return:
- 1295 (a) described in Section 318(C) of the agreement; and
- 1296 (b) approved by the governing board of the agreement.
- 1297 (119) "Solar energy" means the sun used as the sole source of energy for producing
- 1298 electricity.
- 1299 (120) (a) "Sports or recreational equipment" means an item:
- 1300 (i) designed for human use; and
- 1301 (ii) that is:
- 1302 (A) worn in conjunction with:
- 1303 (I) an athletic activity; or
- 1304 (II) a recreational activity; and
- 1305 (B) not suitable for general use.
- 1306 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1307 commission shall make rules:
- 1308 (i) listing the items that constitute "sports or recreational equipment"; and
- 1309 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1310 equipment" under the agreement.
- 1311 (121) "State" means the state of Utah, its departments, and agencies.
- 1312 (122) "Storage" means any keeping or retention of tangible personal property or any
- 1313 other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose except
- 1314 sale in the regular course of business.
- 1315 (123) (a) Except as provided in Subsection (123)(d) or (e), "tangible personal property"
- 1316 means personal property that:
- 1317 (i) may be:

- 1318 (A) seen;
- 1319 (B) weighed;
- 1320 (C) measured;
- 1321 (D) felt; or
- 1322 (E) touched; or
- 1323 (ii) is in any manner perceptible to the senses.
- 1324 (b) "Tangible personal property" includes:
- 1325 (i) electricity;
- 1326 (ii) water;
- 1327 (iii) gas;
- 1328 (iv) steam; or
- 1329 (v) prewritten computer software, regardless of the manner in which the prewritten
- 1330 computer software is transferred.
- 1331 (c) "Tangible personal property" includes the following regardless of whether the item
- 1332 is attached to real property:
- 1333 (i) a dishwasher;
- 1334 (ii) a dryer;
- 1335 (iii) a freezer;
- 1336 (iv) a microwave;
- 1337 (v) a refrigerator;
- 1338 (vi) a stove;
- 1339 (vii) a washer; or
- 1340 (viii) an item similar to Subsections (123)(c)(i) through (vii) as determined by the
- 1341 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1342 Rulemaking Act.
- 1343 (d) "Tangible personal property" does not include a product that is transferred
- 1344 electronically.
- 1345 (e) "Tangible personal property" does not include the following if attached to real

1346 property, regardless of whether the attachment to real property is only through a line that
1347 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1348 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1349 Rulemaking Act:

- 1350 (i) a hot water heater;
- 1351 (ii) a water filtration system; or
- 1352 (iii) a water softener system.

1353 (124) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1354 software" means an item listed in Subsection (124)(b) if that item is purchased or leased
1355 primarily to enable or facilitate one or more of the following to function:

- 1356 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1357 (ii) telecommunications transmission equipment, machinery, or software.

1358 (b) The following apply to Subsection (124)(a):

- 1359 (i) a pole;
- 1360 (ii) software;
- 1361 (iii) a supplementary power supply;
- 1362 (iv) temperature or environmental equipment or machinery;
- 1363 (v) test equipment;
- 1364 (vi) a tower; or
- 1365 (vii) equipment, machinery, or software that functions similarly to an item listed in
1366 Subsections (124)(b)(i) through (vi) as determined by the commission by rule made in
1367 accordance with Subsection (124)(c).

1368 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1369 commission may by rule define what constitutes equipment, machinery, or software that
1370 functions similarly to an item listed in Subsections (124)(b)(i) through (vi).

1371 (125) "Telecommunications equipment, machinery, or software required for 911
1372 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
1373 Sec. 20.18.

1374 (126) "Telecommunications maintenance or repair equipment, machinery, or software"
1375 means equipment, machinery, or software purchased or leased primarily to maintain or repair
1376 one or more of the following, regardless of whether the equipment, machinery, or software is
1377 purchased or leased as a spare part or as an upgrade or modification to one or more of the
1378 following:

- 1379 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1380 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1381 (c) telecommunications transmission equipment, machinery, or software.

1382 (127) (a) "Telecommunications service" means the electronic conveyance, routing, or
1383 transmission of audio, data, video, voice, or any other information or signal to a point, or
1384 among or between points.

1385 (b) "Telecommunications service" includes:

1386 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1387 processing application is used to act:

1388 (A) on the code, form, or protocol of the content;

1389 (B) for the purpose of electronic conveyance, routing, or transmission; and

1390 (C) regardless of whether the service:

1391 (I) is referred to as voice over Internet protocol service; or

1392 (II) is classified by the Federal Communications Commission as enhanced or value
1393 added;

1394 (ii) an 800 service;

1395 (iii) a 900 service;

1396 (iv) a fixed wireless service;

1397 (v) a mobile wireless service;

1398 (vi) a postpaid calling service;

1399 (vii) a prepaid calling service;

1400 (viii) a prepaid wireless calling service; or

1401 (ix) a private communications service.

