

Representative Val L. Peterson proposes the following substitute bill:

PUBLIC EDUCATION CODE REPEALS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Val L. Peterson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill repeals public education code provisions.

Highlighted Provisions:

This bill:

- ▶ repeals the Parent Choice in Education Act;
- ▶ repeals the Electronic High School Act;
- ▶ repeals the Compact for Interstate Qualification of Education Personnel;
- ▶ repeals various outdated public education code provisions; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-2-516, as renumbered and amended by Laws of Utah 2018, Chapter 2

53G-9-802, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-10-503, as renumbered and amended by Laws of Utah 2018, Chapter 3



26 **53G-10-508**, as renumbered and amended by Laws of Utah 2018, Chapter 3
27 **59-12-102**, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422
28 **63I-2-253**, as last amended by Laws of Utah 2017, Chapters 217, 223, 350, 365, 381,
29 386, and 468
30 **63N-3-105**, as last amended by Laws of Utah 2016, Chapter 34

31 REPEALS:

32 **53A-1a-804**, as enacted by Laws of Utah 2007, Chapter 30
33 **53A-1a-805**, as enacted by Laws of Utah 2007, Chapter 30
34 **53A-1a-806**, as last amended by Laws of Utah 2011, Chapter 342
35 **53A-1a-808**, as last amended by Laws of Utah 2008, Chapter 382
36 **53A-1a-811**, as enacted by Laws of Utah 2007, Chapter 30
37 **53A-15-1001**, as enacted by Laws of Utah 2006, Chapter 227
38 **53E-6-1001**, as renumbered and amended by Laws of Utah 2018, Chapter 1
39 **53E-6-1002**, as renumbered and amended by Laws of Utah 2018, Chapter 1
40 **53E-6-1003**, as renumbered and amended by Laws of Utah 2018, Chapter 1
41 **53E-6-1004**, as renumbered and amended by Laws of Utah 2018, Chapter 1
42 **53E-6-1005**, as renumbered and amended by Laws of Utah 2018, Chapter 1
43 **53E-6-1006**, as renumbered and amended by Laws of Utah 2018, Chapter 1
44 **53E-6-1007**, as renumbered and amended by Laws of Utah 2018, Chapter 1
45 **53E-6-1008**, as renumbered and amended by Laws of Utah 2018, Chapter 1
46 **53E-6-1009**, as renumbered and amended by Laws of Utah 2018, Chapter 1
47 **53E-6-1010**, as renumbered and amended by Laws of Utah 2018, Chapter 1
48 **53E-6-1011**, as renumbered and amended by Laws of Utah 2018, Chapter 1
49 **53E-10-601**, as renumbered and amended by Laws of Utah 2018, Chapter 1
50 **53E-10-602**, as renumbered and amended by Laws of Utah 2018, Chapter 1
51 **53E-10-603**, as renumbered and amended by Laws of Utah 2018, Chapter 1
52 **53E-10-604**, as renumbered and amended by Laws of Utah 2018, Chapter 1
53 **53E-10-605**, as renumbered and amended by Laws of Utah 2018, Chapter 1
54 **53E-10-606**, as renumbered and amended by Laws of Utah 2018, Chapter 1
55 **53E-10-607**, as renumbered and amended by Laws of Utah 2018, Chapter 1
56 **53E-10-608**, as renumbered and amended by Laws of Utah 2018, Chapter 1

- 57 **53E-10-609**, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 58 **53F-2-313**, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 59 **53F-2-413**, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 60 **53F-2-517**, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 61 **53F-2-518**, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 62 **53F-5-208**, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 63 **53F-6-202**, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 64 **53G-3-103**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 65 **53G-4-1001.5**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 66 **63N-3-110**, as renumbered and amended by Laws of Utah 2015, Chapter 283



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

69 Section 1. Section **53F-2-516** is amended to read:

70 **53F-2-516. Critical Languages Program -- Pilot.**

71 (1) (a) As used in this section, "critical languages" means those languages described in
72 the federal National Security Language Initiative, including Chinese, Arabic, Russian, Farsi,
73 Hindi, and Korean.

74 (b) The Legislature recognizes:

75 (i) the importance of students acquiring skills in foreign languages in order for them to
76 successfully compete in a global society; and

77 (ii) the academic, societal, and economic development benefits of the acquisition of
78 critical languages.

