

**AMENDMENTS RELATED TO MANUFACTURED AND MOBILE
HOMES**

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jim Nielson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions dealing with assessors, the Motor Vehicle Act, the Motor Vehicle Business Regulation Act, revenue and taxation provisions, provisions related to confidentiality of records, the Financial Institution Mortgage Financing Regulation Act, and criminal provisions to address the treatment of manufactured homes and mobile homes.

Highlighted Provisions:

This bill:

- ▶ recodifies the tax clearance required to move a manufactured home or mobile home;
- ▶ amends definitions;
- ▶ repeals language dealing with notices by the Motor Vehicle Division under the Motor Vehicle Act, including amending the provision related to access to private, controlled, and protected records;
- ▶ repeals language addressing manufactured homes and mobile homes under the Motor Vehicle Act;
- ▶ repeals language addressing an affidavit of mobile home affixture under the Motor Vehicle Act;
- ▶ modifies the provision related to collection of uniform fees and other motor vehicle fees;



28 ▶ repeals the language requiring the Motor Vehicle Division to take certain actions
29 related to qualifying a manufactured home or mobile home as an improvement to
30 real property; and

31 ▶ makes technical and conforming amendments.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 This bill provides an effective date.

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **7-24-102**, as last amended by Laws of Utah 2005, Chapter 2

39 **13-20-2**, as last amended by Laws of Utah 2012, Chapter 77

40 **17-16-5.5**, as last amended by Laws of Utah 2006, Chapter 39

41 **41-1a-102**, as last amended by Laws of Utah 2011, Chapter 340

42 **41-1a-116**, as last amended by Laws of Utah 2011, Chapter 243

43 **41-1a-202**, as last amended by Laws of Utah 2008, Chapter 36

44 **41-1a-501**, as last amended by Laws of Utah 1992, Chapter 218 and renumbered and
45 amended by Laws of Utah 1992, Chapter 1

46 **41-1a-508**, as enacted by Laws of Utah 1992, Chapter 1 and last amended by Laws of
47 Utah 1992, Chapter 218

48 **41-1a-509**, as last amended by Laws of Utah 1992, Chapter 218 and renumbered and
49 amended by Laws of Utah 1992, Chapter 1

50 **41-1a-510**, as last amended by Laws of Utah 2010, Chapter 324

51 **41-1a-519**, as last amended by Laws of Utah 2006, Chapter 252

52 **41-1a-709**, as last amended by Laws of Utah 1993, Chapter 221

53 **41-3-102**, as last amended by Laws of Utah 2010, Chapter 393

54 **41-3-407**, as last amended by Laws of Utah 1998, Chapters 222 and 339

55 **57-16-4**, as last amended by Laws of Utah 2009, Chapter 94

56 **59-2-406**, as last amended by Laws of Utah 2008, Chapter 382

57 **59-2-1115**, as last amended by Laws of Utah 2012, Chapter 313

58 **59-2-1502**, as enacted by Laws of Utah 2004, Chapter 243

59 **59-12-102 (Superseded 07/01/14)**, as last amended by Laws of Utah 2012, Chapters
60 255, 312, 405, and 410

61 **59-12-102 (Effective 07/01/14)**, as last amended by Laws of Utah 2012, Chapters 255,
62 312, 405, 410, and 424

63 **63G-2-202**, as last amended by Laws of Utah 2012, Chapter 377

64 **70A-2a-103**, as last amended by Laws of Utah 2007, Chapter 272

65 **70A-9a-102**, as last amended by Laws of Utah 2006, Chapter 42

66 **70D-2-401**, as renumbered and amended by Laws of Utah 2009, Chapter 72

67 **76-6-522**, as last amended by Laws of Utah 1992, Chapter 1

68 RENUMBERS AND AMENDS:

69 **17-17-3**, (Renumbered from 41-1a-1320, as last amended by Laws of Utah 2006,
70 Chapter 39)

71 REPEALS:

72 **41-1a-503**, as last amended by Laws of Utah 2006, Chapters 232 and 252

73 **41-1a-506**, as last amended by Laws of Utah 2009, Chapter 72

74

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

76 Section 1. Section **7-24-102** is amended to read:

77 **7-24-102. Definitions.**

78 As used in this chapter:

79 (1) "Rollover" means the extension or renewal of the term of a title loan.

80 (2) (a) "Title lender" means a person that extends a title loan.

81 (b) "Title lender" includes a person that:

82 (i) arranges a title loan on behalf of a title lender;

83 (ii) acts as an agent for a title lender; or

84 (iii) assists a title lender in the extension of a title loan.

85 (3) (a) "Title loan" means a loan secured by the title to a:

86 (i) motor vehicle, as defined in Section 41-6a-102; or

87 [~~(ii) mobile home, as defined in Section 41-6a-102; or~~]

88 [~~(iii)~~] (ii) motorboat, as defined in Section 73-18-2.

89 (b) "Title loan" includes a title loan extended at the same premise on which any of the

90 following are sold:

- 91 (i) a motor vehicle, as defined in Section 41-6a-102; or
- 92 [~~(ii) a mobile home, as defined in Section 41-6a-102; or~~]
- 93 [~~(iii)~~] (ii) a motorboat, as defined in Section 73-18-2.

94 (c) "Title loan" does not include:

- 95 (i) a purchase money loan;
- 96 (ii) a loan made in connection with the sale of a:
 - 97 (A) motor vehicle, as defined in Section 41-6a-102;
 - 98 (B) mobile home, as defined in Section [~~41-6a-102~~] 15A-1-302; or
 - 99 (C) motorboat, as defined in Section 73-18-2; or
- 100 (iii) a loan extended by an institution listed in Section 7-24-305.

101 Section 2. Section **13-20-2** is amended to read:

102 **13-20-2. Definitions.**

103 As used in this chapter:

104 (1) "Consumer" means an individual who enters into an agreement or contract for the
105 transfer, lease, purchase of a new motor vehicle other than for purposes of resale, or sublease
106 during the duration of the period defined under Section 13-20-5.

107 (2) "Manufacturer" means manufacturer, importer, distributor, or anyone who is named
108 as the warrantor on an express written warranty on a motor vehicle.

109 (3) "Motor home" means a self-propelled vehicular unit, primarily designed as a
110 temporary dwelling for travel, recreational, and vacation use.

111 (4) (a) "Motor vehicle" includes:

112 (i) a motor home, as defined in this section, but only the self-propelled vehicle and
113 chassis sold in this state;

114 (ii) a motor vehicle, as defined in Section 41-1a-102, sold in this state; and

115 (iii) a motorcycle, as defined in Section 41-1a-102, sold in this state if the motorcycle
116 is designed primarily for use and operation on paved highways.

117 (b) "Motor vehicle" does not include:

118 (i) those portions of a motor home designated, used, or maintained primarily as a
119 mobile dwelling, office, or commercial space;

120 (ii) a road tractor or truck tractor as defined in Section 41-1a-102;

- 121 (iii) a mobile home as defined in Section [~~41-1a-102~~] 15A-1-302;
- 122 (iv) any motor vehicle with a gross laden weight of over 12,000 pounds, except:
- 123 (A) a motor home as defined under Subsection (3); and
- 124 (B) a farm tractor as defined in Section 41-1a-102;
- 125 (v) a motorcycle, as defined in Section 41-1a-102, if the motorcycle is designed
- 126 primarily for use or operation over unimproved terrain;
- 127 (vi) an electric assisted bicycle as defined in Section 41-6a-102;
- 128 (vii) a moped as defined in Section 41-6a-102;
- 129 (viii) a motor assisted scooter as defined in Section 41-6a-102; or
- 130 (ix) a motor-driven cycle as defined in Section 41-6a-102.
- 131 (5) "Nonconformity":
- 132 (a) means a defect in or condition of a recreational vehicle trailer that substantially
- 133 impairs its use, value, or safety; and
- 134 (b) does not include a defect or condition that occurs as a result of:
- 135 (i) the use of the recreational vehicle trailer for business or commercial purposes; or
- 136 (ii) abuse, neglect, modification, or alteration of the recreational vehicle trailer by a
- 137 person other than the manufacturer or the manufacturer's authorized service agent.
- 138 (6) "Recreational vehicle trailer" means a travel trailer, camping trailer, or fifth wheel
- 139 trailer.
- 140 Section 3. Section **17-16-5.5** is amended to read:
- 141 **17-16-5.5. Reassignment of certain assessor duties to treasurer.**
- 142 A county legislative body may by ordinance reassign to the treasurer the duties of the
- 143 assessor under Sections [~~41-1a-1320~~] 17-17-3, 59-2-407, 59-2-1302, 59-2-1303, and
- 144 59-2-1305.
- 145 Section 4. Section **17-17-3**, which is renumbered from Section 41-1a-1320 is
- 146 renumbered and amended to read:
- 147 [~~41-1a-1320~~]. **17-17-3. Tax clearance required to move manufactured**
- 148 **home or mobile home.**
- 149 (1) A manufactured home, as defined in Section 15A-1-302, or mobile home, as
- 150 defined in Section 15A-1-302, may not be transported by any person, including its owner,
- 151 unless a tax clearance has been obtained from the assessor or, if the responsibility to provide a

152 tax clearance has been reassigned under Section 17-16-5.5, the treasurer of the county in which
153 the real property upon which the manufactured home or mobile home was last located showing
154 that all property taxes, including any interest and penalties, have been paid.

155 (2) The tax clearance described in Subsection (1):

156 (a) is proof of having paid all property taxes, interest, and penalties; and

157 (b) shall be displayed in a conspicuous place on the rear of the manufactured home or
158 mobile home so as to be plainly visible while in transit.

159 (3) (a) Any person, including the owner, who transports a manufactured home or
160 mobile home without a valid tax clearance is:

161 (i) in violation of Section 59-2-309; and

162 (ii) subject to the penalty provisions of Section 59-2-309.

163 (b) In addition to the penalty provided in Subsection (3)(a), any commercial mover
164 who transports any manufactured home or mobile home without a valid tax clearance is guilty
165 of a class B misdemeanor.

166 Section 5. Section **41-1a-102** is amended to read:

167 **41-1a-102. Definitions.**

168 As used in this chapter:

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

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

172 [~~(3)~~] ~~"Affidavit of Mobile Home Affixture" means the affidavit of affixture described in~~
173 ~~Section 41-1a-503.~~]

174 [~~(4)~~] (3) "All-terrain type I vehicle" has the same meaning provided in Section 41-22-2.

175 [~~(5)~~] (4) "All-terrain type II vehicle" has the same meaning provided in Section
176 41-22-2.

177 [~~(6)~~] (5) "Amateur radio operator" means any person licensed by the Federal
178 Communications Commission to engage in private and experimental two-way radio operation
179 on the amateur band radio frequencies.

180 [~~(7)~~] (6) "Branded title" means a title certificate that is labeled:

181 (a) rebuilt and restored to operation;

182 (b) flooded and restored to operation; or

183 (c) not restored to operation.

184 [~~(8)~~] (7) "Camper" means any structure designed, used, and maintained primarily to be
185 mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a
186 mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for
187 camping.

188 [~~(9)~~] (8) "Certificate of title" means a document issued by a jurisdiction to establish a
189 record of ownership between an identified owner and the described vehicle, vessel, or outboard
190 motor.

191 [~~(10)~~] (9) "Certified scale weigh ticket" means a weigh ticket that has been issued by a
192 weighmaster.

193 [~~(11)~~] (10) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or
194 maintained for the transportation of persons or property that operates:

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

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

198 [~~(12)~~] (11) "Commission" means the State Tax Commission.

199 [~~(13)~~] (12) "Dealer" means a person engaged or licensed to engage in the business of
200 buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright
201 or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an
202 established place of business for the sale, lease, trade, or display of vehicles, vessels, or
203 outboard motors.

204 [~~(14)~~] (13) "Division" means the Motor Vehicle Division of the commission, created in
205 Section 41-1a-106.

206 [~~(15)~~] (14) "Essential parts" means all integral and body parts of a vehicle of a type
207 required to be registered in this state, the removal, alteration, or substitution of which would
208 tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or
209 mode of operation.

210 [~~(16)~~] (15) "Farm tractor" means every motor vehicle designed and used primarily as a
211 farm implement for drawing plows, mowing machines, and other implements of husbandry.

212 [~~(17)~~] (16) (a) "Farm truck" means a truck used by the owner or operator of a farm
213 solely for his own use in the transportation of:

214 (i) farm products, including livestock and its products, poultry and its products,
215 floricultural and horticultural products;

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

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

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

222 [~~(18)~~] (17) "Fleet" means one or more commercial vehicles.

223 [~~(19)~~] (18) "Foreign vehicle" means a vehicle of a type required to be registered,
224 brought into this state from another state, territory, or country other than in the ordinary course
225 of business by or through a manufacturer or dealer, and not registered in this state.

226 [~~(20)~~] (19) "Gross laden weight" means the actual weight of a vehicle or combination
227 of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

228 [~~(21)~~] (20) "Highway" or "street" means the entire width between property lines of
229 every way or place of whatever nature when any part of it is open to the public, as a matter of
230 right, for purposes of vehicular traffic.

231 [~~(22)~~] (21) (a) "Identification number" means the identifying number assigned by the
232 manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard
233 motor.

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

236 [~~(23)~~] (22) "Implement of husbandry" means every vehicle designed or adapted and
237 used exclusively for an agricultural operation and only incidentally operated or moved upon the
238 highways.

239 [~~(24)~~] (23) (a) "In-state miles" means the total number of miles operated in this state
240 during the preceding year by fleet power units.

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

244 [~~(25)~~] (24) "Interstate vehicle" means any commercial vehicle operated in more than

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

246 ~~[(26)]~~ (25) "Jurisdiction" means a state, district, province, political subdivision,
247 territory, or possession of the United States or any foreign country.

248 ~~[(27)]~~ (26) "Lienholder" means a person with a security interest in particular property.

249 ~~[(28) "Manufactured home" means a transportable factory built housing unit
250 constructed on or after June 15, 1976, according to the Federal Home Construction and Safety
251 Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is
252 eight body feet or more in width or 40 body feet or more in length, or when erected on site, is
253 400 or more square feet, and which is built on a permanent chassis and designed to be used as a
254 dwelling with or without a permanent foundation when connected to the required utilities, and
255 includes the plumbing, heating, air-conditioning, and electrical systems.]~~

256 ~~[(29)]~~ (27) "Manufacturer" means a person engaged in the business of constructing,
257 manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or
258 outboard motors for the purpose of sale or trade.

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

262 ~~[(31)]~~ (28) "Motorboat" has the same meaning as provided in Section 73-18-2.

263 ~~[(32)]~~ (29) "Motorcycle" means a motor vehicle having a saddle for the use of the rider
264 and designed to travel on not more than three wheels in contact with the ground.

265 ~~[(33)]~~ (30) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for
266 use and operation on the highways.

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

268 ~~[(34)]~~ (31) (a) "Nonresident" means a person who is not a resident of this state as
269 defined by Section 41-1a-202, and who does not engage in intrastate business within this state
270 and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

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

276 [~~(35)~~] (32) "Odometer" means a device for measuring and recording the actual distance
277 a vehicle travels while in operation, but does not include any auxiliary odometer designed to be
278 periodically reset.

279 [~~(36)~~] (33) "Off-highway implement of husbandry" has the same meaning as provided
280 in Section 41-22-2.

281 [~~(37)~~] (34) "Off-highway vehicle" has the same meaning as provided in Section
282 41-22-2.

283 [~~(38)~~] (35) "Operate" means to drive or be in actual physical control of a vehicle or to
284 navigate a vessel.

285 [~~(39)~~] (36) "Outboard motor" means a detachable self-contained propulsion unit,
286 excluding fuel supply, used to propel a vessel.

287 [~~(40)~~] (37) (a) "Owner" means a person, other than a lienholder, holding title to a
288 vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is
289 subject to a security interest.

290 (b) If a vehicle is the subject of an agreement for the conditional sale or installment
291 sale or mortgage of the vehicle with the right of purchase upon performance of the conditions
292 stated in the agreement and with an immediate right of possession vested in the conditional
293 vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the
294 conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this
295 chapter.

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

298 [~~(41)~~] (38) "Personalized license plate" means a license plate that has displayed on it a
299 combination of letters, numbers, or both as requested by the owner of the vehicle and assigned
300 to the vehicle by the division.

301 [~~(42)~~] (39) (a) "Pickup truck" means a two-axle motor vehicle with motive power
302 manufactured, remanufactured, or materially altered to provide an open cargo area.

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

305 [~~(43)~~] (40) "Pneumatic tire" means every tire in which compressed air is designed to
306 support the load.

307 [~~(44)~~] (41) "Preceding year" means a period of 12 consecutive months fixed by the
308 division that is within 16 months immediately preceding the commencement of the registration
309 or license year in which proportional registration is sought. The division in fixing the period
310 shall conform it to the terms, conditions, and requirements of any applicable agreement or
311 arrangement for the proportional registration of vehicles.

312 [~~(45)~~] (42) "Public garage" means every building or other place where vehicles or
313 vessels are kept and stored and where a charge is made for the storage and keeping of vehicles
314 and vessels.

315 [~~(46)~~] (43) "Reconstructed vehicle" means every vehicle of a type required to be
316 registered in this state that is materially altered from its original construction by the removal,
317 addition, or substitution of essential parts, new or used.

318 [~~(47)~~] (44) "Recreational vehicle" has the same meaning as provided in Section
319 13-14-102.

320 [~~(48)~~] (45) "Registration" means a document issued by a jurisdiction that allows
321 operation of a vehicle or vessel on the highways or waters of this state for the time period for
322 which the registration is valid and that is evidence of compliance with the registration
323 requirements of the jurisdiction.

324 [~~(49)~~] (46) (a) "Registration year" means a 12 consecutive month period commencing
325 with the completion of all applicable registration criteria.

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

328 [~~(50)~~] (47) "Repair or replacement" means the restoration of vehicles, vessels, or
329 outboard motors to a sound working condition by substituting any inoperative part of the
330 vehicle, vessel, or outboard motor, or by correcting the inoperative part.

331 [~~(51)~~] (48) "Replica vehicle" means:

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

333 (b) a custom vehicle that meets the requirements under Subsection
334 41-6a-1507(1)(a)(i)(B).

335 [~~(52)~~] (49) "Road tractor" means every motor vehicle designed and used for drawing
336 other vehicles and constructed so it does not carry any load either independently or any part of
337 the weight of a vehicle or load that is drawn.

338 [~~(53)~~] (50) "Sailboat" has the same meaning as provided in Section 73-18-2.

339 [~~(54)~~] (51) "Security interest" means an interest that is reserved or created by a security
340 agreement to secure the payment or performance of an obligation and that is valid against third
341 parties.

342 [~~(55)~~] (52) "Semitrailer" means every vehicle without motive power designed for
343 carrying persons or property and for being drawn by a motor vehicle and constructed so that
344 some part of its weight and its load rests or is carried by another vehicle.

345 [~~(56)~~] (53) "Special group license plate" means a type of license plate designed for a
346 particular group of people or a license plate authorized and issued by the division in accordance
347 with Section 41-1a-418.

348 [~~(57)~~] (54) (a) "Special interest vehicle" means a vehicle used for general
349 transportation purposes and that is:

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

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

353 (b) In making [~~his~~] the division director's determination under Subsection [~~(57)~~]
354 (54)(a), the division director shall give special consideration to:

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

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

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

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

363 [~~(58)~~] (55) (a) "Special mobile equipment" means every vehicle:

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

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

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

367 (b) "Special mobile equipment" includes:

368 (i) farm tractors;

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

371 (iii) ditch-digging apparatus.

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

374 [~~(59)~~] (56) "Specially constructed vehicle" means every vehicle of a type required to be
375 registered in this state, not originally constructed under a distinctive name, make, model, or
376 type by a generally recognized manufacturer of vehicles, and not materially altered from its
377 original construction.

378 [~~(60)~~] (57) "Title" means the right to or ownership of a vehicle, vessel, or outboard
379 motor.

380 [~~(61)~~] (58) (a) "Total fleet miles" means the total number of miles operated in all
381 jurisdictions during the preceding year by power units.

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

385 [~~(62)~~] (59) "Trailer" means a vehicle without motive power designed for carrying
386 persons or property and for being drawn by a motor vehicle and constructed so that no part of
387 its weight rests upon the towing vehicle.

388 [~~(63)~~] (60) "Transferee" means a person to whom the ownership of property is
389 conveyed by sale, gift, or any other means except by the creation of a security interest.

390 [~~(64)~~] (61) "Transferor" means a person who transfers [~~his~~] the person's ownership in
391 property by sale, gift, or any other means except by creation of a security interest.

392 [~~(65)~~] (62) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable
393 vehicle without motive power, designed as a temporary dwelling for travel, recreational, or
394 vacation use that does not require a special highway movement permit when drawn by a
395 self-propelled motor vehicle.

396 [~~(66)~~] (63) "Truck tractor" means a motor vehicle designed and used primarily for
397 drawing other vehicles and not constructed to carry a load other than a part of the weight of the
398 vehicle and load that is drawn.

399 [~~(67)~~] (64) "Vehicle" includes a motor vehicle, trailer, semitrailer, and off-highway

400 vehicle~~[-, manufactured home, and mobile home].~~

401 [~~(68)~~] (65) "Vessel" has the same meaning as provided in Section 73-18-2.

402 [~~(69)~~] (66) "Vintage vehicle" has the same meaning as provided in Section 41-21-1.

403 [~~(70)~~] (67) "Waters of this state" has the same meaning as provided in Section 73-18-2.

404 [~~(71)~~] (68) "Weighmaster" means a person, association of persons, or corporation
405 permitted to weigh vehicles under this chapter.

406 Section 6. Section **41-1a-116** is amended to read:

407 **41-1a-116. Records -- Access to records -- Fees.**

408 (1) (a) All motor vehicle title and registration records of the division are protected
409 unless the division determines based upon a written request by the subject of the record that the
410 record is public.

411 (b) In addition to the provisions of this section, access to all division records is
412 permitted for all purposes described in the federal Driver's Privacy Protection Act of 1994, 18
413 U.S.C. Chapter 123.

414 (2) (a) Access to public records is determined by Section 63G-2-201.

415 (b) A record designated as public under Subsection (1)(a) may be used for advertising
416 or solicitation purposes.

417 (3) Access to protected records, except as provided in Subsection (4), is determined by
418 Section 63G-2-202.

419 (4) (a) In addition to those persons granted access to protected records under Section
420 63G-2-202, the division shall disclose a protected record to a licensed private investigator,
421 holding a valid agency or registrant license, with a legitimate business need, or a person with a
422 bona fide security interest~~[-, or the owner of a mobile home park subject to Subsection (5),]~~
423 only upon receipt of a signed acknowledgment that the person receiving that protected record
424 may not:

425 (i) resell or disclose information from that record to any other person except as
426 permitted in the federal Driver's Privacy Protection Act of 1994; or

427 (ii) use information from that record for advertising or solicitation purposes.

428 (b) A legitimate business need under Subsection (4)(a) does not include the collection
429 of a debt.

430 [~~(5) The division may disclose the name or address, or both, of the lienholder or mobile~~

431 home owner of record, or both of them, to the owner of a mobile home park, if all of the
432 following conditions are met:]

433 [~~(a)~~ a mobile home located within the mobile home park owner's park has been
434 abandoned under Section ~~57-16-13~~ or the resident is in default under the resident's lease;]

435 [~~(b)~~ the mobile home park owner has conducted a reasonable search, but is unable to
436 determine the name or address, or both, of the lienholder or mobile home owner of record; and]

437 [~~(c)~~ the mobile home park owner has submitted a written statement to the division
438 explaining the mobile home park owner's efforts to determine the name or address, or both, of
439 the lienholder or mobile home owner of record before the mobile home park owner contacted
440 the division.]

441 [~~(6)~~ (5) The division may provide protected information to a statistic gathering entity
442 under Subsection (4) only in summary form.

443 [~~(7)~~ (6) A person allowed access to protected records under Subsection (4) may
444 request motor vehicle title or registration information from the division regarding any person,
445 entity, or motor vehicle by submitting a written application on a form provided by the division.

446 [~~(8)~~ (7) If a person regularly requests information for business purposes, the division
447 may by rule allow the information requests to be made by telephone and fees as required under
448 Subsection [~~(9)~~ (8) charged to a division billing account to facilitate division service. The
449 rules shall require that the:

450 (a) division determine if the nature of the business and the volume of requests merit the
451 dissemination of the information by telephone;

452 (b) division determine if the credit rating of the requesting party justifies providing a
453 billing account; and

454 (c) requestor submit to the division an application that includes names and signatures
455 of persons authorized to request information by telephone and charge the fees to the billing
456 account.

457 [~~(9)~~ (8) (a) The division shall charge a reasonable search fee determined under Section
458 63J-1-504 for the research of each record requested.

459 (b) Fees may not be charged for furnishing information to persons necessary for their
460 compliance with this chapter.

461 (c) Law enforcement agencies have access to division records free of charge.

462 [~~(10)~~] (9) (a) It is a class B misdemeanor for a person to knowingly or intentionally
463 access, use, disclose, or disseminate a record created or maintained by the division or any
464 information contained in a record created or maintained by the division for a purpose
465 prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

466 (b) A person who discovers or becomes aware of any unauthorized use of records
467 created or maintained by the division shall inform the director of the unauthorized use.

468 Section 7. Section **41-1a-202** is amended to read:

469 **41-1a-202. Definitions -- Vehicles exempt from registration -- Registration of**
470 **vehicles after establishing residency.**

471 (1) In this section:

472 (a) "Domicile" means the place:

473 (i) where an individual has a fixed permanent home and principal establishment;

474 (ii) to which the individual if absent, intends to return; and

475 (iii) in which the individual and his family voluntarily reside, not for a special or
476 temporary purpose, but with the intention of making a permanent home.

477 (b) (i) "Resident" means any of the following:

478 (A) an individual who:

479 (I) has established a domicile in this state;

480 (II) regardless of domicile, remains in this state for an aggregate period of six months
481 or more during any calendar year;

482 (III) engages in a trade, profession, or occupation in this state or who accepts
483 employment in other than seasonal work in this state and who does not commute into the state;

484 (IV) declares himself to be a resident of this state for the purpose of obtaining a driver
485 license or motor vehicle registration; or

486 (V) declares himself a resident of Utah to obtain privileges not ordinarily extended to
487 nonresidents, including going to school, or placing children in school without paying
488 nonresident tuition or fees; or

489 (B) any individual, partnership, limited liability company, firm, corporation,
490 association, or other entity that:

491 (I) maintains a main office, branch office, or warehouse facility in this state and that
492 bases and operates a motor vehicle in this state; or

493 (II) operates a motor vehicle in intrastate transportation for other than seasonal work.
494 (ii) "Resident" does not include any of the following:
495 (A) a member of the military temporarily stationed in Utah;
496 (B) an out-of-state student, as classified by the institution of higher education, enrolled
497 with the equivalent of seven or more quarter hours, regardless of whether the student engages
498 in a trade, profession, or occupation in this state or accepts employment in this state; and
499 (C) an individual domiciled in another state or a foreign country that:
500 (I) is engaged in public, charitable, educational, or religious services for a government
501 agency or an organization that qualifies for tax-exempt status under Internal Revenue Code
502 Section 501(c)(3);
503 (II) is not compensated for services rendered other than expense reimbursements; and
504 (III) is temporarily in Utah for a period not to exceed 24 months.
505 (2) Registration under this chapter is not required for any:
506 (a) vehicle registered in another state and owned by a nonresident of the state or
507 operating under a temporary registration permit issued by the division or a dealer authorized by
508 this chapter, driven or moved upon a highway in conformance with the provisions of this
509 chapter relating to manufacturers, transporters, dealers, lien holders, or interstate vehicles;
510 (b) vehicle driven or moved upon a highway only for the purpose of crossing the
511 highway from one property to another;
512 (c) implement of husbandry, whether of a type otherwise subject to registration or not,
513 that is only incidentally operated or moved upon a highway;
514 (d) special mobile equipment;
515 (e) vehicle owned or leased by the federal government;
516 (f) motor vehicle not designed, used, or maintained for the transportation of passengers
517 for hire or for the transportation of property if the motor vehicle is registered in another state
518 and is owned and operated by a nonresident of this state;
519 (g) vehicle or combination of vehicles designed, used, or maintained for the
520 transportation of persons for hire or for the transportation of property if the vehicle or
521 combination of vehicles is registered in another state and is owned and operated by a
522 nonresident of this state and if the vehicle or combination of vehicles has a gross laden weight
523 of 26,000 pounds or less;

524 (h) trailer of 750 pounds or less unladen weight and not designed, used, and maintained
525 for hire for the transportation of property or person;

526 [~~(i)~~ ~~manufactured home or mobile home;~~]

527 [~~(j)~~] (i) off-highway vehicle currently registered under Section 41-22-3 if the
528 off-highway vehicle is:

529 (i) being towed;

530 (ii) operated on a street or highway designated as open to off-highway vehicle use; or

531 (iii) operated in the manner prescribed in Subsections 41-22-10.3(1) through (3);

532 [~~(k)~~] (j) off-highway implement of husbandry operated in the manner prescribed in
533 Subsections 41-22-5.5(3) through (5);

534 [~~(l)~~] (k) modular and prebuilt homes conforming to the uniform building code and
535 presently regulated by the United States Department of Housing and Urban Development that
536 are not constructed on a permanent chassis;

537 [~~(m)~~] (l) electric assisted bicycle defined under Section 41-6a-102;

538 [~~(n)~~] (m) motor assisted scooter defined under Section 41-6a-102; or

539 [~~(o)~~] (n) electric personal assistive mobility device defined under Section 41-6a-102.

540 (3) Unless otherwise exempted under Subsection (2), registration under this chapter is
541 required for any motor vehicle, combination of vehicles, trailer, semitrailer, or vintage vehicle
542 within 60 days of the owner establishing residency in this state.