- 1402 (c) "Telecommunications service" does not include:
- 1403 (i) advertising, including directory advertising;
- 1404 (ii) an ancillary service;
- 1405 (iii) a billing and collection service provided to a third party;
- 1406 (iv) a data processing and information service if:
- 1407 (A) the data processing and information service allows data to be:
- 1408 (I) (Aa) acquired;
- 1409 (Bb) generated;
- 1410 (Cc) processed;
- 1411 (Dd) retrieved; or
- 1412 (Ee) stored; and
- 1413 (II) delivered by an electronic transmission to a purchaser; and
- 1414 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1415 or information;
- 1416 (v) installation or maintenance of the following on a customer's premises:
- 1417 (A) equipment; or
- 1418 (B) wiring;
- 1419 (vi) Internet access service;
- 1420 (vii) a paging service;
- 1421 (viii) a product transferred electronically, including:
- 1422 (A) music;
- 1423 (B) reading material;
- 1424 (C) a ring tone;
- 1425 (D) software; or
- 1426 (E) video;
- 1427 (ix) a radio and television audio and video programming service:
- 1428 (A) regardless of the medium; and
- 1429 (B) including:

- 1430 (I) furnishing conveyance, routing, or transmission of a television audio and video
1431 programming service by a programming service provider;
- 1432 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
1433 (III) audio and video programming services delivered by a commercial mobile radio
1434 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1435 (x) a value-added nonvoice data service; or
1436 (xi) tangible personal property.
- 1437 (128) (a) "Telecommunications service provider" means a person that:
1438 (i) owns, controls, operates, or manages a telecommunications service; and
1439 (ii) engages in an activity described in Subsection (128)(a)(i) for the shared use with or
1440 resale to any person of the telecommunications service.
- 1441 (b) A person described in Subsection (128)(a) is a telecommunications service provider
1442 whether or not the Public Service Commission of Utah regulates:
- 1443 (i) that person; or
1444 (ii) the telecommunications service that the person owns, controls, operates, or
1445 manages.
- 1446 (129) (a) "Telecommunications switching or routing equipment, machinery, or
1447 software" means an item listed in Subsection (129)(b) if that item is purchased or leased
1448 primarily for switching or routing:
- 1449 (i) an ancillary service;
1450 (ii) data communications;
1451 (iii) voice communications; or
1452 (iv) telecommunications service.
- 1453 (b) The following apply to Subsection (129)(a):
1454 (i) a bridge;
1455 (ii) a computer;
1456 (iii) a cross connect;
1457 (iv) a modem;

- 1458 (v) a multiplexer;
- 1459 (vi) plug in circuitry;
- 1460 (vii) a router;
- 1461 (viii) software;
- 1462 (ix) a switch; or
- 1463 (x) equipment, machinery, or software that functions similarly to an item listed in
- 1464 Subsections (129)(b)(i) through (ix) as determined by the commission by rule made in
- 1465 accordance with Subsection (129)(c).

1466 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1467 commission may by rule define what constitutes equipment, machinery, or software that
1468 functions similarly to an item listed in Subsections (129)(b)(i) through (ix).

1469 (130) (a) "Telecommunications transmission equipment, machinery, or software"
1470 means an item listed in Subsection (130)(b) if that item is purchased or leased primarily for
1471 sending, receiving, or transporting:

- 1472 (i) an ancillary service;
- 1473 (ii) data communications;
- 1474 (iii) voice communications; or
- 1475 (iv) telecommunications service.

1476 (b) The following apply to Subsection (130)(a):

- 1477 (i) an amplifier;
- 1478 (ii) a cable;
- 1479 (iii) a closure;
- 1480 (iv) a conduit;
- 1481 (v) a controller;
- 1482 (vi) a duplexer;
- 1483 (vii) a filter;
- 1484 (viii) an input device;
- 1485 (ix) an input/output device;

- 1486 (x) an insulator;
- 1487 (xi) microwave machinery or equipment;
- 1488 (xii) an oscillator;
- 1489 (xiii) an output device;
- 1490 (xiv) a pedestal;
- 1491 (xv) a power converter;
- 1492 (xvi) a power supply;
- 1493 (xvii) a radio channel;
- 1494 (xviii) a radio receiver;
- 1495 (xix) a radio transmitter;
- 1496 (xx) a repeater;
- 1497 (xxi) software;
- 1498 (xxii) a terminal;
- 1499 (xxiii) a timing unit;
- 1500 (xxiv) a transformer;
- 1501 (xxv) a wire; or
- 1502 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1503 Subsections (130)(b)(i) through (xxv) as determined by the commission by rule made in
- 1504 accordance with Subsection (130)(c).
- 1505 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1506 commission may by rule define what constitutes equipment, machinery, or software that
- 1507 functions similarly to an item listed in Subsections (130)(b)(i) through (xxv).
- 1508 (131) (a) "Textbook for a higher education course" means a textbook or other printed
- 1509 material that is required for a course:
 - 1510 (i) offered by an institution of higher education; and
 - 1511 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1512 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 1513 (132) "Tobacco" means:

- 1514 (a) a cigarette;
- 1515 (b) a cigar;
- 1516 (c) chewing tobacco;
- 1517 (d) pipe tobacco; or
- 1518 (e) any other item that contains tobacco.

1519 (133) "Unassisted amusement device" means an amusement device, skill device, or
1520 ride device that is started and stopped by the purchaser or renter of the right to use or operate
1521 the amusement device, skill device, or ride device.

1522 (134) (a) "Use" means the exercise of any right or power over tangible personal
1523 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1524 incident to the ownership or the leasing of that tangible personal property, product transferred
1525 electronically, or service.

1526 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1527 property, a product transferred electronically, or a service in the regular course of business and
1528 held for resale.

1529 (135) "Value-added nonvoice data service" means a service:

1530 (a) that otherwise meets the definition of a telecommunications service except that a
1531 computer processing application is used to act primarily for a purpose other than conveyance,
1532 routing, or transmission; and

1533 (b) with respect to which a computer processing application is used to act on data or
1534 information:

- 1535 (i) code;
- 1536 (ii) content;
- 1537 (iii) form; or
- 1538 (iv) protocol.

