

ELECTRONIC HIGH SCHOOL AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Raymond P. Ward

Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill enacts provisions placing the Electronic High School under the management and administration of the Utah Education and Telehealth Network.

Highlighted Provisions:

This bill:

- ▶ enacts provisions placing the Electronic High School under the management and administration of the Utah Education and Telehealth Network (UETN);
- ▶ provides UETN with rulemaking authority for the management and administration of the Electronic High School; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53A-13-209, as last amended by Laws of Utah 2008, Chapter 382

53A-15-1903, as enacted by Laws of Utah 2016, Chapter 320

59-12-102, as last amended by Laws of Utah 2016, Third Special Session, Chapter 6

ENACTS:



- 28 [53B-17-1001](#), Utah Code Annotated 1953
- 29 [53B-17-1002](#), Utah Code Annotated 1953
- 30 [53B-17-1003](#), Utah Code Annotated 1953
- 31 [53B-17-1004](#), Utah Code Annotated 1953
- 32 [53B-17-1005](#), Utah Code Annotated 1953
- 33 [53B-17-1006](#), Utah Code Annotated 1953
- 34 [53B-17-1007](#), Utah Code Annotated 1953
- 35 [53B-17-1008](#), Utah Code Annotated 1953
- 36 [53B-17-1009](#), Utah Code Annotated 1953

37 REPEALS:

- 38 [53A-15-1001](#), as enacted by Laws of Utah 2006, Chapter 227
- 39 [53A-15-1002](#), as last amended by Laws of Utah 2012, Chapter 238
- 40 [53A-15-1002.5](#), as last amended by Laws of Utah 2015, Chapter 415
- 41 [53A-15-1003](#), as last amended by Laws of Utah 2015, Chapter 415
- 42 [53A-15-1004](#), as enacted by Laws of Utah 2006, Chapter 227
- 43 [53A-15-1005](#), as enacted by Laws of Utah 2006, Chapter 227
- 44 [53A-15-1006](#), as last amended by Laws of Utah 2012, Chapter 238
- 45 [53A-15-1007](#), as enacted by Laws of Utah 2006, Chapter 227
- 46 [53A-15-1008](#), as enacted by Laws of Utah 2012, Chapter 238
- 47 [53A-17a-131.15](#), as last amended by Laws of Utah 2010, Chapter 3



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

50 Section 1. Section **53A-13-209** is amended to read:

51 **53A-13-209. Programs authorized -- Minimum standards.**

52 (1) Local school districts may:

53 (a) allow students to complete the classroom training portion of driver education

54 through the following programs:

55 (i) home study; or

56 (ii) the [~~electronic high school~~] Electronic High School as defined in Section

57 [53B-17-1002](#);

58 (b) provide each parent with driver education instructional materials to assist in parent

- 59 involvement with driver education including behind-the-wheel driving materials;
- 60 (c) offer driver education outside of school hours in order to reduce the cost of
- 61 providing driver education;
- 62 (d) offer driver education through community education programs;
- 63 (e) offer the classroom portion of driver education in the public schools and allow the
- 64 student to complete the behind-the-wheel portion with a private provider:
- 65 (i) licensed under Section 53-3-504; and
- 66 (ii) not associated with the school or under contract with the school under Subsection
- 67 53A-13-202(3); or
- 68 (f) any combination of Subsections (1)(a) through (e).

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

72 Section 2. Section 53A-15-1903 is amended to read:

73 **53A-15-1903. Dropout prevention and recovery -- Flexible enrollment options --**
74 **Contracting -- Reporting.**

- 75 (1) (a) Subject to Subsection (1)(b), an LEA shall provide dropout prevention and
- 76 recovery services to a designated student, including:
 - 77 (i) engaging with or attempting to recover a designated student;
 - 78 (ii) developing a learning plan, in consultation with a designated student, to identify:
 - 79 (A) barriers to regular school attendance and achievement;
 - 80 (B) an attainment goal; and
 - 81 (C) a means for achieving the attainment goal through enrollment in one or more of the
 - 82 programs described in Subsection (2);
 - 83 (iii) monitoring a designated student's progress toward reaching the designated
 - 84 student's attainment goal; and
 - 85 (iv) providing tiered interventions for a designated student who is not making progress
 - 86 toward reaching the student's attainment goal.
- 87 (b) An LEA shall provide the dropout prevention and recovery services described in
- 88 Subsection (1)(a):
 - 89 (i) throughout the calendar year; and

90 (ii) except as provided in Subsection (1)(c)(i), for each designated student who
91 becomes a designated student while enrolled in the LEA.

92 (c) (i) A designated student's school district of residence shall provide dropout recovery
93 services if the designated student:

94 (A) was enrolled in a charter school that does not include grade 12; and

95 (B) becomes a designated student in the summer after the student completes academic
96 instruction at the charter school through the maximum grade level the charter school is eligible
97 to serve under the charter school's charter agreement as described in Section 53A-1a-508.

98 (ii) In accordance with Subsection (1)(c)(iii), a charter school that does not include
99 grade 12 shall notify each of the charter school's student's district of residence, as determined
100 under Section 53A-2-201, when the student completes academic instruction at the charter
101 school as described in Subsection (1)(c)(i)(B).

102 (iii) The notification described in Subsection (1)(c)(ii) shall include the student's name,
103 contact information, and student identification number.

104 (2) (a) An LEA shall provide flexible enrollment options for a designated student that:

105 (i) are tailored to the designated student's learning plan developed under Subsection
106 (1)(a)(ii); and

107 (ii) include two or more of the following:

108 (A) enrollment in the LEA in a traditional program;

109 (B) enrollment in the LEA in a nontraditional program;

110 (C) enrollment in a program offered by a private provider that has entered into a
111 contract with the LEA to provide educational services; or

112 (D) enrollment in a program offered by another LEA.

113 (b) A designated student may enroll in:

114 (i) a program offered by the LEA under Subsection (2)(a), in accordance with this Title
115 53A, State System of Public Education, rules established by the State Board of Education, and
116 policies established by the LEA;

117 (ii) the Electronic High School, in accordance with ~~[Part 10, Electronic High School~~
118 ~~Act]~~ Title 53B, Chapter 17, Part 10, Electronic High School Act; or

119 (iii) the Statewide Online Education Program, in accordance with Part 12, Statewide
120 Online Education Program Act.

121 (c) An LEA shall make the LEA's best effort to accommodate a designated student's
122 choice of enrollment under Subsection (2)(b).

123 (3) Beginning with the 2017-18 school year and except as provided in Subsection (4),
124 an LEA shall enter into a contract with a third party to provide the dropout prevention and
125 recovery services described in Subsection (1)(a) for any school year in which the LEA meets
126 the following criteria:

127 (a) the LEA's graduation rate is lower than the statewide graduation rate; and

128 (b) (i) the LEA's graduation rate has not increased by at least 1% on average over the
129 previous three school years; or

130 (ii) during the previous calendar year, at least 10% of the LEA's designated students
131 have not:

132 (A) reached the students' attainment goals; or

133 (B) made a year's worth of progress toward the students' attainment goals.

134 (4) An LEA that is in the LEA's first three years of operation is not subject to the
135 requirement described in Subsection (3).

136 (5) An LEA described in Subsection (3) shall ensure that:

137 (a) a third party with whom the LEA enters into a contract under Subsection (3) has a
138 demonstrated record of effectiveness engaging with and recovering designated students; and

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

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

141 (ii) regularly report progress to the LEA.

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

144 [~~(a)~~] (i) the methods the LEA or third party uses to engage with or attempt to recover
145 designated students under Subsection (1)(a)(i);

146 [~~(b)~~] (ii) the number of designated students who enroll in a program described in
147 Subsection (2) as a result of the efforts described in Subsection (6)(a)(i);

148 [~~(c)~~] (iii) the number of designated students who reach the designated students'
149 attainment goals identified under Subsection (1)(a)(ii)(B); and

150 [~~(d)~~] (iv) funding allocated to provide dropout prevention and recovery services.

151 (b) An LEA shall annually submit a copy of the report described in Subsection (6)(a) to

152 UETN for purposes of students enrolled in the Electronic High School as defined in Section
153 53B-17-1002.

154 (7) The State Board of Education shall:

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

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

161 Section 3. Section **53B-17-1001** is enacted to read:

162 **Part 10. Electronic High School Act.**

163 **53B-17-1001. Title.**

164 This part is known as the "Electronic High School Act."

165 Section 4. Section **53B-17-1002** is enacted to read:

166 **53B-17-1002. Definitions.**

167 As used in this part:

168 (1) "Board" means the State Board of Education.