543 (4) A motor vehicle that is registered under Section 41-3-306 is exempt from the
544 registration requirements of this part for the time period that the registration under Section
545 41-3-306 is valid.

546 Section 8. Section **41-1a-501** is amended to read:

547 **41-1a-501. Certificate of title required.**

548 Unless exempted, each owner of a motor vehicle, vessel, outboard motor, trailer,
549 semitrailer, [~~manufactured home, mobile home,~~] or off-highway vehicle shall apply to the
550 division for a certificate of title on forms furnished by the division as evidence of ownership.

551 Section 9. Section **41-1a-508** is amended to read:

552 **41-1a-508. Prerequisites for titling.**

553 (1) Except as otherwise provided, prior to titling a vehicle, vessel, or outboard motor
554 an owner must provide evidence of:

- 555 (a) title or ownership under Section 41-1a-509;
 556 (b) payment of sales taxes in accordance with Section 41-1a-510;
 557 (c) payment of all applicable fees under Part 12, Fee and Tax Requirements;
 558 (d) the identification number inspection required under Section 41-1a-511; and
 559 (e) the odometer statement required under Section 41-1a-902[~~;~~and].
 560 [~~(f) evidence of property tax clearance for manufactured homes and mobile homes.~~]
 561 (2) An application for registration or current registration is not a prerequisite for
 562 obtaining a title.

563 Section 10. Section **41-1a-509** is amended to read:

564 **41-1a-509. Manufacturer's certificate of origin or title.**

565 (1) If a vehicle other than an off-highway vehicle older than a 1988 model year, or a
 566 vessel or outboard motor older than a 1985 model year has not been previously titled, the
 567 application for certificate of title shall include the manufacturer's certificate of origin properly
 568 endorsed for transfer.

569 (2) The manufacturer's certificate of origin shall show:

- 570 (a) the date of sale to the dealer or person first receiving it from the manufacturer;
 571 (b) the name of the dealer or person;
 572 (c) a description sufficient to identify the vehicle, vessel, or outboard motor; and
 573 (d) a certification by the dealer that the vehicle, vessel, or outboard motor was new
 574 when sold to the applicant.

575 (3) (a) If the vehicle, vessel, or outboard motor is from a state or foreign country that
 576 does not issue or require certificates of title, the owner shall submit a bill of sale, sworn
 577 statement of ownership, or any other evidence of ownership required by the division.

578 (b) The division may refuse to issue a certificate of title [~~or an affidavit of Mobile~~
 579 ~~Home Affixture~~] if the applicant fails to submit the evidence of ownership required.

580 Section 11. Section **41-1a-510** is amended to read:

581 **41-1a-510. Sales tax payment required.**

582 (1) [~~(a)~~] Except as provided in Subsection [~~(1)(b)~~] (2), the division before issuing a
 583 certificate of title to a vehicle, vessel, or outboard motor shall require from every applicant:

584 [~~(1)~~] (a) a receipt from the division showing that the sales tax has been paid to the state
 585 on the sale of the vehicle, vessel, or outboard motor upon which application for certificate of

586 title has been made; or

587 ~~[(ii)]~~ (b) a certificate from the division showing that no sales tax is due.

588 ~~[(b)]~~ (2) If a licensed dealer has made a report of sale, no receipt or certificate is
589 required.

590 ~~[(2) The division may also issue an Affidavit of Mobile Home Affixture for a~~
591 ~~manufactured home or mobile home if the applicant complies with Subsection (1).]~~

592 Section 12. Section **41-1a-519** is amended to read:

593 **41-1a-519. Dealer requirements for certificate of title.**

594 (1) If a dealer delivers a new off-highway vehicle, vessel, or outboard motor to the
595 purchaser, the dealer shall apply for issuance of a certificate of title ~~[or Affidavit of Mobile~~
596 ~~Home Affixture, as appropriate,]~~ in the purchaser's name within 45 days of the date of sale.

597 (2) A dealer who purchases or takes in trade a used off-highway vehicle, vessel, or
598 outboard motor on which a certificate of title has previously been issued is not required to
599 apply for a certificate of title.

600 Section 13. Section **41-1a-709** is amended to read:

601 **41-1a-709. Dealer transfer of used off-highway vehicle, vessel, or outboard motor.**

602 Upon the resale or subsequent transfer by a dealer of a used off-highway vehicle, vessel,
603 or outboard motor, the dealer shall endorse the certificate of title and forward it, accompanied
604 by the transferee's application for a certificate of title, or if desired by the purchaser~~[-and as~~
605 ~~applicable, an affidavit of Mobile Home Affixture,]~~ to the division.

606 Section 14. Section **41-3-102** is amended to read:

607 **41-3-102. Definitions.**

608 As used in this chapter:

609 (1) "Administrator" means the motor vehicle enforcement administrator.

610 (2) "Agent" means a person other than a holder of any dealer's or salesperson's license
611 issued under this chapter, who for salary, commission, or compensation of any kind, negotiates
612 in any way for the sale, purchase, order, or exchange of three or more motor vehicles for any
613 other person in any 12-month period.

614 (3) "Auction" means a dealer engaged in the business of auctioning motor vehicles,
615 either owned or consigned, to the general public.

616 (4) "Board" means the advisory board created in Section 41-3-106.

617 (5) "Body shop" means a business engaged in rebuilding, restoring, repairing, or
618 painting primarily the body of motor vehicles damaged by collision or natural disaster.

619 (6) "Commission" means the State Tax Commission.

620 (7) "Crusher" means a person who crushes or shreds motor vehicles subject to
621 registration under Title 41, Chapter 1a, Motor Vehicle Act, to reduce the useable materials and
622 metals to a more compact size for recycling.

623 (8) (a) "Dealer" means a person:

624 (i) whose business in whole or in part involves selling new, used, or new and used
625 motor vehicles or off-highway vehicles; and

626 (ii) who sells, displays for sale, or offers for sale or exchange three or more new or
627 used motor vehicles or off-highway vehicles in any 12-month period.

628 (b) "Dealer" includes a representative or consignee of any dealer.

629 (9) (a) "Dismantler" means a person engaged in the business of dismantling motor
630 vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the resale of
631 parts or for salvage.

632 (b) "Dismantler" includes a person who dismantles three or more motor vehicles in any
633 12-month period.

634 (10) "Distributor" means a person who has a franchise from a manufacturer of motor
635 vehicles to distribute motor vehicles within this state and who in whole or in part sells or
636 distributes new motor vehicles to dealers or who maintains distributor representatives.

637 (11) "Distributor branch" means a branch office similarly maintained by a distributor
638 for the same purposes a factory branch is maintained.

639 (12) "Distributor representative" means a person and each officer and employee of the
640 person engaged as a representative of a distributor or distributor branch of motor vehicles to
641 make or promote the sale of the distributor or the distributor branch's motor vehicles, or for
642 supervising or contacting dealers or prospective dealers of the distributor or the distributor
643 branch.

644 (13) "Division" means the Motor Vehicle Enforcement Division created in Section
645 41-3-104.

646 (14) "Factory branch" means a branch office maintained by a person who manufactures
647 or assembles motor vehicles for sale to distributors, motor vehicle dealers, or who directs or

648 supervises the factory branch's representatives.

649 (15) "Factory representative" means a person and each officer and employee of the
650 person engaged as a representative of a manufacturer of motor vehicles or by a factory branch
651 to make or promote the sale of the manufacturer's or factory branch's motor vehicles, or for
652 supervising or contacting the dealers or prospective dealers of the manufacturer or the factory
653 branch.

654 (16) "Franchise" means a contract or agreement between a dealer and a manufacturer of
655 new motor vehicles or its distributor or factory branch by which the dealer is authorized to sell
656 any specified make or makes of new motor vehicles.

657 (17) "Manufacturer" means a person engaged in the business of constructing or
658 assembling new motor vehicles, ownership of which is customarily transferred by a
659 manufacturer's statement or certificate of origin, or a person who constructs three or more new
660 motor vehicles in any 12-month period.

661 (18) "Motorcycle" has the same meaning as defined in Section 41-1a-102.

662 (19) (a) "Motor vehicle" means a vehicle that is:

- 663 (i) self-propelled;
664 (ii) a trailer, travel trailer, or semitrailer; or
665 (iii) an off-highway vehicle or small trailer.

666 (b) "Motor vehicle" does not include:

- 667 (i) mobile homes as defined in Section [~~41-1a-102~~] 15A-1-302;
668 (ii) trailers of 750 pounds or less unladen weight; and
669 (iii) farm tractors and other machines and tools used in the production, harvesting, and
670 care of farm products.

671 (20) "New motor vehicle" means a motor vehicle that has never been titled or
672 registered and has been driven less than 7,500 miles, unless the motor vehicle is an
673 off-highway vehicle, small trailer, trailer, travel trailer, or semitrailer, in which case the
674 mileage limit does not apply.

675 (21) "Off-highway vehicle" has the same meaning as provided in Section 41-22-2.

676 (22) "Pawnbroker" means a person whose business is to lend money on security of
677 personal property deposited with him.

678 (23) "Principal place of business" means a site or location in this state:

679 (a) devoted exclusively to the business for which the dealer, manufacturer,
680 remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses
681 incidental to them;

682 (b) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely
683 indicate the boundary and to admit a definite description with space adequate to permit the
684 display of three or more new, or new and used, or used motor vehicles and sufficient parking
685 for the public; and

686 (c) that includes a permanent enclosed building or structure large enough to
687 accommodate the office of the establishment and to provide a safe place to keep the books and
688 other records of the business, at which the principal portion of the business is conducted and
689 the books and records kept and maintained.

690 (24) "Remanufacturer" means a person who reconstructs used motor vehicles subject to
691 registration under Title 41, Chapter 1a, Motor Vehicle Act, to change the body style and
692 appearance of the motor vehicle or who constructs or assembles motor vehicles from used or
693 new and used motor vehicle parts, or who reconstructs, constructs, or assembles three or more
694 motor vehicles in any 12-month period.

695 (25) "Salesperson" means an individual who for a salary, commission, or compensation
696 of any kind, is employed either directly, indirectly, regularly, or occasionally by any new motor
697 vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to negotiate for the
698 sale, purchase, or exchange of motor vehicles.

699 (26) "Semitrailer" has the same meaning as defined in Section 41-1a-102.

700 (27) "Small trailer" means a trailer that has an unladen weight of more than 750
701 pounds, but less than 2,000 pounds.

702 (28) "Special equipment" includes a truck mounted crane, cherry picker, material lift,
703 post hole digger, and a utility or service body.

704 (29) "Special equipment dealer" means a new or new and used motor vehicle dealer
705 engaged in the business of buying new incomplete motor vehicles with a gross vehicle weight
706 of 12,000 or more pounds and installing special equipment on the incomplete motor vehicle.

707 (30) "Trailer" has the same meaning as defined in Section 41-1a-102.

708 (31) "Transporter" means a person engaged in the business of transporting motor
709 vehicles as described in Section 41-3-202.

710 (32) "Travel trailer" has the same meaning as provided in Section 41-1a-102.

711 (33) "Used motor vehicle" means a vehicle that has been titled and registered to a
712 purchaser other than a dealer or has been driven 7,500 or more miles, unless the vehicle is a
713 trailer, or semitrailer, in which case the mileage limit does not apply.

714 (34) "Wholesale motor vehicle auction" means a dealer primarily engaged in the
715 business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by
716 this or any other jurisdiction.

717 Section 15. Section **41-3-407** is amended to read:

718 **41-3-407. Definitions.**

719 As used in Sections 41-3-406 through 41-3-414:

720 (1) "Buyback vehicle" means a motor vehicle with an alleged nonconformity that has
721 been replaced or repurchased by a manufacturer as the result of a court judgment, arbitration, or
722 any voluntary agreement entered into between the manufacturer or its agent and a consumer.

723 (2) "Consumer" means an individual who has entered into an agreement or contract for
724 the transfer, lease, or purchase of a new motor vehicle other than for the purposes of resale, or
725 sublease, during the duration of the period defined under Section 13-20-5.

726 (3) "Manufacturer" means any manufacturer, importer, distributor, or anyone who is
727 named as the warrantor on an express written warranty on a motor vehicle.

728 (4) (a) "Motor vehicle" includes:

729 (i) a motor home, as defined in Section 13-20-2, but only the self-propelled vehicle and
730 chassis; and

731 (ii) a motor vehicle, as defined in Section 41-1a-102.

732 (b) "Motor vehicle" does not include:

733 (i) those portions of a motor home designated, used, or maintained primarily as a
734 mobile dwelling, office, or commercial space;

735 (ii) farm tractor, motorcycle, road tractor, or truck tractor as defined in Section
736 41-1a-102;

737 (iii) mobile home as defined in Section ~~[41-1a-102]~~ 15A-1-302; or

738 (iv) any motor vehicle with a gross laden weight of over 12,000 pounds, except a
739 motor home as defined under Subsection (4)(a)(i).

740 (5) "Nonconforming vehicle" means a buyback vehicle that has been investigated and

741 evaluated pursuant to Title 13, Chapter 20, New Motor Vehicles Warranties Act, or a similar
742 law of another state or federal government.

743 (6) (a) "Nonconformity" means a defect, malfunction, or condition that fails to conform
744 to the express warranty, or substantially impairs the use, safety, or value of a motor vehicle.

745 (b) "Nonconformity" does not include a defect, malfunction, or condition that results
746 from an accident, abuse, neglect, modification, or alteration of a motor vehicle by a person
747 other than the manufacturer, its authorized agent, or a dealer.

748 (7) "Seller" means any person selling, auctioning, leasing, or exchanging a motor
749 vehicle.

750 (8) "Violation" means each failure to comply with the obligations imposed by Sections
751 41-3-406 through 41-3-413. In the case of multiple failures to comply resulting from a single
752 transaction, each failure to comply is a separate violation.

753 Section 16. Section **57-16-4** is amended to read:

754 **57-16-4. Termination of lease or rental agreement -- Required contents of lease --**
755 **Increases in rents or fees -- Sale of homes -- Notice regarding planned reduction or**
756 **restriction of amenities.**

757 (1) A mobile home park or its agents may not terminate a lease or rental agreement
758 upon any ground other than as specified in this chapter.

759 (2) Each agreement for the lease of mobile home space shall be written and signed by
760 the parties.

761 (3) Each lease shall contain at least the following information:

762 (a) the name and address of the mobile home park owner and any persons authorized to
763 act for the owner, upon whom notice and service of process may be served;

764 (b) the type of the leasehold, whether it be term or periodic, and, in leases entered into
765 on or after May 6, 2002, a conspicuous disclosure describing the protection a resident has
766 under Subsection (1) against unilateral termination of the lease by the mobile home park except
767 for the causes described in Section 57-16-5;

768 (c) (i) a full disclosure of all rent, service charges, and other fees presently being
769 charged on a periodic basis; and

770 (ii) a full disclosure of utility infrastructure owned by the mobile home park owner or
771 its agent that is maintained through service charges and fees charged by the mobile home park

772 owner or its agent;

773 (d) the date or dates on which the payment of rent, fees, and service charges are due;

774 and

775 (e) all rules that pertain to the mobile home park that, if broken, may constitute
776 grounds for eviction, including, in leases entered into on or after May 6, 2002, a conspicuous
777 disclosure regarding:

778 (i) the causes for which the mobile home park may terminate the lease as described in
779 Section 57-16-5; and

780 (ii) the resident's rights to:

781 (A) terminate the lease at any time without cause, upon giving the notice specified in
782 the resident's lease; and

783 (B) advertise and sell the resident's mobile home.

784 (4) (a) Increases in rent or fees for periodic tenancies are unenforceable until 60 days
785 after notice of the increase is mailed to the resident.

786 (b) If service charges are not included in the rent, the mobile home park may:

787 (i) increase service charges during the leasehold period after giving notice to the
788 resident; and

789 (ii) pass through increases or decreases in electricity rates to the resident.

790 (c) Annual income to the park for service charges may not exceed the actual cost to the
791 mobile home park of providing the services on an annual basis.

792 (d) In determining the costs of the services, the mobile home park may include
793 maintenance costs related to those utilities that are part of the service charges.

794 (e) The mobile home park may not alter the date on which rent, fees, and service
795 charges are due unless the mobile home park provides a 60-day written notice to the resident
796 before the date is altered.

797 (5) (a) Except as provided in Subsection (3)(b), a rule or condition of a lease that
798 purports to prevent or unreasonably limit the sale of a mobile home belonging to a resident is
799 void and unenforceable.

800 (b) The mobile home park:

801 (i) may reserve the right to approve the prospective purchaser of a mobile home who
802 intends to become a resident;

- 803 (ii) may not unreasonably withhold that approval;
- 804 (iii) may require proof of ownership as a condition of approval; or
- 805 (iv) may unconditionally refuse to approve any purchaser of a mobile home who does
- 806 not register before purchasing the mobile home.

807 ~~[(6) If all of the conditions of Section 41-1a-116 are met, a mobile home park may~~

808 ~~request the names and addresses of the lienholder or owner of any mobile home located in the~~

809 ~~park from the Motor Vehicle Division.]~~

810 ~~[(7)]~~ (6) (a) A mobile home park may not restrict a resident's right to advertise for sale

811 or to sell a mobile home.

812 (b) A mobile home park may limit the size of a "for sale" sign affixed to the mobile

813 home to not more than 144 square inches.

814 ~~[(8)]~~ (7) A mobile home park may not compel a resident who wishes to sell a mobile

815 home to sell it, either directly or indirectly, through an agent designated by the mobile home

816 park.

817 ~~[(9)]~~ (8) A mobile home park may require that a mobile home be removed from the

818 park upon sale if:

- 819 (a) the mobile home park wishes to upgrade the quality of the mobile home park; and
- 820 (b) the mobile home either does not meet minimum size specifications or is in a
- 821 rundown condition or is in disrepair.

822 ~~[(10)]~~ (9) Within 30 days after a mobile home park proposes reducing or restricting

823 amenities, the mobile home park shall:

824 (a) schedule at least one meeting for the purpose of discussing the proposed restriction

825 or reduction of amenities with residents; and

826 (b) provide at least 10 days advance written notice of the date, time, location, and

827 purposes of the meeting to each resident.

828 ~~[(11)]~~ (10) If a mobile home park uses a single-service meter, the mobile home park

829 owner shall include a full disclosure on a resident's utility bill of the resident's utility charges.

830 ~~[(12)]~~ (11) The mobile home park shall have a copy of this chapter posted at all times

831 in a conspicuous place in the mobile home park.

832 Section 17. Section **59-2-406** is amended to read:

833 **59-2-406. Collection of uniform fees and other motor vehicle fees.**

834 (1) (a) For the purposes of efficiency in the collection of the uniform fee required by
835 this section, the commission shall enter into a contract for the collection of the uniform fees
836 required under Sections 59-2-405, 59-2-405.1, 59-2-405.2, and 59-2-405.3, and certain fees
837 required by Title 41, Motor Vehicles.

838 (b) The contract required by this section shall, at the county's option, provide for one of
839 the following collection agreements:

840 (i) the collection by the commission of:

841 (A) the uniform fees required under Sections 59-2-405, 59-2-405.1, 59-2-405.2, and
842 59-2-405.3; and

843 (B) all fees listed in Subsection (1)(c); or

844 (ii) the collection by the county of:

845 (A) the uniform fees required under Sections 59-2-405, 59-2-405.1, 59-2-405.2, and
846 59-2-405.3; and

847 (B) all fees listed in Subsection (1)(c).

848 (c) For purposes of Subsections (1)(b)(i)(B) and (1)(b)(ii)(B), the fees that are subject
849 to the contractual agreement required by this section are the following fees imposed by Title
850 41, Motor Vehicles:

851 (i) registration fees for vehicles, [~~mobile homes, manufactured homes,~~] boats, and
852 off-highway vehicles, with the exception of fleet and proportional registration;

853 (ii) title fees for vehicles, [~~mobile homes, manufactured homes,~~] boats, and
854 off-highway vehicles;

855 (iii) plate fees for vehicles;

856 (iv) permit fees; and

857 (v) impound fees.

858 (d) A county may change the election it makes pursuant to Subsection (1)(b) by
859 providing written notice of the change to the commission at least 18 months before the change
860 shall take effect.

861 (2) The contract shall provide that the party contracting to perform services shall:

862 (a) be responsible for the collection of:

863 (i) the uniform fees under Sections 59-2-405, 59-2-405.1, 59-2-405.2, and 59-2-405.3;

864 and

- 865 (ii) any fees described in Subsection (1)(c) as agreed to in the contract;
- 866 (b) utilize the documents and forms, guidelines, practices, and procedures that meet the
867 contract specifications;
- 868 (c) meet the performance standards and comply with applicable training requirements
869 specified in the rules made under Subsection (8)(a); and
- 870 (d) be subject to a penalty of 1/2 the difference between the reimbursement fee
871 specified under Subsection (3) and the reimbursement fee for fiscal year 1997-98 if
872 performance is below the performance standards specified in the rules made under Subsection
873 (8)(a).
- 874 (3) (a) The commission shall recommend a reimbursement fee for collecting the fees as
875 provided in Subsection (2)(a), except that the commission may not collect a reimbursement fee
876 on a state-assessed commercial vehicle described in Subsection 59-2-405.1(2)(a)(ii).
- 877 (b) The reimbursement fee shall be based on two dollars per standard unit for the first
878 5,000 standard units in each county and one dollar per standard unit for all other standard units
879 and shall be annually adjusted by the commission beginning July 1, 1999.
- 880 (c) The adjustment shall be equal to any increase in the Consumer Price Index for all
881 urban consumers, prepared by the United States Bureau of Labor Statistics, during the
882 preceding calendar year.
- 883 (d) The reimbursement fees under this Subsection (3) shall be appropriated by the
884 Legislature.
- 885 (4) All counties that elect to collect the uniform fees described in Subsection
886 (1)(b)(ii)(A) and any other fees described in Subsection (1)(c) as provided by contract shall be
887 subject to similar contractual terms.
- 888 (5) The party performing the collection services by contract shall use appropriate
889 automated systems software and equipment compatible with the system used by the other
890 contracting party in order to ensure the integrity of the current motor vehicle data base and
891 county tax systems, or successor data bases and systems.
- 892 (6) If the county elects not to collect the uniform fees described in Subsection
893 (1)(b)(ii)(A) and the fees described in Subsection (1)(c):
- 894 (a) the commission shall:
- 895 (i) collect the uniform fees described in Subsection (1)(b)(ii)(A) and the fees described

896 in Subsection (1)(c) in each county or regional center as negotiated by the counties with the
897 commission in accordance with the requirements of this section; and

898 (ii) provide information to the county in a format and media consistent with the
899 county's requirements; and

900 (b) the county shall pay the commission a reimbursement fee as provided in Subsection
901 (3).

902 (7) This section shall not limit the authority given to the county in Section 59-2-1302.

903 (8) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
904 the commission shall make rules specifying the performance standards and applicable training
905 requirements for all contracts required by this section.

906 (b) Beginning on July 1, 1998, each new contract entered into under this section shall
907 be subject to the rules made under Subsection (8)(a).

908 Section 18. Section **59-2-1115** is amended to read:

909 **59-2-1115. Exemption of certain tangible personal property.**

910 (1) For purposes of this section:

911 (a) (i) "Acquisition cost" means all costs required to put an item of tangible personal
912 property into service; and

913 (ii) includes:

914 (A) the purchase price for a new or used item;

915 (B) the cost of freight and shipping;

916 (C) the cost of installation, engineering, erection, or assembly; and

917 (D) sales and use taxes.

918 (b) (i) "Item of taxable tangible personal property" does not include an improvement to
919 real property or a part that will become an improvement.

920 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
921 commission may make rules defining the term "item of taxable tangible personal property."

922 (c) (i) "Taxable tangible personal property" means tangible personal property that is
923 subject to taxation under this chapter.

924 (ii) "Taxable tangible personal property" does not include:

925 (A) tangible personal property required by law to be registered with the state before it
926 is used:

927 (I) on a public highway;

928 (II) on a public waterway;

929 (III) on public land; or

930 (IV) in the air;

931 (B) a mobile home as defined in Section ~~[41-1a-102]~~ 15A-1-302; or

932 (C) a manufactured home as defined in Section ~~[41-1a-102]~~ 15A-1-302.

933 (2) (a) The taxable tangible personal property of a taxpayer is exempt from taxation if
934 the taxable tangible personal property has a total aggregate fair market value per county of
935 \$3,500 or less.

936 (b) An item of taxable tangible personal property, except for an item of noncapitalized
937 personal property as defined in Section 59-2-108, is exempt from taxation if the item of taxable
938 tangible personal property:

939 (i) has an acquisition cost of \$1,000 or less;

940 (ii) has reached a percent good of 15% or less according to a personal property
941 schedule published by the commission pursuant to Section 59-2-107; and

942 (iii) is in a personal property schedule with a residual value of 15% or less.

943 (3) (a) For calendar years beginning on or after January 1, 2008, the commission shall
944 increase the dollar amount described in Subsection (2)(a):

945 (i) by a percentage equal to the percentage difference between the consumer price
946 index for the preceding calendar year and the consumer price index for calendar year 2006; and

947 (ii) up to the nearest \$100 increment.

948 (b) For purposes of this Subsection (3), the commission shall calculate the consumer
949 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

950 (c) If the percentage difference under Subsection (3)(a)(i) is zero or a negative
951 percentage, the consumer price index increase for the year is zero.

952 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
953 commission may make rules to administer this section and provide for uniform
954 implementation.

955 Section 19. Section **59-2-1502** is amended to read:

956 **59-2-1502. Definitions.**

957 As used in this part:

- 958 (1) "Manufactured home" is as defined in Section [~~41-1a-102~~] 15A-1-302.
- 959 (2) "Mobile home" is as defined in Section [~~41-1a-102~~] 15A-1-302.
- 960 (3) "Transportable factory-built housing unit" means a:
- 961 (a) mobile home; or
- 962 (b) manufactured home.
- 963 (4) "Transportable factory-built housing unit park" means any tract of land on which
- 964 two or more unit spaces are:
- 965 (a) leased;
- 966 (b) rented; or
- 967 (c) offered for:
- 968 (i) lease; or
- 969 (ii) rent.
- 970 (5) "Unit space" means a specific area of land within a transportable factory-built
- 971 housing unit park that is designed to accommodate one transportable factory-built housing unit
- 972 for residential purposes.

973 Section 20. Section **59-12-102 (Superseded 07/01/14)** is amended to read:

974 **59-12-102 (Superseded 07/01/14). Definitions.**

975 As used in this chapter:

- 976 (1) "800 service" means a telecommunications service that:
- 977 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
- 978 (b) is typically marketed:
- 979 (i) under the name 800 toll-free calling;
- 980 (ii) under the name 855 toll-free calling;
- 981 (iii) under the name 866 toll-free calling;
- 982 (iv) under the name 877 toll-free calling;
- 983 (v) under the name 888 toll-free calling; or
- 984 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
- 985 Federal Communications Commission.
- 986 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 987 (i) a subscriber purchases;
- 988 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to

- 989 the subscriber's:
- 990 (A) prerecorded announcement; or
- 991 (B) live service; and
- 992 (iii) is typically marketed:
- 993 (A) under the name 900 service; or
- 994 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 995 Communications Commission.
- 996 (b) "900 service" does not include a charge for:
- 997 (i) a collection service a seller of a telecommunications service provides to a
- 998 subscriber; or
- 999 (ii) the following a subscriber sells to the subscriber's customer:
- 1000 (A) a product; or
- 1001 (B) a service.
- 1002 (3) (a) "Admission or user fees" includes season passes.
- 1003 (b) "Admission or user fees" does not include annual membership dues to private
- 1004 organizations.
- 1005 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 1006 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 1007 Agreement after November 12, 2002.
- 1008 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 1009 (a) listed under Subsection (6); and
- 1010 (b) that are imposed within a local taxing jurisdiction.
- 1011 (6) "Agreement sales and use tax" means a tax imposed under:
- 1012 (a) Subsection 59-12-103(2)(a)(i)(A);
- 1013 (b) Subsection 59-12-103(2)(b)(i);
- 1014 (c) Subsection 59-12-103(2)(c)(i);
- 1015 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 1016 (e) Section 59-12-204;
- 1017 (f) Section 59-12-401;
- 1018 (g) Section 59-12-402;
- 1019 (h) Section 59-12-703;

- 1020 (i) Section 59-12-802;
- 1021 (j) Section 59-12-804;
- 1022 (k) Section 59-12-1102;
- 1023 (l) Section 59-12-1302;
- 1024 (m) Section 59-12-1402;
- 1025 (n) Section 59-12-1802;
- 1026 (o) Section 59-12-2003;
- 1027 (p) Section 59-12-2103;
- 1028 (q) Section 59-12-2213;
- 1029 (r) Section 59-12-2214;
- 1030 (s) Section 59-12-2215;
- 1031 (t) Section 59-12-2216;
- 1032 (u) Section 59-12-2217; or
- 1033 (v) Section 59-12-2218.
- 1034 (7) "Aircraft" is as defined in Section 72-10-102.
- 1035 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 1036 (a) except for:
- 1037 (i) an airline as defined in Section 59-2-102; or
- 1038 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 1039 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 1040 state, of an airline; and
- 1041 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 1042 whether the business entity performs the following in this state:
- 1043 (i) check, diagnose, overhaul, and repair:
- 1044 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 1045 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 1046 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 1047 engine;
- 1048 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 1049 aircraft:
- 1050 (A) an inspection;

- 1051 (B) a repair, including a structural repair or modification;
- 1052 (C) changing landing gear; and
- 1053 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 1054 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 1055 completely apply new paint to the fixed wing turbine powered aircraft; and
- 1056 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 1057 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 1058 authority that certifies the fixed wing turbine powered aircraft.
- 1059 (9) "Alcoholic beverage" means a beverage that:
- 1060 (a) is suitable for human consumption; and
- 1061 (b) contains .5% or more alcohol by volume.
- 1062 (10) "Alternative energy" means:
- 1063 (a) biomass energy;
- 1064 (b) geothermal energy;
- 1065 (c) hydroelectric energy;
- 1066 (d) solar energy;
- 1067 (e) wind energy; or
- 1068 (f) energy that is derived from:
- 1069 (i) coal-to-liquids;
- 1070 (ii) nuclear fuel;
- 1071 (iii) oil-impregnated diatomaceous earth;
- 1072 (iv) oil sands;
- 1073 (v) oil shale; or
- 1074 (vi) petroleum coke.
- 1075 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 1076 facility" means a facility that:
- 1077 (i) uses alternative energy to produce electricity; and
- 1078 (ii) has a production capacity of 2 megawatts or greater.
- 1079 (b) A facility is an alternative energy electricity production facility regardless of
- 1080 whether the facility is:
- 1081 (i) connected to an electric grid; or

1082 (ii) located on the premises of an electricity consumer.