1539 (136) (a) Subject to Subsection (136)(b), "vehicle" means the following that are
1540 required to be titled, registered, or titled and registered:

1541 (i) an aircraft as defined in Section 72-10-102;

- 1542 (ii) a vehicle as defined in Section 41-1a-102;
- 1543 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1544 (iv) a vessel as defined in Section 41-1a-102.
- 1545 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1546 (i) a vehicle described in Subsection (136)(a); or
- 1547 (ii) (A) a locomotive;
- 1548 (B) a freight car;
- 1549 (C) railroad work equipment; or
- 1550 (D) other railroad rolling stock.
- 1551 (137) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 1552 exchanging a vehicle as defined in Subsection (136).
- 1553 (138) (a) "Vertical service" means an ancillary service that:
- 1554 (i) is offered in connection with one or more telecommunications services; and
- 1555 (ii) offers an advanced calling feature that allows a customer to:
- 1556 (A) identify a caller; and
- 1557 (B) manage multiple calls and call connections.
- 1558 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 1559 conference bridging service.
- 1560 (139) (a) "Voice mail service" means an ancillary service that enables a customer to
- 1561 receive, send, or store a recorded message.
- 1562 (b) "Voice mail service" does not include a vertical service that a customer is required
- 1563 to have in order to utilize a voice mail service.
- 1564 (140) (a) Except as provided in Subsection (140)(b), "waste energy facility" means a
- 1565 facility that generates electricity:
- 1566 (i) using as the primary source of energy waste materials that would be placed in a
- 1567 landfill or refuse pit if it were not used to generate electricity, including:
- 1568 (A) tires;
- 1569 (B) waste coal;

- 1570 (C) oil shale; or
- 1571 (D) municipal solid waste; and
- 1572 (ii) in amounts greater than actually required for the operation of the facility.
- 1573 (b) "Waste energy facility" does not include a facility that incinerates:
- 1574 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1575 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1576 (141) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1577 (142) "Wind energy" means wind used as the sole source of energy to produce
- 1578 electricity.
- 1579 (143) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
- 1580 location by the United States Postal Service.

Section 2. Section 59-12-400 is enacted to read:

Part 4. Impacted Communities Taxes Act

59-12-400. Title.

This part is known as the "Impacted Communities Taxes Act."

Section 3. Section 59-12-402.1 is enacted to read:

**59-12-402.1. State correctional facility sales and use tax -- Base -- Rate --
Collection fees -- Imposition -- Prohibition of military installation development authority
imposition of tax.**

(1) As used in this section, "new state correctional facility" means a new prison in the
state:

- (a) that is operated by the Department of Corrections;
- (b) the construction of which begins on or after May 12, 2015; and
- (c) that provides a capacity of 2,500 or more inmate beds.

(2) Subject to the other provisions of this part, a city or town legislative body may
impose a tax under this section if the construction of a new state correctional facility has begun
within the boundaries of the city or town.

(3) For purposes of this section, the tax rate may not exceed .5%.

1598 (4) Except as provided in Subsection (5), a tax under this section shall be imposed on
1599 the transactions described in Subsection 59-12-103(1) within the city or town.

1600 (5) A city or town may not impose a tax under this section on:

1601 (a) the sale of:

1602 (i) a motor vehicle;

1603 (ii) an aircraft;

1604 (iii) a watercraft;

1605 (iv) a modular home;

1606 (v) a manufactured home; or

1607 (vi) a mobile home;

1608 (b) the sales and uses described in Section 59-12-104 to the extent the sales and uses
1609 are exempt under Section 59-12-104; and

1610 (c) except as provided in Subsection (7), amounts paid or charged for food and food
1611 ingredients.

1612 (6) For purposes of this section, the location of a transaction shall be determined in
1613 accordance with Sections 59-12-211 through 59-12-215.

1614 (7) A city or town that imposes a tax under this section shall impose the tax on
1615 amounts paid or charged for food and food ingredients if the food and food ingredients are sold
1616 as part of a bundled transaction attributable to food and food ingredients and tangible personal
1617 property other than food and food ingredients.

1618 (8) A city or town may impose a tax under this section by majority vote of the
1619 members of the city or town legislative body.

1620 (9) A city or town that imposes a tax under this section is not subject to Section
1621 59-12-405.

1622 (10) A military installation development authority may not impose a tax under this
1623 section.

1624 Section 4. Section **59-12-403** is amended to read:

1625 **59-12-403. Enactment or repeal of tax -- Tax rate change -- Effective date --**

1626 **Notice requirements -- Administration, collection, and enforcement of tax --**

1627 **Administrative charge.**

1628 (1) For purposes of this section:

1629 (a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
1630 4, Annexation.

1631 (b) "Annexing area" means an area that is annexed into a city or town.

1632 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after April 1, 2008, a
1633 city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
1634 repeal, or change shall take effect:

1635 (i) on the first day of a calendar quarter; and

1636 (ii) after a 90-day period beginning on the date the commission receives notice meeting
1637 the requirements of Subsection (2)(b) from the city or town.

1638 (b) The notice described in Subsection (2)(a)(ii) shall state:

1639 (i) that the city or town will enact or repeal a tax or change the rate of a tax under this
1640 part;

1641 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

1642 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

1643 (iv) if the city or town enacts the tax or changes the rate of the tax described in
1644 Subsection (2)(b)(i), the rate of the tax.