169 (2) "Electronic High School" means a rigorous program offering grade 9 - 12 level
170 online courses and coordinated by the board.

171 (3) "Home-schooled student" means a student:

172 (a) attends a home school;

173 (b) is exempt from school attendance pursuant to Section 53A-11-102; and

174 (c) attends no more than two regularly scheduled classes or courses in a public school
175 per semester.

176 (4) "Open-entry, open-exit" means:

177 (a) a method of instructional delivery that allows for flexible scheduling in response to
178 individual student needs or requirements and demonstrated competency when knowledge and
179 skills have been mastered; and

180 (b) a student has the flexibility to begin or end study at any time, progress through
181 course material at the student's own pace, and demonstrate competency when knowledge and
182 skills have been mastered.

183 (5) "UETN" means the Utah Education and Telehealth Network created in Section
184 53B-17-105.

185 Section 5. Section **53B-17-1003** is enacted to read:

186 **53B-17-1003. Electronic High School created -- Purpose.**

187 (1) The Electronic High School is created:

188 (a) to provide an opportunity for a student who has failed a course to retake the course
189 and earn course credit;

190 (b) to allow a student to complete high school graduation requirements and exit high
191 school early;

192 (c) to allow a student to take a course online so that the student has greater flexibility in
193 scheduling courses during the regular school day; and

194 (d) to allow a home-schooled or private school student in Utah to take a course that
195 meets the Utah high school core standards for Utah public schools.

196 (2) UETN shall manage and administer the Electronic High School.

197 (3) UETN shall adopt rules in accordance with Title 63G, Chapter 3, Utah
198 Administrative Rulemaking Act, for the management and administration of the Electronic High
199 School.

200 Section 6. Section **53B-17-1004** is enacted to read:

201 **53B-17-1004. Courses and credit.**

202 (1) The Electronic High School may only offer courses required for high school
203 graduation or that fulfill course requirements established by the board.

204 (2) The Electronic High School shall:

205 (a) offer courses in an open-entry, open-exit format; and

206 (b) offer courses that are in conformance with the core standards for Utah public
207 schools established by the board.

208 (3) Public schools shall:

209 (a) accept all credits awarded to students by the Electronic High School; and

210 (b) apply credits awarded for a course described in Subsection (2)(b) toward the
211 fulfillment of course requirements.

212 Section 7. Section **53B-17-1005** is enacted to read:

213 **53B-17-1005. Student eligibility for enrollment.**

214 (1) Utah students at any age or in any grade may enroll in Electronic High School
215 courses.

216 (2) The Electronic High School shall accept students into courses on a first-come
217 first-served basis.

218 Section 8. Section **53B-17-1006** is enacted to read:

219 **53B-17-1006. Services to students with disabilities.**

220 Students with disabilities who may need additional services or resources and who seek
221 to enroll in Electronic High School classes may request appropriate accommodations through
222 the students' assigned schools or school districts.

223 Section 9. Section **53B-17-1007** is enacted to read:

224 **53B-17-1007. Payment for an Electronic High School course.**

225 (1) Electronic High School courses are provided to students who are Utah residents, as
226 defined in Section [53A-2-201](#), free of charge.

227 (2) Nonresident students may enroll in Electronic High School courses for a fee set by
228 UETN, provided that the course can accommodate additional students.

229 Section 10. Section **53B-17-1008** is enacted to read:

230 **53B-17-1008. Electronic High School diploma.**

231 The Electronic High School may award a diploma to a student who meets any of the
232 following criteria upon the student's completion of high school graduation requirements set by
233 the board:

234 (1) a home-schooled student;

235 (2) a student who has dropped out of school and whose original high school class has
236 graduated; or

237 (3) a student who is identified by the student's resident school district as ineligible for
238 graduation from a traditional high school program for specific reasons.

239 Section 11. Section **53B-17-1009** is enacted to read:

240 **53B-17-1009. State contribution for the Electronic High School.**

241 Money appropriated to UETN for the Electronic High School shall be distributed to the
242 Electronic High School according to rules adopted by UETN in accordance with Title 63G,
243 Chapter 3, Utah Administrative Rulemaking Act.

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

245 **59-12-102. Definitions.**

246 As used in this chapter:

247 (1) "800 service" means a telecommunications service that:

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

249 (b) is typically marketed:

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

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

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

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

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

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

256 Federal Communications Commission.

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

258 (i) a subscriber purchases;

259 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to

260 the subscriber's:

261 (A) prerecorded announcement; or

262 (B) live service; and

263 (iii) is typically marketed:

264 (A) under the name 900 service; or

265 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

266 Communications Commission.

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

268 (i) a collection service a seller of a telecommunications service provides to a

269 subscriber; or

270 (ii) the following a subscriber sells to the subscriber's customer:

271 (A) a product; or

272 (B) a service.

273 (3) (a) "Admission or user fees" includes season passes.

274 (b) "Admission or user fees" does not include annual membership dues to private

275 organizations.

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

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

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

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

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

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

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

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

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

287 (e) Section 59-12-204;

288 (f) Section 59-12-401;

289 (g) Section 59-12-402;

290 (h) Section 59-12-402.1;

291 (i) Section 59-12-703;

292 (j) Section 59-12-802;

293 (k) Section 59-12-804;

294 (l) Section 59-12-1102;

295 (m) Section 59-12-1302;

296 (n) Section 59-12-1402;

297 (o) Section 59-12-1802;

298 (p) Section 59-12-2003;

299 (q) Section 59-12-2103;

300 (r) Section 59-12-2213;

301 (s) Section 59-12-2214;

302 (t) Section 59-12-2215;

303 (u) Section 59-12-2216;

304 (v) Section 59-12-2217; or

305 (w) Section 59-12-2218.

306 (7) "Aircraft" ~~[is as]~~ means the same as that term is defined in Section 72-10-102.

- 307 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
308 (a) except for:
309 (i) an airline as defined in Section 59-2-102; or
310 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
311 includes a corporation that is qualified to do business but is not otherwise doing business in the
312 state, of an airline; and
313 (b) that has the workers, expertise, and facilities to perform the following, regardless of
314 whether the business entity performs the following in this state:
315 (i) check, diagnose, overhaul, and repair:
316 (A) an onboard system of a fixed wing turbine powered aircraft; and
317 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
318 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
319 engine;
320 (iii) perform at least the following maintenance on a fixed wing turbine powered
321 aircraft:
322 (A) an inspection;
323 (B) a repair, including a structural repair or modification;
324 (C) changing landing gear; and
325 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
326 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
327 completely apply new paint to the fixed wing turbine powered aircraft; and
328 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
329 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
330 authority that certifies the fixed wing turbine powered aircraft.
331 (9) "Alcoholic beverage" means a beverage that:
332 (a) is suitable for human consumption; and
333 (b) contains .5% or more alcohol by volume.
334 (10) "Alternative energy" means:
335 (a) biomass energy;
336 (b) geothermal energy;
337 (c) hydroelectric energy;

- 338 (d) solar energy;
- 339 (e) wind energy; or
- 340 (f) energy that is derived from:
 - 341 (i) coal-to-liquids;
 - 342 (ii) nuclear fuel;
 - 343 (iii) oil-impregnated diatomaceous earth;
 - 344 (iv) oil sands;
 - 345 (v) oil shale;
 - 346 (vi) petroleum coke; or
 - 347 (vii) waste heat from:
 - 348 (A) an industrial facility; or
 - 349 (B) a power station in which an electric generator is driven through a process in which
 - 350 water is heated, turns into steam, and spins a steam turbine.
- 351 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 352 facility" means a facility that:
 - 353 (i) uses alternative energy to produce electricity; and
 - 354 (ii) has a production capacity of two megawatts or greater.
- 355 (b) A facility is an alternative energy electricity production facility regardless of
- 356 whether the facility is:
 - 357 (i) connected to an electric grid; or
 - 358 (ii) located on the premises of an electricity consumer.
- 359 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 360 provision of telecommunications service.
 - 361 (b) "Ancillary service" includes:
 - 362 (i) a conference bridging service;
 - 363 (ii) a detailed communications billing service;
 - 364 (iii) directory assistance;
 - 365 (iv) a vertical service; or
 - 366 (v) a voice mail service.
- 367 (13) "Area agency on aging" ~~[is as]~~ means the same as that term is defined in Section
- 368 [62A-3-101](#).

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

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

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

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

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

380 (b) at the direction of the seller of the cleaning or washing of the tangible personal
381 property.

382 (16) "Authorized carrier" means:

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

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

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

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

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

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

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

396 (B) animal waste;

397 (C) waste vegetable oil;

398 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
399 wastewater residuals, or through the conversion of a waste material through a nonincineration,

400 thermal conversion process;

401 (E) aquatic plants; and

402 (F) agricultural products.