1083 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
1084 provision of telecommunications service.

1085 (b) "Ancillary service" includes:

1086 (i) a conference bridging service;

1087 (ii) a detailed communications billing service;

1088 (iii) directory assistance;

1089 (iv) a vertical service; or

1090 (v) a voice mail service.

1091 (13) "Area agency on aging" is as defined in Section 62A-3-101.

1092 (14) "Assisted amusement device" means an amusement device, skill device, or ride
1093 device that is started and stopped by an individual:

1094 (a) who is not the purchaser or renter of the right to use or operate the amusement
1095 device, skill device, or ride device; and

1096 (b) at the direction of the seller of the right to use the amusement device, skill device,
1097 or ride device.

1098 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
1099 washing of tangible personal property if the cleaning or washing labor is primarily performed
1100 by an individual:

1101 (a) who is not the purchaser of the cleaning or washing of the tangible personal
1102 property; and

1103 (b) at the direction of the seller of the cleaning or washing of the tangible personal
1104 property.

1105 (16) "Authorized carrier" means:

1106 (a) in the case of vehicles operated over public highways, the holder of credentials
1107 indicating that the vehicle is or will be operated pursuant to both the International Registration
1108 Plan and the International Fuel Tax Agreement;

1109 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
1110 certificate or air carrier's operating certificate; or

1111 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
1112 stock, the holder of a certificate issued by the United States Surface Transportation Board.

1113 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
1114 following that is used as the primary source of energy to produce fuel or electricity:

1115 (i) material from a plant or tree; or

1116 (ii) other organic matter that is available on a renewable basis, including:

1117 (A) slash and brush from forests and woodlands;

1118 (B) animal waste;

1119 (C) methane produced:

1120 (I) at landfills; or

1121 (II) as a byproduct of the treatment of wastewater residuals;

1122 (D) aquatic plants; and

1123 (E) agricultural products.

1124 (b) "Biomass energy" does not include:

1125 (i) black liquor;

1126 (ii) treated woods; or

1127 (iii) biomass from municipal solid waste other than methane produced:

1128 (A) at landfills; or

1129 (B) as a byproduct of the treatment of wastewater residuals.

1130 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
1131 property, products, or services if the tangible personal property, products, or services are:

1132 (i) distinct and identifiable; and

1133 (ii) sold for one nonitemized price.

1134 (b) "Bundled transaction" does not include:

1135 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on

1136 the basis of the selection by the purchaser of the items of tangible personal property included in
1137 the transaction;

1138 (ii) the sale of real property;

1139 (iii) the sale of services to real property;

1140 (iv) the retail sale of tangible personal property and a service if:

1141 (A) the tangible personal property:

1142 (I) is essential to the use of the service; and

1143 (II) is provided exclusively in connection with the service; and

- 1144 (B) the service is the true object of the transaction;
- 1145 (v) the retail sale of two services if:
 - 1146 (A) one service is provided that is essential to the use or receipt of a second service;
 - 1147 (B) the first service is provided exclusively in connection with the second service; and
 - 1148 (C) the second service is the true object of the transaction;
- 1149 (vi) a transaction that includes tangible personal property or a product subject to
- 1150 taxation under this chapter and tangible personal property or a product that is not subject to
- 1151 taxation under this chapter if the:
 - 1152 (A) seller's purchase price of the tangible personal property or product subject to
 - 1153 taxation under this chapter is de minimis; or
 - 1154 (B) seller's sales price of the tangible personal property or product subject to taxation
 - 1155 under this chapter is de minimis; and
 - 1156 (vii) the retail sale of tangible personal property that is not subject to taxation under
 - 1157 this chapter and tangible personal property that is subject to taxation under this chapter if:
 - 1158 (A) that retail sale includes:
 - 1159 (I) food and food ingredients;
 - 1160 (II) a drug;
 - 1161 (III) durable medical equipment;
 - 1162 (IV) mobility enhancing equipment;
 - 1163 (V) an over-the-counter drug;
 - 1164 (VI) a prosthetic device; or
 - 1165 (VII) a medical supply; and
 - 1166 (B) subject to Subsection (18)(f):
 - 1167 (I) the seller's purchase price of the tangible personal property subject to taxation under
 - 1168 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
 - 1169 (II) the seller's sales price of the tangible personal property subject to taxation under
 - 1170 this chapter is 50% or less of the seller's total sales price of that retail sale.
 - 1171 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
 - 1172 service that is distinct and identifiable does not include:
 - 1173 (A) packaging that:
 - 1174 (I) accompanies the sale of the tangible personal property, product, or service; and

1175 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
1176 service;

1177 (B) tangible personal property, a product, or a service provided free of charge with the
1178 purchase of another item of tangible personal property, a product, or a service; or

1179 (C) an item of tangible personal property, a product, or a service included in the
1180 definition of "purchase price."

1181 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
1182 product, or a service is provided free of charge with the purchase of another item of tangible
1183 personal property, a product, or a service if the sales price of the purchased item of tangible
1184 personal property, product, or service does not vary depending on the inclusion of the tangible
1185 personal property, product, or service provided free of charge.

1186 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
1187 does not include a price that is separately identified by tangible personal property, product, or
1188 service on the following, regardless of whether the following is in paper format or electronic
1189 format:

1190 (A) a binding sales document; or

1191 (B) another supporting sales-related document that is available to a purchaser.

1192 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
1193 supporting sales-related document that is available to a purchaser includes:

1194 (A) a bill of sale;

1195 (B) a contract;

1196 (C) an invoice;

1197 (D) a lease agreement;

1198 (E) a periodic notice of rates and services;

1199 (F) a price list;

1200 (G) a rate card;

1201 (H) a receipt; or

1202 (I) a service agreement.

1203 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
1204 property or a product subject to taxation under this chapter is de minimis if:

1205 (A) the seller's purchase price of the tangible personal property or product is 10% or

1206 less of the seller's total purchase price of the bundled transaction; or

1207 (B) the seller's sales price of the tangible personal property or product is 10% or less of
1208 the seller's total sales price of the bundled transaction.

1209 (ii) For purposes of Subsection (18)(b)(vi), a seller:

1210 (A) shall use the seller's purchase price or the seller's sales price to determine if the
1211 purchase price or sales price of the tangible personal property or product subject to taxation
1212 under this chapter is de minimis; and

1213 (B) may not use a combination of the seller's purchase price and the seller's sales price
1214 to determine if the purchase price or sales price of the tangible personal property or product
1215 subject to taxation under this chapter is de minimis.

1216 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
1217 contract to determine if the sales price of tangible personal property or a product is de minimis.

1218 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
1219 the seller's purchase price and the seller's sales price to determine if tangible personal property
1220 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
1221 price of that retail sale.

1222 (19) "Certified automated system" means software certified by the governing board of
1223 the agreement that:

1224 (a) calculates the agreement sales and use tax imposed within a local taxing
1225 jurisdiction:

1226 (i) on a transaction; and

1227 (ii) in the states that are members of the agreement;

1228 (b) determines the amount of agreement sales and use tax to remit to a state that is a
1229 member of the agreement; and

1230 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

1231 (20) "Certified service provider" means an agent certified:

1232 (a) by the governing board of the agreement; and

1233 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
1234 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
1235 own purchases.

1236 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel

1237 suitable for general use.

1238 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1239 commission shall make rules:

1240 (i) listing the items that constitute "clothing"; and

1241 (ii) that are consistent with the list of items that constitute "clothing" under the
1242 agreement.

1243 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

1244 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
1245 fuels that does not constitute industrial use under Subsection (51) or residential use under
1246 Subsection (101).

1247 (24) (a) "Common carrier" means a person engaged in or transacting the business of
1248 transporting passengers, freight, merchandise, or other property for hire within this state.

1249 (b) (i) "Common carrier" does not include a person who, at the time the person is
1250 traveling to or from that person's place of employment, transports a passenger to or from the
1251 passenger's place of employment.

1252 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
1253 Utah Administrative Rulemaking Act, the commission may make rules defining what
1254 constitutes a person's place of employment.

1255 (25) "Component part" includes:

1256 (a) poultry, dairy, and other livestock feed, and their components;

1257 (b) baling ties and twine used in the baling of hay and straw;

1258 (c) fuel used for providing temperature control of orchards and commercial
1259 greenhouses doing a majority of their business in wholesale sales, and for providing power for
1260 off-highway type farm machinery; and

1261 (d) feed, seeds, and seedlings.

1262 (26) "Computer" means an electronic device that accepts information:

1263 (a) (i) in digital form; or

1264 (ii) in a form similar to digital form; and

1265 (b) manipulates that information for a result based on a sequence of instructions.

1266 (27) "Computer software" means a set of coded instructions designed to cause:

1267 (a) a computer to perform a task; or

1268 (b) automatic data processing equipment to perform a task.

1269 (28) "Computer software maintenance contract" means a contract that obligates a seller
1270 of computer software to provide a customer with:

1271 (a) future updates or upgrades to computer software;

1272 (b) support services with respect to computer software; or

1273 (c) a combination of Subsections (28)(a) and (b).

1274 (29) (a) "Conference bridging service" means an ancillary service that links two or
1275 more participants of an audio conference call or video conference call.

1276 (b) "Conference bridging service" may include providing a telephone number as part of
1277 the ancillary service described in Subsection (29)(a).

1278 (c) "Conference bridging service" does not include a telecommunications service used
1279 to reach the ancillary service described in Subsection (29)(a).

1280 (30) "Construction materials" means any tangible personal property that will be
1281 converted into real property.

1282 (31) "Delivered electronically" means delivered to a purchaser by means other than
1283 tangible storage media.

1284 (32) (a) "Delivery charge" means a charge:

1285 (i) by a seller of:

1286 (A) tangible personal property;

1287 (B) a product transferred electronically; or

1288 (C) services; and

1289 (ii) for preparation and delivery of the tangible personal property, product transferred
1290 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
1291 purchaser.

1292 (b) "Delivery charge" includes a charge for the following:

1293 (i) transportation;

1294 (ii) shipping;

1295 (iii) postage;

1296 (iv) handling;

1297 (v) crating; or

1298 (vi) packing.

1299 (33) "Detailed telecommunications billing service" means an ancillary service of
1300 separately stating information pertaining to individual calls on a customer's billing statement.

1301 (34) "Dietary supplement" means a product, other than tobacco, that:

1302 (a) is intended to supplement the diet;

1303 (b) contains one or more of the following dietary ingredients:

1304 (i) a vitamin;

1305 (ii) a mineral;

1306 (iii) an herb or other botanical;

1307 (iv) an amino acid;

1308 (v) a dietary substance for use by humans to supplement the diet by increasing the total
1309 dietary intake; or

1310 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
1311 described in Subsections (34)(b)(i) through (v);

1312 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

1313 (A) tablet form;

1314 (B) capsule form;

1315 (C) powder form;

1316 (D) softgel form;

1317 (E) gelcap form; or

1318 (F) liquid form; or

1319 (ii) notwithstanding Subsection (34)(c)(i), if the product is not intended for ingestion in
1320 a form described in Subsections (34)(c)(i)(A) through (F), is not represented:

1321 (A) as conventional food; and

1322 (B) for use as a sole item of:

1323 (I) a meal; or

1324 (II) the diet; and

1325 (d) is required to be labeled as a dietary supplement:

1326 (i) identifiable by the "Supplemental Facts" box found on the label; and

1327 (ii) as required by 21 C.F.R. Sec. 101.36.

1328 (35) (a) "Direct mail" means printed material delivered or distributed by United States
1329 mail or other delivery service:

- 1330 (i) to:
- 1331 (A) a mass audience; or
- 1332 (B) addressees on a mailing list provided:
- 1333 (I) by a purchaser of the mailing list; or
- 1334 (II) at the discretion of the purchaser of the mailing list; and
- 1335 (ii) if the cost of the printed material is not billed directly to the recipients.
- 1336 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 1337 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 1338 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 1339 single address.
- 1340 (36) "Directory assistance" means an ancillary service of providing:
- 1341 (a) address information; or
- 1342 (b) telephone number information.
- 1343 (37) (a) "Disposable home medical equipment or supplies" means medical equipment
- 1344 or supplies that:
- 1345 (i) cannot withstand repeated use; and
- 1346 (ii) are purchased by, for, or on behalf of a person other than:
- 1347 (A) a health care facility as defined in Section 26-21-2;
- 1348 (B) a health care provider as defined in Section 78B-3-403;
- 1349 (C) an office of a health care provider described in Subsection (37)(a)(ii)(B); or
- 1350 (D) a person similar to a person described in Subsections (37)(a)(ii)(A) through (C).
- 1351 (b) "Disposable home medical equipment or supplies" does not include:
- 1352 (i) a drug;
- 1353 (ii) durable medical equipment;
- 1354 (iii) a hearing aid;
- 1355 (iv) a hearing aid accessory;
- 1356 (v) mobility enhancing equipment; or
- 1357 (vi) tangible personal property used to correct impaired vision, including:
- 1358 (A) eyeglasses; or
- 1359 (B) contact lenses.
- 1360 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1361 commission may by rule define what constitutes medical equipment or supplies.

1362 (38) (a) "Drug" means a compound, substance, or preparation, or a component of a
1363 compound, substance, or preparation that is:

1364 (i) recognized in:

1365 (A) the official United States Pharmacopoeia;

1366 (B) the official Homeopathic Pharmacopoeia of the United States;

1367 (C) the official National Formulary; or

1368 (D) a supplement to a publication listed in Subsections (38)(a)(i)(A) through (C);

1369 (ii) intended for use in the:

1370 (A) diagnosis of disease;

1371 (B) cure of disease;

1372 (C) mitigation of disease;

1373 (D) treatment of disease; or

1374 (E) prevention of disease; or

1375 (iii) intended to affect:

1376 (A) the structure of the body; or

1377 (B) any function of the body.

1378 (b) "Drug" does not include:

1379 (i) food and food ingredients;

1380 (ii) a dietary supplement;

1381 (iii) an alcoholic beverage; or

1382 (iv) a prosthetic device.

1383 (39) (a) Except as provided in Subsection (39)(c), "durable medical equipment" means
1384 equipment that:

1385 (i) can withstand repeated use;

1386 (ii) is primarily and customarily used to serve a medical purpose;

1387 (iii) generally is not useful to a person in the absence of illness or injury; and

1388 (iv) is not worn in or on the body.

1389 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
1390 equipment described in Subsection (39)(a).

1391 (c) Notwithstanding Subsection (39)(a), "durable medical equipment" does not include

- 1392 mobility enhancing equipment.
- 1393 (40) "Electronic" means:
- 1394 (a) relating to technology; and
- 1395 (b) having:
- 1396 (i) electrical capabilities;
- 1397 (ii) digital capabilities;
- 1398 (iii) magnetic capabilities;
- 1399 (iv) wireless capabilities;
- 1400 (v) optical capabilities;
- 1401 (vi) electromagnetic capabilities; or
- 1402 (vii) capabilities similar to Subsections (40)(b)(i) through (vi).
- 1403 (41) "Employee" is as defined in Section 59-10-401.
- 1404 (42) "Fixed guideway" means a public transit facility that uses and occupies:
- 1405 (a) rail for the use of public transit; or
- 1406 (b) a separate right-of-way for the use of public transit.
- 1407 (43) "Fixed wing turbine powered aircraft" means an aircraft that:
- 1408 (a) is powered by turbine engines;
- 1409 (b) operates on jet fuel; and
- 1410 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 1411 (44) "Fixed wireless service" means a telecommunications service that provides radio
- 1412 communication between fixed points.
- 1413 (45) (a) "Food and food ingredients" means substances:
- 1414 (i) regardless of whether the substances are in:
- 1415 (A) liquid form;
- 1416 (B) concentrated form;
- 1417 (C) solid form;
- 1418 (D) frozen form;
- 1419 (E) dried form; or
- 1420 (F) dehydrated form; and
- 1421 (ii) that are:
- 1422 (A) sold for:

- 1423 (I) ingestion by humans; or
- 1424 (II) chewing by humans; and
- 1425 (B) consumed for the substance's:
- 1426 (I) taste; or
- 1427 (II) nutritional value.
- 1428 (b) "Food and food ingredients" includes an item described in Subsection (86)(b)(iii).
- 1429 (c) "Food and food ingredients" does not include:
- 1430 (i) an alcoholic beverage;
- 1431 (ii) tobacco; or
- 1432 (iii) prepared food.
- 1433 (46) (a) "Fundraising sales" means sales:
- 1434 (i) (A) made by a school; or
- 1435 (B) made by a school student;
- 1436 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 1437 materials, or provide transportation; and
- 1438 (iii) that are part of an officially sanctioned school activity.
- 1439 (b) For purposes of Subsection (46)(a)(iii), "officially sanctioned school activity"
- 1440 means a school activity:
- 1441 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 1442 district governing the authorization and supervision of fundraising activities;
- 1443 (ii) that does not directly or indirectly compensate an individual teacher or other
- 1444 educational personnel by direct payment, commissions, or payment in kind; and
- 1445 (iii) the net or gross revenues from which are deposited in a dedicated account
- 1446 controlled by the school or school district.
- 1447 (47) "Geothermal energy" means energy contained in heat that continuously flows
- 1448 outward from the earth that is used as the sole source of energy to produce electricity.
- 1449 (48) "Governing board of the agreement" means the governing board of the agreement
- 1450 that is:
- 1451 (a) authorized to administer the agreement; and
- 1452 (b) established in accordance with the agreement.
- 1453 (49) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

1454 (i) the executive branch of the state, including all departments, institutions, boards,
1455 divisions, bureaus, offices, commissions, and committees;

1456 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
1457 Office of the Court Administrator, and similar administrative units in the judicial branch;

1458 (iii) the legislative branch of the state, including the House of Representatives, the
1459 Senate, the Legislative Printing Office, the Office of Legislative Research and General
1460 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
1461 Analyst;

1462 (iv) the National Guard;

1463 (v) an independent entity as defined in Section 63E-1-102; or

1464 (vi) a political subdivision as defined in Section 17B-1-102.

1465 (b) "Governmental entity" does not include the state systems of public and higher
1466 education, including:

1467 (i) a college campus of the Utah College of Applied Technology;

1468 (ii) a school;

1469 (iii) the State Board of Education;

1470 (iv) the State Board of Regents; or

1471 (v) an institution of higher education.

1472 (50) "Hydroelectric energy" means water used as the sole source of energy to produce
1473 electricity.

1474 (51) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
1475 other fuels:

1476 (a) in mining or extraction of minerals;

1477 (b) in agricultural operations to produce an agricultural product up to the time of
1478 harvest or placing the agricultural product into a storage facility, including:

1479 (i) commercial greenhouses;

1480 (ii) irrigation pumps;

1481 (iii) farm machinery;

1482 (iv) implements of husbandry as defined in Subsection 41-1a-102[~~(23)~~](22) that are not
1483 registered under Title 41, Chapter 1a, Part 2, Registration; and

1484 (v) other farming activities;

1485 (c) in manufacturing tangible personal property at an establishment described in SIC
1486 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
1487 Executive Office of the President, Office of Management and Budget;

1488 (d) by a scrap recycler if:

1489 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1490 one or more of the following items into prepared grades of processed materials for use in new
1491 products:

1492 (A) iron;

1493 (B) steel;

1494 (C) nonferrous metal;

1495 (D) paper;

1496 (E) glass;

1497 (F) plastic;

1498 (G) textile; or

1499 (H) rubber; and

1500 (ii) the new products under Subsection (51)(d)(i) would otherwise be made with
1501 nonrecycled materials; or

1502 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
1503 cogeneration facility as defined in Section 54-2-1.

1504 (52) (a) Except as provided in Subsection (52)(b), "installation charge" means a charge
1505 for installing:

1506 (i) tangible personal property; or

1507 (ii) a product transferred electronically.

1508 (b) "Installation charge" does not include a charge for:

1509 (i) repairs or renovations of:

1510 (A) tangible personal property; or

1511 (B) a product transferred electronically; or

1512 (ii) attaching tangible personal property or a product transferred electronically:

1513 (A) to other tangible personal property; and

1514 (B) as part of a manufacturing or fabrication process.

1515 (53) "Institution of higher education" means an institution of higher education listed in

1516 Section 53B-2-101.

1517 (54) (a) "Lease" or "rental" means a transfer of possession or control of tangible
1518 personal property or a product transferred electronically for:

1519 (i) (A) a fixed term; or

1520 (B) an indeterminate term; and

1521 (ii) consideration.

1522 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
1523 amount of consideration may be increased or decreased by reference to the amount realized
1524 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
1525 Code.

1526 (c) "Lease" or "rental" does not include:

1527 (i) a transfer of possession or control of property under a security agreement or
1528 deferred payment plan that requires the transfer of title upon completion of the required
1529 payments;

1530 (ii) a transfer of possession or control of property under an agreement that requires the
1531 transfer of title:

1532 (A) upon completion of required payments; and

1533 (B) if the payment of an option price does not exceed the greater of:

1534 (I) \$100; or

1535 (II) 1% of the total required payments; or

1536 (iii) providing tangible personal property along with an operator for a fixed period of
1537 time or an indeterminate period of time if the operator is necessary for equipment to perform as
1538 designed.

1539 (d) For purposes of Subsection (54)(c)(iii), an operator is necessary for equipment to
1540 perform as designed if the operator's duties exceed the:

1541 (i) set-up of tangible personal property;

1542 (ii) maintenance of tangible personal property; or

1543 (iii) inspection of tangible personal property.

1544 (55) "Life science establishment" means an establishment in this state that is classified
1545 under the following NAICS codes of the 2007 North American Industry Classification System
1546 of the federal Executive Office of the President, Office of Management and Budget:

- 1547 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 1548 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
- 1549 Manufacturing; or
- 1550 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 1551 (56) "Life science research and development facility" means a facility owned, leased,
- 1552 or rented by a life science establishment if research and development is performed in 51% or
- 1553 more of the total area of the facility.
- 1554 (57) "Load and leave" means delivery to a purchaser by use of a tangible storage media
- 1555 if the tangible storage media is not physically transferred to the purchaser.
- 1556 (58) "Local taxing jurisdiction" means a:
- 1557 (a) county that is authorized to impose an agreement sales and use tax;
- 1558 (b) city that is authorized to impose an agreement sales and use tax; or
- 1559 (c) town that is authorized to impose an agreement sales and use tax.
- 1560 (59) "Manufactured home" is as defined in Section 15A-1-302.
- 1561 (60) For purposes of Section 59-12-104, "manufacturing facility" means:
- 1562 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
- 1563 Industrial Classification Manual of the federal Executive Office of the President, Office of
- 1564 Management and Budget;
- 1565 (b) a scrap recycler if:
- 1566 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 1567 one or more of the following items into prepared grades of processed materials for use in new
- 1568 products:
- 1569 (A) iron;
- 1570 (B) steel;
- 1571 (C) nonferrous metal;
- 1572 (D) paper;
- 1573 (E) glass;
- 1574 (F) plastic;
- 1575 (G) textile; or
- 1576 (H) rubber; and
- 1577 (ii) the new products under Subsection (60)(b)(i) would otherwise be made with

1578 nonrecycled materials; or

1579 (c) a cogeneration facility as defined in Section 54-2-1.

1580 (61) "Member of the immediate family of the producer" means a person who is related
1581 to a producer described in Subsection 59-12-104(20)(a) as a:

1582 (a) child or stepchild, regardless of whether the child or stepchild is:

1583 (i) an adopted child or adopted stepchild; or

1584 (ii) a foster child or foster stepchild;

1585 (b) grandchild or stepgrandchild;

1586 (c) grandparent or stepgrandparent;

1587 (d) nephew or stepnephew;

1588 (e) niece or stepniece;

1589 (f) parent or stepparent;

1590 (g) sibling or stepsibling;

1591 (h) spouse;

1592 (i) person who is the spouse of a person described in Subsections (61)(a) through (g);

1593 or

1594 (j) person similar to a person described in Subsections (61)(a) through (i) as

1595 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
1596 Administrative Rulemaking Act.

1597 (62) "Mobile home" is as defined in Section 15A-1-302.

1598 (63) "Mobile telecommunications service" is as defined in the Mobile
1599 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1600 (64) (a) "Mobile wireless service" means a telecommunications service, regardless of
1601 the technology used, if:

1602 (i) the origination point of the conveyance, routing, or transmission is not fixed;

1603 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

1604 (iii) the origination point described in Subsection (64)(a)(i) and the termination point
1605 described in Subsection (64)(a)(ii) are not fixed.

1606 (b) "Mobile wireless service" includes a telecommunications service that is provided
1607 by a commercial mobile radio service provider.

1608 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1609 commission may by rule define "commercial mobile radio service provider."

1610 (65) (a) Except as provided in Subsection (65)(c), "mobility enhancing equipment"

1611 means equipment that is:

1612 (i) primarily and customarily used to provide or increase the ability to move from one
1613 place to another;

1614 (ii) appropriate for use in a:

1615 (A) home; or

1616 (B) motor vehicle; and

1617 (iii) not generally used by persons with normal mobility.

1618 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
1619 the equipment described in Subsection (65)(a).

1620 (c) Notwithstanding Subsection (65)(a), "mobility enhancing equipment" does not
1621 include:

1622 (i) a motor vehicle;

1623 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
1624 vehicle manufacturer;

1625 (iii) durable medical equipment; or

1626 (iv) a prosthetic device.

1627 (66) "Model 1 seller" means a seller registered under the agreement that has selected a
1628 certified service provider as the seller's agent to perform all of the seller's sales and use tax
1629 functions for agreement sales and use taxes other than the seller's obligation under Section
1630 59-12-124 to remit a tax on the seller's own purchases.

1631 (67) "Model 2 seller" means a seller registered under the agreement that:

1632 (a) except as provided in Subsection (67)(b), has selected a certified automated system
1633 to perform the seller's sales tax functions for agreement sales and use taxes; and

1634 (b) notwithstanding Subsection (67)(a), retains responsibility for remitting all of the
1635 sales tax:

1636 (i) collected by the seller; and

1637 (ii) to the appropriate local taxing jurisdiction.

1638 (68) (a) Subject to Subsection (68)(b), "model 3 seller" means a seller registered under
1639 the agreement that has:

- 1640 (i) sales in at least five states that are members of the agreement;
- 1641 (ii) total annual sales revenues of at least \$500,000,000;
- 1642 (iii) a proprietary system that calculates the amount of tax:
- 1643 (A) for an agreement sales and use tax; and
- 1644 (B) due to each local taxing jurisdiction; and
- 1645 (iv) entered into a performance agreement with the governing board of the agreement.
- 1646 (b) For purposes of Subsection (68)(a), "model 3 seller" includes an affiliated group of
- 1647 sellers using the same proprietary system.
- 1648 (69) "Model 4 seller" means a seller that is registered under the agreement and is not a
- 1649 model 1 seller, model 2 seller, or model 3 seller.
- 1650 (70) "Modular home" means a modular unit as defined in Section 15A-1-302.
- 1651 (71) "Motor vehicle" is as defined in Section 41-1a-102.
- 1652 (72) "Oil sands" means impregnated bituminous sands that:
- 1653 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 1654 other hydrocarbons, or otherwise treated;
- 1655 (b) yield mixtures of liquid hydrocarbon; and
- 1656 (c) require further processing other than mechanical blending before becoming finished
- 1657 petroleum products.
- 1658 (73) "Oil shale" means a group of fine black to dark brown shales containing kerogen
- 1659 material that yields petroleum upon heating and distillation.
- 1660 (74) "Optional computer software maintenance contract" means a computer software
- 1661 maintenance contract that a customer is not obligated to purchase as a condition to the retail
- 1662 sale of computer software.
- 1663 (75) (a) "Other fuels" means products that burn independently to produce heat or
- 1664 energy.
- 1665 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 1666 personal property.
- 1667 (76) (a) "Paging service" means a telecommunications service that provides
- 1668 transmission of a coded radio signal for the purpose of activating a specific pager.
- 1669 (b) For purposes of Subsection (76)(a), the transmission of a coded radio signal
- 1670 includes a transmission by message or sound.