1645 (c) (i) The enactment of a tax or a tax rate increase takes effect on the first day of the
1646 first billing period:

1647 (A) that begins on or after the effective date of the enactment of the tax or the tax rate
1648 increase; and

1649 (B) if the billing period for the transaction begins before the effective date of the
1650 enactment of the tax or the tax rate increase imposed under[:] [Section 59-12-401](#), [59-12-402](#), or
1651 [59-12-402.1](#).

1652 [~~(F) Section 59-12-401; or~~]

1653 [~~(H) Section 59-12-402;]~~]

1654 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
1655 statement for the billing period is rendered on or after the effective date of the repeal of the tax
1656 or the tax rate decrease imposed under[:] Section 59-12-401, 59-12-402, or 59-12-402.1.

1657 [~~(A) Section 59-12-401; or~~]

1658 [~~(B) Section 59-12-402.~~]

1659 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
1660 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
1661 a tax described in Subsection (2)(a) takes effect:

1662 (A) on the first day of a calendar quarter; and

1663 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
1664 rate of the tax under Subsection (2)(a).

1665 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1666 commission may by rule define the term "catalogue sale."

1667 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
1668 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
1669 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
1670 effect:

1671 (i) on the first day of a calendar quarter; and

1672 (ii) after a 90-day period beginning on the date the commission receives notice meeting
1673 the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

1674 (b) The notice described in Subsection (3)(a)(ii) shall state:

1675 (i) that the annexation described in Subsection (3)(a) will result in an enactment,
1676 repeal, or change in the rate of a tax under this part for the annexing area;

1677 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

1678 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

1679 (iv) if the city or town enacts the tax or changes the rate of the tax described in
1680 Subsection (3)(b)(i), the rate of the tax.

1681 (c) (i) The enactment of a tax or a tax rate increase takes effect on the first day of the

1682 first billing period:

1683 (A) that begins on or after the effective date of the enactment of the tax or the tax rate
1684 increase; and

1685 (B) if the billing period for the transaction begins before the effective date of the
1686 enactment of the tax or the tax rate increase imposed under~~[:]~~ [Section 59-12-401, 59-12-402, or](#)
1687 [59-12-402.1.](#)

1688 [~~(F) Section 59-12-401; or~~]

1689 [~~(H) Section 59-12-402.~~]

1690 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
1691 statement for the billing period is rendered on or after the effective date of the repeal of the tax
1692 or the tax rate decrease imposed under~~[:]~~ [Section 59-12-401, 59-12-402, or 59-12-402.1.](#)

1693 [~~(A) Section 59-12-401; or~~]

1694 [~~(B) Section 59-12-402.~~]

1695 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
1696 sale is computed on the basis of sales and use tax rates published in the catalogue, an
1697 enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

1698 (A) on the first day of a calendar quarter; and

1699 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
1700 rate of the tax under Subsection (3)(a).

1701 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1702 commission may by rule define the term "catalogue sale."

1703 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be
1704 administered, collected, and enforced in accordance with:

1705 (i) the same procedures used to administer, collect, and enforce the tax under:

1706 (A) Part 1, Tax Collection; or

1707 (B) Part 2, Local Sales and Use Tax Act; and

1708 (ii) Chapter 1, General Taxation Policies.

1709 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to

1710 Subsections [59-12-205](#)(2) through (6).

1711 (5) The commission shall retain and deposit an administrative charge in accordance
1712 with Section [59-1-306](#) from the revenues the commission collects from a tax under this part.

1713 Section 5. Section **63A-5-225** is enacted to read:

1714 **63A-5-225. Development of new correctional facilities.**

1715 (1) As used in this section:

1716 (a) "Commission" means the Prison Development Commission, created in Section
1717 [63C-16-201](#).

1718 (b) "New correctional facilities" means a new prison and related facilities to be
1719 constructed to replace the state prison located in Draper.

1720 (c) "Prison project" means all aspects of a project for the design and construction of
1721 new correctional facilities on the selected site, including:

1722 (i) the acquisition of land, interests in land, easements, or rights-of-way;

1723 (ii) site improvement; and

1724 (iii) the acquisition, construction, equipping, or furnishing of facilities, structures,
1725 infrastructure, roads, parking facilities, utilities, and improvements, whether on or off the
1726 selected site, that are necessary, incidental, or convenient to the development of new
1727 correctional facilities on the selected site.

1728 (d) "Selected site" means the same as that term is defined in Section [63C-16-102](#).

1729 (2) In consultation with the commission, the division shall oversee the prison project,
1730 as provided in this section.

1731 (3) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, and this
1732 section, the division shall:

1733 (i) enter into contracts with persons providing professional and construction services
1734 for the prison project;

1735 (ii) in determining contract types for the prison project, consult with and consider
1736 recommendations from the commission or the commission's designee;

1737 (iii) provide reports to the commission regarding the prison project, as requested by the