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

404 (i) black liquor; or

405 (ii) treated woods.

406 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal

407 property, products, or services if the tangible personal property, products, or services are:

408 (i) distinct and identifiable; and

409 (ii) sold for one nonitemized price.

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

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

412 the basis of the selection by the purchaser of the items of tangible personal property included in

413 the transaction;

414 (ii) the sale of real property;

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

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

417 (A) the tangible personal property:

418 (I) is essential to the use of the service; and

419 (II) is provided exclusively in connection with the service; and

420 (B) the service is the true object of the transaction;

421 (v) the retail sale of two services if:

422 (A) one service is provided that is essential to the use or receipt of a second service;

423 (B) the first service is provided exclusively in connection with the second service; and

424 (C) the second service is the true object of the transaction;

425 (vi) a transaction that includes tangible personal property or a product subject to

426 taxation under this chapter and tangible personal property or a product that is not subject to

427 taxation under this chapter if the:

428 (A) seller's purchase price of the tangible personal property or product subject to

429 taxation under this chapter is de minimis; or

430 (B) seller's sales price of the tangible personal property or product subject to taxation

431 under this chapter is de minimis; and

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

434 (A) that retail sale includes:

435 (I) food and food ingredients;

436 (II) a drug;

437 (III) durable medical equipment;

438 (IV) mobility enhancing equipment;

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

440 (VI) a prosthetic device; or

441 (VII) a medical supply; and

442 (B) subject to Subsection (18)(f):

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

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

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

449 (A) packaging that:

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

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

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

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

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

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

466 (A) a binding sales document; or

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

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

470 (A) a bill of sale;

471 (B) a contract;

472 (C) an invoice;

473 (D) a lease agreement;

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

475 (F) a price list;

476 (G) a rate card;

477 (H) a receipt; or

478 (I) a service agreement.

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

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

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

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

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

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

492 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service

493 contract to determine if the sales price of tangible personal property or a product is de minimis.

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

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

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

502 (i) on a transaction; and

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

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

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

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

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

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

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

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

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

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

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

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

523 (24) (a) "Common carrier" means a person engaged in or transacting the business of

524 transporting passengers, freight, merchandise, or other property for hire within this state.

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

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

531 (c) "Common carrier" does not include a person that provides transportation network
532 services, as defined in Section [13-51-102](#).

533 (25) "Component part" includes:

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

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

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

539 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

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

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

554 (b) "Conference bridging service" may include providing a telephone number as part of

555 the ancillary service described in Subsection (29)(a).

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

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

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

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

563 (i) by a seller of:

564 (A) tangible personal property;

565 (B) a product transferred electronically; or

566 (C) services; and

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

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

571 (i) transportation;

572 (ii) shipping;

573 (iii) postage;

574 (iv) handling;

575 (v) crating; or

576 (vi) packing.

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

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

580 (a) is intended to supplement the diet;

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

582 (i) a vitamin;

583 (ii) a mineral;

584 (iii) an herb or other botanical;

585 (iv) an amino acid;

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

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

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

591 (A) tablet form;

592 (B) capsule form;

593 (C) powder form;

594 (D) softgel form;

595 (E) gelcap form; or

596 (F) liquid form; or

597 (ii) if the product is not intended for ingestion in a form described in Subsections

598 (34)(c)(i)(A) through (F), is not represented:

599 (A) as conventional food; and

600 (B) for use as a sole item of:

601 (I) a meal; or

602 (II) the diet; and

603 (d) is required to be labeled as a dietary supplement:

604 (i) identifiable by the "Supplemental Facts" box found on the label; and

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

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

608 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
609 musical, spoken, or other sounds.

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

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

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

615 (i) to:

616 (A) a mass audience; or

- 617 (B) addressees on a mailing list provided:
- 618 (I) by a purchaser of the mailing list; or
- 619 (II) at the discretion of the purchaser of the mailing list; and
- 620 (ii) if the cost of the printed material is not billed directly to the recipients.
- 621 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 622 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 623 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 624 single address.
- 625 (39) "Directory assistance" means an ancillary service of providing:
- 626 (a) address information; or
- 627 (b) telephone number information.
- 628 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
- 629 or supplies that:
- 630 (i) cannot withstand repeated use; and
- 631 (ii) are purchased by, for, or on behalf of a person other than:
- 632 (A) a health care facility as defined in Section [26-21-2](#);
- 633 (B) a health care provider as defined in Section [78B-3-403](#);
- 634 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
- 635 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
- 636 (b) "Disposable home medical equipment or supplies" does not include:
- 637 (i) a drug;
- 638 (ii) durable medical equipment;
- 639 (iii) a hearing aid;
- 640 (iv) a hearing aid accessory;
- 641 (v) mobility enhancing equipment; or
- 642 (vi) tangible personal property used to correct impaired vision, including:
- 643 (A) eyeglasses; or
- 644 (B) contact lenses.
- 645 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 646 commission may by rule define what constitutes medical equipment or supplies.
- 647 (41) "Drilling equipment manufacturer" means a facility:

- 648 (a) located in the state;
- 649 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 650 consist of manufacturing component parts of drilling equipment;
- 651 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 652 manufacturing process; and
- 653 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 654 manufacturing process.

655 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a

656 compound, substance, or preparation that is:

- 657 (i) recognized in:
 - 658 (A) the official United States Pharmacopoeia;
 - 659 (B) the official Homeopathic Pharmacopoeia of the United States;
 - 660 (C) the official National Formulary; or
 - 661 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
- 662 (ii) intended for use in the:
 - 663 (A) diagnosis of disease;
 - 664 (B) cure of disease;
 - 665 (C) mitigation of disease;
 - 666 (D) treatment of disease; or
 - 667 (E) prevention of disease; or
- 668 (iii) intended to affect:
 - 669 (A) the structure of the body; or
 - 670 (B) any function of the body.
- 671 (b) "Drug" does not include:
 - 672 (i) food and food ingredients;
 - 673 (ii) a dietary supplement;
 - 674 (iii) an alcoholic beverage; or
 - 675 (iv) a prosthetic device.

676 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means

677 equipment that:

- 678 (i) can withstand repeated use;

- 679 (ii) is primarily and customarily used to serve a medical purpose;
- 680 (iii) generally is not useful to a person in the absence of illness or injury; and
- 681 (iv) is not worn in or on the body.
- 682 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 683 equipment described in Subsection (43)(a).
- 684 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 685 (44) "Electronic" means:
- 686 (a) relating to technology; and
- 687 (b) having:
- 688 (i) electrical capabilities;
- 689 (ii) digital capabilities;
- 690 (iii) magnetic capabilities;
- 691 (iv) wireless capabilities;
- 692 (v) optical capabilities;
- 693 (vi) electromagnetic capabilities; or
- 694 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).
- 695 (45) "Electronic financial payment service" means an establishment:
- 696 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 697 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 698 federal Executive Office of the President, Office of Management and Budget; and
- 699 (b) that performs electronic financial payment services.
- 700 (46) "Employee" [~~is as~~] means the same as that term is defined in Section 59-10-401.
- 701 (47) "Fixed guideway" means a public transit facility that uses and occupies:
- 702 (a) rail for the use of public transit; or
- 703 (b) a separate right-of-way for the use of public transit.
- 704 (48) "Fixed wing turbine powered aircraft" means an aircraft that:
- 705 (a) is powered by turbine engines;
- 706 (b) operates on jet fuel; and
- 707 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 708 (49) "Fixed wireless service" means a telecommunications service that provides radio
- 709 communication between fixed points.

- 710 (50) (a) "Food and food ingredients" means substances:
- 711 (i) regardless of whether the substances are in:
- 712 (A) liquid form;
- 713 (B) concentrated form;
- 714 (C) solid form;
- 715 (D) frozen form;
- 716 (E) dried form; or
- 717 (F) dehydrated form; and
- 718 (ii) that are:
- 719 (A) sold for:
- 720 (I) ingestion by humans; or
- 721 (II) chewing by humans; and
- 722 (B) consumed for the substance's:
- 723 (I) taste; or
- 724 (II) nutritional value.
- 725 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
- 726 (c) "Food and food ingredients" does not include:
- 727 (i) an alcoholic beverage;
- 728 (ii) tobacco; or
- 729 (iii) prepared food.
- 730 (51) (a) "Fundraising sales" means sales:
- 731 (i) (A) made by a school; or
- 732 (B) made by a school student;
- 733 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 734 materials, or provide transportation; and
- 735 (iii) that are part of an officially sanctioned school activity.
- 736 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"
- 737 means a school activity:
- 738 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 739 district governing the authorization and supervision of fundraising activities;
- 740 (ii) that does not directly or indirectly compensate an individual teacher or other

741 educational personnel by direct payment, commissions, or payment in kind; and

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

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

746 (53) "Governing board of the agreement" means the governing board of the agreement
747 that is:

748 (a) authorized to administer the agreement; and

749 (b) established in accordance with the agreement.