- 1671 (77) "Pawnbroker" is as defined in Section 13-32a-102.
- 1672 (78) "Pawn transaction" is as defined in Section 13-32a-102.
- 1673 (79) (a) "Permanently attached to real property" means that for tangible personal
1674 property attached to real property:
- 1675 (i) the attachment of the tangible personal property to the real property:
- 1676 (A) is essential to the use of the tangible personal property; and
- 1677 (B) suggests that the tangible personal property will remain attached to the real
1678 property in the same place over the useful life of the tangible personal property; or
- 1679 (ii) if the tangible personal property is detached from the real property, the detachment
1680 would:
- 1681 (A) cause substantial damage to the tangible personal property; or
- 1682 (B) require substantial alteration or repair of the real property to which the tangible
1683 personal property is attached.
- 1684 (b) "Permanently attached to real property" includes:
- 1685 (i) the attachment of an accessory to the tangible personal property if the accessory is:
- 1686 (A) essential to the operation of the tangible personal property; and
- 1687 (B) attached only to facilitate the operation of the tangible personal property;
- 1688 (ii) a temporary detachment of tangible personal property from real property for a
1689 repair or renovation if the repair or renovation is performed where the tangible personal
1690 property and real property are located; or
- 1691 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
1692 Subsection (79)(c)(iii) or (iv).
- 1693 (c) "Permanently attached to real property" does not include:
- 1694 (i) the attachment of portable or movable tangible personal property to real property if
1695 that portable or movable tangible personal property is attached to real property only for:
- 1696 (A) convenience;
- 1697 (B) stability; or
- 1698 (C) for an obvious temporary purpose;
- 1699 (ii) the detachment of tangible personal property from real property except for the
1700 detachment described in Subsection (79)(b)(ii);
- 1701 (iii) an attachment of the following tangible personal property to real property if the

1702 attachment to real property is only through a line that supplies water, electricity, gas,
1703 telecommunications, cable, or supplies a similar item as determined by the commission by rule
1704 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

1705 (A) a computer;

1706 (B) a telephone;

1707 (C) a television; or

1708 (D) tangible personal property similar to Subsections (79)(c)(iii)(A) through (C) as
1709 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
1710 Administrative Rulemaking Act; or

1711 (iv) an item listed in Subsection (117)(c).

1712 (80) "Person" includes any individual, firm, partnership, joint venture, association,
1713 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
1714 municipality, district, or other local governmental entity of the state, or any group or
1715 combination acting as a unit.

1716 (81) "Place of primary use":

1717 (a) for telecommunications service other than mobile telecommunications service,
1718 means the street address representative of where the customer's use of the telecommunications
1719 service primarily occurs, which shall be:

1720 (i) the residential street address of the customer; or

1721 (ii) the primary business street address of the customer; or

1722 (b) for mobile telecommunications service, is as defined in the Mobile
1723 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1724 (82) (a) "Postpaid calling service" means a telecommunications service a person
1725 obtains by making a payment on a call-by-call basis:

1726 (i) through the use of a:

1727 (A) bank card;

1728 (B) credit card;

1729 (C) debit card; or

1730 (D) travel card; or

1731 (ii) by a charge made to a telephone number that is not associated with the origination
1732 or termination of the telecommunications service.

1733 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
1734 service, that would be a prepaid wireless calling service if the service were exclusively a
1735 telecommunications service.

1736 (83) "Postproduction" means an activity related to the finishing or duplication of a
1737 medium described in Subsection 59-12-104(54)(a).

1738 (84) "Prepaid calling service" means a telecommunications service:

1739 (a) that allows a purchaser access to telecommunications service that is exclusively
1740 telecommunications service;

1741 (b) that:

1742 (i) is paid for in advance; and

1743 (ii) enables the origination of a call using an:

1744 (A) access number; or

1745 (B) authorization code;

1746 (c) that is dialed:

1747 (i) manually; or

1748 (ii) electronically; and

1749 (d) sold in predetermined units or dollars that decline:

1750 (i) by a known amount; and

1751 (ii) with use.

1752 (85) "Prepaid wireless calling service" means a telecommunications service:

1753 (a) that provides the right to utilize:

1754 (i) mobile wireless service; and

1755 (ii) other service that is not a telecommunications service, including:

1756 (A) the download of a product transferred electronically;

1757 (B) a content service; or

1758 (C) an ancillary service;

1759 (b) that:

1760 (i) is paid for in advance; and

1761 (ii) enables the origination of a call using an:

1762 (A) access number; or

1763 (B) authorization code;

- 1764 (c) that is dialed:
- 1765 (i) manually; or
- 1766 (ii) electronically; and
- 1767 (d) sold in predetermined units or dollars that decline:
- 1768 (i) by a known amount; and
- 1769 (ii) with use.
- 1770 (86) (a) "Prepared food" means:
- 1771 (i) food:
- 1772 (A) sold in a heated state; or
- 1773 (B) heated by a seller;
- 1774 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 1775 item; or
- 1776 (iii) except as provided in Subsection (86)(c), food sold with an eating utensil provided
- 1777 by the seller, including a:
- 1778 (A) plate;
- 1779 (B) knife;
- 1780 (C) fork;
- 1781 (D) spoon;
- 1782 (E) glass;
- 1783 (F) cup;
- 1784 (G) napkin; or
- 1785 (H) straw.
- 1786 (b) "Prepared food" does not include:
- 1787 (i) food that a seller only:
- 1788 (A) cuts;
- 1789 (B) repackages; or
- 1790 (C) pasteurizes; or
- 1791 (ii) (A) the following:
- 1792 (I) raw egg;
- 1793 (II) raw fish;
- 1794 (III) raw meat;

- 1795 (IV) raw poultry; or
- 1796 (V) a food containing an item described in Subsections (86)(b)(ii)(A)(I) through (IV);
- 1797 and
- 1798 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1799 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1800 Subsection (86)(b)(ii)(A) to prevent food borne illness; or
- 1801 (iii) the following if sold without eating utensils provided by the seller:
- 1802 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1803 classification under the 2002 North American Industry Classification System of the federal
- 1804 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1805 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1806 Manufacturing;
- 1807 (B) food and food ingredients sold in an unheated state:
- 1808 (I) by weight or volume; and
- 1809 (II) as a single item; or
- 1810 (C) a bakery item, including:
- 1811 (I) a bagel;
- 1812 (II) a bar;
- 1813 (III) a biscuit;
- 1814 (IV) bread;
- 1815 (V) a bun;
- 1816 (VI) a cake;
- 1817 (VII) a cookie;
- 1818 (VIII) a croissant;
- 1819 (IX) a danish;
- 1820 (X) a donut;
- 1821 (XI) a muffin;
- 1822 (XII) a pastry;
- 1823 (XIII) a pie;
- 1824 (XIV) a roll;
- 1825 (XV) a tart;

1826 (XVI) a torte; or
1827 (XVII) a tortilla.
1828 (c) Notwithstanding Subsection (86)(a)(iii), an eating utensil provided by the seller
1829 does not include the following used to transport the food:
1830 (i) a container; or
1831 (ii) packaging.
1832 (87) "Prescription" means an order, formula, or recipe that is issued:
1833 (a) (i) orally;
1834 (ii) in writing;
1835 (iii) electronically; or
1836 (iv) by any other manner of transmission; and
1837 (b) by a licensed practitioner authorized by the laws of a state.
1838 (88) (a) Except as provided in Subsection (88)(b)(ii) or (iii), "prewritten computer
1839 software" means computer software that is not designed and developed:
1840 (i) by the author or other creator of the computer software; and
1841 (ii) to the specifications of a specific purchaser.
1842 (b) "Prewritten computer software" includes:
1843 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
1844 software is not designed and developed:
1845 (A) by the author or other creator of the computer software; and
1846 (B) to the specifications of a specific purchaser;
1847 (ii) notwithstanding Subsection (88)(a), computer software designed and developed by
1848 the author or other creator of the computer software to the specifications of a specific purchaser
1849 if the computer software is sold to a person other than the purchaser; or
1850 (iii) notwithstanding Subsection (88)(a) and except as provided in Subsection (88)(c),
1851 prewritten computer software or a prewritten portion of prewritten computer software:
1852 (A) that is modified or enhanced to any degree; and
1853 (B) if the modification or enhancement described in Subsection (88)(b)(iii)(A) is
1854 designed and developed to the specifications of a specific purchaser.
1855 (c) Notwithstanding Subsection (88)(b)(iii), "prewritten computer software" does not
1856 include a modification or enhancement described in Subsection (88)(b)(iii) if the charges for

1857 the modification or enhancement are:

1858 (i) reasonable; and

1859 (ii) separately stated on the invoice or other statement of price provided to the
1860 purchaser.

1861 (89) (a) "Private communication service" means a telecommunications service:

1862 (i) that entitles a customer to exclusive or priority use of one or more communications
1863 channels between or among termination points; and

1864 (ii) regardless of the manner in which the one or more communications channels are
1865 connected.

1866 (b) "Private communications service" includes the following provided in connection
1867 with the use of one or more communications channels:

1868 (i) an extension line;

1869 (ii) a station;

1870 (iii) switching capacity; or

1871 (iv) another associated service that is provided in connection with the use of one or
1872 more communications channels as defined in Section 59-12-215.

1873 (90) (a) Except as provided in Subsection (90)(b), "product transferred electronically"
1874 means a product transferred electronically that would be subject to a tax under this chapter if
1875 that product was transferred in a manner other than electronically.

1876 (b) "Product transferred electronically" does not include:

1877 (i) an ancillary service;

1878 (ii) computer software; or

1879 (iii) a telecommunications service.

1880 (91) (a) "Prosthetic device" means a device that is worn on or in the body to:

1881 (i) artificially replace a missing portion of the body;

1882 (ii) prevent or correct a physical deformity or physical malfunction; or

1883 (iii) support a weak or deformed portion of the body.

1884 (b) "Prosthetic device" includes:

1885 (i) parts used in the repairs or renovation of a prosthetic device;

1886 (ii) replacement parts for a prosthetic device;

1887 (iii) a dental prosthesis; or

- 1888 (iv) a hearing aid.
- 1889 (c) "Prosthetic device" does not include:
- 1890 (i) corrective eyeglasses; or
- 1891 (ii) contact lenses.
- 1892 (92) (a) "Protective equipment" means an item:
- 1893 (i) for human wear; and
- 1894 (ii) that is:
- 1895 (A) designed as protection:
- 1896 (I) to the wearer against injury or disease; or
- 1897 (II) against damage or injury of other persons or property; and
- 1898 (B) not suitable for general use.
- 1899 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1900 commission shall make rules:
- 1901 (i) listing the items that constitute "protective equipment"; and
- 1902 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1903 under the agreement.
- 1904 (93) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 1905 printed matter, other than a photocopy:
- 1906 (i) regardless of:
- 1907 (A) characteristics;
- 1908 (B) copyright;
- 1909 (C) form;
- 1910 (D) format;
- 1911 (E) method of reproduction; or
- 1912 (F) source; and
- 1913 (ii) made available in printed or electronic format.
- 1914 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1915 commission may by rule define the term "photocopy."
- 1916 (94) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 1917 (i) valued in money; and
- 1918 (ii) for which tangible personal property, a product transferred electronically, or

1919 services are:

1920 (A) sold;

1921 (B) leased; or

1922 (C) rented.

1923 (b) "Purchase price" and "sales price" include:

1924 (i) the seller's cost of the tangible personal property, a product transferred
1925 electronically, or services sold;

1926 (ii) expenses of the seller, including:

1927 (A) the cost of materials used;

1928 (B) a labor cost;

1929 (C) a service cost;

1930 (D) interest;

1931 (E) a loss;

1932 (F) the cost of transportation to the seller; or

1933 (G) a tax imposed on the seller;

1934 (iii) a charge by the seller for any service necessary to complete the sale; or

1935 (iv) consideration a seller receives from a person other than the purchaser if:

1936 (A) (I) the seller actually receives consideration from a person other than the purchaser;

1937 and

1938 (II) the consideration described in Subsection (94)(b)(iv)(A)(I) is directly related to a
1939 price reduction or discount on the sale;

1940 (B) the seller has an obligation to pass the price reduction or discount through to the
1941 purchaser;

1942 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1943 the seller at the time of the sale to the purchaser; and

1944 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1945 seller to claim a price reduction or discount; and

1946 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1947 coupon, or other documentation with the understanding that the person other than the seller
1948 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1949 (II) the purchaser identifies that purchaser to the seller as a member of a group or

1950 organization allowed a price reduction or discount, except that a preferred customer card that is
1951 available to any patron of a seller does not constitute membership in a group or organization
1952 allowed a price reduction or discount; or

1953 (III) the price reduction or discount is identified as a third party price reduction or
1954 discount on the:

1955 (Aa) invoice the purchaser receives; or

1956 (Bb) certificate, coupon, or other documentation the purchaser presents.

1957 (c) "Purchase price" and "sales price" do not include:

1958 (i) a discount:

1959 (A) in a form including:

1960 (I) cash;

1961 (II) term; or

1962 (III) coupon;

1963 (B) that is allowed by a seller;

1964 (C) taken by a purchaser on a sale; and

1965 (D) that is not reimbursed by a third party; or

1966 (ii) the following if separately stated on an invoice, bill of sale, or similar document
1967 provided to the purchaser:

1968 (A) the following from credit extended on the sale of tangible personal property or
1969 services:

1970 (I) a carrying charge;

1971 (II) a financing charge; or

1972 (III) an interest charge;

1973 (B) a delivery charge;

1974 (C) an installation charge;

1975 (D) a manufacturer rebate on a motor vehicle; or

1976 (E) a tax or fee legally imposed directly on the consumer.

1977 (95) "Purchaser" means a person to whom:

1978 (a) a sale of tangible personal property is made;

1979 (b) a product is transferred electronically; or

1980 (c) a service is furnished.

1981 (96) "Regularly rented" means:
1982 (a) rented to a guest for value three or more times during a calendar year; or
1983 (b) advertised or held out to the public as a place that is regularly rented to guests for
1984 value.
1985 (97) "Rental" is as defined in Subsection (54).
1986 (98) (a) Except as provided in Subsection (98)(b), "repairs or renovations of tangible
1987 personal property" means:
1988 (i) a repair or renovation of tangible personal property that is not permanently attached
1989 to real property; or
1990 (ii) attaching tangible personal property or a product transferred electronically to other
1991 tangible personal property or detaching tangible personal property or a product transferred
1992 electronically from other tangible personal property if:
1993 (A) the other tangible personal property to which the tangible personal property or
1994 product transferred electronically is attached or from which the tangible personal property or
1995 product transferred electronically is detached is not permanently attached to real property; and
1996 (B) the attachment of tangible personal property or a product transferred electronically
1997 to other tangible personal property or detachment of tangible personal property or a product
1998 transferred electronically from other tangible personal property is made in conjunction with a
1999 repair or replacement of tangible personal property or a product transferred electronically.
2000 (b) "Repairs or renovations of tangible personal property" does not include:
2001 (i) attaching prewritten computer software to other tangible personal property if the
2002 other tangible personal property to which the prewritten computer software is attached is not
2003 permanently attached to real property; or
2004 (ii) detaching prewritten computer software from other tangible personal property if the
2005 other tangible personal property from which the prewritten computer software is detached is
2006 not permanently attached to real property.
2007 (99) "Research and development" means the process of inquiry or experimentation
2008 aimed at the discovery of facts, devices, technologies, or applications and the process of
2009 preparing those devices, technologies, or applications for marketing.
2010 (100) (a) "Residential telecommunications services" means a telecommunications
2011 service or an ancillary service that is provided to an individual for personal use:

2012 (i) at a residential address; or
2013 (ii) at an institution, including a nursing home or a school, if the telecommunications
2014 service or ancillary service is provided to and paid for by the individual residing at the
2015 institution rather than the institution.

2016 (b) For purposes of Subsection (100)(a)(i), a residential address includes an:
2017 (i) apartment; or
2018 (ii) other individual dwelling unit.

2019 (101) "Residential use" means the use in or around a home, apartment building,
2020 sleeping quarters, and similar facilities or accommodations.

2021 (102) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
2022 than:
2023 (a) resale;
2024 (b) sublease; or
2025 (c) subrent.

2026 (103) (a) "Retailer" means any person engaged in a regularly organized business in
2027 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
2028 who is selling to the user or consumer and not for resale.

2029 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
2030 engaged in the business of selling to users or consumers within the state.

2031 (104) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
2032 otherwise, in any manner, of tangible personal property or any other taxable transaction under
2033 Subsection 59-12-103(1), for consideration.

2034 (b) "Sale" includes:
2035 (i) installment and credit sales;
2036 (ii) any closed transaction constituting a sale;
2037 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
2038 chapter;

2039 (iv) any transaction if the possession of property is transferred but the seller retains the
2040 title as security for the payment of the price; and
2041 (v) any transaction under which right to possession, operation, or use of any article of
2042 tangible personal property is granted under a lease or contract and the transfer of possession

2043 would be taxable if an outright sale were made.

2044 (105) "Sale at retail" is as defined in Subsection (102).

2045 (106) "Sale-leaseback transaction" means a transaction by which title to tangible

2046 personal property or a product transferred electronically that is subject to a tax under this

2047 chapter is transferred:

2048 (a) by a purchaser-lessee;

2049 (b) to a lessor;

2050 (c) for consideration; and

2051 (d) if:

2052 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase

2053 of the tangible personal property or product transferred electronically;

2054 (ii) the sale of the tangible personal property or product transferred electronically to the

2055 lessor is intended as a form of financing:

2056 (A) for the tangible personal property or product transferred electronically; and

2057 (B) to the purchaser-lessee; and

2058 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

2059 is required to:

2060 (A) capitalize the tangible personal property or product transferred electronically for

2061 financial reporting purposes; and

2062 (B) account for the lease payments as payments made under a financing arrangement.

2063 (107) "Sales price" is as defined in Subsection (94).

2064 (108) (a) "Sales relating to schools" means the following sales by, amounts paid to, or

2065 amounts charged by a school:

2066 (i) sales that are directly related to the school's educational functions or activities

2067 including:

2068 (A) the sale of:

2069 (I) textbooks;

2070 (II) textbook fees;

2071 (III) laboratory fees;

2072 (IV) laboratory supplies; or

2073 (V) safety equipment;

2074 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
2075 that:
2076 (I) a student is specifically required to wear as a condition of participation in a
2077 school-related event or school-related activity; and
2078 (II) is not readily adaptable to general or continued usage to the extent that it takes the
2079 place of ordinary clothing;
2080 (C) sales of the following if the net or gross revenues generated by the sales are
2081 deposited into a school district fund or school fund dedicated to school meals:
2082 (I) food and food ingredients; or
2083 (II) prepared food; or
2084 (D) transportation charges for official school activities; or
2085 (ii) amounts paid to or amounts charged by a school for admission to a school-related
2086 event or school-related activity.
2087 (b) "Sales relating to schools" does not include:
2088 (i) bookstore sales of items that are not educational materials or supplies;
2089 (ii) except as provided in Subsection (108)(a)(i)(B):
2090 (A) clothing;
2091 (B) clothing accessories or equipment;
2092 (C) protective equipment; or
2093 (D) sports or recreational equipment; or
2094 (iii) amounts paid to or amounts charged by a school for admission to a school-related
2095 event or school-related activity if the amounts paid or charged are passed through to a person:
2096 (A) other than a:
2097 (I) school;
2098 (II) nonprofit organization authorized by a school board or a governing body of a
2099 private school to organize and direct a competitive secondary school activity; or
2100 (III) nonprofit association authorized by a school board or a governing body of a
2101 private school to organize and direct a competitive secondary school activity; and
2102 (B) that is required to collect sales and use taxes under this chapter.
2103 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2104 commission may make rules defining the term "passed through."

- 2105 (109) For purposes of this section and Section 59-12-104, "school":
- 2106 (a) means:
- 2107 (i) an elementary school or a secondary school that:
- 2108 (A) is a:
- 2109 (I) public school; or
- 2110 (II) private school; and
- 2111 (B) provides instruction for one or more grades kindergarten through 12; or
- 2112 (ii) a public school district; and
- 2113 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 2114 (110) "Seller" means a person that makes a sale, lease, or rental of:
- 2115 (a) tangible personal property;
- 2116 (b) a product transferred electronically; or
- 2117 (c) a service.
- 2118 (111) (a) "Semiconductor fabricating, processing, research, or development materials"
- 2119 means tangible personal property or a product transferred electronically if the tangible personal
- 2120 property or product transferred electronically is:
- 2121 (i) used primarily in the process of:
- 2122 (A) (I) manufacturing a semiconductor;
- 2123 (II) fabricating a semiconductor; or
- 2124 (III) research or development of a:
- 2125 (Aa) semiconductor; or
- 2126 (Bb) semiconductor manufacturing process; or
- 2127 (B) maintaining an environment suitable for a semiconductor; or
- 2128 (ii) consumed primarily in the process of:
- 2129 (A) (I) manufacturing a semiconductor;
- 2130 (II) fabricating a semiconductor; or
- 2131 (III) research or development of a:
- 2132 (Aa) semiconductor; or
- 2133 (Bb) semiconductor manufacturing process; or
- 2134 (B) maintaining an environment suitable for a semiconductor.
- 2135 (b) "Semiconductor fabricating, processing, research, or development materials"

2136 includes:

2137 (i) parts used in the repairs or renovations of tangible personal property or a product
2138 transferred electronically described in Subsection (111)(a); or

2139 (ii) a chemical, catalyst, or other material used to:

2140 (A) produce or induce in a semiconductor a:

2141 (I) chemical change; or

2142 (II) physical change;

2143 (B) remove impurities from a semiconductor; or

2144 (C) improve the marketable condition of a semiconductor.

2145 (112) "Senior citizen center" means a facility having the primary purpose of providing
2146 services to the aged as defined in Section 62A-3-101.

2147 (113) "Simplified electronic return" means the electronic return:

2148 (a) described in Section 318(C) of the agreement; and

2149 (b) approved by the governing board of the agreement.

2150 (114) "Solar energy" means the sun used as the sole source of energy for producing
2151 electricity.

2152 (115) (a) "Sports or recreational equipment" means an item:

2153 (i) designed for human use; and

2154 (ii) that is:

2155 (A) worn in conjunction with:

2156 (I) an athletic activity; or

2157 (II) a recreational activity; and

2158 (B) not suitable for general use.

2159 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2160 commission shall make rules:

2161 (i) listing the items that constitute "sports or recreational equipment"; and

2162 (ii) that are consistent with the list of items that constitute "sports or recreational
2163 equipment" under the agreement.

2164 (116) "State" means the state of Utah, its departments, and agencies.

2165 (117) "Storage" means any keeping or retention of tangible personal property or any
2166 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except

2167 sale in the regular course of business.

2168 (118) (a) Except as provided in Subsection (118)(d) or (e), "tangible personal property"

2169 means personal property that:

2170 (i) may be:

2171 (A) seen;

2172 (B) weighed;

2173 (C) measured;

2174 (D) felt; or

2175 (E) touched; or

2176 (ii) is in any manner perceptible to the senses.

2177 (b) "Tangible personal property" includes:

2178 (i) electricity;

2179 (ii) water;

2180 (iii) gas;

2181 (iv) steam; or

2182 (v) prewritten computer software, regardless of the manner in which the prewritten

2183 computer software is transferred.

2184 (c) "Tangible personal property" includes the following regardless of whether the item

2185 is attached to real property:

2186 (i) a dishwasher;

2187 (ii) a dryer;

2188 (iii) a freezer;

2189 (iv) a microwave;

2190 (v) a refrigerator;

2191 (vi) a stove;

2192 (vii) a washer; or

2193 (viii) an item similar to Subsections (118)(c)(i) through (vii) as determined by the

2194 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

2195 Rulemaking Act.

2196 (d) "Tangible personal property" does not include a product that is transferred

2197 electronically.

2198 (e) "Tangible personal property" does not include the following if attached to real
2199 property, regardless of whether the attachment to real property is only through a line that
2200 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
2201 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2202 Rulemaking Act:

- 2203 (i) a hot water heater;
- 2204 (ii) a water filtration system; or
- 2205 (iii) a water softener system.

2206 (119) (a) "Telecommunications enabling or facilitating equipment, machinery, or
2207 software" means an item listed in Subsection (119)(b) if that item is purchased or leased
2208 primarily to enable or facilitate one or more of the following to function:

- 2209 (i) telecommunications switching or routing equipment, machinery, or software; or
- 2210 (ii) telecommunications transmission equipment, machinery, or software.

2211 (b) The following apply to Subsection (119)(a):

- 2212 (i) a pole;
- 2213 (ii) software;
- 2214 (iii) a supplementary power supply;
- 2215 (iv) temperature or environmental equipment or machinery;
- 2216 (v) test equipment;
- 2217 (vi) a tower; or

2218 (vii) equipment, machinery, or software that functions similarly to an item listed in
2219 Subsections (119)(b)(i) through (vi) as determined by the commission by rule made in
2220 accordance with Subsection (119)(c).

2221 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2222 commission may by rule define what constitutes equipment, machinery, or software that
2223 functions similarly to an item listed in Subsections (119)(b)(i) through (vi).

2224 (120) "Telecommunications equipment, machinery, or software required for 911
2225 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
2226 Sec. 20.18.

2227 (121) "Telecommunications maintenance or repair equipment, machinery, or software"
2228 means equipment, machinery, or software purchased or leased primarily to maintain or repair

2229 one or more of the following, regardless of whether the equipment, machinery, or software is
2230 purchased or leased as a spare part or as an upgrade or modification to one or more of the
2231 following:

2232 (a) telecommunications enabling or facilitating equipment, machinery, or software;

2233 (b) telecommunications switching or routing equipment, machinery, or software; or

2234 (c) telecommunications transmission equipment, machinery, or software.

2235 (122) (a) "Telecommunications service" means the electronic conveyance, routing, or
2236 transmission of audio, data, video, voice, or any other information or signal to a point, or
2237 among or between points.

2238 (b) "Telecommunications service" includes:

2239 (i) an electronic conveyance, routing, or transmission with respect to which a computer
2240 processing application is used to act:

2241 (A) on the code, form, or protocol of the content;

2242 (B) for the purpose of electronic conveyance, routing, or transmission; and

2243 (C) regardless of whether the service:

2244 (I) is referred to as voice over Internet protocol service; or

2245 (II) is classified by the Federal Communications Commission as enhanced or value
2246 added;

2247 (ii) an 800 service;

2248 (iii) a 900 service;

2249 (iv) a fixed wireless service;

2250 (v) a mobile wireless service;

2251 (vi) a postpaid calling service;

2252 (vii) a prepaid calling service;

2253 (viii) a prepaid wireless calling service; or

2254 (ix) a private communications service.

2255 (c) "Telecommunications service" does not include:

2256 (i) advertising, including directory advertising;

2257 (ii) an ancillary service;

2258 (iii) a billing and collection service provided to a third party;

2259 (iv) a data processing and information service if:

- 2260 (A) the data processing and information service allows data to be:
- 2261 (I) (Aa) acquired;
- 2262 (Bb) generated;
- 2263 (Cc) processed;
- 2264 (Dd) retrieved; or
- 2265 (Ee) stored; and
- 2266 (II) delivered by an electronic transmission to a purchaser; and
- 2267 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 2268 or information;
- 2269 (v) installation or maintenance of the following on a customer's premises:
- 2270 (A) equipment; or
- 2271 (B) wiring;
- 2272 (vi) Internet access service;
- 2273 (vii) a paging service;
- 2274 (viii) a product transferred electronically, including:
- 2275 (A) music;
- 2276 (B) reading material;
- 2277 (C) a ring tone;
- 2278 (D) software; or
- 2279 (E) video;
- 2280 (ix) a radio and television audio and video programming service:
- 2281 (A) regardless of the medium; and
- 2282 (B) including:
- 2283 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 2284 programming service by a programming service provider;
- 2285 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 2286 (III) audio and video programming services delivered by a commercial mobile radio
- 2287 service provider as defined in 47 C.F.R. Sec. 20.3;
- 2288 (x) a value-added nonvoice data service; or
- 2289 (xi) tangible personal property.
- 2290 (123) (a) "Telecommunications service provider" means a person that:

2291 (i) owns, controls, operates, or manages a telecommunications service; and
2292 (ii) engages in an activity described in Subsection (123)(a)(i) for the shared use with or
2293 resale to any person of the telecommunications service.

2294 (b) A person described in Subsection (123)(a) is a telecommunications service provider
2295 whether or not the Public Service Commission of Utah regulates:

2296 (i) that person; or
2297 (ii) the telecommunications service that the person owns, controls, operates, or
2298 manages.

2299 (124) (a) "Telecommunications switching or routing equipment, machinery, or
2300 software" means an item listed in Subsection (124)(b) if that item is purchased or leased
2301 primarily for switching or routing:

2302 (i) an ancillary service;
2303 (ii) data communications;
2304 (iii) voice communications; or
2305 (iv) telecommunications service.

2306 (b) The following apply to Subsection (124)(a):

2307 (i) a bridge;
2308 (ii) a computer;
2309 (iii) a cross connect;
2310 (iv) a modem;
2311 (v) a multiplexer;
2312 (vi) plug in circuitry;
2313 (vii) a router;
2314 (viii) software;
2315 (ix) a switch; or
2316 (x) equipment, machinery, or software that functions similarly to an item listed in
2317 Subsections (124)(b)(i) through (ix) as determined by the commission by rule made in
2318 accordance with Subsection (124)(c).

2319 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2320 commission may by rule define what constitutes equipment, machinery, or software that
2321 functions similarly to an item listed in Subsections (124)(b)(i) through (ix).

2322 (125) (a) "Telecommunications transmission equipment, machinery, or software"
2323 means an item listed in Subsection (125)(b) if that item is purchased or leased primarily for
2324 sending, receiving, or transporting:

- 2325 (i) an ancillary service;
- 2326 (ii) data communications;
- 2327 (iii) voice communications; or
- 2328 (iv) telecommunications service.

2329 (b) The following apply to Subsection (125)(a):

- 2330 (i) an amplifier;
- 2331 (ii) a cable;
- 2332 (iii) a closure;
- 2333 (iv) a conduit;
- 2334 (v) a controller;
- 2335 (vi) a duplexer;
- 2336 (vii) a filter;
- 2337 (viii) an input device;
- 2338 (ix) an input/output device;
- 2339 (x) an insulator;
- 2340 (xi) microwave machinery or equipment;
- 2341 (xii) an oscillator;
- 2342 (xiii) an output device;
- 2343 (xiv) a pedestal;
- 2344 (xv) a power converter;
- 2345 (xvi) a power supply;
- 2346 (xvii) a radio channel;
- 2347 (xviii) a radio receiver;
- 2348 (xix) a radio transmitter;
- 2349 (xx) a repeater;
- 2350 (xxi) software;
- 2351 (xxii) a terminal;
- 2352 (xxiii) a timing unit;

2353 (xxiv) a transformer;

2354 (xxv) a wire; or

2355 (xxvi) equipment, machinery, or software that functions similarly to an item listed in

2356 Subsections (125)(b)(i) through (xxv) as determined by the commission by rule made in

2357 accordance with Subsection (125)(c).