1738 commission; and
1739 (iv) consider input from the commission on the prison project, subject to Subsection
1740 (3)(b).
1741 (b) The division may not consult with or receive input from the commission regarding:
1742 (i) the evaluation of proposals from persons seeking to provide professional and
1743 construction services for the prison project; or
1744 (ii) the selection of persons to provide professional and construction services for the
1745 prison project.
1746 (c) A contract with a project manager or person with a comparable position on the
1747 prison project shall include a provision that requires the project manager or other person to
1748 provide reports to the commission regarding the prison project, as requested by the
1749 commission.
1750 (4) All contracts associated with the design or construction of new correctional
1751 facilities shall be awarded and managed by the division in accordance with Title 63G, Chapter
1752 6a, Utah Procurement Code, and this section.
1753 (5) The division shall coordinate with the Department of Corrections, created in
1754 Section 64-13-2, and the State Commission on Criminal and Juvenile Justice, created in
1755 Section 63M-7-201, during the prison project to help ensure that the design and construction of
1756 new correctional facilities are conducive to and consistent with, and help to implement any
1757 reforms of or changes to, the state's corrections system and corrections programs.
1758 (6) (a) There is created within the General Fund a restricted account known as the
1759 "Prison Development Restricted Account."
1760 (b) The account created in Subsection (6)(a) is funded by legislative appropriations.
1761 (c) (i) The account shall earn interest or other earnings.
1762 (ii) The Division of Finance shall deposit interest or other earnings derived from the
1763 investment of account funds into the account.
1764 (d) Upon appropriation from the Legislature, money from the account shall be used to
1765 fund the Prison Project Fund created in Subsection (7).

1766 (7) (a) There is created a capital projects fund known as the "Prison Project Fund."
1767 (b) The fund consists of:
1768 (i) money appropriated to the fund by the Legislature; and
1769 (ii) proceeds from the issuance of bonds authorized in Section [63B-24-101](#) to provide
1770 funding for the prison project.
1771 (c) (i) The fund shall earn interest or other earnings.
1772 (ii) The Division of Finance shall deposit interest or other earnings derived from the
1773 investment of fund money into the fund.
1774 (d) Money in the fund shall be used by the division to fund the prison project.
1775 Section 6. Section **63B-24-101** is enacted to read:
1776 **63B-24-101. General obligation bonds for prison project -- Maximum amount --**
1777 **Use of proceeds.**
1778 (1) As used in this section:
1779 (a) "Prison project" means the same as that term is defined in Section [63C-16-102](#).
1780 (b) "Prison project fund" means the capital projects fund created in Subsection
1781 [63A-5-225\(7\)](#).
1782 (2) The commission may issue general obligation bonds as provided in this section.
1783 (3) (a) The total amount of bonds to be issued under this section may not exceed
1784 \$470,000,000, plus additional amounts necessary to pay costs of issuance, to pay capitalized
1785 interest, and to fund any debt service reserve requirements, with the total amount of the bonds
1786 not to exceed \$474,700,000.
1787 (b) The maturity of bonds issued under this section shall be seven years.
1788 (4) The commission shall ensure that proceeds from the issuance of bonds under this
1789 section are deposited into the Prison Project Fund for use by the division to pay all or part of
1790 the cost of the prison project, including:
1791 (a) interest estimated to accrue on the bonds authorized in this section until the
1792 completion of construction of the prison project, plus a period of 12 months after the end of
1793 construction; and

1794 (b) all related engineering, architectural, and legal fees.
1795 (5) (a) The division may enter into agreements related to the prison project before the
1796 receipt of proceeds of bonds issued under this section.

1797 (b) The division shall make those expenditures from unexpended and unencumbered
1798 building funds already appropriated to the Prison Project Fund.

1799 (c) The division shall reimburse the Prison Project Fund upon receipt of the proceeds
1800 of bonds issued under this chapter.

1801 (d) The state intends to use proceeds of tax-exempt bonds to reimburse itself for
1802 expenditures for costs of the prison project.

1803 (6) Before issuing bonds authorized under this section, the commission shall request
1804 and consider a recommendation from the Prison Development Commission, created in Section
1805 63C-16-201, regarding the timing and amount of the issuance.

1806 Section 7. Section **63C-15-102** is amended to read:

1807 **63C-15-102. Definitions.**

1808 As used in this chapter:

1809 (1) "Commission" means the Prison Relocation Commission, created in Section
1810 **63C-15-201**.

1811 (2) "Department" means the Department of Corrections, created in Section **64-13-2**.

1812 (3) "Division" means the Division of Facilities Construction and Management, created
1813 in Section **63A-5-201**.

1814 (4) "Justice commission" means the State Commission on Criminal and Juvenile
1815 Justice, created in Section **63M-7-201**.

1816 (5) "New prison facilities" means correctional facilities to be constructed to replace the
1817 state prison.

1818 [~~(5)~~] (6) "State prison" means the prison that the state operates in [Salt Lake County]
1819 Draper.

1820 Section 8. Section **63C-15-201** is amended to read:

1821 **63C-15-201. Commission created -- Membership -- Cochairs -- Removal --**

1822 **Vacancy.**

1823 (1) There is created [~~an advisory~~] a commission known as the Prison Relocation
1824 Commission, composed of:

1825 (a) three members of the Senate, appointed by the president of the Senate, no more
1826 than two of whom may be from the same political party;

1827 (b) four members of the House of Representatives, appointed by the speaker of the
1828 House of Representatives, no more than three of whom may be from the same political party;

1829 (c) the executive director of the justice commission, appointed under Section
1830 [63M-7-203](#); and

1831 (d) the executive director of the department, appointed under Section [64-13-3](#), or the
1832 executive director's designee.

1833 (2) The commission members from the Senate and House of Representatives are voting
1834 members of the commission, and the members appointed under Subsections (1)(c) and (d) are
1835 nonvoting members of the commission.

1836 (3) The president of the Senate shall appoint one of the commission members from the
1837 Senate as cochair of the commission, and the speaker of the House of Representatives shall
1838 appoint one of the commission members from the House of Representatives as cochair of the
1839 commission.

1840 (4) The president of the Senate may remove a member appointed under Subsection
1841 (1)(a), and the speaker of the House of Representatives may remove a member appointed under
1842 Subsection (1)(b).