79 (2) (a) The State Board of Education, in consultation with the Utah Education and
80 Telehealth Network, shall develop and implement courses of study in the critical languages.

81 (b) A course may be taught:

82 (i) over the state's two-way interactive video conferencing system for video and audio,
83 to students in the state's public education system;

84 [~~(ii) through the Electronic High School;~~]

85 [~~(iii)~~] (ii) through traditional instruction; or

86 [~~(iv)~~] (iii) by visiting guest teachers.

87 (3) (a) The courses authorized in Subsection (2) may use paraprofessionals in the

88 classroom who:

89 (i) are fluent in the critical language being taught; and

90 (ii) can provide reinforcement and tutoring to students on days and at times when they
91 are not receiving instruction under Subsection (2)(b).

92 (b) The State Board of Education, through the state superintendent of public
93 instruction, shall ensure that the paraprofessionals are fluent in the critical languages.

94 (4) The State Board of Education shall make rules on the critical languages courses
95 authorized under this section in accordance with Title 63G, Chapter 3, Utah Administrative
96 Rulemaking Act, to include:

97 (a) notification to school districts on the times and places of the course offerings; and

98 (b) instructional materials for the courses.

99 (5) The State Board of Education shall track and monitor the Critical Languages
100 Program and may expand the program to include more course offerings and other critical
101 languages, subject to student demand for the courses and available resources.

102 (6) (a) Subject to funding for the program, the State Board of Education shall establish
103 a pilot program for school districts and schools to initially participate in the Critical Languages
104 Program that provides:

105 (i) up to \$6,000 per language per school, for up to 60 schools, for courses offered in
106 critical languages;

107 (ii) up to \$100 per student who completes a critical languages course; and

108 (iii) up to an additional \$400 per foreign exchange student who completes a critical
109 languages course.

110 (b) If the available funding is insufficient to provide the amounts described under
111 Subsection (6)(a), the amounts provided shall be reduced pro rata so that the total provided
112 does not exceed the available funding.

113 Section 2. Section **53G-9-802** is amended to read:

114 **53G-9-802. Dropout prevention and recovery -- Flexible enrollment options --**
115 **Contracting -- Reporting.**

116 (1) (a) Subject to Subsection (1)(b), an LEA shall provide dropout prevention and
117 recovery services to a designated student, including:

118 (i) engaging with or attempting to recover a designated student;

- 119 (ii) developing a learning plan, in consultation with a designated student, to identify:
120 (A) barriers to regular school attendance and achievement;
121 (B) an attainment goal; and
122 (C) a means for achieving the attainment goal through enrollment in one or more of the
123 programs described in Subsection (2);
124 (iii) monitoring a designated student's progress toward reaching the designated
125 student's attainment goal; and
126 (iv) providing tiered interventions for a designated student who is not making progress
127 toward reaching the student's attainment goal.
- 128 (b) An LEA shall provide the dropout prevention and recovery services described in
129 Subsection (1)(a):
130 (i) throughout the calendar year; and
131 (ii) except as provided in Subsection (1)(c)(i), for each designated student who
132 becomes a designated student while enrolled in the LEA.
- 133 (c) (i) A designated student's school district of residence shall provide dropout recovery
134 services if the designated student:
135 (A) was enrolled in a charter school that does not include grade 12; and
136 (B) becomes a designated student in the summer after the student completes academic
137 instruction at the charter school through the maximum grade level the charter school is eligible
138 to serve under the charter school's charter agreement as described in Section [53G-5-303](#).
139 (ii) In accordance with Subsection (1)(c)(iii), a charter school that does not include
140 grade 12 shall notify each of the charter school's student's district of residence, as determined
141 under Section [53G-6-302](#), when the student completes academic instruction at the charter
142 school as described in Subsection (1)(c)(i)(B).
143 (iii) The notification described in Subsection (1)(c)(ii) shall include the student's name,
144 contact information, and student identification number.
- 145 (2) (a) An LEA shall provide flexible enrollment options for a designated student that:
146 (i) are tailored to the designated student's learning plan developed under Subsection
147 (1)(a)(ii); and
148 (ii) include two or more of the following:
149 (A) enrollment in the LEA in a traditional program;