2358 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2359 commission may by rule define what constitutes equipment, machinery, or software that

2360 functions similarly to an item listed in Subsections (125)(b)(i) through (xxv).

2361 (126) (a) "Textbook for a higher education course" means a textbook or other printed

2362 material that is required for a course:

2363 (i) offered by an institution of higher education; and

2364 (ii) that the purchaser of the textbook or other printed material attends or will attend.

2365 (b) "Textbook for a higher education course" includes a textbook in electronic format.

2366 (127) "Tobacco" means:

2367 (a) a cigarette;

2368 (b) a cigar;

2369 (c) chewing tobacco;

2370 (d) pipe tobacco; or

2371 (e) any other item that contains tobacco.

2372 (128) "Unassisted amusement device" means an amusement device, skill device, or

2373 ride device that is started and stopped by the purchaser or renter of the right to use or operate

2374 the amusement device, skill device, or ride device.

2375 (129) (a) "Use" means the exercise of any right or power over tangible personal

2376 property, a product transferred electronically, or a service under Subsection 59-12-103(1),

2377 incident to the ownership or the leasing of that tangible personal property, product transferred

2378 electronically, or service.

2379 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal

2380 property, a product transferred electronically, or a service in the regular course of business and

2381 held for resale.

2382 (130) "Value-added nonvoice data service" means a service:

2383 (a) that otherwise meets the definition of a telecommunications service except that a

2384 computer processing application is used to act primarily for a purpose other than conveyance,
2385 routing, or transmission; and

2386 (b) with respect to which a computer processing application is used to act on data or
2387 information:

- 2388 (i) code;
- 2389 (ii) content;
- 2390 (iii) form; or
- 2391 (iv) protocol.

2392 (131) (a) Subject to Subsection (131)(b), "vehicle" means the following that are
2393 required to be titled, registered, or titled and registered:

- 2394 (i) an aircraft as defined in Section 72-10-102;
- 2395 (ii) a vehicle as defined in Section 41-1a-102;
- 2396 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 2397 (iv) a vessel as defined in Section 41-1a-102.

2398 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 2399 (i) a vehicle described in Subsection (131)(a); or
- 2400 (ii) (A) a locomotive;
- 2401 (B) a freight car;
- 2402 (C) railroad work equipment; or
- 2403 (D) other railroad rolling stock.

2404 (132) "Vehicle dealer" means a person engaged in the business of buying, selling, or
2405 exchanging a vehicle as defined in Subsection (131).

2406 (133) (a) "Vertical service" means an ancillary service that:

- 2407 (i) is offered in connection with one or more telecommunications services; and
- 2408 (ii) offers an advanced calling feature that allows a customer to:
 - 2409 (A) identify a caller; and
 - 2410 (B) manage multiple calls and call connections.

2411 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
2412 conference bridging service.

2413 (134) (a) "Voice mail service" means an ancillary service that enables a customer to
2414 receive, send, or store a recorded message.

2415 (b) "Voice mail service" does not include a vertical service that a customer is required
2416 to have in order to utilize a voice mail service.

2417 (135) (a) Except as provided in Subsection (135)(b), "waste energy facility" means a
2418 facility that generates electricity:

2419 (i) using as the primary source of energy waste materials that would be placed in a
2420 landfill or refuse pit if it were not used to generate electricity, including:

2421 (A) tires;

2422 (B) waste coal;

2423 (C) oil shale; or

2424 (D) municipal solid waste; and

2425 (ii) in amounts greater than actually required for the operation of the facility.

2426 (b) "Waste energy facility" does not include a facility that incinerates:

2427 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

2428 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

2429 (136) "Watercraft" means a vessel as defined in Section 73-18-2.

2430 (137) "Wind energy" means wind used as the sole source of energy to produce
2431 electricity.

2432 (138) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
2433 location by the United States Postal Service.

2434 Section 21. Section **59-12-102 (Effective 07/01/14)** is amended to read:

2435 **59-12-102 (Effective 07/01/14). Definitions.**

2436 As used in this chapter:

2437 (1) "800 service" means a telecommunications service that:

2438 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

2439 (b) is typically marketed:

2440 (i) under the name 800 toll-free calling;

2441 (ii) under the name 855 toll-free calling;

2442 (iii) under the name 866 toll-free calling;

2443 (iv) under the name 877 toll-free calling;

2444 (v) under the name 888 toll-free calling; or

2445 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

- 2446 Federal Communications Commission.
- 2447 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 2448 (i) a subscriber purchases;
- 2449 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 2450 the subscriber's:
- 2451 (A) prerecorded announcement; or
- 2452 (B) live service; and
- 2453 (iii) is typically marketed:
- 2454 (A) under the name 900 service; or
- 2455 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 2456 Communications Commission.
- 2457 (b) "900 service" does not include a charge for:
- 2458 (i) a collection service a seller of a telecommunications service provides to a
- 2459 subscriber; or
- 2460 (ii) the following a subscriber sells to the subscriber's customer:
- 2461 (A) a product; or
- 2462 (B) a service.
- 2463 (3) (a) "Admission or user fees" includes season passes.
- 2464 (b) "Admission or user fees" does not include annual membership dues to private
- 2465 organizations.
- 2466 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 2467 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 2468 Agreement after November 12, 2002.
- 2469 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 2470 (a) listed under Subsection (6); and
- 2471 (b) that are imposed within a local taxing jurisdiction.
- 2472 (6) "Agreement sales and use tax" means a tax imposed under:
- 2473 (a) Subsection 59-12-103(2)(a)(i)(A);
- 2474 (b) Subsection 59-12-103(2)(b)(i);
- 2475 (c) Subsection 59-12-103(2)(c)(i);
- 2476 (d) Subsection 59-12-103(2)(d)(i)(A)(I);

- 2477 (e) Section 59-12-204;
- 2478 (f) Section 59-12-401;
- 2479 (g) Section 59-12-402;
- 2480 (h) Section 59-12-703;
- 2481 (i) Section 59-12-802;
- 2482 (j) Section 59-12-804;
- 2483 (k) Section 59-12-1102;
- 2484 (l) Section 59-12-1302;
- 2485 (m) Section 59-12-1402;
- 2486 (n) Section 59-12-1802;
- 2487 (o) Section 59-12-2003;
- 2488 (p) Section 59-12-2103;
- 2489 (q) Section 59-12-2213;
- 2490 (r) Section 59-12-2214;
- 2491 (s) Section 59-12-2215;
- 2492 (t) Section 59-12-2216;
- 2493 (u) Section 59-12-2217; or
- 2494 (v) Section 59-12-2218.
- 2495 (7) "Aircraft" is as defined in Section 72-10-102.
- 2496 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 2497 (a) except for:
- 2498 (i) an airline as defined in Section 59-2-102; or
- 2499 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 2500 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 2501 state, of an airline; and
- 2502 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 2503 whether the business entity performs the following in this state:
- 2504 (i) check, diagnose, overhaul, and repair:
- 2505 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 2506 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 2507 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft

- 2508 engine;
- 2509 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 2510 aircraft:
- 2511 (A) an inspection;
- 2512 (B) a repair, including a structural repair or modification;
- 2513 (C) changing landing gear; and
- 2514 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 2515 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 2516 completely apply new paint to the fixed wing turbine powered aircraft; and
- 2517 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 2518 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 2519 authority that certifies the fixed wing turbine powered aircraft.
- 2520 (9) "Alcoholic beverage" means a beverage that:
- 2521 (a) is suitable for human consumption; and
- 2522 (b) contains .5% or more alcohol by volume.
- 2523 (10) "Alternative energy" means:
- 2524 (a) biomass energy;
- 2525 (b) geothermal energy;
- 2526 (c) hydroelectric energy;
- 2527 (d) solar energy;
- 2528 (e) wind energy; or
- 2529 (f) energy that is derived from:
- 2530 (i) coal-to-liquids;
- 2531 (ii) nuclear fuel;
- 2532 (iii) oil-impregnated diatomaceous earth;
- 2533 (iv) oil sands;
- 2534 (v) oil shale; or
- 2535 (vi) petroleum coke.
- 2536 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 2537 facility" means a facility that:
- 2538 (i) uses alternative energy to produce electricity; and

- 2539 (ii) has a production capacity of 2 megawatts or greater.
- 2540 (b) A facility is an alternative energy electricity production facility regardless of
- 2541 whether the facility is:
 - 2542 (i) connected to an electric grid; or
 - 2543 (ii) located on the premises of an electricity consumer.
- 2544 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 2545 provision of telecommunications service.
- 2546 (b) "Ancillary service" includes:
 - 2547 (i) a conference bridging service;
 - 2548 (ii) a detailed communications billing service;
 - 2549 (iii) directory assistance;
 - 2550 (iv) a vertical service; or
 - 2551 (v) a voice mail service.
- 2552 (13) "Area agency on aging" is as defined in Section 62A-3-101.
- 2553 (14) "Assisted amusement device" means an amusement device, skill device, or ride
- 2554 device that is started and stopped by an individual:
 - 2555 (a) who is not the purchaser or renter of the right to use or operate the amusement
 - 2556 device, skill device, or ride device; and
 - 2557 (b) at the direction of the seller of the right to use the amusement device, skill device,
 - 2558 or ride device.
- 2559 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
- 2560 washing of tangible personal property if the cleaning or washing labor is primarily performed
- 2561 by an individual:
 - 2562 (a) who is not the purchaser of the cleaning or washing of the tangible personal
 - 2563 property; and
 - 2564 (b) at the direction of the seller of the cleaning or washing of the tangible personal
 - 2565 property.
- 2566 (16) "Authorized carrier" means:
 - 2567 (a) in the case of vehicles operated over public highways, the holder of credentials
 - 2568 indicating that the vehicle is or will be operated pursuant to both the International Registration
 - 2569 Plan and the International Fuel Tax Agreement;

2570 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
2571 certificate or air carrier's operating certificate; or

2572 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
2573 stock, the holder of a certificate issued by the United States Surface Transportation Board.

2574 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
2575 following that is used as the primary source of energy to produce fuel or electricity:

2576 (i) material from a plant or tree; or

2577 (ii) other organic matter that is available on a renewable basis, including:

2578 (A) slash and brush from forests and woodlands;

2579 (B) animal waste;

2580 (C) methane produced:

2581 (I) at landfills; or

2582 (II) as a byproduct of the treatment of wastewater residuals;

2583 (D) aquatic plants; and

2584 (E) agricultural products.

2585 (b) "Biomass energy" does not include:

2586 (i) black liquor;

2587 (ii) treated woods; or

2588 (iii) biomass from municipal solid waste other than methane produced:

2589 (A) at landfills; or

2590 (B) as a byproduct of the treatment of wastewater residuals.

2591 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
2592 property, products, or services if the tangible personal property, products, or services are:

2593 (i) distinct and identifiable; and

2594 (ii) sold for one nonitemized price.

2595 (b) "Bundled transaction" does not include:

2596 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on

2597 the basis of the selection by the purchaser of the items of tangible personal property included in
2598 the transaction;

2599 (ii) the sale of real property;

2600 (iii) the sale of services to real property;

- 2601 (iv) the retail sale of tangible personal property and a service if:
- 2602 (A) the tangible personal property:
- 2603 (I) is essential to the use of the service; and
- 2604 (II) is provided exclusively in connection with the service; and
- 2605 (B) the service is the true object of the transaction;
- 2606 (v) the retail sale of two services if:
- 2607 (A) one service is provided that is essential to the use or receipt of a second service;
- 2608 (B) the first service is provided exclusively in connection with the second service; and
- 2609 (C) the second service is the true object of the transaction;
- 2610 (vi) a transaction that includes tangible personal property or a product subject to
- 2611 taxation under this chapter and tangible personal property or a product that is not subject to
- 2612 taxation under this chapter if the:
- 2613 (A) seller's purchase price of the tangible personal property or product subject to
- 2614 taxation under this chapter is de minimis; or
- 2615 (B) seller's sales price of the tangible personal property or product subject to taxation
- 2616 under this chapter is de minimis; and
- 2617 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 2618 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 2619 (A) that retail sale includes:
- 2620 (I) food and food ingredients;
- 2621 (II) a drug;
- 2622 (III) durable medical equipment;
- 2623 (IV) mobility enhancing equipment;
- 2624 (V) an over-the-counter drug;
- 2625 (VI) a prosthetic device; or
- 2626 (VII) a medical supply; and
- 2627 (B) subject to Subsection (18)(f):
- 2628 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 2629 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 2630 (II) the seller's sales price of the tangible personal property subject to taxation under
- 2631 this chapter is 50% or less of the seller's total sales price of that retail sale.

2632 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
2633 service that is distinct and identifiable does not include:

2634 (A) packaging that:

2635 (I) accompanies the sale of the tangible personal property, product, or service; and

2636 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
2637 service;

2638 (B) tangible personal property, a product, or a service provided free of charge with the
2639 purchase of another item of tangible personal property, a product, or a service; or

2640 (C) an item of tangible personal property, a product, or a service included in the
2641 definition of "purchase price."

2642 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
2643 product, or a service is provided free of charge with the purchase of another item of tangible
2644 personal property, a product, or a service if the sales price of the purchased item of tangible
2645 personal property, product, or service does not vary depending on the inclusion of the tangible
2646 personal property, product, or service provided free of charge.

2647 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
2648 does not include a price that is separately identified by tangible personal property, product, or
2649 service on the following, regardless of whether the following is in paper format or electronic
2650 format:

2651 (A) a binding sales document; or

2652 (B) another supporting sales-related document that is available to a purchaser.

2653 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
2654 supporting sales-related document that is available to a purchaser includes:

2655 (A) a bill of sale;

2656 (B) a contract;

2657 (C) an invoice;

2658 (D) a lease agreement;

2659 (E) a periodic notice of rates and services;

2660 (F) a price list;

2661 (G) a rate card;

2662 (H) a receipt; or

- 2663 (I) a service agreement.
- 2664 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
2665 property or a product subject to taxation under this chapter is de minimis if:
- 2666 (A) the seller's purchase price of the tangible personal property or product is 10% or
2667 less of the seller's total purchase price of the bundled transaction; or
- 2668 (B) the seller's sales price of the tangible personal property or product is 10% or less of
2669 the seller's total sales price of the bundled transaction.
- 2670 (ii) For purposes of Subsection (18)(b)(vi), a seller:
- 2671 (A) shall use the seller's purchase price or the seller's sales price to determine if the
2672 purchase price or sales price of the tangible personal property or product subject to taxation
2673 under this chapter is de minimis; and
- 2674 (B) may not use a combination of the seller's purchase price and the seller's sales price
2675 to determine if the purchase price or sales price of the tangible personal property or product
2676 subject to taxation under this chapter is de minimis.
- 2677 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
2678 contract to determine if the sales price of tangible personal property or a product is de minimis.
- 2679 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
2680 the seller's purchase price and the seller's sales price to determine if tangible personal property
2681 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
2682 price of that retail sale.
- 2683 (19) "Certified automated system" means software certified by the governing board of
2684 the agreement that:
- 2685 (a) calculates the agreement sales and use tax imposed within a local taxing
2686 jurisdiction:
- 2687 (i) on a transaction; and
- 2688 (ii) in the states that are members of the agreement;
- 2689 (b) determines the amount of agreement sales and use tax to remit to a state that is a
2690 member of the agreement; and
- 2691 (c) maintains a record of the transaction described in Subsection (19)(a)(i).
- 2692 (20) "Certified service provider" means an agent certified:
- 2693 (a) by the governing board of the agreement; and

2694 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
2695 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
2696 own purchases.

2697 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
2698 suitable for general use.

2699 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2700 commission shall make rules:

2701 (i) listing the items that constitute "clothing"; and

2702 (ii) that are consistent with the list of items that constitute "clothing" under the
2703 agreement.

2704 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

2705 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
2706 fuels that does not constitute industrial use under Subsection (51) or residential use under
2707 Subsection (101).

2708 (24) (a) "Common carrier" means a person engaged in or transacting the business of
2709 transporting passengers, freight, merchandise, or other property for hire within this state.

2710 (b) (i) "Common carrier" does not include a person who, at the time the person is
2711 traveling to or from that person's place of employment, transports a passenger to or from the
2712 passenger's place of employment.

2713 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
2714 Utah Administrative Rulemaking Act, the commission may make rules defining what
2715 constitutes a person's place of employment.

2716 (25) "Component part" includes:

2717 (a) poultry, dairy, and other livestock feed, and their components;

2718 (b) baling ties and twine used in the baling of hay and straw;

2719 (c) fuel used for providing temperature control of orchards and commercial
2720 greenhouses doing a majority of their business in wholesale sales, and for providing power for
2721 off-highway type farm machinery; and

2722 (d) feed, seeds, and seedlings.

2723 (26) "Computer" means an electronic device that accepts information:

2724 (a) (i) in digital form; or

- 2725 (ii) in a form similar to digital form; and
- 2726 (b) manipulates that information for a result based on a sequence of instructions.
- 2727 (27) "Computer software" means a set of coded instructions designed to cause:
 - 2728 (a) a computer to perform a task; or
 - 2729 (b) automatic data processing equipment to perform a task.
- 2730 (28) "Computer software maintenance contract" means a contract that obligates a seller
- 2731 of computer software to provide a customer with:
 - 2732 (a) future updates or upgrades to computer software;
 - 2733 (b) support services with respect to computer software; or
 - 2734 (c) a combination of Subsections (28)(a) and (b).
- 2735 (29) (a) "Conference bridging service" means an ancillary service that links two or
- 2736 more participants of an audio conference call or video conference call.
 - 2737 (b) "Conference bridging service" may include providing a telephone number as part of
 - 2738 the ancillary service described in Subsection (29)(a).
 - 2739 (c) "Conference bridging service" does not include a telecommunications service used
 - 2740 to reach the ancillary service described in Subsection (29)(a).
- 2741 (30) "Construction materials" means any tangible personal property that will be
- 2742 converted into real property.
- 2743 (31) "Delivered electronically" means delivered to a purchaser by means other than
- 2744 tangible storage media.
- 2745 (32) (a) "Delivery charge" means a charge:
 - 2746 (i) by a seller of:
 - 2747 (A) tangible personal property;
 - 2748 (B) a product transferred electronically; or
 - 2749 (C) services; and
 - 2750 (ii) for preparation and delivery of the tangible personal property, product transferred
 - 2751 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
 - 2752 purchaser.
- 2753 (b) "Delivery charge" includes a charge for the following:
 - 2754 (i) transportation;
 - 2755 (ii) shipping;

- 2756 (iii) postage;
- 2757 (iv) handling;
- 2758 (v) crating; or
- 2759 (vi) packing.
- 2760 (33) "Detailed telecommunications billing service" means an ancillary service of
- 2761 separately stating information pertaining to individual calls on a customer's billing statement.
- 2762 (34) "Dietary supplement" means a product, other than tobacco, that:
- 2763 (a) is intended to supplement the diet;
- 2764 (b) contains one or more of the following dietary ingredients:
- 2765 (i) a vitamin;
- 2766 (ii) a mineral;
- 2767 (iii) an herb or other botanical;
- 2768 (iv) an amino acid;
- 2769 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 2770 dietary intake; or
- 2771 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 2772 described in Subsections (34)(b)(i) through (v);
- 2773 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 2774 (A) tablet form;
- 2775 (B) capsule form;
- 2776 (C) powder form;
- 2777 (D) softgel form;
- 2778 (E) gelcap form; or
- 2779 (F) liquid form; or
- 2780 (ii) notwithstanding Subsection (34)(c)(i), if the product is not intended for ingestion in
- 2781 a form described in Subsections (34)(c)(i)(A) through (F), is not represented:
- 2782 (A) as conventional food; and
- 2783 (B) for use as a sole item of:
- 2784 (I) a meal; or
- 2785 (II) the diet; and
- 2786 (d) is required to be labeled as a dietary supplement:

- 2787 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 2788 (ii) as required by 21 C.F.R. Sec. 101.36.
- 2789 (35) (a) "Direct mail" means printed material delivered or distributed by United States
- 2790 mail or other delivery service:
- 2791 (i) to:
- 2792 (A) a mass audience; or
- 2793 (B) addressees on a mailing list provided:
- 2794 (I) by a purchaser of the mailing list; or
- 2795 (II) at the discretion of the purchaser of the mailing list; and
- 2796 (ii) if the cost of the printed material is not billed directly to the recipients.
- 2797 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 2798 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 2799 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 2800 single address.
- 2801 (36) "Directory assistance" means an ancillary service of providing:
- 2802 (a) address information; or
- 2803 (b) telephone number information.
- 2804 (37) (a) "Disposable home medical equipment or supplies" means medical equipment
- 2805 or supplies that:
- 2806 (i) cannot withstand repeated use; and
- 2807 (ii) are purchased by, for, or on behalf of a person other than:
- 2808 (A) a health care facility as defined in Section 26-21-2;
- 2809 (B) a health care provider as defined in Section 78B-3-403;
- 2810 (C) an office of a health care provider described in Subsection (37)(a)(ii)(B); or
- 2811 (D) a person similar to a person described in Subsections (37)(a)(ii)(A) through (C).
- 2812 (b) "Disposable home medical equipment or supplies" does not include:
- 2813 (i) a drug;
- 2814 (ii) durable medical equipment;
- 2815 (iii) a hearing aid;
- 2816 (iv) a hearing aid accessory;
- 2817 (v) mobility enhancing equipment; or

- 2818 (vi) tangible personal property used to correct impaired vision, including:
- 2819 (A) eyeglasses; or
- 2820 (B) contact lenses.
- 2821 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2822 commission may by rule define what constitutes medical equipment or supplies.
- 2823 (38) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 2824 compound, substance, or preparation that is:
- 2825 (i) recognized in:
- 2826 (A) the official United States Pharmacopoeia;
- 2827 (B) the official Homeopathic Pharmacopoeia of the United States;
- 2828 (C) the official National Formulary; or
- 2829 (D) a supplement to a publication listed in Subsections (38)(a)(i)(A) through (C);
- 2830 (ii) intended for use in the:
- 2831 (A) diagnosis of disease;
- 2832 (B) cure of disease;
- 2833 (C) mitigation of disease;
- 2834 (D) treatment of disease; or
- 2835 (E) prevention of disease; or
- 2836 (iii) intended to affect:
- 2837 (A) the structure of the body; or
- 2838 (B) any function of the body.
- 2839 (b) "Drug" does not include:
- 2840 (i) food and food ingredients;
- 2841 (ii) a dietary supplement;
- 2842 (iii) an alcoholic beverage; or
- 2843 (iv) a prosthetic device.
- 2844 (39) (a) Except as provided in Subsection (39)(c), "durable medical equipment" means
- 2845 equipment that:
- 2846 (i) can withstand repeated use;
- 2847 (ii) is primarily and customarily used to serve a medical purpose;
- 2848 (iii) generally is not useful to a person in the absence of illness or injury; and

- 2849 (iv) is not worn in or on the body.
- 2850 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 2851 equipment described in Subsection (39)(a).
- 2852 (c) Notwithstanding Subsection (39)(a), "durable medical equipment" does not include
- 2853 mobility enhancing equipment.
- 2854 (40) "Electronic" means:
- 2855 (a) relating to technology; and
- 2856 (b) having:
- 2857 (i) electrical capabilities;
- 2858 (ii) digital capabilities;
- 2859 (iii) magnetic capabilities;
- 2860 (iv) wireless capabilities;
- 2861 (v) optical capabilities;
- 2862 (vi) electromagnetic capabilities; or
- 2863 (vii) capabilities similar to Subsections (40)(b)(i) through (vi).
- 2864 (41) "Employee" is as defined in Section 59-10-401.
- 2865 (42) "Fixed guideway" means a public transit facility that uses and occupies:
- 2866 (a) rail for the use of public transit; or
- 2867 (b) a separate right-of-way for the use of public transit.
- 2868 (43) "Fixed wing turbine powered aircraft" means an aircraft that:
- 2869 (a) is powered by turbine engines;
- 2870 (b) operates on jet fuel; and
- 2871 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 2872 (44) "Fixed wireless service" means a telecommunications service that provides radio
- 2873 communication between fixed points.
- 2874 (45) (a) "Food and food ingredients" means substances:
- 2875 (i) regardless of whether the substances are in:
- 2876 (A) liquid form;
- 2877 (B) concentrated form;
- 2878 (C) solid form;
- 2879 (D) frozen form;

- 2880 (E) dried form; or
- 2881 (F) dehydrated form; and
- 2882 (ii) that are:
- 2883 (A) sold for:
- 2884 (I) ingestion by humans; or
- 2885 (II) chewing by humans; and
- 2886 (B) consumed for the substance's:
- 2887 (I) taste; or
- 2888 (II) nutritional value.
- 2889 (b) "Food and food ingredients" includes an item described in Subsection (86)(b)(iii).
- 2890 (c) "Food and food ingredients" does not include:
- 2891 (i) an alcoholic beverage;
- 2892 (ii) tobacco; or
- 2893 (iii) prepared food.
- 2894 (46) (a) "Fundraising sales" means sales:
- 2895 (i) (A) made by a school; or
- 2896 (B) made by a school student;
- 2897 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 2898 materials, or provide transportation; and
- 2899 (iii) that are part of an officially sanctioned school activity.
- 2900 (b) For purposes of Subsection (46)(a)(iii), "officially sanctioned school activity"
- 2901 means a school activity:
- 2902 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 2903 district governing the authorization and supervision of fundraising activities;
- 2904 (ii) that does not directly or indirectly compensate an individual teacher or other
- 2905 educational personnel by direct payment, commissions, or payment in kind; and
- 2906 (iii) the net or gross revenues from which are deposited in a dedicated account
- 2907 controlled by the school or school district.
- 2908 (47) "Geothermal energy" means energy contained in heat that continuously flows
- 2909 outward from the earth that is used as the sole source of energy to produce electricity.
- 2910 (48) "Governing board of the agreement" means the governing board of the agreement

2911 that is:

2912 (a) authorized to administer the agreement; and

2913 (b) established in accordance with the agreement.

2914 (49) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

2915 (i) the executive branch of the state, including all departments, institutions, boards,
2916 divisions, bureaus, offices, commissions, and committees;

2917 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
2918 Office of the Court Administrator, and similar administrative units in the judicial branch;

2919 (iii) the legislative branch of the state, including the House of Representatives, the
2920 Senate, the Legislative Printing Office, the Office of Legislative Research and General
2921 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
2922 Analyst;

2923 (iv) the National Guard;

2924 (v) an independent entity as defined in Section 63E-1-102; or

2925 (vi) a political subdivision as defined in Section 17B-1-102.

2926 (b) "Governmental entity" does not include the state systems of public and higher
2927 education, including:

2928 (i) a college campus of the Utah College of Applied Technology;

2929 (ii) a school;

2930 (iii) the State Board of Education;

2931 (iv) the State Board of Regents; or

2932 (v) an institution of higher education.

2933 (50) "Hydroelectric energy" means water used as the sole source of energy to produce
2934 electricity.

2935 (51) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
2936 other fuels:

2937 (a) in mining or extraction of minerals;

2938 (b) in agricultural operations to produce an agricultural product up to the time of
2939 harvest or placing the agricultural product into a storage facility, including:

2940 (i) commercial greenhouses;

2941 (ii) irrigation pumps;

- 2942 (iii) farm machinery;
- 2943 (iv) implements of husbandry as defined in Subsection 41-1a-102[(23)](22) that are not
- 2944 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 2945 (v) other farming activities;
- 2946 (c) in manufacturing tangible personal property at an establishment described in SIC
- 2947 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 2948 Executive Office of the President, Office of Management and Budget;
- 2949 (d) by a scrap recycler if:
- 2950 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 2951 one or more of the following items into prepared grades of processed materials for use in new
- 2952 products:
- 2953 (A) iron;
- 2954 (B) steel;
- 2955 (C) nonferrous metal;
- 2956 (D) paper;
- 2957 (E) glass;
- 2958 (F) plastic;
- 2959 (G) textile; or
- 2960 (H) rubber; and
- 2961 (ii) the new products under Subsection (51)(d)(i) would otherwise be made with
- 2962 nonrecycled materials; or
- 2963 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
- 2964 cogeneration facility as defined in Section 54-2-1.
- 2965 (52) (a) Except as provided in Subsection (52)(b), "installation charge" means a charge
- 2966 for installing:
- 2967 (i) tangible personal property; or
- 2968 (ii) a product transferred electronically.
- 2969 (b) "Installation charge" does not include a charge for:
- 2970 (i) repairs or renovations of:
- 2971 (A) tangible personal property; or
- 2972 (B) a product transferred electronically; or

- 2973 (ii) attaching tangible personal property or a product transferred electronically:
2974 (A) to other tangible personal property; and
2975 (B) as part of a manufacturing or fabrication process.
- 2976 (53) "Institution of higher education" means an institution of higher education listed in
2977 Section 53B-2-101.
- 2978 (54) (a) "Lease" or "rental" means a transfer of possession or control of tangible
2979 personal property or a product transferred electronically for:
2980 (i) (A) a fixed term; or
2981 (B) an indeterminate term; and
2982 (ii) consideration.
- 2983 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
2984 amount of consideration may be increased or decreased by reference to the amount realized
2985 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
2986 Code.
- 2987 (c) "Lease" or "rental" does not include:
2988 (i) a transfer of possession or control of property under a security agreement or
2989 deferred payment plan that requires the transfer of title upon completion of the required
2990 payments;
2991 (ii) a transfer of possession or control of property under an agreement that requires the
2992 transfer of title:
2993 (A) upon completion of required payments; and
2994 (B) if the payment of an option price does not exceed the greater of:
2995 (I) \$100; or
2996 (II) 1% of the total required payments; or
2997 (iii) providing tangible personal property along with an operator for a fixed period of
2998 time or an indeterminate period of time if the operator is necessary for equipment to perform as
2999 designed.
- 3000 (d) For purposes of Subsection (54)(c)(iii), an operator is necessary for equipment to
3001 perform as designed if the operator's duties exceed the:
3002 (i) set-up of tangible personal property;
3003 (ii) maintenance of tangible personal property; or

3004 (iii) inspection of tangible personal property.