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

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

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

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

759 (iv) the National Guard;

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

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

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

764 (i) an applied technology college within the Utah College of Applied Technology;

765 (ii) a school;

766 (iii) the State Board of Education;

767 (iv) the State Board of Regents; or

768 (v) an institution of higher education.

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

771 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or

772 other fuels:

773 (a) in mining or extraction of minerals;

774 (b) in agricultural operations to produce an agricultural product up to the time of

775 harvest or placing the agricultural product into a storage facility, including:

776 (i) commercial greenhouses;

777 (ii) irrigation pumps;

778 (iii) farm machinery;

779 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered

780 under Title 41, Chapter 1a, Part 2, Registration; and

781 (v) other farming activities;

782 (c) in manufacturing tangible personal property at an establishment described in SIC

783 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal

784 Executive Office of the President, Office of Management and Budget;

785 (d) by a scrap recycler if:

786 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

787 one or more of the following items into prepared grades of processed materials for use in new

788 products:

789 (A) iron;

790 (B) steel;

791 (C) nonferrous metal;

792 (D) paper;

793 (E) glass;

794 (F) plastic;

795 (G) textile; or

796 (H) rubber; and

797 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with

798 nonrecycled materials; or

799 (e) in producing a form of energy or steam described in Subsection [54-2-1\(2\)\(a\)](#) by a

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

801 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge

802 for installing:

- 803 (i) tangible personal property; or
- 804 (ii) a product transferred electronically.
- 805 (b) "Installation charge" does not include a charge for:
- 806 (i) repairs or renovations of:
- 807 (A) tangible personal property; or
- 808 (B) a product transferred electronically; or
- 809 (ii) attaching tangible personal property or a product transferred electronically:
- 810 (A) to other tangible personal property; and
- 811 (B) as part of a manufacturing or fabrication process.
- 812 (58) "Institution of higher education" means an institution of higher education listed in
- 813 Section 53B-2-101.
- 814 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 815 personal property or a product transferred electronically for:
- 816 (i) (A) a fixed term; or
- 817 (B) an indeterminate term; and
- 818 (ii) consideration.
- 819 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 820 amount of consideration may be increased or decreased by reference to the amount realized
- 821 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 822 Code.
- 823 (c) "Lease" or "rental" does not include:
- 824 (i) a transfer of possession or control of property under a security agreement or
- 825 deferred payment plan that requires the transfer of title upon completion of the required
- 826 payments;
- 827 (ii) a transfer of possession or control of property under an agreement that requires the
- 828 transfer of title:
- 829 (A) upon completion of required payments; and
- 830 (B) if the payment of an option price does not exceed the greater of:
- 831 (I) \$100; or
- 832 (II) 1% of the total required payments; or
- 833 (iii) providing tangible personal property along with an operator for a fixed period of

834 time or an indeterminate period of time if the operator is necessary for equipment to perform as
835 designed.

836 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to
837 perform as designed if the operator's duties exceed the:

- 838 (i) set-up of tangible personal property;
- 839 (ii) maintenance of tangible personal property; or
- 840 (iii) inspection of tangible personal property.

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

- 844 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 845 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
846 Manufacturing; or
- 847 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

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

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

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

- 854 (a) county that is authorized to impose an agreement sales and use tax;
- 855 (b) city that is authorized to impose an agreement sales and use tax; or
- 856 (c) town that is authorized to impose an agreement sales and use tax.

857 (64) "Manufactured home" [~~is as~~] means the same as that term is defined in Section
858 15A-1-302.

859 (65) "Manufacturing facility" means:

- 860 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
861 Industrial Classification Manual of the federal Executive Office of the President, Office of
862 Management and Budget;
- 863 (b) a scrap recycler if:

864 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

865 one or more of the following items into prepared grades of processed materials for use in new
866 products:

- 867 (A) iron;
- 868 (B) steel;
- 869 (C) nonferrous metal;
- 870 (D) paper;
- 871 (E) glass;
- 872 (F) plastic;
- 873 (G) textile; or
- 874 (H) rubber; and

875 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with
876 nonrecycled materials; or

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

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

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

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

883 (ii) a foster child or foster stepchild;

884 (b) grandchild or stepgrandchild;

885 (c) grandparent or stepgrandparent;

886 (d) nephew or stepnephew;

887 (e) niece or stepniece;

888 (f) parent or stepparent;

889 (g) sibling or stepsibling;

890 (h) spouse;

891 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);

892 or

893 (j) person similar to a person described in Subsections (66)(a) through (i) as

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

895 Administrative Rulemaking Act.

896 (67) "Mobile home" [~~is as~~] means the same as that term is defined in Section
897 15A-1-302.

898 (68) "Mobile telecommunications service" is as defined in the Mobile
899 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

900 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of
901 the technology used, if:

- 902 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 903 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 904 (iii) the origination point described in Subsection (69)(a)(i) and the termination point
905 described in Subsection (69)(a)(ii) are not fixed.

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

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

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

- 912 (i) primarily and customarily used to provide or increase the ability to move from one
913 place to another;
- 914 (ii) appropriate for use in a:
 - 915 (A) home; or
 - 916 (B) motor vehicle; and
- 917 (iii) not generally used by persons with normal mobility.

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

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

- 921 (i) a motor vehicle;
- 922 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
923 vehicle manufacturer;
- 924 (iii) durable medical equipment; or
- 925 (iv) a prosthetic device.

926 (71) "Model 1 seller" means a seller registered under the agreement that has selected a

927 certified service provider as the seller's agent to perform all of the seller's sales and use tax
928 functions for agreement sales and use taxes other than the seller's obligation under Section
929 [59-12-124](#) to remit a tax on the seller's own purchases.

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

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

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

934 (i) collected by the seller; and

935 (ii) to the appropriate local taxing jurisdiction.

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

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

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

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

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

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

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

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

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

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

949 (76) "Motor vehicle" [~~is as~~] means the same as that term is defined in Section
950 [41-1a-102](#).

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

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

954 (b) yield mixtures of liquid hydrocarbon; and

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

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

958 material that yields petroleum upon heating and distillation.

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

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

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

966 (81) (a) "Paging service" means a telecommunications service that provides
967 transmission of a coded radio signal for the purpose of activating a specific pager.

968 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal
969 includes a transmission by message or sound.

970 (82) "Pawnbroker" [~~is as~~] means the same as that term is defined in Section
971 13-32a-102.

972 (83) "Pawn transaction" [~~is as~~] means the same as that term is defined in Section
973 13-32a-102.

974 (84) (a) "Permanently attached to real property" means that for tangible personal
975 property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

992 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
993 Subsection (84)(c)(iii) or (iv).

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

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

997 (A) convenience;

998 (B) stability; or

999 (C) for an obvious temporary purpose;

1000 (ii) the detachment of tangible personal property from real property except for the
1001 detachment described in Subsection (84)(b)(ii);

1002 (iii) an attachment of the following tangible personal property to real property if the
1003 attachment to real property is only through a line that supplies water, electricity, gas,
1004 telecommunications, cable, or supplies a similar item as determined by the commission by rule
1005 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

1006 (A) a computer;

1007 (B) a telephone;

1008 (C) a television; or

1009 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as
1010 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
1011 Administrative Rulemaking Act; or

1012 (iv) an item listed in Subsection (125)(c).

1013 (85) "Person" includes any individual, firm, partnership, joint venture, association,
1014 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
1015 municipality, district, or other local governmental entity of the state, or any group or
1016 combination acting as a unit.

1017 (86) "Place of primary use":

1018 (a) for telecommunications service other than mobile telecommunications service,
1019 means the street address representative of where the customer's use of the telecommunications

1020 service primarily occurs, which shall be:

1021 (i) the residential street address of the customer; or

1022 (ii) the primary business street address of the customer; or

1023 (b) for mobile telecommunications service, is as defined in the Mobile

1024 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1025 (87) (a) "Postpaid calling service" means a telecommunications service a person

1026 obtains by making a payment on a call-by-call basis:

1027 (i) through the use of a:

1028 (A) bank card;

1029 (B) credit card;

1030 (C) debit card; or

1031 (D) travel card; or

1032 (ii) by a charge made to a telephone number that is not associated with the origination

1033 or termination of the telecommunications service.