1843 (5) A vacancy of a member appointed under Subsection (1)(a) or (b) shall be filled in
1844 the same manner as an appointment of the member whose departure from the commission
1845 creates the vacancy.

1846 (6) A commission member shall serve until a successor is duly appointed and qualified.

1847 Section 9. Section **63C-15-203** is amended to read:

1848 **63C-15-203. Commission duties and responsibilities.**

1849 (1) The commission shall:

1850 (a) carefully and deliberately consider, study, and evaluate how and where to move the
1851 state prison, and in that process:

1852 (i) consider whether to locate new prison facilities on land already owned by the state
1853 or on land that is currently in other public or private ownership but that the state may acquire or
1854 lease, whether to locate new prison facilities at one location or multiple locations, and to what
1855 extent future corrections needs may be met by existing state and county facilities; and

1856 (ii) take into account relevant objectives, including:

1857 (A) coordinating the commission's efforts with the efforts of the justice commission
1858 and the department to evaluate criminal justice policies to increase public safety, reduce
1859 recidivism, and reduce prison population growth;

1860 (B) ensuring that new prison facilities are conducive to future inmate programming that
1861 encourages a reduction in recidivism;

1862 (C) locating new prison facilities to help facilitate an adequate level of volunteer and
1863 staff support that will allow for a correctional program that is commensurate with the high
1864 standards that should be maintained in the state;

1865 (D) locating new prison facilities within a reasonable distance of comprehensive
1866 medical facilities;

1867 (E) locating new prison facilities to be compatible with surrounding land uses for the
1868 foreseeable future;

1869 (F) locating new prison facilities with careful consideration given to the concerns of
1870 access to courts, visiting and public access, expansion capabilities, emergency response factors,
1871 and the availability of infrastructure;

1872 (G) supporting new prison facilities by one or more appropriations from the
1873 Legislature;

1874 (H) developing performance specifications for new prison facilities that facilitate a
1875 high quality correctional program;

1876 (I) phasing in construction over a period of time; and

1877 (J) making every reasonable effort to maximize efficiencies and cost savings that result

1878 from building and operating newer, more efficient prison facilities;

1879 (b) invite the participation in commission meetings of interested parties, the public,
1880 experts in the area of prison facilities, and any others the commission considers to have
1881 information or ideas that would be useful to the commission;

1882 (c) formulate recommendations concerning:

1883 (i) the location or locations to which the new prison facilities should be moved;

1884 (ii) the type of facilities that should be constructed to accommodate the prison
1885 population and to facilitate implementation of any new corrections programs; and

1886 (iii) the extent to which future corrections needs can be met by existing state or county
1887 facilities; and

1888 [~~(d) before the start of the 2015 General Session of the Legislature, report the~~
1889 ~~commission's recommendations in writing to the Legislature and governor.]~~

1890 (d) sponsor one or more public information and feedback events in communities within
1891 which or adjacent to which a site under final consideration for new prison facilities is located,
1892 as the commission or its chairs consider appropriate.

1893 (2) (a) On or before August 1, 2015, the commission shall:

1894 (i) choose the site for the construction of new prison facilities from among the sites that
1895 the commission recommended as potential sites in the commission's report to the governor and
1896 the Legislature, adopted on and dated February 27, 2015; and

1897 (ii) report the commission's choice to the president of the Senate, the speaker of the
1898 House of Representatives, and the governor.

1899 (b) The site chosen by the commission under Subsection (2)(a) shall be the site for the
1900 construction of new prison facilities if the site is approved by the Legislature at:

1901 (i) a special session of the Legislature that the governor convenes for that purpose; or

1902 (ii) an annual general session of the Legislature.

1903 ~~(2)~~ (3) The commission may:

1904 (a) meet as many times as the commission considers necessary or advisable in order to
1905 fulfill its responsibilities under this part;

1906 (b) hire or direct the hiring of one or more consultants with experience or expertise in a
1907 subject under consideration by the commission, to assist the commission in fulfilling its duties
1908 under this part; and

1909 ~~[(c) in its discretion, elect to succeed to the position of the Prison Relocation and~~
1910 ~~Development Authority under a contract that the Prison Relocation and Development Authority~~
1911 ~~is a party to, subject to applicable contractual provisions.]~~

1912 (c) extend the deadline under Subsection (2)(a) for a one-month period, as many times
1913 as the commission considers appropriate and necessary.

1914 ~~[(3)]~~ (4) The commission may not:

1915 (a) consider or evaluate future uses of the property on which the state prison is
1916 currently located;

1917 (b) make recommendations concerning the future use or development of the land on
1918 which the state prison is currently located;

1919 (c) make any commitments or enter into any contracts for the acquisition of land for
1920 new state prison facilities or regarding the construction of new state prison facilities; or

1921 (d) initiate or pursue the procurement of a person to design or construct new prison
1922 facilities.

1923 Section 10. Section **63C-16-101** is enacted to read:

1924 **CHAPTER 16. PRISON DEVELOPMENT COMMISSION ACT**

1925 **63C-16-101. Title.**

1926 This chapter is known as the "Prison Development Commission Act."

1927 Section 11. Section **63C-16-102** is enacted to read:

1928 **63C-16-102. Definitions.**

1929 As used in this chapter:

1930 (1) "Commission" means the Prison Development Commission, created in Section
1931 [63C-16-201](#).

1932 (2) "Department" means the Department of Corrections, created in Section [64-13-2](#).

1933 (3) "Division" means the Division of Facilities Construction and Management, created

1934 in Section [63A-5-201](#).