3005 (55) "Life science establishment" means an establishment in this state that is classified
3006 under the following NAICS codes of the 2007 North American Industry Classification System
3007 of the federal Executive Office of the President, Office of Management and Budget:

3008 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

3009 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
3010 Manufacturing; or

3011 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

3012 (56) "Life science research and development facility" means a facility owned, leased,
3013 or rented by a life science establishment if research and development is performed in 51% or
3014 more of the total area of the facility.

3015 (57) "Load and leave" means delivery to a purchaser by use of a tangible storage media
3016 if the tangible storage media is not physically transferred to the purchaser.

3017 (58) "Local taxing jurisdiction" means a:

3018 (a) county that is authorized to impose an agreement sales and use tax;

3019 (b) city that is authorized to impose an agreement sales and use tax; or

3020 (c) town that is authorized to impose an agreement sales and use tax.

3021 (59) "Manufactured home" is as defined in Section 15A-1-302.

3022 (60) For purposes of Section 59-12-104, "manufacturing facility" means:

3023 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
3024 Industrial Classification Manual of the federal Executive Office of the President, Office of
3025 Management and Budget;

3026 (b) a scrap recycler if:

3027 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
3028 one or more of the following items into prepared grades of processed materials for use in new
3029 products:

3030 (A) iron;

3031 (B) steel;

3032 (C) nonferrous metal;

3033 (D) paper;

3034 (E) glass;

- 3035 (F) plastic;
- 3036 (G) textile; or
- 3037 (H) rubber; and
- 3038 (ii) the new products under Subsection (60)(b)(i) would otherwise be made with
- 3039 nonrecycled materials; or
- 3040 (c) a cogeneration facility as defined in Section 54-2-1.
- 3041 (61) "Member of the immediate family of the producer" means a person who is related
- 3042 to a producer described in Subsection 59-12-104(20)(a) as a:
- 3043 (a) child or stepchild, regardless of whether the child or stepchild is:
- 3044 (i) an adopted child or adopted stepchild; or
- 3045 (ii) a foster child or foster stepchild;
- 3046 (b) grandchild or stepgrandchild;
- 3047 (c) grandparent or stepgrandparent;
- 3048 (d) nephew or stepnephew;
- 3049 (e) niece or stepniece;
- 3050 (f) parent or stepparent;
- 3051 (g) sibling or stepsibling;
- 3052 (h) spouse;
- 3053 (i) person who is the spouse of a person described in Subsections (61)(a) through (g);
- 3054 or
- 3055 (j) person similar to a person described in Subsections (61)(a) through (i) as
- 3056 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 3057 Administrative Rulemaking Act.
- 3058 (62) "Mobile home" is as defined in Section 15A-1-302.
- 3059 (63) "Mobile telecommunications service" is as defined in the Mobile
- 3060 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 3061 (64) (a) "Mobile wireless service" means a telecommunications service, regardless of
- 3062 the technology used, if:
- 3063 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 3064 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 3065 (iii) the origination point described in Subsection (64)(a)(i) and the termination point

3066 described in Subsection (64)(a)(ii) are not fixed.

3067 (b) "Mobile wireless service" includes a telecommunications service that is provided
3068 by a commercial mobile radio service provider.

3069 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3070 commission may by rule define "commercial mobile radio service provider."

3071 (65) (a) Except as provided in Subsection (65)(c), "mobility enhancing equipment"
3072 means equipment that is:

3073 (i) primarily and customarily used to provide or increase the ability to move from one
3074 place to another;

3075 (ii) appropriate for use in a:

3076 (A) home; or

3077 (B) motor vehicle; and

3078 (iii) not generally used by persons with normal mobility.

3079 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
3080 the equipment described in Subsection (65)(a).

3081 (c) Notwithstanding Subsection (65)(a), "mobility enhancing equipment" does not
3082 include:

3083 (i) a motor vehicle;

3084 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
3085 vehicle manufacturer;

3086 (iii) durable medical equipment; or

3087 (iv) a prosthetic device.

3088 (66) "Model 1 seller" means a seller registered under the agreement that has selected a
3089 certified service provider as the seller's agent to perform all of the seller's sales and use tax
3090 functions for agreement sales and use taxes other than the seller's obligation under Section
3091 59-12-124 to remit a tax on the seller's own purchases.

3092 (67) "Model 2 seller" means a seller registered under the agreement that:

3093 (a) except as provided in Subsection (67)(b), has selected a certified automated system
3094 to perform the seller's sales tax functions for agreement sales and use taxes; and

3095 (b) notwithstanding Subsection (67)(a), retains responsibility for remitting all of the
3096 sales tax:

3097 (i) collected by the seller; and
3098 (ii) to the appropriate local taxing jurisdiction.

3099 (68) (a) Subject to Subsection (68)(b), "model 3 seller" means a seller registered under
3100 the agreement that has:

- 3101 (i) sales in at least five states that are members of the agreement;
- 3102 (ii) total annual sales revenues of at least \$500,000,000;
- 3103 (iii) a proprietary system that calculates the amount of tax:
 - 3104 (A) for an agreement sales and use tax; and
 - 3105 (B) due to each local taxing jurisdiction; and
- 3106 (iv) entered into a performance agreement with the governing board of the agreement.

3107 (b) For purposes of Subsection (68)(a), "model 3 seller" includes an affiliated group of
3108 sellers using the same proprietary system.

3109 (69) "Model 4 seller" means a seller that is registered under the agreement and is not a
3110 model 1 seller, model 2 seller, or model 3 seller.

3111 (70) "Modular home" means a modular unit as defined in Section 15A-1-302.

3112 (71) "Motor vehicle" is as defined in Section 41-1a-102.

3113 (72) "Oil sands" means impregnated bituminous sands that:

3114 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
3115 other hydrocarbons, or otherwise treated;

3116 (b) yield mixtures of liquid hydrocarbon; and

3117 (c) require further processing other than mechanical blending before becoming finished
3118 petroleum products.

3119 (73) "Oil shale" means a group of fine black to dark brown shales containing kerogen
3120 material that yields petroleum upon heating and distillation.

3121 (74) "Optional computer software maintenance contract" means a computer software
3122 maintenance contract that a customer is not obligated to purchase as a condition to the retail
3123 sale of computer software.

3124 (75) (a) "Other fuels" means products that burn independently to produce heat or
3125 energy.

3126 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
3127 personal property.

3128 (76) (a) "Paging service" means a telecommunications service that provides
3129 transmission of a coded radio signal for the purpose of activating a specific pager.

3130 (b) For purposes of Subsection (76)(a), the transmission of a coded radio signal
3131 includes a transmission by message or sound.

3132 (77) "Pawnbroker" is as defined in Section 13-32a-102.

3133 (78) "Pawn transaction" is as defined in Section 13-32a-102.

3134 (79) (a) "Permanently attached to real property" means that for tangible personal
3135 property attached to real property:

3136 (i) the attachment of the tangible personal property to the real property:

3137 (A) is essential to the use of the tangible personal property; and

3138 (B) suggests that the tangible personal property will remain attached to the real
3139 property in the same place over the useful life of the tangible personal property; or

3140 (ii) if the tangible personal property is detached from the real property, the detachment
3141 would:

3142 (A) cause substantial damage to the tangible personal property; or

3143 (B) require substantial alteration or repair of the real property to which the tangible
3144 personal property is attached.

3145 (b) "Permanently attached to real property" includes:

3146 (i) the attachment of an accessory to the tangible personal property if the accessory is:

3147 (A) essential to the operation of the tangible personal property; and

3148 (B) attached only to facilitate the operation of the tangible personal property;

3149 (ii) a temporary detachment of tangible personal property from real property for a
3150 repair or renovation if the repair or renovation is performed where the tangible personal
3151 property and real property are located; or

3152 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
3153 Subsection (79)(c)(iii) or (iv).

3154 (c) "Permanently attached to real property" does not include:

3155 (i) the attachment of portable or movable tangible personal property to real property if
3156 that portable or movable tangible personal property is attached to real property only for:

3157 (A) convenience;

3158 (B) stability; or

- 3159 (C) for an obvious temporary purpose;
- 3160 (ii) the detachment of tangible personal property from real property except for the
- 3161 detachment described in Subsection (79)(b)(ii);
- 3162 (iii) an attachment of the following tangible personal property to real property if the
- 3163 attachment to real property is only through a line that supplies water, electricity, gas,
- 3164 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 3165 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 3166 (A) a computer;
- 3167 (B) a telephone;
- 3168 (C) a television; or
- 3169 (D) tangible personal property similar to Subsections (79)(c)(iii)(A) through (C) as
- 3170 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 3171 Administrative Rulemaking Act; or
- 3172 (iv) an item listed in Subsection (117)(c).
- 3173 (80) "Person" includes any individual, firm, partnership, joint venture, association,
- 3174 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
- 3175 municipality, district, or other local governmental entity of the state, or any group or
- 3176 combination acting as a unit.
- 3177 (81) "Place of primary use":
- 3178 (a) for telecommunications service other than mobile telecommunications service,
- 3179 means the street address representative of where the customer's use of the telecommunications
- 3180 service primarily occurs, which shall be:
- 3181 (i) the residential street address of the customer; or
- 3182 (ii) the primary business street address of the customer; or
- 3183 (b) for mobile telecommunications service, is as defined in the Mobile
- 3184 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 3185 (82) (a) "Postpaid calling service" means a telecommunications service a person
- 3186 obtains by making a payment on a call-by-call basis:
- 3187 (i) through the use of a:
- 3188 (A) bank card;
- 3189 (B) credit card;

3190 (C) debit card; or
3191 (D) travel card; or
3192 (ii) by a charge made to a telephone number that is not associated with the origination
3193 or termination of the telecommunications service.

3194 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
3195 service, that would be a prepaid wireless calling service if the service were exclusively a
3196 telecommunications service.

3197 (83) "Postproduction" means an activity related to the finishing or duplication of a
3198 medium described in Subsection 59-12-104(54)(a).

3199 (84) "Prepaid calling service" means a telecommunications service:

3200 (a) that allows a purchaser access to telecommunications service that is exclusively
3201 telecommunications service;

3202 (b) that:

3203 (i) is paid for in advance; and

3204 (ii) enables the origination of a call using an:

3205 (A) access number; or

3206 (B) authorization code;

3207 (c) that is dialed:

3208 (i) manually; or

3209 (ii) electronically; and

3210 (d) sold in predetermined units or dollars that decline:

3211 (i) by a known amount; and

3212 (ii) with use.

3213 (85) "Prepaid wireless calling service" means a telecommunications service:

3214 (a) that provides the right to utilize:

3215 (i) mobile wireless service; and

3216 (ii) other service that is not a telecommunications service, including:

3217 (A) the download of a product transferred electronically;

3218 (B) a content service; or

3219 (C) an ancillary service;

3220 (b) that:

- 3221 (i) is paid for in advance; and
- 3222 (ii) enables the origination of a call using an:
 - 3223 (A) access number; or
 - 3224 (B) authorization code;
- 3225 (c) that is dialed:
 - 3226 (i) manually; or
 - 3227 (ii) electronically; and
- 3228 (d) sold in predetermined units or dollars that decline:
 - 3229 (i) by a known amount; and
 - 3230 (ii) with use.
- 3231 (86) (a) "Prepared food" means:
 - 3232 (i) food:
 - 3233 (A) sold in a heated state; or
 - 3234 (B) heated by a seller;
 - 3235 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
 - 3236 item; or
 - 3237 (iii) except as provided in Subsection (86)(c), food sold with an eating utensil provided
 - 3238 by the seller, including a:
 - 3239 (A) plate;
 - 3240 (B) knife;
 - 3241 (C) fork;
 - 3242 (D) spoon;
 - 3243 (E) glass;
 - 3244 (F) cup;
 - 3245 (G) napkin; or
 - 3246 (H) straw.
 - 3247 (b) "Prepared food" does not include:
 - 3248 (i) food that a seller only:
 - 3249 (A) cuts;
 - 3250 (B) repackages; or
 - 3251 (C) pasteurizes; or

- 3252 (ii) (A) the following:
- 3253 (I) raw egg;
- 3254 (II) raw fish;
- 3255 (III) raw meat;
- 3256 (IV) raw poultry; or
- 3257 (V) a food containing an item described in Subsections (86)(b)(ii)(A)(I) through (IV);
- 3258 and
- 3259 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 3260 Food and Drug Administration's Food Code that a consumer cook the items described in
- 3261 Subsection (86)(b)(ii)(A) to prevent food borne illness; or
- 3262 (iii) the following if sold without eating utensils provided by the seller:
- 3263 (A) food and food ingredients sold by a seller if the seller's proper primary
- 3264 classification under the 2002 North American Industry Classification System of the federal
- 3265 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 3266 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 3267 Manufacturing;
- 3268 (B) food and food ingredients sold in an unheated state:
- 3269 (I) by weight or volume; and
- 3270 (II) as a single item; or
- 3271 (C) a bakery item, including:
- 3272 (I) a bagel;
- 3273 (II) a bar;
- 3274 (III) a biscuit;
- 3275 (IV) bread;
- 3276 (V) a bun;
- 3277 (VI) a cake;
- 3278 (VII) a cookie;
- 3279 (VIII) a croissant;
- 3280 (IX) a danish;
- 3281 (X) a donut;
- 3282 (XI) a muffin;

- 3283 (XII) a pastry;
- 3284 (XIII) a pie;
- 3285 (XIV) a roll;
- 3286 (XV) a tart;
- 3287 (XVI) a torte; or
- 3288 (XVII) a tortilla.
- 3289 (c) Notwithstanding Subsection (86)(a)(iii), an eating utensil provided by the seller
- 3290 does not include the following used to transport the food:
 - 3291 (i) a container; or
 - 3292 (ii) packaging.
- 3293 (87) "Prescription" means an order, formula, or recipe that is issued:
 - 3294 (a) (i) orally;
 - 3295 (ii) in writing;
 - 3296 (iii) electronically; or
 - 3297 (iv) by any other manner of transmission; and
 - 3298 (b) by a licensed practitioner authorized by the laws of a state.
- 3299 (88) (a) Except as provided in Subsection (88)(b)(ii) or (iii), "prewritten computer
- 3300 software" means computer software that is not designed and developed:
 - 3301 (i) by the author or other creator of the computer software; and
 - 3302 (ii) to the specifications of a specific purchaser.
- 3303 (b) "Prewritten computer software" includes:
 - 3304 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
 - 3305 software is not designed and developed:
 - 3306 (A) by the author or other creator of the computer software; and
 - 3307 (B) to the specifications of a specific purchaser;
 - 3308 (ii) notwithstanding Subsection (88)(a), computer software designed and developed by
 - 3309 the author or other creator of the computer software to the specifications of a specific purchaser
 - 3310 if the computer software is sold to a person other than the purchaser; or
 - 3311 (iii) notwithstanding Subsection (88)(a) and except as provided in Subsection (88)(c),
 - 3312 prewritten computer software or a prewritten portion of prewritten computer software:
 - 3313 (A) that is modified or enhanced to any degree; and

3314 (B) if the modification or enhancement described in Subsection (88)(b)(iii)(A) is
3315 designed and developed to the specifications of a specific purchaser.

3316 (c) Notwithstanding Subsection (88)(b)(iii), "prewritten computer software" does not
3317 include a modification or enhancement described in Subsection (88)(b)(iii) if the charges for
3318 the modification or enhancement are:

3319 (i) reasonable; and

3320 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
3321 invoice or other statement of price provided to the purchaser at the time of sale or later, as
3322 demonstrated by:

3323 (A) the books and records the seller keeps at the time of the transaction in the regular
3324 course of business, including books and records the seller keeps at the time of the transaction in
3325 the regular course of business for nontax purposes;

3326 (B) a preponderance of the facts and circumstances at the time of the transaction; and

3327 (C) the understanding of all of the parties to the transaction.

3328 (89) (a) "Private communication service" means a telecommunications service:

3329 (i) that entitles a customer to exclusive or priority use of one or more communications
3330 channels between or among termination points; and

3331 (ii) regardless of the manner in which the one or more communications channels are
3332 connected.

3333 (b) "Private communications service" includes the following provided in connection
3334 with the use of one or more communications channels:

3335 (i) an extension line;

3336 (ii) a station;

3337 (iii) switching capacity; or

3338 (iv) another associated service that is provided in connection with the use of one or
3339 more communications channels as defined in Section 59-12-215.

3340 (90) (a) Except as provided in Subsection (90)(b), "product transferred electronically"
3341 means a product transferred electronically that would be subject to a tax under this chapter if
3342 that product was transferred in a manner other than electronically.

3343 (b) "Product transferred electronically" does not include:

3344 (i) an ancillary service;

- 3345 (ii) computer software; or
- 3346 (iii) a telecommunications service.
- 3347 (91) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 3348 (i) artificially replace a missing portion of the body;
- 3349 (ii) prevent or correct a physical deformity or physical malfunction; or
- 3350 (iii) support a weak or deformed portion of the body.
- 3351 (b) "Prosthetic device" includes:
- 3352 (i) parts used in the repairs or renovation of a prosthetic device;
- 3353 (ii) replacement parts for a prosthetic device;
- 3354 (iii) a dental prosthesis; or
- 3355 (iv) a hearing aid.
- 3356 (c) "Prosthetic device" does not include:
- 3357 (i) corrective eyeglasses; or
- 3358 (ii) contact lenses.
- 3359 (92) (a) "Protective equipment" means an item:
- 3360 (i) for human wear; and
- 3361 (ii) that is:
- 3362 (A) designed as protection:
- 3363 (I) to the wearer against injury or disease; or
- 3364 (II) against damage or injury of other persons or property; and
- 3365 (B) not suitable for general use.
- 3366 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3367 commission shall make rules:
- 3368 (i) listing the items that constitute "protective equipment"; and
- 3369 (ii) that are consistent with the list of items that constitute "protective equipment"
- 3370 under the agreement.
- 3371 (93) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 3372 printed matter, other than a photocopy:
- 3373 (i) regardless of:
- 3374 (A) characteristics;
- 3375 (B) copyright;

3376 (C) form;
3377 (D) format;
3378 (E) method of reproduction; or
3379 (F) source; and
3380 (ii) made available in printed or electronic format.
3381 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3382 commission may by rule define the term "photocopy."
3383 (94) (a) "Purchase price" and "sales price" mean the total amount of consideration:
3384 (i) valued in money; and
3385 (ii) for which tangible personal property, a product transferred electronically, or
3386 services are:
3387 (A) sold;
3388 (B) leased; or
3389 (C) rented.
3390 (b) "Purchase price" and "sales price" include:
3391 (i) the seller's cost of the tangible personal property, a product transferred
3392 electronically, or services sold;
3393 (ii) expenses of the seller, including:
3394 (A) the cost of materials used;
3395 (B) a labor cost;
3396 (C) a service cost;
3397 (D) interest;
3398 (E) a loss;
3399 (F) the cost of transportation to the seller; or
3400 (G) a tax imposed on the seller;
3401 (iii) a charge by the seller for any service necessary to complete the sale; or
3402 (iv) consideration a seller receives from a person other than the purchaser if:
3403 (A) (I) the seller actually receives consideration from a person other than the purchaser;
3404 and
3405 (II) the consideration described in Subsection (94)(b)(iv)(A)(I) is directly related to a
3406 price reduction or discount on the sale;

3407 (B) the seller has an obligation to pass the price reduction or discount through to the
3408 purchaser;

3409 (C) the amount of the consideration attributable to the sale is fixed and determinable by
3410 the seller at the time of the sale to the purchaser; and

3411 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
3412 seller to claim a price reduction or discount; and

3413 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
3414 coupon, or other documentation with the understanding that the person other than the seller
3415 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

3416 (II) the purchaser identifies that purchaser to the seller as a member of a group or
3417 organization allowed a price reduction or discount, except that a preferred customer card that is
3418 available to any patron of a seller does not constitute membership in a group or organization
3419 allowed a price reduction or discount; or

3420 (III) the price reduction or discount is identified as a third party price reduction or
3421 discount on the:

3422 (Aa) invoice the purchaser receives; or

3423 (Bb) certificate, coupon, or other documentation the purchaser presents.

3424 (c) "Purchase price" and "sales price" do not include:

3425 (i) a discount:

3426 (A) in a form including:

3427 (I) cash;

3428 (II) term; or

3429 (III) coupon;

3430 (B) that is allowed by a seller;

3431 (C) taken by a purchaser on a sale; and

3432 (D) that is not reimbursed by a third party; or

3433 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
3434 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
3435 sale or later, as demonstrated by the books and records the seller keeps at the time of the
3436 transaction in the regular course of business, including books and records the seller keeps at the
3437 time of the transaction in the regular course of business for nontax purposes, by a

3438 preponderance of the facts and circumstances at the time of the transaction, and by the
3439 understanding of all of the parties to the transaction:

3440 (A) the following from credit extended on the sale of tangible personal property or
3441 services:

3442 (I) a carrying charge;
3443 (II) a financing charge; or
3444 (III) an interest charge;

3445 (B) a delivery charge;
3446 (C) an installation charge;
3447 (D) a manufacturer rebate on a motor vehicle; or
3448 (E) a tax or fee legally imposed directly on the consumer.

3449 (95) "Purchaser" means a person to whom:

3450 (a) a sale of tangible personal property is made;
3451 (b) a product is transferred electronically; or
3452 (c) a service is furnished.

3453 (96) "Regularly rented" means:

3454 (a) rented to a guest for value three or more times during a calendar year; or
3455 (b) advertised or held out to the public as a place that is regularly rented to guests for
3456 value.

3457 (97) "Rental" is as defined in Subsection (54).

3458 (98) (a) Except as provided in Subsection (98)(b), "repairs or renovations of tangible
3459 personal property" means:

3460 (i) a repair or renovation of tangible personal property that is not permanently attached
3461 to real property; or
3462 (ii) attaching tangible personal property or a product transferred electronically to other
3463 tangible personal property or detaching tangible personal property or a product transferred
3464 electronically from other tangible personal property if:

3465 (A) the other tangible personal property to which the tangible personal property or
3466 product transferred electronically is attached or from which the tangible personal property or
3467 product transferred electronically is detached is not permanently attached to real property; and
3468 (B) the attachment of tangible personal property or a product transferred electronically

3469 to other tangible personal property or detachment of tangible personal property or a product
3470 transferred electronically from other tangible personal property is made in conjunction with a
3471 repair or replacement of tangible personal property or a product transferred electronically.

3472 (b) "Repairs or renovations of tangible personal property" does not include:

3473 (i) attaching prewritten computer software to other tangible personal property if the
3474 other tangible personal property to which the prewritten computer software is attached is not
3475 permanently attached to real property; or

3476 (ii) detaching prewritten computer software from other tangible personal property if the
3477 other tangible personal property from which the prewritten computer software is detached is
3478 not permanently attached to real property.

3479 (99) "Research and development" means the process of inquiry or experimentation
3480 aimed at the discovery of facts, devices, technologies, or applications and the process of
3481 preparing those devices, technologies, or applications for marketing.

3482 (100) (a) "Residential telecommunications services" means a telecommunications
3483 service or an ancillary service that is provided to an individual for personal use:

3484 (i) at a residential address; or

3485 (ii) at an institution, including a nursing home or a school, if the telecommunications
3486 service or ancillary service is provided to and paid for by the individual residing at the
3487 institution rather than the institution.

3488 (b) For purposes of Subsection (100)(a)(i), a residential address includes an:

3489 (i) apartment; or

3490 (ii) other individual dwelling unit.

3491 (101) "Residential use" means the use in or around a home, apartment building,
3492 sleeping quarters, and similar facilities or accommodations.

3493 (102) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
3494 than:

3495 (a) resale;

3496 (b) sublease; or

3497 (c) subrent.

3498 (103) (a) "Retailer" means any person engaged in a regularly organized business in
3499 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and

3500 who is selling to the user or consumer and not for resale.

3501 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
3502 engaged in the business of selling to users or consumers within the state.

3503 (104) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
3504 otherwise, in any manner, of tangible personal property or any other taxable transaction under
3505 Subsection 59-12-103(1), for consideration.

3506 (b) "Sale" includes:

3507 (i) installment and credit sales;

3508 (ii) any closed transaction constituting a sale;

3509 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
3510 chapter;

3511 (iv) any transaction if the possession of property is transferred but the seller retains the
3512 title as security for the payment of the price; and

3513 (v) any transaction under which right to possession, operation, or use of any article of
3514 tangible personal property is granted under a lease or contract and the transfer of possession
3515 would be taxable if an outright sale were made.

3516 (105) "Sale at retail" is as defined in Subsection (102).

3517 (106) "Sale-leaseback transaction" means a transaction by which title to tangible
3518 personal property or a product transferred electronically that is subject to a tax under this
3519 chapter is transferred:

3520 (a) by a purchaser-lessee;

3521 (b) to a lessor;

3522 (c) for consideration; and

3523 (d) if:

3524 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
3525 of the tangible personal property or product transferred electronically;

3526 (ii) the sale of the tangible personal property or product transferred electronically to the
3527 lessor is intended as a form of financing:

3528 (A) for the tangible personal property or product transferred electronically; and

3529 (B) to the purchaser-lessee; and

3530 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

3531 is required to:

3532 (A) capitalize the tangible personal property or product transferred electronically for
3533 financial reporting purposes; and

3534 (B) account for the lease payments as payments made under a financing arrangement.

3535 (107) "Sales price" is as defined in Subsection (94).

3536 (108) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
3537 amounts charged by a school:

3538 (i) sales that are directly related to the school's educational functions or activities

3539 including:

3540 (A) the sale of:

3541 (I) textbooks;

3542 (II) textbook fees;

3543 (III) laboratory fees;

3544 (IV) laboratory supplies; or

3545 (V) safety equipment;

3546 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

3547 that:

3548 (I) a student is specifically required to wear as a condition of participation in a
3549 school-related event or school-related activity; and

3550 (II) is not readily adaptable to general or continued usage to the extent that it takes the
3551 place of ordinary clothing;

3552 (C) sales of the following if the net or gross revenues generated by the sales are
3553 deposited into a school district fund or school fund dedicated to school meals:

3554 (I) food and food ingredients; or

3555 (II) prepared food; or

3556 (D) transportation charges for official school activities; or

3557 (ii) amounts paid to or amounts charged by a school for admission to a school-related
3558 event or school-related activity.

3559 (b) "Sales relating to schools" does not include:

3560 (i) bookstore sales of items that are not educational materials or supplies;

3561 (ii) except as provided in Subsection (108)(a)(i)(B):

- 3562 (A) clothing;
- 3563 (B) clothing accessories or equipment;
- 3564 (C) protective equipment; or
- 3565 (D) sports or recreational equipment; or
- 3566 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 3567 event or school-related activity if the amounts paid or charged are passed through to a person:
- 3568 (A) other than a:
- 3569 (I) school;
- 3570 (II) nonprofit organization authorized by a school board or a governing body of a
- 3571 private school to organize and direct a competitive secondary school activity; or
- 3572 (III) nonprofit association authorized by a school board or a governing body of a
- 3573 private school to organize and direct a competitive secondary school activity; and
- 3574 (B) that is required to collect sales and use taxes under this chapter.
- 3575 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3576 commission may make rules defining the term "passed through."
- 3577 (109) For purposes of this section and Section 59-12-104, "school":
- 3578 (a) means:
- 3579 (i) an elementary school or a secondary school that:
- 3580 (A) is a:
- 3581 (I) public school; or
- 3582 (II) private school; and
- 3583 (B) provides instruction for one or more grades kindergarten through 12; or
- 3584 (ii) a public school district; and
- 3585 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 3586 (110) "Seller" means a person that makes a sale, lease, or rental of:
- 3587 (a) tangible personal property;
- 3588 (b) a product transferred electronically; or
- 3589 (c) a service.
- 3590 (111) (a) "Semiconductor fabricating, processing, research, or development materials"
- 3591 means tangible personal property or a product transferred electronically if the tangible personal
- 3592 property or product transferred electronically is:

- 3593 (i) used primarily in the process of:
- 3594 (A) (I) manufacturing a semiconductor;
- 3595 (II) fabricating a semiconductor; or
- 3596 (III) research or development of a:
- 3597 (Aa) semiconductor; or
- 3598 (Bb) semiconductor manufacturing process; or
- 3599 (B) maintaining an environment suitable for a semiconductor; or
- 3600 (ii) consumed primarily in the process of:
- 3601 (A) (I) manufacturing a semiconductor;
- 3602 (II) fabricating a semiconductor; or
- 3603 (III) research or development of a:
- 3604 (Aa) semiconductor; or
- 3605 (Bb) semiconductor manufacturing process; or
- 3606 (B) maintaining an environment suitable for a semiconductor.
- 3607 (b) "Semiconductor fabricating, processing, research, or development materials"
- 3608 includes:
- 3609 (i) parts used in the repairs or renovations of tangible personal property or a product
- 3610 transferred electronically described in Subsection (111)(a); or
- 3611 (ii) a chemical, catalyst, or other material used to:
- 3612 (A) produce or induce in a semiconductor a:
- 3613 (I) chemical change; or
- 3614 (II) physical change;
- 3615 (B) remove impurities from a semiconductor; or
- 3616 (C) improve the marketable condition of a semiconductor.
- 3617 (112) "Senior citizen center" means a facility having the primary purpose of providing
- 3618 services to the aged as defined in Section 62A-3-101.
- 3619 (113) "Simplified electronic return" means the electronic return:
- 3620 (a) described in Section 318(C) of the agreement; and
- 3621 (b) approved by the governing board of the agreement.
- 3622 (114) "Solar energy" means the sun used as the sole source of energy for producing
- 3623 electricity.