1034 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling

1035 service, that would be a prepaid wireless calling service if the service were exclusively a

1036 telecommunications service.

1037 (88) "Postproduction" means an activity related to the finishing or duplication of a

1038 medium described in Subsection [59-12-104\(54\)\(a\)](#).

1039 (89) "Prepaid calling service" means a telecommunications service:

1040 (a) that allows a purchaser access to telecommunications service that is exclusively

1041 telecommunications service;

1042 (b) that:

1043 (i) is paid for in advance; and

1044 (ii) enables the origination of a call using an:

1045 (A) access number; or

1046 (B) authorization code;

1047 (c) that is dialed:

1048 (i) manually; or

1049 (ii) electronically; and

1050 (d) sold in predetermined units or dollars that decline:

- 1051 (i) by a known amount; and
- 1052 (ii) with use.
- 1053 (90) "Prepaid wireless calling service" means a telecommunications service:
- 1054 (a) that provides the right to utilize:
- 1055 (i) mobile wireless service; and
- 1056 (ii) other service that is not a telecommunications service, including:
- 1057 (A) the download of a product transferred electronically;
- 1058 (B) a content service; or
- 1059 (C) an ancillary service;
- 1060 (b) that:
- 1061 (i) is paid for in advance; and
- 1062 (ii) enables the origination of a call using an:
- 1063 (A) access number; or
- 1064 (B) authorization code;
- 1065 (c) that is dialed:
- 1066 (i) manually; or
- 1067 (ii) electronically; and
- 1068 (d) sold in predetermined units or dollars that decline:
- 1069 (i) by a known amount; and
- 1070 (ii) with use.
- 1071 (91) (a) "Prepared food" means:
- 1072 (i) food:
- 1073 (A) sold in a heated state; or
- 1074 (B) heated by a seller;
- 1075 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 1076 item; or
- 1077 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
- 1078 by the seller, including a:
- 1079 (A) plate;
- 1080 (B) knife;
- 1081 (C) fork;

- 1082 (D) spoon;
- 1083 (E) glass;
- 1084 (F) cup;
- 1085 (G) napkin; or
- 1086 (H) straw.
- 1087 (b) "Prepared food" does not include:
- 1088 (i) food that a seller only:
- 1089 (A) cuts;
- 1090 (B) repackages; or
- 1091 (C) pasteurizes; or
- 1092 (ii) (A) the following:
- 1093 (I) raw egg;
- 1094 (II) raw fish;
- 1095 (III) raw meat;
- 1096 (IV) raw poultry; or
- 1097 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
- 1098 and
- 1099 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1100 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1101 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
- 1102 (iii) the following if sold without eating utensils provided by the seller:
- 1103 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1104 classification under the 2002 North American Industry Classification System of the federal
- 1105 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1106 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1107 Manufacturing;
- 1108 (B) food and food ingredients sold in an unheated state:
- 1109 (I) by weight or volume; and
- 1110 (II) as a single item; or
- 1111 (C) a bakery item, including:
- 1112 (I) a bagel;

- 1113 (II) a bar;
- 1114 (III) a biscuit;
- 1115 (IV) bread;
- 1116 (V) a bun;
- 1117 (VI) a cake;
- 1118 (VII) a cookie;
- 1119 (VIII) a croissant;
- 1120 (IX) a danish;
- 1121 (X) a donut;
- 1122 (XI) a muffin;
- 1123 (XII) a pastry;
- 1124 (XIII) a pie;
- 1125 (XIV) a roll;
- 1126 (XV) a tart;
- 1127 (XVI) a torte; or
- 1128 (XVII) a tortilla.
- 1129 (c) An eating utensil provided by the seller does not include the following used to
- 1130 transport the food:
 - 1131 (i) a container; or
 - 1132 (ii) packaging.
- 1133 (92) "Prescription" means an order, formula, or recipe that is issued:
 - 1134 (a) (i) orally;
 - 1135 (ii) in writing;
 - 1136 (iii) electronically; or
 - 1137 (iv) by any other manner of transmission; and
 - 1138 (b) by a licensed practitioner authorized by the laws of a state.
- 1139 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
- 1140 software" means computer software that is not designed and developed:
 - 1141 (i) by the author or other creator of the computer software; and
 - 1142 (ii) to the specifications of a specific purchaser.
 - 1143 (b) "Prewritten computer software" includes:

1144 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
1145 software is not designed and developed:

1146 (A) by the author or other creator of the computer software; and

1147 (B) to the specifications of a specific purchaser;

1148 (ii) computer software designed and developed by the author or other creator of the
1149 computer software to the specifications of a specific purchaser if the computer software is sold
1150 to a person other than the purchaser; or

1151 (iii) except as provided in Subsection (93)(c), prewritten computer software or a
1152 prewritten portion of prewritten computer software:

1153 (A) that is modified or enhanced to any degree; and

1154 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is
1155 designed and developed to the specifications of a specific purchaser.

1156 (c) "Prewritten computer software" does not include a modification or enhancement
1157 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

1158 (i) reasonable; and

1159 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
1160 invoice or other statement of price provided to the purchaser at the time of sale or later, as
1161 demonstrated by:

1162 (A) the books and records the seller keeps at the time of the transaction in the regular
1163 course of business, including books and records the seller keeps at the time of the transaction in
1164 the regular course of business for nontax purposes;

1165 (B) a preponderance of the facts and circumstances at the time of the transaction; and

1166 (C) the understanding of all of the parties to the transaction.

1167 (94) (a) "Private communications service" means a telecommunications service:

1168 (i) that entitles a customer to exclusive or priority use of one or more communications
1169 channels between or among termination points; and

1170 (ii) regardless of the manner in which the one or more communications channels are
1171 connected.

1172 (b) "Private communications service" includes the following provided in connection
1173 with the use of one or more communications channels:

1174 (i) an extension line;

- 1175 (ii) a station;
- 1176 (iii) switching capacity; or
- 1177 (iv) another associated service that is provided in connection with the use of one or
- 1178 more communications channels as defined in Section 59-12-215.
- 1179 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"
- 1180 means a product transferred electronically that would be subject to a tax under this chapter if
- 1181 that product was transferred in a manner other than electronically.
- 1182 (b) "Product transferred electronically" does not include:
- 1183 (i) an ancillary service;
- 1184 (ii) computer software; or
- 1185 (iii) a telecommunications service.
- 1186 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 1187 (i) artificially replace a missing portion of the body;
- 1188 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1189 (iii) support a weak or deformed portion of the body.
- 1190 (b) "Prosthetic device" includes:
- 1191 (i) parts used in the repairs or renovation of a prosthetic device;
- 1192 (ii) replacement parts for a prosthetic device;
- 1193 (iii) a dental prosthesis; or
- 1194 (iv) a hearing aid.
- 1195 (c) "Prosthetic device" does not include:
- 1196 (i) corrective eyeglasses; or
- 1197 (ii) contact lenses.
- 1198 (97) (a) "Protective equipment" means an item:
- 1199 (i) for human wear; and
- 1200 (ii) that is:
- 1201 (A) designed as protection:
- 1202 (I) to the wearer against injury or disease; or
- 1203 (II) against damage or injury of other persons or property; and
- 1204 (B) not suitable for general use.
- 1205 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1206 commission shall make rules:

1207 (i) listing the items that constitute "protective equipment"; and

1208 (ii) that are consistent with the list of items that constitute "protective equipment"

1209 under the agreement.

1210 (98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
1211 printed matter, other than a photocopy:

1212 (i) regardless of:

1213 (A) characteristics;

1214 (B) copyright;

1215 (C) form;

1216 (D) format;

1217 (E) method of reproduction; or

1218 (F) source; and

1219 (ii) made available in printed or electronic format.

1220 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1221 commission may by rule define the term "photocopy."

1222 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:

1223 (i) valued in money; and

1224 (ii) for which tangible personal property, a product transferred electronically, or
1225 services are:

1226 (A) sold;

1227 (B) leased; or

1228 (C) rented.