- 150 (B) enrollment in the LEA in a nontraditional program;
- 151 (C) enrollment in a program offered by a private provider that has entered into a
- 152 contract with the LEA to provide educational services; or
- 153 (D) enrollment in a program offered by another LEA.
- 154 (b) A designated student may enroll in:
- 155 (i) a program offered by the LEA under Subsection (2)(a), in accordance with this
- 156 public education code, rules established by the State Board of Education, and policies
- 157 established by the LEA; or
- 158 ~~[(ii) the Electronic High School, in accordance with Title 53E, Chapter 10, Part 6,~~
- 159 ~~Electronic High School; or]~~
- 160 ~~[(iii)]~~ (ii) the Statewide Online Education Program, in accordance with Title 53F,
- 161 Chapter 4, Part 5, Statewide Online Education Program.
- 162 (c) An LEA shall make the LEA's best effort to accommodate a designated student's
- 163 choice of enrollment under Subsection (2)(b).
- 164 (3) Beginning with the 2017-18 school year and except as provided in Subsection (4),
- 165 an LEA shall enter into a contract with a third party to provide the dropout prevention and
- 166 recovery services described in Subsection (1)(a) for any school year in which the LEA meets
- 167 the following criteria:
- 168 (a) the LEA's graduation rate is lower than the statewide graduation rate; and
- 169 (b) (i) the LEA's graduation rate has not increased by at least 1% on average over the
- 170 previous three school years; or
- 171 (ii) during the previous calendar year, at least 10% of the LEA's designated students
- 172 have not:
- 173 (A) reached the students' attainment goals; or
- 174 (B) made a year's worth of progress toward the students' attainment goals.
- 175 (4) An LEA that is in the LEA's first three years of operation is not subject to the
- 176 requirement described in Subsection (3).
- 177 (5) An LEA described in Subsection (3) shall ensure that:
- 178 (a) a third party with whom the LEA enters into a contract under Subsection (3) has a
- 179 demonstrated record of effectiveness engaging with and recovering designated students; and
- 180 (b) a contract with a third party requires the third party to:

- 181 (i) provide the services described in Subsection (1)(a); and
- 182 (ii) regularly report progress to the LEA.
- 183 (6) An LEA shall annually submit a report to the State Board of Education on dropout
- 184 prevention and recovery services provided under this section, including:
 - 185 (a) the methods the LEA or third party uses to engage with or attempt to recover
 - 186 designated students under Subsection (1)(a)(i);
 - 187 (b) the number of designated students who enroll in a program described in Subsection
 - 188 (2) as a result of the efforts described in Subsection (6)(a);
 - 189 (c) the number of designated students who reach the designated students' attainment
 - 190 goals identified under Subsection (1)(a)(ii)(B); and
 - 191 (d) funding allocated to provide dropout prevention and recovery services.
- 192 (7) The State Board of Education shall:
 - 193 (a) ensure that an LEA described in Subsection (3) contracts with a third party to
 - 194 provide dropout prevention and recovery services in accordance with Subsections (3) and (5);
 - 195 and
 - 196 (b) on or before October 30, 2017, and each year thereafter, report to the Education
 - 197 Interim Committee on the provisions of this section, including a summary of the reports
 - 198 submitted under Subsection (6).
- 199 Section 3. Section **53G-10-503** is amended to read:
 - 200 **53G-10-503. Driver education funding -- Reimbursement of school districts for**
 - 201 **driver education class expenses -- Limitations -- Excess funds -- Student fees.**
 - 202 (1) (a) Except as provided in Subsection (1)(b), a school district that provides driver
 - 203 education shall fund the program solely through:
 - 204 (i) funds provided from the Automobile Driver Education Tax Account in the Uniform
 - 205 School Fund as created under Section [41-1a-1205](#); and
 - 206 (ii) student fees collected by each school.
 - 207 (b) In determining the cost of driver education, a school district may exclude:
 - 208 (i) the full-time equivalent cost of a teacher for a driver education class taught during
 - 209 regular school hours; and
 - 210 (ii) classroom space and classroom maintenance.
 - 211 (c) A school district may not use any additional school funds beyond those allowed

212 under Subsection (1)(b) to subsidize driver education.