- 3624 (115) (a) "Sports or recreational equipment" means an item:
- 3625 (i) designed for human use; and
- 3626 (ii) that is:
- 3627 (A) worn in conjunction with:
- 3628 (I) an athletic activity; or
- 3629 (II) a recreational activity; and
- 3630 (B) not suitable for general use.
- 3631 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3632 commission shall make rules:
- 3633 (i) listing the items that constitute "sports or recreational equipment"; and
- 3634 (ii) that are consistent with the list of items that constitute "sports or recreational
- 3635 equipment" under the agreement.
- 3636 (116) "State" means the state of Utah, its departments, and agencies.
- 3637 (117) "Storage" means any keeping or retention of tangible personal property or any
- 3638 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
- 3639 sale in the regular course of business.
- 3640 (118) (a) Except as provided in Subsection (118)(d) or (e), "tangible personal property"
- 3641 means personal property that:
- 3642 (i) may be:
- 3643 (A) seen;
- 3644 (B) weighed;
- 3645 (C) measured;
- 3646 (D) felt; or
- 3647 (E) touched; or
- 3648 (ii) is in any manner perceptible to the senses.
- 3649 (b) "Tangible personal property" includes:
- 3650 (i) electricity;
- 3651 (ii) water;
- 3652 (iii) gas;
- 3653 (iv) steam; or
- 3654 (v) prewritten computer software, regardless of the manner in which the prewritten

3655 computer software is transferred.

3656 (c) "Tangible personal property" includes the following regardless of whether the item
3657 is attached to real property:

3658 (i) a dishwasher;

3659 (ii) a dryer;

3660 (iii) a freezer;

3661 (iv) a microwave;

3662 (v) a refrigerator;

3663 (vi) a stove;

3664 (vii) a washer; or

3665 (viii) an item similar to Subsections (118)(c)(i) through (vii) as determined by the
3666 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3667 Rulemaking Act.

3668 (d) "Tangible personal property" does not include a product that is transferred
3669 electronically.

3670 (e) "Tangible personal property" does not include the following if attached to real
3671 property, regardless of whether the attachment to real property is only through a line that
3672 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
3673 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3674 Rulemaking Act:

3675 (i) a hot water heater;

3676 (ii) a water filtration system; or

3677 (iii) a water softener system.

3678 (119) (a) "Telecommunications enabling or facilitating equipment, machinery, or
3679 software" means an item listed in Subsection (119)(b) if that item is purchased or leased
3680 primarily to enable or facilitate one or more of the following to function:

3681 (i) telecommunications switching or routing equipment, machinery, or software; or

3682 (ii) telecommunications transmission equipment, machinery, or software.

3683 (b) The following apply to Subsection (119)(a):

3684 (i) a pole;

3685 (ii) software;

- 3686 (iii) a supplementary power supply;
- 3687 (iv) temperature or environmental equipment or machinery;
- 3688 (v) test equipment;
- 3689 (vi) a tower; or
- 3690 (vii) equipment, machinery, or software that functions similarly to an item listed in
- 3691 Subsections (119)(b)(i) through (vi) as determined by the commission by rule made in
- 3692 accordance with Subsection (119)(c).

3693 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3694 commission may by rule define what constitutes equipment, machinery, or software that
3695 functions similarly to an item listed in Subsections (119)(b)(i) through (vi).

3696 (120) "Telecommunications equipment, machinery, or software required for 911
3697 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
3698 Sec. 20.18.

3699 (121) "Telecommunications maintenance or repair equipment, machinery, or software"
3700 means equipment, machinery, or software purchased or leased primarily to maintain or repair
3701 one or more of the following, regardless of whether the equipment, machinery, or software is
3702 purchased or leased as a spare part or as an upgrade or modification to one or more of the
3703 following:

- 3704 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 3705 (b) telecommunications switching or routing equipment, machinery, or software; or
- 3706 (c) telecommunications transmission equipment, machinery, or software.

3707 (122) (a) "Telecommunications service" means the electronic conveyance, routing, or
3708 transmission of audio, data, video, voice, or any other information or signal to a point, or
3709 among or between points.

3710 (b) "Telecommunications service" includes:

3711 (i) an electronic conveyance, routing, or transmission with respect to which a computer
3712 processing application is used to act:

- 3713 (A) on the code, form, or protocol of the content;
- 3714 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 3715 (C) regardless of whether the service:
- 3716 (I) is referred to as voice over Internet protocol service; or

- 3717 (II) is classified by the Federal Communications Commission as enhanced or value
- 3718 added;
- 3719 (ii) an 800 service;
- 3720 (iii) a 900 service;
- 3721 (iv) a fixed wireless service;
- 3722 (v) a mobile wireless service;
- 3723 (vi) a postpaid calling service;
- 3724 (vii) a prepaid calling service;
- 3725 (viii) a prepaid wireless calling service; or
- 3726 (ix) a private communications service.
- 3727 (c) "Telecommunications service" does not include:
- 3728 (i) advertising, including directory advertising;
- 3729 (ii) an ancillary service;
- 3730 (iii) a billing and collection service provided to a third party;
- 3731 (iv) a data processing and information service if:
- 3732 (A) the data processing and information service allows data to be:
- 3733 (I) (Aa) acquired;
- 3734 (Bb) generated;
- 3735 (Cc) processed;
- 3736 (Dd) retrieved; or
- 3737 (Ee) stored; and
- 3738 (II) delivered by an electronic transmission to a purchaser; and
- 3739 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 3740 or information;
- 3741 (v) installation or maintenance of the following on a customer's premises:
- 3742 (A) equipment; or
- 3743 (B) wiring;
- 3744 (vi) Internet access service;
- 3745 (vii) a paging service;
- 3746 (viii) a product transferred electronically, including:
- 3747 (A) music;

- 3748 (B) reading material;
- 3749 (C) a ring tone;
- 3750 (D) software; or
- 3751 (E) video;
- 3752 (ix) a radio and television audio and video programming service:
- 3753 (A) regardless of the medium; and
- 3754 (B) including:
 - 3755 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 3756 programming service by a programming service provider;
 - 3757 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 3758 (III) audio and video programming services delivered by a commercial mobile radio
 - 3759 service provider as defined in 47 C.F.R. Sec. 20.3;
 - 3760 (x) a value-added nonvoice data service; or
 - 3761 (xi) tangible personal property.
- 3762 (123) (a) "Telecommunications service provider" means a person that:
 - 3763 (i) owns, controls, operates, or manages a telecommunications service; and
 - 3764 (ii) engages in an activity described in Subsection (123)(a)(i) for the shared use with or
 - 3765 resale to any person of the telecommunications service.
- 3766 (b) A person described in Subsection (123)(a) is a telecommunications service provider
- 3767 whether or not the Public Service Commission of Utah regulates:
 - 3768 (i) that person; or
 - 3769 (ii) the telecommunications service that the person owns, controls, operates, or
 - 3770 manages.
- 3771 (124) (a) "Telecommunications switching or routing equipment, machinery, or
- 3772 software" means an item listed in Subsection (124)(b) if that item is purchased or leased
- 3773 primarily for switching or routing:
 - 3774 (i) an ancillary service;
 - 3775 (ii) data communications;
 - 3776 (iii) voice communications; or
 - 3777 (iv) telecommunications service.
- 3778 (b) The following apply to Subsection (124)(a):

- 3779 (i) a bridge;
- 3780 (ii) a computer;
- 3781 (iii) a cross connect;
- 3782 (iv) a modem;
- 3783 (v) a multiplexer;
- 3784 (vi) plug in circuitry;
- 3785 (vii) a router;
- 3786 (viii) software;
- 3787 (ix) a switch; or
- 3788 (x) equipment, machinery, or software that functions similarly to an item listed in
- 3789 Subsections (124)(b)(i) through (ix) as determined by the commission by rule made in
- 3790 accordance with Subsection (124)(c).

3791 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3792 commission may by rule define what constitutes equipment, machinery, or software that

3793 functions similarly to an item listed in Subsections (124)(b)(i) through (ix).

3794 (125) (a) "Telecommunications transmission equipment, machinery, or software"

3795 means an item listed in Subsection (125)(b) if that item is purchased or leased primarily for

3796 sending, receiving, or transporting:

- 3797 (i) an ancillary service;
- 3798 (ii) data communications;
- 3799 (iii) voice communications; or
- 3800 (iv) telecommunications service.

3801 (b) The following apply to Subsection (125)(a):

- 3802 (i) an amplifier;
- 3803 (ii) a cable;
- 3804 (iii) a closure;
- 3805 (iv) a conduit;
- 3806 (v) a controller;
- 3807 (vi) a duplexer;
- 3808 (vii) a filter;
- 3809 (viii) an input device;

- 3810 (ix) an input/output device;
- 3811 (x) an insulator;
- 3812 (xi) microwave machinery or equipment;
- 3813 (xii) an oscillator;
- 3814 (xiii) an output device;
- 3815 (xiv) a pedestal;
- 3816 (xv) a power converter;
- 3817 (xvi) a power supply;
- 3818 (xvii) a radio channel;
- 3819 (xviii) a radio receiver;
- 3820 (xix) a radio transmitter;
- 3821 (xx) a repeater;
- 3822 (xxi) software;
- 3823 (xxii) a terminal;
- 3824 (xxiii) a timing unit;
- 3825 (xxiv) a transformer;
- 3826 (xxv) a wire; or
- 3827 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 3828 Subsections (125)(b)(i) through (xxv) as determined by the commission by rule made in
- 3829 accordance with Subsection (125)(c).

3830 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3831 commission may by rule define what constitutes equipment, machinery, or software that
3832 functions similarly to an item listed in Subsections (125)(b)(i) through (xxv).

3833 (126) (a) "Textbook for a higher education course" means a textbook or other printed
3834 material that is required for a course:

- 3835 (i) offered by an institution of higher education; and
 - 3836 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 3837 (b) "Textbook for a higher education course" includes a textbook in electronic format.

3838 (127) "Tobacco" means:

- 3839 (a) a cigarette;
- 3840 (b) a cigar;

3841 (c) chewing tobacco;

3842 (d) pipe tobacco; or

3843 (e) any other item that contains tobacco.

3844 (128) "Unassisted amusement device" means an amusement device, skill device, or
3845 ride device that is started and stopped by the purchaser or renter of the right to use or operate
3846 the amusement device, skill device, or ride device.

3847 (129) (a) "Use" means the exercise of any right or power over tangible personal
3848 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
3849 incident to the ownership or the leasing of that tangible personal property, product transferred
3850 electronically, or service.

3851 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
3852 property, a product transferred electronically, or a service in the regular course of business and
3853 held for resale.

3854 (130) "Value-added nonvoice data service" means a service:

3855 (a) that otherwise meets the definition of a telecommunications service except that a
3856 computer processing application is used to act primarily for a purpose other than conveyance,
3857 routing, or transmission; and

3858 (b) with respect to which a computer processing application is used to act on data or
3859 information:

3860 (i) code;

3861 (ii) content;

3862 (iii) form; or

3863 (iv) protocol.

3864 (131) (a) Subject to Subsection (131)(b), "vehicle" means the following that are
3865 required to be titled, registered, or titled and registered:

3866 (i) an aircraft as defined in Section 72-10-102;

3867 (ii) a vehicle as defined in Section 41-1a-102;

3868 (iii) an off-highway vehicle as defined in Section 41-22-2; or

3869 (iv) a vessel as defined in Section 41-1a-102.

3870 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

3871 (i) a vehicle described in Subsection (131)(a); or

- 3872 (ii) (A) a locomotive;
- 3873 (B) a freight car;
- 3874 (C) railroad work equipment; or
- 3875 (D) other railroad rolling stock.
- 3876 (132) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 3877 exchanging a vehicle as defined in Subsection (131).
- 3878 (133) (a) "Vertical service" means an ancillary service that:
- 3879 (i) is offered in connection with one or more telecommunications services; and
- 3880 (ii) offers an advanced calling feature that allows a customer to:
- 3881 (A) identify a caller; and
- 3882 (B) manage multiple calls and call connections.
- 3883 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 3884 conference bridging service.
- 3885 (134) (a) "Voice mail service" means an ancillary service that enables a customer to
- 3886 receive, send, or store a recorded message.
- 3887 (b) "Voice mail service" does not include a vertical service that a customer is required
- 3888 to have in order to utilize a voice mail service.
- 3889 (135) (a) Except as provided in Subsection (135)(b), "waste energy facility" means a
- 3890 facility that generates electricity:
- 3891 (i) using as the primary source of energy waste materials that would be placed in a
- 3892 landfill or refuse pit if it were not used to generate electricity, including:
- 3893 (A) tires;
- 3894 (B) waste coal;
- 3895 (C) oil shale; or
- 3896 (D) municipal solid waste; and
- 3897 (ii) in amounts greater than actually required for the operation of the facility.
- 3898 (b) "Waste energy facility" does not include a facility that incinerates:
- 3899 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 3900 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 3901 (136) "Watercraft" means a vessel as defined in Section 73-18-2.
- 3902 (137) "Wind energy" means wind used as the sole source of energy to produce

3903 electricity.

3904 (138) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
3905 location by the United States Postal Service.

3906 Section 22. Section **63G-2-202** is amended to read:

3907 **63G-2-202. Access to private, controlled, and protected documents.**

3908 (1) Upon request, and except as provided in Subsection (11)(a), a governmental entity
3909 shall disclose a private record to:

3910 (a) the subject of the record;

3911 (b) the parent or legal guardian of an unemancipated minor who is the subject of the
3912 record;

3913 (c) the legal guardian of a legally incapacitated individual who is the subject of the
3914 record;

3915 (d) any other individual who:

3916 (i) has a power of attorney from the subject of the record;

3917 (ii) submits a notarized release from the subject of the record or the individual's legal
3918 representative dated no more than 90 days before the date the request is made; or

3919 (iii) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a
3920 health care provider, as defined in Section 26-33a-102, if releasing the record or information in
3921 the record is consistent with normal professional practice and medical ethics; or

3922 (e) any person to whom the record must be provided pursuant to:

3923 (i) court order as provided in Subsection (7); or

3924 (ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
3925 Powers.

3926 (2) (a) Upon request, a governmental entity shall disclose a controlled record to:

3927 (i) a physician, psychologist, certified social worker, insurance provider or producer, or
3928 a government public health agency upon submission of:

3929 (A) a release from the subject of the record that is dated no more than 90 days prior to
3930 the date the request is made; and

3931 (B) a signed acknowledgment of the terms of disclosure of controlled information as
3932 provided by Subsection (2)(b); and

3933 (ii) any person to whom the record must be disclosed pursuant to:

3934 (A) a court order as provided in Subsection (7); or
3935 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
3936 Powers.

3937 (b) A person who receives a record from a governmental entity in accordance with
3938 Subsection (2)(a)(i) may not disclose controlled information from that record to any person,
3939 including the subject of the record.

3940 (3) If there is more than one subject of a private or controlled record, the portion of the
3941 record that pertains to another subject shall be segregated from the portion that the requester is
3942 entitled to inspect.

3943 (4) Upon request, and except as provided in Subsection (10) or (11)(b), a governmental
3944 entity shall disclose a protected record to:

3945 (a) the person who submitted the record;

3946 (b) any other individual who:

3947 (i) has a power of attorney from all persons, governmental entities, or political
3948 subdivisions whose interests were sought to be protected by the protected classification; or

3949 (ii) submits a notarized release from all persons, governmental entities, or political
3950 subdivisions whose interests were sought to be protected by the protected classification or from
3951 their legal representatives dated no more than 90 days prior to the date the request is made; or

3952 (c) any person to whom the record must be provided pursuant to:

3953 (i) a court order as provided in Subsection (7); or

3954 (ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
3955 Powers[; ~~or~~].

3956 [~~(d) the owner of a mobile home park, subject to the conditions of Subsection~~
3957 ~~41-1a-116(5).~~]

3958 (5) A governmental entity may disclose a private, controlled, or protected record to
3959 another governmental entity, political subdivision, another state, the United States, or a foreign
3960 government only as provided by Section 63G-2-206.

3961 (6) Before releasing a private, controlled, or protected record, the governmental entity
3962 shall obtain evidence of the requester's identity.

3963 (7) A governmental entity shall disclose a record pursuant to the terms of a court order
3964 signed by a judge from a court of competent jurisdiction, provided that:

- 3965 (a) the record deals with a matter in controversy over which the court has jurisdiction;
- 3966 (b) the court has considered the merits of the request for access to the record;
- 3967 (c) the court has considered and, where appropriate, limited the requester's use and
- 3968 further disclosure of the record in order to protect:
- 3969 (i) privacy interests in the case of private or controlled records;
- 3970 (ii) business confidentiality interests in the case of records protected under Subsection
- 3971 63G-2-305(1), (2), (39)(a)(ii), or (39)(a)(vi); and
- 3972 (iii) privacy interests or the public interest in the case of other protected records;
- 3973 (d) to the extent the record is properly classified private, controlled, or protected, the
- 3974 interests favoring access, considering limitations thereon, are greater than or equal to the
- 3975 interests favoring restriction of access; and
- 3976 (e) where access is restricted by a rule, statute, or regulation referred to in Subsection
- 3977 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.
- 3978 (8) (a) A governmental entity may disclose or authorize disclosure of private or
- 3979 controlled records for research purposes if the governmental entity:
- 3980 (i) determines that the research purpose cannot reasonably be accomplished without
- 3981 use or disclosure of the information to the researcher in individually identifiable form;
- 3982 (ii) determines that:
- 3983 (A) the proposed research is bona fide; and
- 3984 (B) the value of the research is greater than or equal to the infringement upon personal
- 3985 privacy;
- 3986 (iii) (A) requires the researcher to assure the integrity, confidentiality, and security of
- 3987 the records; and
- 3988 (B) requires the removal or destruction of the individual identifiers associated with the
- 3989 records as soon as the purpose of the research project has been accomplished;
- 3990 (iv) prohibits the researcher from:
- 3991 (A) disclosing the record in individually identifiable form, except as provided in
- 3992 Subsection (8)(b); or
- 3993 (B) using the record for purposes other than the research approved by the governmental
- 3994 entity; and
- 3995 (v) secures from the researcher a written statement of the researcher's understanding of

3996 and agreement to the conditions of this Subsection (8) and the researcher's understanding that
3997 violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution
3998 under Section 63G-2-801.

3999 (b) A researcher may disclose a record in individually identifiable form if the record is
4000 disclosed for the purpose of auditing or evaluating the research program and no subsequent use
4001 or disclosure of the record in individually identifiable form will be made by the auditor or
4002 evaluator except as provided by this section.

4003 (c) A governmental entity may require indemnification as a condition of permitting
4004 research under this Subsection (8).

4005 (9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity
4006 may disclose to persons other than those specified in this section records that are:

4007 (i) private under Section 63G-2-302; or

4008 (ii) protected under Section 63G-2-305 subject to Section 63G-2-309 if a claim for
4009 business confidentiality has been made under Section 63G-2-309.

4010 (b) Under Subsection 63G-2-403(11)(b), the records committee may require the
4011 disclosure to persons other than those specified in this section of records that are:

4012 (i) private under Section 63G-2-302;

4013 (ii) controlled under Section 63G-2-304; or

4014 (iii) protected under Section 63G-2-305 subject to Section 63G-2-309 if a claim for
4015 business confidentiality has been made under Section 63G-2-309.

4016 (c) Under Subsection 63G-2-404(8), the court may require the disclosure of records
4017 that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected
4018 under Section 63G-2-305 to persons other than those specified in this section.

4019 (10) A record contained in the Management Information System, created in Section
4020 62A-4a-1003, that is found to be unsubstantiated, unsupported, or without merit may not be
4021 disclosed to any person except the person who is alleged in the report to be a perpetrator of
4022 abuse, neglect, or dependency.

4023 (11) (a) A private record described in Subsection 63G-2-302(2)(f) may only be
4024 disclosed as provided in Subsection (1)(e).

4025 (b) A protected record described in Subsection 63G-2-305(42) may only be disclosed
4026 as provided in Subsection (4)(c) or Section 62A-3-312.

4027 (12) (a) A private, protected, or controlled record described in Section 62A-16-301
4028 shall be disclosed as required under:

4029 (i) Subsections 62A-16-301(1)(b), (2), and (4)(c); and

4030 (ii) Subsections 62A-16-302(1) and (6).

4031 (b) A record disclosed under Subsection (12)(a) shall retain its character as private,
4032 protected, or controlled.

4033 Section 23. Section **70A-2a-103** is amended to read:

4034 **70A-2a-103. Definitions -- Index of definitions.**

4035 (1) In this chapter, unless the context otherwise requires:

4036 (a) "Buyer in ordinary course of business" means a person, who in good faith and
4037 without knowledge that the sale to him is in violation of the ownership rights or security
4038 interest or leasehold interest of a third party in the goods, buys in ordinary course from a person
4039 in the business of selling goods of that kind, but does not include a pawnbroker. "Buying" may
4040 be for cash or by exchange of other property or on secured or unsecured credit and includes
4041 acquiring goods or documents of title under a preexisting contract for sale, but does not include
4042 a transfer in bulk, or as security for, or in total or partial satisfaction of a money debt.

4043 (b) "Cancellation" occurs when either party puts an end to the lease contract for default
4044 by the other party.

4045 (c) "Commercial unit" means a unit of goods which by commercial usage is a single
4046 whole for purposes of lease, and the division of which materially impairs its character or value
4047 on the market or in use. A commercial unit may be a single article, such as a machine, or a set
4048 of articles, such as a suite of furniture or a line of machinery, or a quantity, such as a gross or
4049 carload, or any other unit treated in use or in the relevant market as a single whole.

4050 (d) "Conforming goods or performance under a lease contract" means goods or
4051 performance that are in accordance with the obligations under the lease contract.

4052 (e) "Consumer lease" means a lease that a lessor, regularly engaged in the business of
4053 leasing or selling, makes to a lessee, who is an individual and who takes under the lease
4054 primarily for a personal, family, or household purpose.

4055 (f) "Fault" means wrongful act, omission, breach, or default.

4056 (g) "Finance lease" means a lease in which:

4057 (i) the lessor does not select, manufacture, or supply the goods;

4058 (ii) the lessor acquires the goods or the right to possession and use of the goods in
4059 connection with the lease; and

4060 (iii) one of the following occurs:

4061 (A) the lessee receives a copy of the contract by which the lessor acquired the goods or
4062 the right to possession and use of the goods before signing the lease contract;

4063 (B) the lessee's approval of the contract by which the lessor acquired the goods or the
4064 right to possession and use of the goods is a condition to effectiveness of the lease contract;

4065 (C) the lessee, before signing the lease contract, receives an accurate and complete
4066 statement designating the promises and warranties, and any disclaimers of warranties,
4067 limitations, or modifications of remedies, or liquidated damages, including those of a third
4068 party, such as the manufacturer of the goods, provided to the lessor by the person supplying the
4069 goods in connection with or as part of the contract by which the lessor acquired the goods or
4070 the right to possession and use of the goods; or

4071 (D) if the lease is not a consumer lease, the lessor, before the lessee signs the lease
4072 contract, informs the lessee in writing:

4073 (I) of the identity of the person supplying the goods to the lessor, unless the lessee has
4074 selected that person and directed the lessor to acquire the goods or the right to possession and
4075 use of the goods from that person;

4076 (II) that the lessee is entitled under this chapter to the promises and warranties,
4077 including those of any third party, provided to the lessor by the person supplying the goods in
4078 connection with or as part of the contract by which the lessor acquired the goods or the right to
4079 possession and use of the goods; and

4080 (III) that the lessee may communicate with the person supplying the goods to the lessor
4081 and receive an accurate and complete statement of those promises and warranties, including
4082 any disclaimers and limitations of them or of remedies.

4083 (h) "Goods" means all things that are movable at the time of identification to the lease
4084 contract, or are fixtures. The term does not include money, documents, instruments, accounts,
4085 chattel paper, general intangibles, or minerals or the like, including oil and gas, before
4086 extraction. The term also includes the unborn young of animals.

4087 (i) "Installment lease contract" means a lease contract that authorizes or requires the
4088 delivery of goods in separate lots to be separately accepted, even though the lease contract

4089 contains a clause stating "each delivery is a separate lease" or its equivalent.

4090 (j) "Lease" means a transfer of the right to possession and use of goods for a term, in
4091 return for consideration. Unless the context clearly indicates otherwise, the term includes a
4092 sublease. But a sale, including a sale on approval or a sale or return, or retention or creation of
4093 a security interest is not a lease.

4094 (k) "Lease agreement" with respect to the lease, means the bargain of the lessor and the
4095 lessee in fact as found in their language or by implication from other circumstances including
4096 course of dealing or usage of trade or course of performance as provided in this chapter.

4097 Unless the context clearly indicates otherwise, the term includes a sublease agreement.

4098 (l) "Lease contract" means the total legal obligation that results from the lease
4099 agreement as affected by this chapter and any other applicable rules of law. Unless the context
4100 clearly indicates otherwise, the term includes a sublease contract.

4101 (m) "Leasehold interest" means the interest of the lessor or the lessee under a lease
4102 contract.

4103 (n) "Lessee" means a person who acquires the right to possession and use of goods
4104 under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

4105 (o) "Lessee in ordinary course of business" means a person who in good faith and
4106 without knowledge that the lease to him is in violation of the ownership rights, security
4107 interest, or leasehold interest of a third party in the goods, leases in ordinary course from a
4108 person in the business of selling or leasing goods of that kind, but does not include a
4109 pawnbroker. "Leasing" may be for cash or by exchange of other property, or on secured or
4110 unsecured credit, and includes acquiring goods or documents of title under a preexisting lease
4111 contract. "Leasing" does not include a transfer in bulk or as security for or in total or partial
4112 satisfaction of a money debt.

4113 (p) "Lessor" means a person who transfers the right to possession and use of goods
4114 under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

4115 (q) "Lessor's residual interest" means the lessor's interest in the goods after expiration,
4116 termination, or cancellation of the lease contract.

4117 (r) "Lien" means a charge against or interest in goods to secure payment of a debt or
4118 performance of an obligation, but the term does not include a security interest.

4119 (s) "Lot" means a parcel or single article that is the subject matter of a separate lease or

4120 delivery, whether or not it is sufficient to perform the lease contract.

4121 (t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the
4122 kind subject to the lease.

4123 (u) "Present value" means the amount as of a date certain of one or more sums payable
4124 in the future, discounted to the date certain. The discount is determined by the interest rate
4125 specified by the parties if the rate was not manifestly unreasonable at the time the transaction
4126 was entered into; otherwise, the discount is determined by a commercially reasonable rate that
4127 takes into account the facts and circumstances of each case at the time the transaction was
4128 entered into.

4129 (v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift,
4130 or any other voluntary transaction creating an interest in goods.

4131 (w) "Sublease" means a lease of goods, the right to possession and use of which was
4132 acquired by the lessor as a lessee under an existing lease.

4133 (x) "Supplier" means a person from whom a lessor buys or leases goods to be leased
4134 under a finance lease.

4135 (y) "Supply contract" means a contract under which a lessor buys or leases goods to be
4136 leased.

4137 (z) "Termination" occurs when either party, pursuant to a power created by agreement
4138 or law, puts an end to the lease contract otherwise than for default.

4139 (2) Other definitions applying to this chapter and the sections in which they appear are:

4140 (a) "Accessions," Section 70A-2a-310.

4141 (b) "Construction mortgage," Section 70A-2a-309.

4142 (c) "Encumbrance," Section 70A-2a-309.

4143 (d) "Fixtures," Section 70A-2a-309.

4144 (e) "Fixture filing," Section 70A-2a-309.

4145 (f) "Purchase money lease," Section 70A-2a-309.

4146 (3) The following definitions in other chapters apply to this chapter:

4147 (a) "Account," Subsection 70A-9a-102(2).

4148 (b) "Between merchants," Section 70A-2-104.

4149 (c) "Buyer," Section 70A-2-103.

4150 (d) "Chattel paper," Subsection 70A-9a-102(11).

- 4151 (e) "Consumer goods," Subsection 70A-9a-102(23).
- 4152 (f) "Document," Subsection 70A-9a-102(30).
- 4153 (g) "Entrusting," Section 70A-2-403.
- 4154 (h) "General intangible," Subsection 70A-9a-102(42).
- 4155 (i) "Good faith," Section 70A-2-103;
- 4156 (j) "Instrument," Subsection 70A-9a-102[~~(46)~~](47).
- 4157 (k) "Merchant," Section 70A-2-104.
- 4158 (l) "Mortgage," Subsection 70A-9a-102[~~(54)~~](55).
- 4159 (m) "Pursuant to commitment," Subsection 70A-9a-102[~~(67)~~](68).
- 4160 (n) "Receipt," Section 70A-2-103.
- 4161 (o) "Sale," Section 70A-2-106.
- 4162 (p) "Sale on approval," Section 70A-2-326.
- 4163 (q) "Sale or return," Section 70A-2-326.
- 4164 (r) "Seller," Section 70A-2-103.
- 4165 (4) In addition, Title 70A, Chapter 1a, Uniform Commercial Code - General
- 4166 Provisions, contains general definitions and principles of construction and interpretation
- 4167 applicable throughout this chapter.
- 4168 Section 24. Section **70A-9a-102** is amended to read:
- 4169 **70A-9a-102. Definitions and index of definitions.**
- 4170 In this chapter:
- 4171 (1) "Accession" means goods that are physically united with other goods in such a
- 4172 manner that the identity of the original goods is not lost.
- 4173 (2) (a) "Account," except as used in "account for," means a right to payment of a
- 4174 monetary obligation, whether or not earned by performance:
- 4175 (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise
- 4176 disposed of;
- 4177 (ii) for services rendered or to be rendered;
- 4178 (iii) for a policy of insurance issued or to be issued;
- 4179 (iv) for a secondary obligation incurred or to be incurred;
- 4180 (v) for energy provided or to be provided;
- 4181 (vi) for the use or hire of a vessel under a charter or other contract;

4182 (vii) arising out of the use of a credit or charge card or information contained on or for
4183 use with the card; or

4184 (viii) as winnings in a lottery or other game of chance operated or sponsored by a state,
4185 governmental unit of a state, or person licensed or authorized to operate the game by a state or
4186 governmental unit of a state.