1229 (b) "Purchase price" and "sales price" include:

1230 (i) the seller's cost of the tangible personal property, a product transferred
1231 electronically, or services sold;

1232 (ii) expenses of the seller, including:

1233 (A) the cost of materials used;

1234 (B) a labor cost;

1235 (C) a service cost;

1236 (D) interest;

- 1237 (E) a loss;
- 1238 (F) the cost of transportation to the seller; or
- 1239 (G) a tax imposed on the seller;
- 1240 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1241 (iv) consideration a seller receives from a person other than the purchaser if:
- 1242 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 1243 and
- 1244 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
- 1245 price reduction or discount on the sale;
- 1246 (B) the seller has an obligation to pass the price reduction or discount through to the
- 1247 purchaser;
- 1248 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 1249 the seller at the time of the sale to the purchaser; and
- 1250 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 1251 seller to claim a price reduction or discount; and
- 1252 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 1253 coupon, or other documentation with the understanding that the person other than the seller
- 1254 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 1255 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 1256 organization allowed a price reduction or discount, except that a preferred customer card that is
- 1257 available to any patron of a seller does not constitute membership in a group or organization
- 1258 allowed a price reduction or discount; or
- 1259 (III) the price reduction or discount is identified as a third party price reduction or
- 1260 discount on the:
- 1261 (Aa) invoice the purchaser receives; or
- 1262 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1263 (c) "Purchase price" and "sales price" do not include:
- 1264 (i) a discount:
- 1265 (A) in a form including:
- 1266 (I) cash;
- 1267 (II) term; or

- 1268 (III) coupon;
- 1269 (B) that is allowed by a seller;
- 1270 (C) taken by a purchaser on a sale; and
- 1271 (D) that is not reimbursed by a third party; or
- 1272 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
- 1273 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
- 1274 sale or later, as demonstrated by the books and records the seller keeps at the time of the
- 1275 transaction in the regular course of business, including books and records the seller keeps at the
- 1276 time of the transaction in the regular course of business for nontax purposes, by a
- 1277 preponderance of the facts and circumstances at the time of the transaction, and by the
- 1278 understanding of all of the parties to the transaction:
 - 1279 (A) the following from credit extended on the sale of tangible personal property or
 - 1280 services:
 - 1281 (I) a carrying charge;
 - 1282 (II) a financing charge; or
 - 1283 (III) an interest charge;
 - 1284 (B) a delivery charge;
 - 1285 (C) an installation charge;
 - 1286 (D) a manufacturer rebate on a motor vehicle; or
 - 1287 (E) a tax or fee legally imposed directly on the consumer.
 - 1288 (100) "Purchaser" means a person to whom:
 - 1289 (a) a sale of tangible personal property is made;
 - 1290 (b) a product is transferred electronically; or
 - 1291 (c) a service is furnished.
 - 1292 (101) "Qualifying enterprise data center" means an establishment that will:
 - 1293 (a) own and operate a data center facility that will house a group of networked server
 - 1294 computers in one physical location in order to centralize the dissemination, management, and
 - 1295 storage of data and information;
 - 1296 (b) be located in the state;
 - 1297 (c) be a new operation constructed on or after July 1, 2016;
 - 1298 (d) consist of one or more buildings that total 150,000 or more square feet;

- 1299 (e) be owned or leased by:
- 1300 (i) the establishment; or
- 1301 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 1302 establishment; and
- 1303 (f) be located on one or more parcels of land that are owned or leased by:
- 1304 (i) the establishment; or
- 1305 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 1306 establishment.
- 1307 (102) "Regularly rented" means:
- 1308 (a) rented to a guest for value three or more times during a calendar year; or
- 1309 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1310 value.
- 1311 (103) "Rental" [~~is as~~] means the same as that term is defined in Subsection (59).
- 1312 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible
- 1313 personal property" means:
- 1314 (i) a repair or renovation of tangible personal property that is not permanently attached
- 1315 to real property; or
- 1316 (ii) attaching tangible personal property or a product transferred electronically to other
- 1317 tangible personal property or detaching tangible personal property or a product transferred
- 1318 electronically from other tangible personal property if:
- 1319 (A) the other tangible personal property to which the tangible personal property or
- 1320 product transferred electronically is attached or from which the tangible personal property or
- 1321 product transferred electronically is detached is not permanently attached to real property; and
- 1322 (B) the attachment of tangible personal property or a product transferred electronically
- 1323 to other tangible personal property or detachment of tangible personal property or a product
- 1324 transferred electronically from other tangible personal property is made in conjunction with a
- 1325 repair or replacement of tangible personal property or a product transferred electronically.
- 1326 (b) "Repairs or renovations of tangible personal property" does not include:
- 1327 (i) attaching prewritten computer software to other tangible personal property if the
- 1328 other tangible personal property to which the prewritten computer software is attached is not
- 1329 permanently attached to real property; or

1330 (ii) detaching prewritten computer software from other tangible personal property if the
1331 other tangible personal property from which the prewritten computer software is detached is
1332 not permanently attached to real property.

1333 (105) "Research and development" means the process of inquiry or experimentation
1334 aimed at the discovery of facts, devices, technologies, or applications and the process of
1335 preparing those devices, technologies, or applications for marketing.

1336 (106) (a) "Residential telecommunications services" means a telecommunications
1337 service or an ancillary service that is provided to an individual for personal use:

1338 (i) at a residential address; or

1339 (ii) at an institution, including a nursing home or a school, if the telecommunications
1340 service or ancillary service is provided to and paid for by the individual residing at the
1341 institution rather than the institution.

1342 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

1343 (i) apartment; or

1344 (ii) other individual dwelling unit.

1345 (107) "Residential use" means the use in or around a home, apartment building,
1346 sleeping quarters, and similar facilities or accommodations.

1347 (108) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1348 than:

1349 (a) resale;

1350 (b) sublease; or

1351 (c) subrent.

1352 (109) (a) "Retailer" means any person engaged in a regularly organized business in
1353 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1354 who is selling to the user or consumer and not for resale.

1355 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1356 engaged in the business of selling to users or consumers within the state.

1357 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1358 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1359 Subsection 59-12-103(1), for consideration.

1360 (b) "Sale" includes:

- 1361 (i) installment and credit sales;
- 1362 (ii) any closed transaction constituting a sale;
- 1363 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 1364 chapter;
- 1365 (iv) any transaction if the possession of property is transferred but the seller retains the
- 1366 title as security for the payment of the price; and
- 1367 (v) any transaction under which right to possession, operation, or use of any article of
- 1368 tangible personal property is granted under a lease or contract and the transfer of possession
- 1369 would be taxable if an outright sale were made.
- 1370 (111) "Sale at retail" [~~is as~~] means the same as that term is defined in Subsection (108).
- 1371 (112) "Sale-leaseback transaction" means a transaction by which title to tangible
- 1372 personal property or a product transferred electronically that is subject to a tax under this
- 1373 chapter is transferred:
- 1374 (a) by a purchaser-lessee;
- 1375 (b) to a lessor;
- 1376 (c) for consideration; and
- 1377 (d) if:
- 1378 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
- 1379 of the tangible personal property or product transferred electronically;
- 1380 (ii) the sale of the tangible personal property or product transferred electronically to the
- 1381 lessor is intended as a form of financing:
- 1382 (A) for the tangible personal property or product transferred electronically; and
- 1383 (B) to the purchaser-lessee; and
- 1384 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
- 1385 is required to:
- 1386 (A) capitalize the tangible personal property or product transferred electronically for
- 1387 financial reporting purposes; and
- 1388 (B) account for the lease payments as payments made under a financing arrangement.
- 1389 (113) "Sales price" [~~is as~~] means the same as that term is defined in Subsection (99).
- 1390 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
- 1391 amounts charged by a school:

1392 (i) sales that are directly related to the school's educational functions or activities

1393 including:

1394 (A) the sale of:

1395 (I) textbooks;

1396 (II) textbook fees;

1397 (III) laboratory fees;

1398 (IV) laboratory supplies; or

1399 (V) safety equipment;

1400 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1401 that:

1402 (I) a student is specifically required to wear as a condition of participation in a
1403 school-related event or school-related activity; and

1404 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1405 place of ordinary clothing;

1406 (C) sales of the following if the net or gross revenues generated by the sales are
1407 deposited into a school district fund or school fund dedicated to school meals:

1408 (I) food and food ingredients; or

1409 (II) prepared food; or

1410 (D) transportation charges for official school activities; or

1411 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1412 event or school-related activity.