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

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

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

221 (a) employ personnel who are not licensed by the board under Section 53E-6-201; or

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

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

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

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

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

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

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

238 (a) to reimburse each school district that applies for reimbursement of the cost of a fee
239 waived under Section 53G-7-504 for driver education; and

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

242 (7) A local school board shall establish the student fee for driver education for the

243 school district. Student fees shall be reasonably associated with the costs of driver education
244 that are not otherwise covered by reimbursements and allocations made under this section.

245 Section 4. Section **53G-10-508** is amended to read:

246 **53G-10-508. Programs authorized -- Minimum standards.**

247 (1) Local school districts may:

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

250 [~~(i) home study; or~~]

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

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

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

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

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

259 (i) licensed under Section [53-3-504](#); and

260 (ii) not associated with the school or under contract with the school under Subsection
261 [53G-10-503\(3\)](#); or

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

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

266 Section 5. Section **59-12-102** is amended to read:

267 **59-12-102. Definitions.**

268 As used in this chapter:

269 (1) "800 service" means a telecommunications service that:

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

271 (b) is typically marketed:

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

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

- 274 (iii) under the name 866 toll-free calling;
- 275 (iv) under the name 877 toll-free calling;
- 276 (v) under the name 888 toll-free calling; or
- 277 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
- 278 Federal Communications Commission.
- 279 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 280 (i) a subscriber purchases;
- 281 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 282 the subscriber's:
- 283 (A) prerecorded announcement; or
- 284 (B) live service; and
- 285 (iii) is typically marketed:
- 286 (A) under the name 900 service; or
- 287 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 288 Communications Commission.
- 289 (b) "900 service" does not include a charge for:
- 290 (i) a collection service a seller of a telecommunications service provides to a
- 291 subscriber; or
- 292 (ii) the following a subscriber sells to the subscriber's customer:
- 293 (A) a product; or
- 294 (B) a service.
- 295 (3) (a) "Admission or user fees" includes season passes.
- 296 (b) "Admission or user fees" does not include annual membership dues to private
- 297 organizations.
- 298 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 299 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 300 Agreement after November 12, 2002.
- 301 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 302 (a) listed under Subsection (6); and
- 303 (b) that are imposed within a local taxing jurisdiction.
- 304 (6) "Agreement sales and use tax" means a tax imposed under:

- 305 (a) Subsection 59-12-103(2)(a)(i)(A);
- 306 (b) Subsection 59-12-103(2)(b)(i);
- 307 (c) Subsection 59-12-103(2)(c)(i);
- 308 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 309 (e) Section 59-12-204;
- 310 (f) Section 59-12-401;
- 311 (g) Section 59-12-402;
- 312 (h) Section 59-12-402.1;
- 313 (i) Section 59-12-703;
- 314 (j) Section 59-12-802;
- 315 (k) Section 59-12-804;
- 316 (l) Section 59-12-1102;
- 317 (m) Section 59-12-1302;
- 318 (n) Section 59-12-1402;
- 319 (o) Section 59-12-1802;
- 320 (p) Section 59-12-2003;
- 321 (q) Section 59-12-2103;
- 322 (r) Section 59-12-2213;
- 323 (s) Section 59-12-2214;
- 324 (t) Section 59-12-2215;
- 325 (u) Section 59-12-2216;
- 326 (v) Section 59-12-2217;
- 327 (w) Section 59-12-2218; or
- 328 (x) Section 59-12-2219.
- 329 (7) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 330 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 331 (a) except for:
- 332 (i) an airline as defined in Section 59-2-102; or
- 333 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 334 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 335 state, of an airline; and

336 (b) that has the workers, expertise, and facilities to perform the following, regardless of
337 whether the business entity performs the following in this state:

338 (i) check, diagnose, overhaul, and repair:

339 (A) an onboard system of a fixed wing turbine powered aircraft; and

340 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

341 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
342 engine;

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

345 (A) an inspection;

346 (B) a repair, including a structural repair or modification;

347 (C) changing landing gear; and

348 (D) addressing issues related to an aging fixed wing turbine powered aircraft;

349 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
350 completely apply new paint to the fixed wing turbine powered aircraft; and

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

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

355 (a) is suitable for human consumption; and

356 (b) contains .5% or more alcohol by volume.