4187 (b) "Account" includes health-care-insurance receivables.

4188 (c) "Account" does not include:

4189 (i) rights to payment evidenced by chattel paper or an instrument;

4190 (ii) commercial tort claims;

4191 (iii) deposit accounts;

4192 (iv) investment property;

4193 (v) letter-of-credit rights or letters of credit; or

4194 (vi) rights to payment for money or funds advanced or sold, other than rights arising
4195 out of the use of a credit or charge card or information contained on or for use with the card.

4196 (3) (a) "Account debtor" means a person obligated on an account, chattel paper, or
4197 general intangible.

4198 (b) "Account debtor" does not include persons obligated to pay a negotiable
4199 instrument, even if the instrument constitutes part of chattel paper.

4200 (4) "Accounting," except as used in "accounting for," means a record:

4201 (a) authenticated by a secured party;

4202 (b) indicating the aggregate unpaid secured obligations as of a date not more than 35
4203 days earlier or 35 days later than the date of the record; and

4204 (c) identifying the components of the obligations in reasonable detail.

4205 (5) "Agricultural lien" means an interest, other than a security interest, in farm
4206 products:

4207 (a) which secures payment or performance of an obligation for:

4208 (i) goods or services furnished in connection with a debtor's farming operation; or

4209 (ii) rent on real property leased by a debtor in connection with its farming operation;

4210 (b) which is created by statute in favor of a person that:

4211 (i) in the ordinary course of its business furnished goods or services to a debtor in
4212 connection with a debtor's farming operation; or

4213 (ii) leased real property to a debtor in connection with the debtor's farming operation;

4214 and

4215 (c) whose effectiveness does not depend on the person's possession of the personal
4216 property.

4217 (6) "As-extracted collateral" means:

4218 (a) oil, gas, or other minerals that are subject to a security interest that:

4219 (i) is created by a debtor having an interest in the minerals before extraction; and

4220 (ii) attaches to the minerals as extracted; or

4221 (b) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other
4222 minerals in which the debtor had an interest before extraction.

4223 (7) "Authenticate" means:

4224 (a) to sign; or

4225 (b) to execute or otherwise adopt a symbol, or encrypt or similarly process a record in
4226 whole or in part, with the present intent of the authenticating person to identify the person and
4227 adopt or accept a record.

4228 (8) (a) "Bank" means an organization that is engaged in the business of banking.

4229 (b) "Bank" includes:

4230 (i) a depository institution as defined in Section 7-1-103; and

4231 (ii) a trust company.

4232 (9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the
4233 like.

4234 (10) "Certificate of title" means a certificate of title with respect to which a statute
4235 provides for the security interest in question to be indicated on the certificate as a condition or
4236 result of the security interest's obtaining priority over the rights of a lien creditor with respect to
4237 the collateral.

4238 (11) (a) "Chattel paper" means a record or records that evidence both a monetary
4239 obligation and a security interest in specific goods, a security interest in specific goods and
4240 software used in the goods, a security interest in specific goods and license of software used in
4241 the goods, a lease of specific goods, or a lease of specific goods and license of software used in
4242 the goods. In this Subsection (11), "monetary obligation" means a monetary obligation secured
4243 by the goods or owed under a lease of the goods and includes a monetary obligation with

4244 respect to software used in the goods.

4245 (b) "Chattel paper" does not include:

4246 (i) charters or other contracts involving the use or hire of a vessel; or

4247 (ii) records that evidence a right to payment arising out of the use of a credit or charge
4248 card or information contained or for use with the card.

4249 (c) If a transaction is evidenced by records that include an instrument or series of
4250 instruments, the group of records taken together constitutes chattel paper.

4251 (12) "Collateral" means the property subject to a security interest or agricultural lien.

4252 "Collateral" includes:

4253 (a) proceeds to which a security interest attaches;

4254 (b) accounts, chattel paper, payment intangibles, and promissory notes that have been
4255 sold; and

4256 (c) goods that are the subject of a consignment.

4257 (13) "Commercial tort claim" means a claim arising in tort with respect to which:

4258 (a) the claimant is an organization; or

4259 (b) the claimant is an individual and the claim:

4260 (i) arose in the course of the claimant's business or profession; and

4261 (ii) does not include damages arising out of personal injury to or the death of an
4262 individual.

4263 (14) "Commodity account" means an account maintained by a commodity intermediary
4264 in which a commodity contract is carried for a commodity customer.

4265 (15) "Commodity contract" means a commodity futures contract, an option on a
4266 commodity futures contract, a commodity option, or another contract if the contract or option
4267 is:

4268 (a) traded on or subject to the rules of a board of trade that has been designated as a
4269 contract market for such a contract pursuant to federal commodities laws; or

4270 (b) traded on a foreign commodity board of trade, exchange, or market, and is carried
4271 on the books of a commodity intermediary for a commodity customer.

4272 (16) "Commodity customer" means a person for which a commodity intermediary
4273 carries a commodity contract on its books.

4274 (17) "Commodity intermediary" means a person that:

4275 (a) is registered as a futures commission merchant under federal commodities law; or
4276 (b) in the ordinary course of its business provides clearance or settlement services for a
4277 board of trade that has been designated as a contract market pursuant to federal commodities
4278 law.

4279 (18) "Communicate" means:

4280 (a) to send a written or other tangible record;

4281 (b) to transmit a record by any means agreed upon by the persons sending and
4282 receiving the record; or

4283 (c) in the case of transmission of a record to or by a filing office, to transmit a record
4284 by any means prescribed by filing-office rule.

4285 (19) "Consignee" means a merchant to which goods are delivered in a consignment.

4286 (20) "Consignment" means a transaction, regardless of its form, in which a person
4287 delivers goods to a merchant for the purpose of sale and:

4288 (a) the merchant:

4289 (i) deals in goods of that kind under a name other than the name of the person making
4290 delivery;

4291 (ii) is not an auctioneer; and

4292 (iii) is not generally known by its creditors to be substantially engaged in selling the
4293 goods of others;

4294 (b) with respect to each delivery, the aggregate value of the goods is \$1,000 or more at
4295 the time of delivery;

4296 (c) the goods are not consumer goods immediately before delivery; and

4297 (d) the transaction does not create a security interest that secures an obligation.

4298 (21) "Consignor" means a person that delivers goods to a consignee in a consignment.

4299 (22) "Consumer debtor" means a debtor in a consumer transaction.

4300 (23) "Consumer goods" means goods that are used or bought for use primarily for
4301 personal, family, or household purposes.

4302 (24) "Consumer-goods transaction" means a consumer transaction in which:

4303 (a) an individual incurs an obligation primarily for personal, family, or household
4304 purposes; and

4305 (b) a security interest in consumer goods secures the obligation.

4306 (25) "Consumer obligor" means an obligor who is an individual and who incurred the
4307 obligation as part of a transaction entered into primarily for personal, family, or household
4308 purposes.

4309 (26) (a) "Consumer transaction" means a transaction in which:

4310 (i) an individual incurs an obligation primarily for personal, family, or household
4311 purposes;

4312 (ii) a security interest secures the obligation; and

4313 (iii) the collateral is held or acquired primarily for personal, family, or household
4314 purposes.

4315 (b) "Consumer transaction" includes consumer-goods transactions.

4316 (27) "Continuation statement" means an amendment of a financing statement which:

4317 (a) identifies, by its file number, the initial financing statement to which it relates; and

4318 (b) indicates that it is a continuation statement for, or that it is filed to continue the
4319 effectiveness of, the identified financing statement.

4320 (28) "Debtor" means:

4321 (a) a person having an interest, other than a security interest or other lien, in the
4322 collateral, whether or not the person is an obligor;

4323 (b) a seller of accounts, chattel paper, payment intangibles, or promissory notes; or

4324 (c) a consignee.

4325 (29) (a) "Deposit account" means a demand, time, savings, passbook, or similar
4326 account maintained with a bank.

4327 (b) "Deposit account" does not include investment property or accounts evidenced by
4328 an instrument.

4329 (30) "Document" means a document of title or a receipt of the type described in
4330 Subsection 70A-7a-201(2).

4331 (31) "Electronic chattel paper" means chattel paper evidenced by a record or records
4332 consisting of information stored in an electronic medium.

4333 (32) "Encumbrance" means a right, other than an ownership interest, in real property.
4334 "Encumbrance" includes mortgages and other liens on real property.

4335 (33) "Equipment" means goods other than inventory, farm products, or consumer
4336 goods.

4337 (34) "Farm products" means goods, other than standing timber, with respect to which
4338 the debtor is engaged in a farming operation and which are:

4339 (a) crops grown, growing, or to be grown, including:

4340 (i) crops produced on trees, vines, and bushes; and

4341 (ii) aquatic goods produced in aquacultural operations;

4342 (b) livestock, born or unborn, including aquatic goods produced in aquacultural
4343 operations;

4344 (c) supplies used or produced in a farming operation; or

4345 (d) products of crops or livestock in their unmanufactured states.

4346 (35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or
4347 any other farming, livestock, or aquacultural operation.

4348 (36) "File number" means the number assigned to an initial financing statement
4349 pursuant to Subsection 70A-9a-519(1).

4350 (37) "Filing office" means an office designated in Section 70A-9a-501 as the place to
4351 file a financing statement.

4352 (38) "Filing-office rule" means a rule adopted pursuant to Section 70A-9a-526.

4353 (39) "Financing statement" means a record or records composed of an initial financing
4354 statement and any filed record relating to the initial financing statement.

4355 (40) (a) "Fixture filing" means the filing of a financing statement covering goods that
4356 are or are to become fixtures and satisfying Subsections 70A-9a-502(1) and (2).

4357 (b) "Fixture filing" includes the filing of a financing statement covering goods of a
4358 transmitting utility which are or are to become fixtures.

4359 (41) "Fixtures" means goods that have become so related to particular real property that
4360 an interest in them arises under real property law.

4361 (42) (a) "General intangible" means any personal property, including things in action,
4362 other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods,
4363 instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or
4364 other minerals before extraction.

4365 (b) "General intangible" includes payment intangibles and software.

4366 (43) "Good faith" means honesty in fact and the observance of reasonable commercial
4367 standards of fair dealing.

4368 (44) (a) "Goods" means all things that are movable when a security interest attaches.

4369 (b) "Goods" includes:

4370 (i) fixtures;

4371 (ii) standing timber that is to be cut and removed under a conveyance or contract for
4372 sale;

4373 (iii) the unborn young of animals;

4374 (iv) crops grown, growing, or to be grown, even if the crops are produced on trees,
4375 vines, or bushes; and

4376 (v) manufactured homes.

4377 (c) "Goods" also includes a computer program embedded in goods and any supporting
4378 information provided in connection with a transaction relating to the program if:

4379 (i) the program is associated with the goods in such a manner that it customarily is
4380 considered part of the goods; or

4381 (ii) by becoming the owner of the goods, a person acquires a right to use the program
4382 in connection with the goods.

4383 (d) "Goods" does not include a computer program embedded in goods that consist
4384 solely of the medium in which the program is embedded.

4385 (e) "Goods" also does not include accounts, chattel paper, commercial tort claims,
4386 deposit accounts, documents, general intangibles, instruments, investment property,
4387 letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

4388 (45) (a) "Governmental unit" means a subdivision, agency, department, county, parish,
4389 municipality, or other unit of the government of the United States, a state, or a foreign country.

4390 (b) "Governmental unit" includes an organization having a separate corporate existence
4391 if the organization is eligible to issue debt on which interest is exempt from income taxation
4392 under the laws of the United States.

4393 (46) "Health-care-insurance receivable" means an interest in or claim under a policy of
4394 insurance which is a right to payment of a monetary obligation for health-care goods or
4395 services provided.

4396 (47) (a) "Instrument" means a negotiable instrument or any other writing that evidences
4397 a right to the payment of a monetary obligation, is not itself a security agreement or lease, and
4398 is of a type that in ordinary course of business is transferred by delivery with any necessary

4399 indorsement or assignment.

4400 (b) "Instrument" does not include:

4401 (i) investment property;

4402 (ii) letters of credit; or

4403 (iii) writings that evidence a right to payment arising out of the use of a credit or charge
4404 card or information contained on or for use with the card.

4405 (48) "Inventory" means goods, other than farm products, which:

4406 (a) are leased by a person as lessor;

4407 (b) are held by a person for sale or lease or to be furnished under a contract of service;

4408 (c) are furnished by a person under a contract of service; or

4409 (d) consist of raw materials, work in process, or materials used or consumed in a
4410 business.

4411 (49) "Investment property" means a security, whether certificated or uncertificated,
4412 security entitlement, securities account, commodity contract, or commodity account.

4413 (50) "Jurisdiction of organization," with respect to a registered organization, means the
4414 jurisdiction under whose law the organization is organized.

4415 (51) (a) "Letter-of-credit right" means a right to payment or performance under a letter
4416 of credit, whether or not the beneficiary has demanded or is at the time entitled to demand
4417 payment or performance.

4418 (b) "Letter-of-credit right" does not include the right of a beneficiary to demand
4419 payment or performance under a letter of credit.

4420 (52) "Lien creditor" means:

4421 (a) a creditor that has acquired a lien on the property involved by attachment, levy, or
4422 the like;

4423 (b) an assignee for benefit of creditors from the time of assignment;

4424 (c) a trustee in bankruptcy from the date of the filing of the petition; or

4425 (d) a receiver in equity from the time of appointment.

4426 (53) (a) "Manufactured home" means:

4427 (i) a structure, transportable in one or more sections, which, in the traveling mode, is
4428 eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is
4429 320 or more square feet, and which is built on a permanent chassis and designed to be used as a

4430 dwelling with or without a permanent foundation when connected to the required utilities, and
4431 includes the plumbing, heating, air-conditioning, and electrical systems contained therein[-]; or

4432 (ii) a mobile home, as defined in Section 15A-1-302.

4433 (b) "Manufactured home" includes any structure that meets all of the requirements of
4434 this Subsection (53) except the size requirements and with respect to which the manufacturer
4435 voluntarily files a certification required by the United States Secretary of Housing and Urban
4436 Development and complies with the standards established under Title 42 of the United States
4437 Code.

4438 (54) "Manufactured-home transaction" means a secured transaction:

4439 (a) that creates a purchase-money security interest in a manufactured home, other than
4440 a manufactured home held as inventory; or

4441 (b) in which a manufactured home, other than a manufactured home held as inventory,
4442 is the primary collateral.

4443 (55) "Mortgage" means a consensual interest in real property, including fixtures, which
4444 secures payment or performance of an obligation.

4445 (56) "New debtor" means a person that becomes bound as debtor under Subsection
4446 70A-9a-203(4) by a security agreement previously entered into by another person.

4447 (57) (a) "New value" means:

4448 (i) money;

4449 (ii) money's worth in property, services, or new credit; or

4450 (iii) release by a transferee of an interest in property previously transferred to the
4451 transferee.

4452 (b) "New value" does not include an obligation substituted for another obligation.

4453 (58) "Noncash proceeds" means proceeds other than cash proceeds.

4454 (59) (a) "Obligor" means a person that, with respect to an obligation secured by a
4455 security interest in or an agricultural lien on the collateral:

4456 (i) owes payment or other performance of the obligation;

4457 (ii) has provided property other than the collateral to secure payment or other
4458 performance of the obligation; or

4459 (iii) is otherwise accountable in whole or in part for payment or other performance of
4460 the obligation.

4461 (b) "Obligor" does not include issuers or nominated persons under a letter of credit.

4462 (60) "Original debtor," except as used in Subsection 70A-9a-310(3), means a person
4463 that, as debtor, entered into a security agreement to which a new debtor has become bound
4464 under Subsection 70A-9a-203(4).

4465 (61) "Payment intangible" means a general intangible under which the account debtor's
4466 principal obligation is a monetary obligation.

4467 (62) "Person related to," with respect to an individual, means:

4468 (a) the spouse of the individual;

4469 (b) a brother, brother-in-law, sister, or sister-in-law of the individual;

4470 (c) an ancestor or lineal descendant of the individual or the individual's spouse; or

4471 (d) any other relative, by blood or marriage, of the individual or the individual's spouse
4472 who shares the same home with the individual.

4473 (63) "Person related to," with respect to an organization, means:

4474 (a) a person directly or indirectly controlling, controlled by, or under common control
4475 with the organization;

4476 (b) an officer or director of, or a person performing similar functions with respect to,
4477 the organization;

4478 (c) an officer or director of, or a person performing similar functions with respect to, a
4479 person described in Subsection (63)(a);

4480 (d) the spouse of an individual described in Subsection (63)(a), (b), or (c); or

4481 (e) an individual who is related by blood or marriage to an individual described in
4482 Subsection (63)(a), (b), (c), or (d) and shares the same home with the individual.

4483 (64) "Proceeds," except as used in Subsection 70A-9a-609(2), means the following
4484 property:

4485 (a) whatever is acquired upon the sale, lease, license, exchange, or other disposition of
4486 collateral;

4487 (b) whatever is collected on, or distributed on account of, collateral;

4488 (c) rights arising out of collateral;

4489 (d) to the extent of the value of collateral, claims arising out of the loss,
4490 nonconformity, or interference with the use of, defects or infringement of rights in, or damage
4491 to, the collateral; or

4492 (e) to the extent of the value of collateral and to the extent payable to the debtor or the
4493 secured party, insurance payable by reason of the loss or nonconformity of, defects or
4494 infringement of rights in, or damage to, the collateral.

4495 (65) "Promissory note" means an instrument that evidences a promise to pay a
4496 monetary obligation, does not evidence an order to pay, and does not contain an
4497 acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

4498 (66) "Proposal" means a record authenticated by a secured party which includes the
4499 terms on which the secured party is willing to accept collateral in full or partial satisfaction of
4500 the obligation it secures pursuant to Sections 70A-9a-620, 70A-9a-621, and 70A-9a-622.

4501 (67) "Public-finance transaction" means a secured transaction in connection with
4502 which:

4503 (a) debt securities are issued;

4504 (b) all or a portion of the securities issued have an initial stated maturity of at least 20
4505 years; and

4506 (c) the debtor, obligor, secured party, account debtor or other person obligated on
4507 collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security
4508 interest is a state or a governmental unit of a state.

4509 (68) "Pursuant to commitment," with respect to an advance made or other value given
4510 by a secured party, means pursuant to the secured party's obligation, whether or not a
4511 subsequent event of default or other event not within the secured party's control has relieved or
4512 may relieve the secured party from its obligation.

4513 (69) "Record," except as used in "for record," "of record," "record or legal title," and
4514 "record owner," means information that is inscribed on a tangible medium or which is stored in
4515 an electronic or other medium and is retrievable in perceivable form.

4516 (70) "Registered organization" means an organization organized solely under the law
4517 of a single state or the United States and as to which the state or the United States must
4518 maintain a public record showing the organization to have been organized.

4519 (71) "Secondary obligor" means an obligor to the extent that:

4520 (a) the obligor's obligation is secondary; or

4521 (b) the obligor has a right of recourse with respect to an obligation secured by collateral
4522 against the debtor, another obligor, or property of either.

4523 (72) "Secured party" means:

4524 (a) a person in whose favor a security interest is created or provided for under a
4525 security agreement, whether or not any obligation to be secured is outstanding;

4526 (b) a person that holds an agricultural lien;

4527 (c) a consignor;

4528 (d) a person to which accounts, chattel paper, payment intangibles, or promissory notes
4529 have been sold;

4530 (e) a trustee, indenture trustee, agent, collateral agent, or other representative in whose
4531 favor a security interest or agricultural lien is created or provided for; or

4532 (f) a person that holds a security interest arising under Section 70A-2-401, 70A-2-505,
4533 70A-4-210, or 70A-5-118 or Subsection 70A-2-711(3) or 70A-2a-508(5).

4534 (73) "Security agreement" means an agreement that creates or provides for a security
4535 interest.

4536 (74) "Send," in connection with a record or notification, means:

4537 (a) to deposit in the mail, deliver for transmission, or transmit by any other usual
4538 means of communication, with postage or cost of transmission provided for, addressed to any
4539 address reasonable under the circumstances; or

4540 (b) to cause the record or notification to be received within the time that it would have
4541 been received if properly sent under Subsection (74)(a).

4542 (75) (a) "Software" means a computer program and any supporting information
4543 provided in connection with a transaction relating to the program.

4544 (b) "Software" does not include a computer program that is included in the definition
4545 of goods.

4546 (76) "State" means a state of the United States, the District of Columbia, Puerto Rico,
4547 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
4548 of the United States.

4549 (77) "Supporting obligation" means a letter-of-credit right or secondary obligation that
4550 supports the payment or performance of an account, chattel paper, a document, a general
4551 intangible, an instrument, or investment property.

4552 (78) "Tangible chattel paper" means chattel paper evidenced by a record or records
4553 consisting of information that is inscribed on a tangible medium.

4554 (79) "Termination statement" means an amendment of a financing statement which:

4555 (a) identifies, by its file number, the initial financing statement to which it relates; and

4556 (b) indicates either that it is a termination statement or that the identified financing

4557 statement is no longer effective.

4558 (80) "Transmitting utility" means a person primarily engaged in the business of:

4559 (a) operating a railroad, subway, street railway, or trolley bus;

4560 (b) transmitting communications electrically, electromagnetically, or by light;

4561 (c) transmitting goods by pipeline or sewer; or

4562 (d) transmitting or producing and transmitting electricity, steam, gas, or water.

4563 Section 25. Section **70D-2-401** is amended to read:

4564 **70D-2-401. Qualification of manufactured home or mobile home as improvement**
4565 **to real property -- Requirements -- Removal from property.**

4566 (1) Except as provided in this section, for purposes of this chapter, a manufactured
4567 home or mobile home is considered personal property.

4568 (2) [~~Notwithstanding Subsection (1), for~~] For purposes of this chapter, if the
4569 requirements of this section are met, a manufactured home or mobile home is:

4570 (a) considered to be an improvement to real property; and

4571 (b) considered as real property.

4572 (3) A manufactured home or mobile home is considered to be an improvement to real
4573 property if:

4574 (a) the manufactured home or mobile home is permanently affixed to real property;

4575 (b) the person seeking to have the manufactured home or mobile home considered to
4576 be an improvement to real property:

4577 (i) owns the manufactured home or mobile home;

4578 (ii) (A) owns the real property to which the manufactured home or mobile home is
4579 permanently affixed; or

4580 (B) leases the real property to which the manufactured home or mobile home is
4581 permanently affixed and the real property is financed in accordance with Subsection (4); and

4582 (iii) meets the requirements of [~~Subsections~~] Subsection (5) [~~and (6)~~]; and

4583 (c) in accordance with Subsection [~~(7), the following are recorded by~~] (6), the county
4584 recorder[~~:(i)~~] records the affidavit of affixture described in Subsection [~~(7); and (ii) the receipt~~

4585 of surrender described in Subsection (7)] (6).

4586 (4) For purposes of Subsection (3)(b)(ii)(B), a manufactured home or mobile home
4587 shall be financed in accordance with the guidelines established by:

4588 (a) the Federal Home Loan Mortgage Corporation;

4589 (b) the Federal National Mortgage Association;

4590 (c) the United States Department of Agriculture; or

4591 (d) another entity that requires as part of the entity's financing program restrictions:

4592 (i) on:

4593 (A) ownership; and

4594 (B) actions affecting title and possession; and

4595 (ii) if the restrictions described in Subsection (4)(d)(i) are similar to restrictions
4596 imposed by one or more of the entities described in Subsections (4)(a) through (c).

4597 (5) (a) An owner of a manufactured home or mobile home seeking to have the
4598 manufactured home or mobile home considered to be an improvement to real property and
4599 considered real property shall complete an affidavit of affixture.

4600 (b) An affidavit of affixture described in Subsection (5)(a) shall contain:

4601 (i) the ~~[vehicle]~~ identification numbers of the manufactured home or mobile home;

4602 (ii) the legal description of the real property to which the manufactured home or mobile
4603 home is permanently affixed;

4604 (iii) a statement certified by the assessor of the county in which the manufactured home
4605 or mobile home is located that the owner of the manufactured home or mobile home:

4606 (A) is not required to pay personal property tax in this state on the manufactured home
4607 or mobile home; or

4608 (B) if the manufactured home or mobile home is subject to personal property tax in this
4609 state, has paid all current and prior year personal property taxes assessed on the manufactured
4610 home or mobile home; and

4611 (iv) a description of any security interests in the manufactured home or mobile home[;
4612 and].

4613 [~~(v) a receipt of surrender issued by the Motor Vehicle Division of the State Tax
4614 Commission in accordance with Subsection (6).~~]

4615 [~~(6) (a) The Motor Vehicle Division of the State Tax Commission shall issue a receipt~~

4616 of surrender under Subsection (5)(b)(v) if an owner described in Subsection (5) surrenders to
 4617 the Motor Vehicle Division the:]

4618 [(i) manufacturer's original certificate of origin; or]

4619 [(ii) title to the manufactured home or mobile home.];

4620 [(b) After issuing the receipt of surrender in Subsection (6)(a), the Motor Vehicle
 4621 Division shall maintain a permanent record of:]

4622 [(i) the receipt of surrender; and]

4623 [(ii) the certificate or title described in Subsection (6)(a)(ii).];

4624 [(7)] (6) (a) An owner shall present to the county recorder[:(i)] the affidavit of
 4625 affixture described in Subsection (5)[; and].

4626 [(ii) the receipt of surrender described in Subsection (6).];

4627 (b) A county recorder who receives an affidavit of affixture [and receipt of surrender]
 4628 described in Subsection [(7)] (6)(a) shall record the receipt of surrender and affidavit of
 4629 affixture.

4630 (c) An owner of property described in Subsection (5) shall provide a copy of the
 4631 recorded affidavit of affixture to[:(i) the Motor Vehicle Division of the Tax Commission; and
 4632 (ii)] the assessor of the county in which the manufactured home or mobile home is located.

4633 [(8)] (7) A lien on the manufactured home or mobile home that is considered to be an
 4634 improvement to real property shall be perfected in the manner provided for the perfection of a
 4635 lien on real property.

4636 [(9) If a manufactured home or mobile home owner separates the manufactured home
 4637 or mobile home from the real property, the owner may acquire a new title by submitting to the
 4638 Motor Vehicle Division of the State Tax Commission:]

4639 [(a) a recorded affidavit that the manufactured home or mobile home is removed from
 4640 the real property; and]

4641 [(b) an application for a new title.];

4642 [(10)] (8) The determination of whether a manufactured home or mobile home is
 4643 considered real property or personal property under this section may not be considered in
 4644 determining whether the manufactured home or mobile home is real property or personal
 4645 property for purposes of taxation under Title 59, Chapter 2, Property Tax Act.

4646 Section 26. Section **76-6-522** is amended to read:

4647 **76-6-522. Definitions -- Equity skimming of a vehicle -- Penalties.**

4648 (1) As used in this section:

4649 (a) "Broker" means any person who, for compensation of any kind, arranges for the
4650 sale, lease, sublease, or transfer of a vehicle.

4651 (b) "Dealer" means any person engaged in the business of selling, leasing, or
4652 exchanging vehicles for compensation of any kind.

4653 (c) "Lease" means any grant of use or possession of a vehicle for consideration, with or
4654 without an option to buy.

4655 (d) "Security interest" means an interest in a vehicle that secures payment or
4656 performance of an obligation.

4657 (e) "Transfer" means any delivery or conveyance of a vehicle to another from one
4658 person to another.

4659 (f) "Vehicle" means every device in, upon, or by which any person or property is or
4660 may be transported or drawn upon a highway, or through the air or water, or over land and
4661 includes a manufactured home, as defined in Section 15A-1-302, or mobile home, as defined in
4662 Section [41-1a-102] 15A-1-302.

4663 (2) A dealer or broker or any other person in collusion with a dealer or broker is guilty
4664 of equity skimming of a vehicle if he transfers or arranges the transfer of a vehicle for
4665 consideration or profit, when he knows or should have known the vehicle is subject to a lease
4666 or security interest, without first obtaining written authorization of the lessor or holder of the
4667 security interest.

4668 (3) Equity skimming of a vehicle is a third degree felony.

4669 (4) It is a defense to the crime of equity skimming of a vehicle if the accused proves by
4670 a preponderance of the evidence that the lease obligation or security interest has been satisfied
4671 within 30 days following the transfer of the vehicle.

4672 **Section 27. Repealer.**

4673 This bill repeals:

4674 **Section 41-1a-503, Certificate of title or Affidavit of Mobile Home Affixture**
4675 **required -- Application by owner.**

4676 **Section 41-1a-506, Exceptions to title requirements for manufactured homes or**
4677 **mobile homes.**

4678 Section 28. **Effective date.**

4679 (1) Except as provided in Subsection (2), this bill takes effect on May 14, 2013.

4680 (2) The actions affecting Section 59-12-102 (Effective 07/01/14) take effect on July 1,

4681 2014.

Legislative Review Note
as of 2-12-13 1:00 PM

Office of Legislative Research and General Counsel