1413 (b) "Sales relating to schools" does not include:

1414 (i) bookstore sales of items that are not educational materials or supplies;

1415 (ii) except as provided in Subsection (114)(a)(i)(B):

1416 (A) clothing;

1417 (B) clothing accessories or equipment;

1418 (C) protective equipment; or

1419 (D) sports or recreational equipment; or

1420 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1421 event or school-related activity if the amounts paid or charged are passed through to a person:

1422 (A) other than a:

- 1423 (I) school;
- 1424 (II) nonprofit organization authorized by a school board or a governing body of a
- 1425 private school to organize and direct a competitive secondary school activity; or
- 1426 (III) nonprofit association authorized by a school board or a governing body of a
- 1427 private school to organize and direct a competitive secondary school activity; and
- 1428 (B) that is required to collect sales and use taxes under this chapter.
- 1429 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1430 commission may make rules defining the term "passed through."
- 1431 (115) For purposes of this section and Section [59-12-104](#), "school":
- 1432 (a) means:
- 1433 (i) an elementary school or a secondary school that:
- 1434 (A) is a:
- 1435 (I) public school; or
- 1436 (II) private school; and
- 1437 (B) provides instruction for one or more grades kindergarten through 12; or
- 1438 (ii) a public school district; and
- 1439 (b) includes the Electronic High School as defined in Section [~~53A-15-1002~~]
- 1440 [53B-17-1002](#).
- 1441 (116) "Seller" means a person that makes a sale, lease, or rental of:
- 1442 (a) tangible personal property;
- 1443 (b) a product transferred electronically; or
- 1444 (c) a service.
- 1445 (117) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1446 means tangible personal property or a product transferred electronically if the tangible personal
- 1447 property or product transferred electronically is:
- 1448 (i) used primarily in the process of:
- 1449 (A) (I) manufacturing a semiconductor;
- 1450 (II) fabricating a semiconductor; or
- 1451 (III) research or development of a:
- 1452 (Aa) semiconductor; or
- 1453 (Bb) semiconductor manufacturing process; or

- 1454 (B) maintaining an environment suitable for a semiconductor; or
- 1455 (ii) consumed primarily in the process of:
- 1456 (A) (I) manufacturing a semiconductor;
- 1457 (II) fabricating a semiconductor; or
- 1458 (III) research or development of a:
- 1459 (Aa) semiconductor; or
- 1460 (Bb) semiconductor manufacturing process; or
- 1461 (B) maintaining an environment suitable for a semiconductor.
- 1462 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1463 includes:
- 1464 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1465 transferred electronically described in Subsection (117)(a); or
- 1466 (ii) a chemical, catalyst, or other material used to:
- 1467 (A) produce or induce in a semiconductor a:
- 1468 (I) chemical change; or
- 1469 (II) physical change;
- 1470 (B) remove impurities from a semiconductor; or
- 1471 (C) improve the marketable condition of a semiconductor.
- 1472 (118) "Senior citizen center" means a facility having the primary purpose of providing
- 1473 services to the aged as defined in Section [62A-3-101](#).
- 1474 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"
- 1475 means tangible personal property that:
- 1476 (i) a business that provides accommodations and services described in Subsection
- 1477 [59-12-103\(1\)\(i\)](#) purchases as part of a transaction to provide the accommodations and services
- 1478 to a purchaser;
- 1479 (ii) is intended to be consumed by the purchaser; and
- 1480 (iii) is:
- 1481 (A) included in the purchase price of the accommodations and services; and
- 1482 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 1483 to the purchaser.
- 1484 (b) "Short-term lodging consumable" includes:

- 1485 (i) a beverage;
- 1486 (ii) a brush or comb;
- 1487 (iii) a cosmetic;
- 1488 (iv) a hair care product;
- 1489 (v) lotion;
- 1490 (vi) a magazine;
- 1491 (vii) makeup;
- 1492 (viii) a meal;
- 1493 (ix) mouthwash;
- 1494 (x) nail polish remover;
- 1495 (xi) a newspaper;
- 1496 (xii) a notepad;
- 1497 (xiii) a pen;
- 1498 (xiv) a pencil;
- 1499 (xv) a razor;
- 1500 (xvi) saline solution;
- 1501 (xvii) a sewing kit;
- 1502 (xviii) shaving cream;
- 1503 (xix) a shoe shine kit;
- 1504 (xx) a shower cap;
- 1505 (xxi) a snack item;
- 1506 (xxii) soap;
- 1507 (xxiii) toilet paper;
- 1508 (xxiv) a toothbrush;
- 1509 (xxv) toothpaste; or
- 1510 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may
- 1511 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1512 Rulemaking Act.
- 1513 (c) "Short-term lodging consumable" does not include:
- 1514 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1515 property to be reused; or

- 1516 (ii) a product transferred electronically.
- 1517 (120) "Simplified electronic return" means the electronic return:
- 1518 (a) described in Section 318(C) of the agreement; and
- 1519 (b) approved by the governing board of the agreement.
- 1520 (121) "Solar energy" means the sun used as the sole source of energy for producing
- 1521 electricity.
- 1522 (122) (a) "Sports or recreational equipment" means an item:
- 1523 (i) designed for human use; and
- 1524 (ii) that is:
- 1525 (A) worn in conjunction with:
- 1526 (I) an athletic activity; or
- 1527 (II) a recreational activity; and
- 1528 (B) not suitable for general use.
- 1529 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1530 commission shall make rules:
- 1531 (i) listing the items that constitute "sports or recreational equipment"; and
- 1532 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1533 equipment" under the agreement.
- 1534 (123) "State" means the state of Utah, its departments, and agencies.
- 1535 (124) "Storage" means any keeping or retention of tangible personal property or any
- 1536 other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose except
- 1537 sale in the regular course of business.
- 1538 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"
- 1539 means personal property that:
- 1540 (i) may be:
- 1541 (A) seen;
- 1542 (B) weighed;
- 1543 (C) measured;
- 1544 (D) felt; or
- 1545 (E) touched; or
- 1546 (ii) is in any manner perceptible to the senses.

1547 (b) "Tangible personal property" includes:

1548 (i) electricity;

1549 (ii) water;

1550 (iii) gas;

1551 (iv) steam; or

1552 (v) prewritten computer software, regardless of the manner in which the prewritten

1553 computer software is transferred.

1554 (c) "Tangible personal property" includes the following regardless of whether the item

1555 is attached to real property:

1556 (i) a dishwasher;

1557 (ii) a dryer;

1558 (iii) a freezer;

1559 (iv) a microwave;

1560 (v) a refrigerator;

1561 (vi) a stove;

1562 (vii) a washer; or

1563 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the

1564 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

1565 Rulemaking Act.

1566 (d) "Tangible personal property" does not include a product that is transferred

1567 electronically.

1568 (e) "Tangible personal property" does not include the following if attached to real

1569 property, regardless of whether the attachment to real property is only through a line that

1570 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the

1571 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

1572 Rulemaking Act:

1573 (i) a hot water heater;

1574 (ii) a water filtration system; or

1575 (iii) a water softener system.

1576 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or

1577 software" means an item listed in Subsection (126)(b) if that item is purchased or leased

1578 primarily to enable or facilitate one or more of the following to function:

1579 (i) telecommunications switching or routing equipment, machinery, or software; or

1580 (ii) telecommunications transmission equipment, machinery, or software.

1581 (b) The following apply to Subsection (126)(a):

1582 (i) a pole;

1583 (ii) software;

1584 (iii) a supplementary power supply;

1585 (iv) temperature or environmental equipment or machinery;

1586 (v) test equipment;

1587 (vi) a tower; or

1588 (vii) equipment, machinery, or software that functions similarly to an item listed in

1589 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in

1590 accordance with Subsection (126)(c).

1591 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1592 commission may by rule define what constitutes equipment, machinery, or software that

1593 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

1594 (127) "Telecommunications equipment, machinery, or software required for 911

1595 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.

1596 Sec. 20.18.

1597 (128) "Telecommunications maintenance or repair equipment, machinery, or software"

1598 means equipment, machinery, or software purchased or leased primarily to maintain or repair

1599 one or more of the following, regardless of whether the equipment, machinery, or software is

1600 purchased or leased as a spare part or as an upgrade or modification to one or more of the

1601 following:

1602 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1603 (b) telecommunications switching or routing equipment, machinery, or software; or

1604 (c) telecommunications transmission equipment, machinery, or software.

1605 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or

1606 transmission of audio, data, video, voice, or any other information or signal to a point, or

1607 among or between points.