357 (10) "Alternative energy" means:

358 (a) biomass energy;

359 (b) geothermal energy;

360 (c) hydroelectric energy;

361 (d) solar energy;

362 (e) wind energy; or

363 (f) energy that is derived from:

364 (i) coal-to-liquids;

365 (ii) nuclear fuel;

366 (iii) oil-impregnated diatomaceous earth;

- 367 (iv) oil sands;
- 368 (v) oil shale;
- 369 (vi) petroleum coke; or
- 370 (vii) waste heat from:
 - 371 (A) an industrial facility; or
 - 372 (B) a power station in which an electric generator is driven through a process in which
 - 373 water is heated, turns into steam, and spins a steam turbine.
- 374 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 375 facility" means a facility that:
 - 376 (i) uses alternative energy to produce electricity; and
 - 377 (ii) has a production capacity of two megawatts or greater.
- 378 (b) A facility is an alternative energy electricity production facility regardless of
- 379 whether the facility is:
 - 380 (i) connected to an electric grid; or
 - 381 (ii) located on the premises of an electricity consumer.
- 382 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 383 provision of telecommunications service.
 - 384 (b) "Ancillary service" includes:
 - 385 (i) a conference bridging service;
 - 386 (ii) a detailed communications billing service;
 - 387 (iii) directory assistance;
 - 388 (iv) a vertical service; or
 - 389 (v) a voice mail service.
- 390 (13) "Area agency on aging" means the same as that term is defined in Section
- 391 [62A-3-101](#).
- 392 (14) "Assisted amusement device" means an amusement device, skill device, or ride
- 393 device that is started and stopped by an individual:
 - 394 (a) who is not the purchaser or renter of the right to use or operate the amusement
 - 395 device, skill device, or ride device; and
 - 396 (b) at the direction of the seller of the right to use the amusement device, skill device,
 - 397 or ride device.

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

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

403 (b) at the direction of the seller of the cleaning or washing of the tangible personal
404 property.

405 (16) "Authorized carrier" means:

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

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

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

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

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

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

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

419 (B) animal waste;

420 (C) waste vegetable oil;

421 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
422 wastewater residuals, or through the conversion of a waste material through a nonincineration,
423 thermal conversion process;

424 (E) aquatic plants; and

425 (F) agricultural products.

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

427 (i) black liquor; or

428 (ii) treated woods.

- 429 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
430 property, products, or services if the tangible personal property, products, or services are:
431 (i) distinct and identifiable; and
432 (ii) sold for one nonitemized price.
- 433 (b) "Bundled transaction" does not include:
434 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
435 the basis of the selection by the purchaser of the items of tangible personal property included in
436 the transaction;
437 (ii) the sale of real property;
438 (iii) the sale of services to real property;
439 (iv) the retail sale of tangible personal property and a service if:
440 (A) the tangible personal property:
441 (I) is essential to the use of the service; and
442 (II) is provided exclusively in connection with the service; and
443 (B) the service is the true object of the transaction;
444 (v) the retail sale of two services if:
445 (A) one service is provided that is essential to the use or receipt of a second service;
446 (B) the first service is provided exclusively in connection with the second service; and
447 (C) the second service is the true object of the transaction;
448 (vi) a transaction that includes tangible personal property or a product subject to
449 taxation under this chapter and tangible personal property or a product that is not subject to
450 taxation under this chapter if the:
451 (A) seller's purchase price of the tangible personal property or product subject to
452 taxation under this chapter is de minimis; or
453 (B) seller's sales price of the tangible personal property or product subject to taxation
454 under this chapter is de minimis; and
455 (vii) the retail sale of tangible personal property that is not subject to taxation under
456 this chapter and tangible personal property that is subject to taxation under this chapter if:
457 (A) that retail sale includes:
458 (I) food and food ingredients;
459 (II) a drug;