1935 (4) "Justice commission" means the State Commission on Criminal and Juvenile
1936 Justice, created in Section [63M-7-201](#).

1937 (5) "New correctional facilities" means a new prison and related facilities to be
1938 constructed to replace the state prison located in Draper.

1939 (6) "Prison project" means the same as that term is defined in Section [63A-5-225](#).

1940 (7) "Selected site" means the site selected under Subsection [63C-15-203\(2\)](#) as the site
1941 for new correctional facilities.

1942 Section 12. Section **63C-16-201** is enacted to read:

1943 **63C-16-201. Commission created -- Membership -- Cochairs -- Removal --**
1944 **Vacancy.**

1945 (1) There is created a commission known as the Prison Development Commission,
1946 composed of:

1947 (a) three members of the Senate, appointed by the president of the Senate, no more
1948 than two of whom may be from the same political party;

1949 (b) four members of the House of Representatives, appointed by the speaker of the
1950 House of Representatives, no more than three of whom may be from the same political party;

1951 (c) the executive director of the justice commission, appointed under Section
1952 [63M-7-203](#);

1953 (d) the executive director of the department, appointed under Section [64-13-3](#), or the
1954 executive director's designee; and

1955 (e) a citizen member who is a resident of the community in or near which the selected
1956 site is located, appointed by the governor.

1957 (2) The president of the Senate shall appoint one of the commission members from the
1958 Senate as cochair of the commission, and the speaker of the House of Representatives shall
1959 appoint one of the commission members from the House of Representatives as cochair of the
1960 commission.

1961 (3) The president of the Senate may remove a member appointed under Subsection

1962 (1)(a), the speaker of the House of Representatives may remove a member appointed under
1963 Subsection (1)(b), and the governor may remove a member appointed under Subsection (1)(e).

1964 (4) A vacancy of a member appointed under Subsection (1)(a), (b), or (e) shall be filled
1965 in the same manner as an appointment of the member whose departure from the commission
1966 creates the vacancy.

1967 (5) A commission member shall serve until a successor is duly appointed and qualified.

1968 Section 13. Section **63C-16-202** is enacted to read:

1969 **63C-16-202. Quorum and voting requirements -- Bylaws -- Per diem and expenses**
1970 **-- Staff.**

1971 (1) A majority of the commission members constitutes a quorum, and the action of a
1972 majority of a quorum constitutes action of the commission.

1973 (2) The commission may adopt bylaws to govern its operations and proceedings.

1974 (3) (a) Per diem and expenses of commission members who are legislators shall be
1975 paid in accordance with Section [36-2-2](#) and Legislative Joint Rules, Title 5, Chapter 3,
1976 Legislative Compensation.

1977 (b) A commission member who is not a legislator may not receive compensation,
1978 benefits, per diem, or expense reimbursement for the member's service on the commission.

1979 (4) The Office of Legislative Research and General Counsel shall provide staff support
1980 to the commission.

1981 Section 14. Section **63C-16-203** is enacted to read:

1982 **63C-16-203. Commission duties and responsibilities.**

1983 (1) The commission shall:

1984 (a) advise and consult with the division as the division oversees the prison project as
1985 provided in Section [63A-5-225](#);

1986 (b) consult with, make recommendations to, and receive reports from the division
1987 regarding the prison project, consistent with Section [63A-5-225](#);

1988 (c) fulfill other responsibilities specified in Section [63A-5-225](#); and

1989 (d) undertake any other action the commission considers appropriate to support or help

1990 facilitate the successful completion of the prison project, consistent with Section [63A-5-225](#).

1991 (2) The commission may:

1992 (a) meet as many times as the commission or its chairs consider necessary or advisable
1993 in order to fulfill the commission's responsibilities under this part; and

1994 (b) hire or direct the hiring of one or more consultants or experts to assist the
1995 commission in fulfilling the commission's responsibilities under this part.

1996 (3) The commission may not consider or evaluate future uses or development of the
1997 property in Draper on which a state prison is located.

1998 Section 15. Section **63C-16-204** is enacted to read:

1999 **63C-16-204. Other agencies' cooperation and actions.**

2000 All state agencies and political subdivisions of the state shall, upon the commission's
2001 request:

2002 (1) reasonably cooperate with the commission to facilitate the fulfillment of the
2003 commission's responsibilities; and

2004 (2) provide information or assistance to the commission that the commission
2005 reasonably needs to fulfill its responsibilities.

2006 Section 16. Section **63I-1-263** is amended to read:

2007 **63I-1-263. Repeal dates, Titles 63A to 63M.**

2008 (1) Section [63A-4-204](#), authorizing the Risk Management Fund to provide coverage to
2009 any public school district which chooses to participate, is repealed July 1, 2016.

2010 (2) Subsection [63A-5-104](#)(4)(h) is repealed on July 1, 2024.

2011 (3) Section [63A-5-603](#), State Facility Energy Efficiency Fund, is repealed July 1, 2016.

2012 (4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
2013 1, 2018.

2014 (5) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.

2015 [~~(6) Title 63C, Chapter 15, Prison Relocation Commission, is repealed July 1, 2017.~~]

2016 (6) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1,
2017 2020.

2018 (7) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a
2019 contract for a design-build transportation project in certain circumstances, is repealed July 1,
2020 2015.

2021 (8) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
2022 2020.

2023 (9) The Resource Development Coordinating Committee, created in Section
2024 63J-4-501, is repealed July 1, 2015.

2025 (10) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

2026 (11) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act, is
2027 repealed January 1, 2021.