1608 (b) "Telecommunications service" includes:

- 1609 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1610 processing application is used to act:
- 1611 (A) on the code, form, or protocol of the content;
- 1612 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 1613 (C) regardless of whether the service:
- 1614 (I) is referred to as voice over Internet protocol service; or
- 1615 (II) is classified by the Federal Communications Commission as enhanced or value
1616 added;
- 1617 (ii) an 800 service;
- 1618 (iii) a 900 service;
- 1619 (iv) a fixed wireless service;
- 1620 (v) a mobile wireless service;
- 1621 (vi) a postpaid calling service;
- 1622 (vii) a prepaid calling service;
- 1623 (viii) a prepaid wireless calling service; or
- 1624 (ix) a private communications service.
- 1625 (c) "Telecommunications service" does not include:
- 1626 (i) advertising, including directory advertising;
- 1627 (ii) an ancillary service;
- 1628 (iii) a billing and collection service provided to a third party;
- 1629 (iv) a data processing and information service if:
- 1630 (A) the data processing and information service allows data to be:
- 1631 (I) (Aa) acquired;
- 1632 (Bb) generated;
- 1633 (Cc) processed;
- 1634 (Dd) retrieved; or
- 1635 (Ee) stored; and
- 1636 (II) delivered by an electronic transmission to a purchaser; and
- 1637 (B) the purchaser's primary purpose for the underlying transaction is the processed data
1638 or information;
- 1639 (v) installation or maintenance of the following on a customer's premises:

- 1640 (A) equipment; or
- 1641 (B) wiring;
- 1642 (vi) Internet access service;
- 1643 (vii) a paging service;
- 1644 (viii) a product transferred electronically, including:
 - 1645 (A) music;
 - 1646 (B) reading material;
 - 1647 (C) a ring tone;
 - 1648 (D) software; or
 - 1649 (E) video;
- 1650 (ix) a radio and television audio and video programming service:
 - 1651 (A) regardless of the medium; and
 - 1652 (B) including:
 - 1653 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 1654 programming service by a programming service provider;
 - 1655 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 1656 (III) audio and video programming services delivered by a commercial mobile radio
 - 1657 service provider as defined in 47 C.F.R. Sec. 20.3;
 - 1658 (x) a value-added nonvoice data service; or
 - 1659 (xi) tangible personal property.
- 1660 (130) (a) "Telecommunications service provider" means a person that:
 - 1661 (i) owns, controls, operates, or manages a telecommunications service; and
 - 1662 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or
 - 1663 resale to any person of the telecommunications service.
- 1664 (b) A person described in Subsection (130)(a) is a telecommunications service provider
- 1665 whether or not the Public Service Commission of Utah regulates:
 - 1666 (i) that person; or
 - 1667 (ii) the telecommunications service that the person owns, controls, operates, or
 - 1668 manages.
- 1669 (131) (a) "Telecommunications switching or routing equipment, machinery, or
- 1670 software" means an item listed in Subsection (131)(b) if that item is purchased or leased

1671 primarily for switching or routing:

- 1672 (i) an ancillary service;
- 1673 (ii) data communications;
- 1674 (iii) voice communications; or
- 1675 (iv) telecommunications service.

1676 (b) The following apply to Subsection (131)(a):

- 1677 (i) a bridge;
- 1678 (ii) a computer;
- 1679 (iii) a cross connect;
- 1680 (iv) a modem;
- 1681 (v) a multiplexer;
- 1682 (vi) plug in circuitry;
- 1683 (vii) a router;
- 1684 (viii) software;
- 1685 (ix) a switch; or

1686 (x) equipment, machinery, or software that functions similarly to an item listed in
1687 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in
1688 accordance with Subsection (131)(c).

1689 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1690 commission may by rule define what constitutes equipment, machinery, or software that
1691 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

1692 (132) (a) "Telecommunications transmission equipment, machinery, or software"
1693 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for
1694 sending, receiving, or transporting:

- 1695 (i) an ancillary service;
- 1696 (ii) data communications;
- 1697 (iii) voice communications; or
- 1698 (iv) telecommunications service.

1699 (b) The following apply to Subsection (132)(a):

- 1700 (i) an amplifier;
- 1701 (ii) a cable;

- 1702 (iii) a closure;
- 1703 (iv) a conduit;
- 1704 (v) a controller;
- 1705 (vi) a duplexer;
- 1706 (vii) a filter;
- 1707 (viii) an input device;
- 1708 (ix) an input/output device;
- 1709 (x) an insulator;
- 1710 (xi) microwave machinery or equipment;
- 1711 (xii) an oscillator;
- 1712 (xiii) an output device;
- 1713 (xiv) a pedestal;
- 1714 (xv) a power converter;
- 1715 (xvi) a power supply;
- 1716 (xvii) a radio channel;
- 1717 (xviii) a radio receiver;
- 1718 (xix) a radio transmitter;
- 1719 (xx) a repeater;
- 1720 (xxi) software;
- 1721 (xxii) a terminal;
- 1722 (xxiii) a timing unit;
- 1723 (xxiv) a transformer;
- 1724 (xxv) a wire; or
- 1725 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1726 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in
- 1727 accordance with Subsection (132)(c).

1728 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1729 commission may by rule define what constitutes equipment, machinery, or software that
1730 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

1731 (133) (a) "Textbook for a higher education course" means a textbook or other printed
1732 material that is required for a course:

- 1733 (i) offered by an institution of higher education; and
- 1734 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1735 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1736 (134) "Tobacco" means:

- 1737 (a) a cigarette;
- 1738 (b) a cigar;
- 1739 (c) chewing tobacco;
- 1740 (d) pipe tobacco; or
- 1741 (e) any other item that contains tobacco.

1742 (135) "Unassisted amusement device" means an amusement device, skill device, or
1743 ride device that is started and stopped by the purchaser or renter of the right to use or operate
1744 the amusement device, skill device, or ride device.

1745 (136) (a) "Use" means the exercise of any right or power over tangible personal
1746 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1747 incident to the ownership or the leasing of that tangible personal property, product transferred
1748 electronically, or service.

1749 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1750 property, a product transferred electronically, or a service in the regular course of business and
1751 held for resale.

1752 (137) "Value-added nonvoice data service" means a service:

1753 (a) that otherwise meets the definition of a telecommunications service except that a
1754 computer processing application is used to act primarily for a purpose other than conveyance,
1755 routing, or transmission; and

1756 (b) with respect to which a computer processing application is used to act on data or
1757 information:

- 1758 (i) code;
- 1759 (ii) content;
- 1760 (iii) form; or
- 1761 (iv) protocol.

1762 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are
1763 required to be titled, registered, or titled and registered:

- 1764 (i) an aircraft as defined in Section 72-10-102;
- 1765 (ii) a vehicle as defined in Section 41-1a-102;
- 1766 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1767 (iv) a vessel as defined in Section 41-1a-102.
- 1768 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1769 (i) a vehicle described in Subsection (138)(a); or
- 1770 (ii) (A) a locomotive;
- 1771 (B) a freight car;
- 1772 (C) railroad work equipment; or
- 1773 (D) other railroad rolling stock.
- 1774 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 1775 exchanging a vehicle as defined in Subsection (138).
- 1776 (140) (a) "Vertical service" means an ancillary service that:
- 1777 (i) is offered in connection with one or more telecommunications services; and
- 1778 (ii) offers an advanced calling feature that allows a customer to:
- 1779 (A) identify a caller; and
- 1780 (B) manage multiple calls and call connections.
- 1781 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 1782 conference bridging service.
- 1783 (141) (a) "Voice mail service" means an ancillary service that enables a customer to
- 1784 receive, send, or store a recorded message.
- 1785 (b) "Voice mail service" does not include a vertical service that a customer is required
- 1786 to have in order to utilize a voice mail service.
- 1787 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a
- 1788 facility that generates electricity:
- 1789 (i) using as the primary source of energy waste materials that would be placed in a
- 1790 landfill or refuse pit if it were not used to generate electricity, including:
- 1791 (A) tires;
- 1792 (B) waste coal;
- 1793 (C) oil shale; or
- 1794 (D) municipal solid waste; and

- 1795 (ii) in amounts greater than actually required for the operation of the facility.
- 1796 (b) "Waste energy facility" does not include a facility that incinerates:
- 1797 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1798 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1799 (143) "Watercraft" means a vessel as defined in Section [73-18-2](#).
- 1800 (144) "Wind energy" means wind used as the sole source of energy to produce
- 1801 electricity.
- 1802 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
- 1803 location by the United States Postal Service.
- 1804 Section 13. **Repealer.**
- 1805 This bill repeals:
- 1806 Section [53A-15-1001](#), **Title.**
- 1807 Section [53A-15-1002](#), **Definitions.**
- 1808 Section [53A-15-1002.5](#), **Electronic High School created -- Purpose.**
- 1809 Section [53A-15-1003](#), **Courses and credit.**
- 1810 Section [53A-15-1004](#), **Student eligibility for enrollment.**
- 1811 Section [53A-15-1005](#), **Services to students with disabilities.**
- 1812 Section [53A-15-1006](#), **Payment for an Electronic High School course.**
- 1813 Section [53A-15-1007](#), **Electronic High School diploma.**
- 1814 Section [53A-15-1008](#), **Review by legislative auditor general.**
- 1815 Section [53A-17a-131.15](#), **State contribution for the Electronic High School.**