- 460 (III) durable medical equipment;
- 461 (IV) mobility enhancing equipment;
- 462 (V) an over-the-counter drug;
- 463 (VI) a prosthetic device; or
- 464 (VII) a medical supply; and
- 465 (B) subject to Subsection (18)(f):
 - 466 (I) the seller's purchase price of the tangible personal property subject to taxation under
 - 467 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
 - 468 (II) the seller's sales price of the tangible personal property subject to taxation under
 - 469 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 470 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
- 471 service that is distinct and identifiable does not include:
 - 472 (A) packaging that:
 - 473 (I) accompanies the sale of the tangible personal property, product, or service; and
 - 474 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
 - 475 service;
 - 476 (B) tangible personal property, a product, or a service provided free of charge with the
 - 477 purchase of another item of tangible personal property, a product, or a service; or
 - 478 (C) an item of tangible personal property, a product, or a service included in the
 - 479 definition of "purchase price."
- 480 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
- 481 product, or a service is provided free of charge with the purchase of another item of tangible
- 482 personal property, a product, or a service if the sales price of the purchased item of tangible
- 483 personal property, product, or service does not vary depending on the inclusion of the tangible
- 484 personal property, product, or service provided free of charge.
- 485 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
- 486 does not include a price that is separately identified by tangible personal property, product, or
- 487 service on the following, regardless of whether the following is in paper format or electronic
- 488 format:
 - 489 (A) a binding sales document; or
 - 490 (B) another supporting sales-related document that is available to a purchaser.

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

- 493 (A) a bill of sale;
- 494 (B) a contract;
- 495 (C) an invoice;
- 496 (D) a lease agreement;
- 497 (E) a periodic notice of rates and services;
- 498 (F) a price list;
- 499 (G) a rate card;
- 500 (H) a receipt; or
- 501 (I) a service agreement.

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

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

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

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

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

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

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

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

521 (19) "Certified automated system" means software certified by the governing board of

522 the agreement that:

523 (a) calculates the agreement sales and use tax imposed within a local taxing

524 jurisdiction:

525 (i) on a transaction; and

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

527 (b) determines the amount of agreement sales and use tax to remit to a state that is a

528 member of the agreement; and

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

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

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

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

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

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

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

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

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

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

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

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

551 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
552 Utah Administrative Rulemaking Act, the commission may make rules defining what

553 constitutes a person's place of employment.

554 (c) "Common carrier" does not include a person that provides transportation network
555 services, as defined in Section 13-51-102.

556 (25) "Component part" includes:

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

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

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

562 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

583 (31) "Delivered electronically" means delivered to a purchaser by means other than

584 tangible storage media.

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

586 (i) by a seller of:

587 (A) tangible personal property;

588 (B) a product transferred electronically; or

589 (C) services; and

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

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

592 purchaser.

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

594 (i) transportation;

595 (ii) shipping;

596 (iii) postage;

597 (iv) handling;

598 (v) crating; or

599 (vi) packing.

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

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

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

603 (a) is intended to supplement the diet;

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

605 (i) a vitamin;

606 (ii) a mineral;

607 (iii) an herb or other botanical;

608 (iv) an amino acid;

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

610 dietary intake; or

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

612 described in Subsections (34)(b)(i) through (v);

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

614 (A) tablet form;

- 615 (B) capsule form;
- 616 (C) powder form;
- 617 (D) softgel form;
- 618 (E) gelcap form; or
- 619 (F) liquid form; or
- 620 (ii) if the product is not intended for ingestion in a form described in Subsections
- 621 (34)(c)(i)(A) through (F), is not represented:
 - 622 (A) as conventional food; and
 - 623 (B) for use as a sole item of:
 - 624 (I) a meal; or
 - 625 (II) the diet; and
 - 626 (d) is required to be labeled as a dietary supplement:
 - 627 (i) identifiable by the "Supplemental Facts" box found on the label; and
 - 628 (ii) as required by 21 C.F.R. Sec. 101.36.
- 629 (35) "Digital audio-visual work" means a series of related images which, when shown
- 630 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 631 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 632 musical, spoken, or other sounds.
 - 633 (b) "Digital audio work" includes a ringtone.
- 634 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
- 635 sense as a book.
- 636 (38) (a) "Direct mail" means printed material delivered or distributed by United States
- 637 mail or other delivery service:
 - 638 (i) to:
 - 639 (A) a mass audience; or
 - 640 (B) addressees on a mailing list provided:
 - 641 (I) by a purchaser of the mailing list; or
 - 642 (II) at the discretion of the purchaser of the mailing list; and
 - 643 (ii) if the cost of the printed material is not billed directly to the recipients.
 - 644 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
 - 645 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

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

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

649 (a) address information; or

650 (b) telephone number information.