2028 (b) Subject to Subsection (11)(c), Sections 59-7-610 and 59-10-1007 regarding tax
2029 credits for certain persons in recycling market development zones, are repealed for taxable
2030 years beginning on or after January 1, 2021.

2031 (c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

2032 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or
2033 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

2034 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if
2035 the expenditure is made on or after January 1, 2021.

2036 (d) Notwithstanding Subsections (11)(b) and (c), a person may carry forward a tax
2037 credit in accordance with Section 59-7-610 or 59-10-1007 if:

2038 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

2039 (ii) (A) for the purchase price of machinery or equipment described in Section
2040 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31,
2041 2020; or

2042 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the
2043 expenditure is made on or before December 31, 2020.

2044 (12) Section 63M-1-3412 is repealed on July 1, 2021.

2045 ~~[(13) (a) Section 63M-1-2507, Health Care Compact is repealed on July 1, 2014.]~~

2046 ~~[(b) (i) The Legislature shall, before reauthorizing the Health Care Compact:]~~
2047 ~~[(A) direct the Health System Reform Task Force to evaluate the issues listed in~~
2048 ~~Subsection (13)(b)(ii), and by January 1, 2013, develop and recommend criteria for the~~
2049 ~~Legislature to use to negotiate the terms of the Health Care Compact; and]~~
2050 ~~[(B) prior to July 1, 2014, seek amendments to the Health Care Compact among the~~
2051 ~~member states that the Legislature determines are appropriate after considering the~~
2052 ~~recommendations of the Health System Reform Task Force.]~~
2053 ~~[(ii) The Health System Reform Task Force shall evaluate and develop criteria for the~~
2054 ~~Legislature regarding:]~~
2055 ~~[(A) the impact of the Supreme Court ruling on the Affordable Care Act;]~~
2056 ~~[(B) whether Utah is likely to be required to implement any part of the Affordable Care~~
2057 ~~Act prior to negotiating the compact with the federal government, such as Medicaid expansion~~
2058 ~~in 2014;]~~
2059 ~~[(C) whether the compact's current funding formula, based on adjusted 2010 state~~
2060 ~~expenditures, is the best formula for Utah and other state compact members to use for~~
2061 ~~establishing the block grants from the federal government;]~~
2062 ~~[(D) whether the compact's calculation of current year inflation adjustment factor,~~
2063 ~~without consideration of the regional medical inflation rate in the current year, is adequate to~~
2064 ~~protect the state from increased costs associated with administering a state based Medicaid and~~
2065 ~~a state based Medicare program;]~~
2066 ~~[(E) whether the state has the flexibility it needs under the compact to implement and~~
2067 ~~fund state based initiatives, or whether the compact requires uniformity across member states~~
2068 ~~that does not benefit Utah;]~~
2069 ~~[(F) whether the state has the option under the compact to refuse to take over the~~
2070 ~~federal Medicare program;]~~
2071 ~~[(G) whether a state based Medicare program would provide better benefits to the~~
2072 ~~elderly and disabled citizens of the state than a federally run Medicare program;]~~
2073 ~~[(H) whether the state has the infrastructure necessary to implement and administer a~~

2074 ~~better state based Medicare program;]~~

2075 ~~[(F) whether the compact appropriately delegates policy decisions between the~~
2076 ~~legislative and executive branches of government regarding the development and~~
2077 ~~implementation of the compact with other states and the federal government; and]~~

2078 ~~[(J) the impact on public health activities, including communicable disease~~
2079 ~~surveillance and epidemiology.]~~

2080 ~~[(14)]~~ (13) (a) Title 63M, Chapter 1, Part 35, Utah Small Business Jobs Act, is
2081 repealed January 1, 2021.

2082 (b) Section 59-9-107 regarding tax credits against premium taxes is repealed for
2083 calendar years beginning on or after January 1, 2021.

2084 (c) Notwithstanding Subsection ~~[(14)]~~ (13)(b), an entity may carry forward a tax credit
2085 in accordance with Section 59-9-107 if:

2086 (i) the person is entitled to a tax credit under Section 59-9-107 on or before December
2087 31, 2020; and

2088 (ii) the qualified equity investment that is the basis of the tax credit is certified under
2089 Section 63M-1-3503 on or before December 31, 2023.

2090 ~~[(15)]~~ (14) The Crime Victim Reparations and Assistance Board, created in Section
2091 63M-7-504, is repealed July 1, 2017.

2092 ~~[(16)]~~ (15) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,
2093 2017.

2094 Section 17. Section 63I-2-263 is amended to read:

2095 **63I-2-263. Repeal dates, Title 63A to Title 63M.**

2096 ~~[(1) Section 63A-1-115 is repealed on July 1, 2014.]~~

2097 ~~[(2)]~~ (1) Section 63C-9-501.1 is repealed on July 1, 2015.

2098 (2) Title 63C, Chapter 15, Prison Relocation Commission, is repealed on January 1,
2099 2016.

2100 ~~[(3) Subsection 63J-1-218(3) is repealed on December 1, 2013.]~~

2101 ~~[(4) Subsection 63J-1-218(4) is repealed on December 1, 2013.]~~

- 2102 [~~(5)~~ Section ~~63M-1-207~~ is repealed on December 1, 2014.]
- 2103 [~~(6)~~ (3) Subsection ~~63M-1-903~~(1)(d) is repealed on July 1, 2015.
- 2104 [~~(7)~~ Subsection ~~63M-1-1406~~(9) is repealed on January 1, 2015.]