651 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
652 or supplies that:

653 (i) cannot withstand repeated use; and

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

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

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

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

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

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

660 (i) a drug;

661 (ii) durable medical equipment;

662 (iii) a hearing aid;

663 (iv) a hearing aid accessory;

664 (v) mobility enhancing equipment; or

665 (vi) tangible personal property used to correct impaired vision, including:

666 (A) eyeglasses; or

667 (B) contact lenses.

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

670 (41) "Drilling equipment manufacturer" means a facility:

671 (a) located in the state;

672 (b) with respect to which 51% or more of the manufacturing activities of the facility
673 consist of manufacturing component parts of drilling equipment;

674 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
675 manufacturing process; and

676 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the

677 manufacturing process.

678 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a
679 compound, substance, or preparation that is:

680 (i) recognized in:

681 (A) the official United States Pharmacopoeia;

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

683 (C) the official National Formulary; or

684 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);

685 (ii) intended for use in the:

686 (A) diagnosis of disease;

687 (B) cure of disease;

688 (C) mitigation of disease;

689 (D) treatment of disease; or

690 (E) prevention of disease; or

691 (iii) intended to affect:

692 (A) the structure of the body; or

693 (B) any function of the body.

694 (b) "Drug" does not include:

695 (i) food and food ingredients;

696 (ii) a dietary supplement;

697 (iii) an alcoholic beverage; or

698 (iv) a prosthetic device.

699 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
700 equipment that:

701 (i) can withstand repeated use;

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

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

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

705 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
706 equipment described in Subsection (43)(a).

707 (c) "Durable medical equipment" does not include mobility enhancing equipment.

- 708 (44) "Electronic" means:
- 709 (a) relating to technology; and
- 710 (b) having:
- 711 (i) electrical capabilities;
- 712 (ii) digital capabilities;
- 713 (iii) magnetic capabilities;
- 714 (iv) wireless capabilities;
- 715 (v) optical capabilities;
- 716 (vi) electromagnetic capabilities; or
- 717 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).
- 718 (45) "Electronic financial payment service" means an establishment:
- 719 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 720 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 721 federal Executive Office of the President, Office of Management and Budget; and
- 722 (b) that performs electronic financial payment services.
- 723 (46) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 724 (47) "Fixed guideway" means a public transit facility that uses and occupies:
- 725 (a) rail for the use of public transit; or
- 726 (b) a separate right-of-way for the use of public transit.
- 727 (48) "Fixed wing turbine powered aircraft" means an aircraft that:
- 728 (a) is powered by turbine engines;
- 729 (b) operates on jet fuel; and
- 730 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 731 (49) "Fixed wireless service" means a telecommunications service that provides radio
- 732 communication between fixed points.
- 733 (50) (a) "Food and food ingredients" means substances:
- 734 (i) regardless of whether the substances are in:
- 735 (A) liquid form;
- 736 (B) concentrated form;
- 737 (C) solid form;
- 738 (D) frozen form;

- 739 (E) dried form; or
- 740 (F) dehydrated form; and
- 741 (ii) that are:
- 742 (A) sold for:
- 743 (I) ingestion by humans; or
- 744 (II) chewing by humans; and
- 745 (B) consumed for the substance's:
- 746 (I) taste; or
- 747 (II) nutritional value.
- 748 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
- 749 (c) "Food and food ingredients" does not include:
- 750 (i) an alcoholic beverage;
- 751 (ii) tobacco; or
- 752 (iii) prepared food.
- 753 (51) (a) "Fundraising sales" means sales:
- 754 (i) (A) made by a school; or
- 755 (B) made by a school student;
- 756 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 757 materials, or provide transportation; and
- 758 (iii) that are part of an officially sanctioned school activity.
- 759 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"
- 760 means a school activity:
- 761 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 762 district governing the authorization and supervision of fundraising activities;
- 763 (ii) that does not directly or indirectly compensate an individual teacher or other
- 764 educational personnel by direct payment, commissions, or payment in kind; and
- 765 (iii) the net or gross revenues from which are deposited in a dedicated account
- 766 controlled by the school or school district.
- 767 (52) "Geothermal energy" means energy contained in heat that continuously flows
- 768 outward from the earth that is used as the sole source of energy to produce electricity.
- 769 (53) "Governing board of the agreement" means the governing board of the agreement

770 that is:

771 (a) authorized to administer the agreement; and

772 (b) established in accordance with the agreement.

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

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

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

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

782 (iv) the National Guard;

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

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

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

787 (i) a school;

788 (ii) the State Board of Education;

789 (iii) the State Board of Regents; or

790 (iv) an institution of higher education described in Section 53B-1-102.

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

793 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
794 other fuels:

795 (a) in mining or extraction of minerals;

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

798 (i) commercial greenhouses;

799 (ii) irrigation pumps;

800 (iii) farm machinery;

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

803 (v) other farming activities;

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

807 (d) by a scrap recycler if:

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

811 (A) iron;

812 (B) steel;

813 (C) nonferrous metal;

814 (D) paper;

815 (E) glass;

816 (F) plastic;

817 (G) textile; or

818 (H) rubber; and

819 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with
820 nonrecycled materials; or

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

823 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge
824 for installing:

825 (i) tangible personal property; or

826 (ii) a product transferred electronically.

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

828 (i) repairs or renovations of:

829 (A) tangible personal property; or

830 (B) a product transferred electronically; or

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

832 (A) to other tangible personal property; and

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

834 (58) "Institution of higher education" means an institution of higher education listed in
835 Section [53B-2-101](#).

836 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible
837 personal property or a product transferred electronically for:

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

839 (B) an indeterminate term; and

840 (ii) consideration.

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

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

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

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

851 (A) upon completion of required payments; and

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

853 (I) \$100; or

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

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

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

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

861 (ii) maintenance of tangible personal property; or

862 (iii) inspection of tangible personal property.

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

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

867 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
868 Manufacturing; or

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

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

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

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

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

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

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

879 (64) "Manufactured home" means the same as that term is defined in Section
880 [15A-1-302](#).

881 (65) "Manufacturing facility" means:

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

885 (b) a scrap recycler if:

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

889 (A) iron;

890 (B) steel;

891 (C) nonferrous metal;

892 (D) paper;

893 (E) glass;

894 (F) plastic;
895 (G) textile; or
896 (H) rubber; and
897 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with
898 nonrecycled materials; or

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

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

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

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

905 (ii) a foster child or foster stepchild;

906 (b) grandchild or stepgrandchild;

907 (c) grandparent or stepgrandparent;

908 (d) nephew or stepnephew;

909 (e) niece or stepniece;

910 (f) parent or stepparent;

911 (g) sibling or stepsibling;

912 (h) spouse;

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

914 or

915 (j) person similar to a person described in Subsections (66)(a) through (i) as
916 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
917 Administrative Rulemaking Act.

918 (67) "Mobile home" means the same as that term is defined in Section 15A-1-302.

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

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

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

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

925 (iii) the origination point described in Subsection (69)(a)(i) and the termination point
926 described in Subsection (69)(a)(ii) are not fixed.

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

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

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

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

935 (ii) appropriate for use in a:

936 (A) home; or

937 (B) motor vehicle; and

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

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

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

942 (i) a motor vehicle;

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

945 (iii) durable medical equipment; or

946 (iv) a prosthetic device.

947 (71) "Model 1 seller" means a seller registered under the agreement that has selected a
948 certified service provider as the seller's agent to perform all of the seller's sales and use tax
949 functions for agreement sales and use taxes other than the seller's obligation under Section
950 [59-12-124](#) to remit a tax on the seller's own purchases.

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

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

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

955 (i) collected by the seller; and

956 (ii) to the appropriate local taxing jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

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

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

974 (b) yield mixtures of liquid hydrocarbon; and

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

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

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

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

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

986 (81) (a) "Paging service" means a telecommunications service that provides

987 transmission of a coded radio signal for the purpose of activating a specific pager.

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

990 (82) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

991 (83) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

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

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

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

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

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

1000 (A) cause substantial damage to the tangible personal property; or

1001 (B) require substantial alteration or repair of the real property to which the tangible
1002 personal property is attached.

1003 (b) "Permanently attached to real property" includes:

1004 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1005 (A) essential to the operation of the tangible personal property; and

1006 (B) attached only to facilitate the operation of the tangible personal property;

1007 (ii) a temporary detachment of tangible personal property from real property for a
1008 repair or renovation if the repair or renovation is performed where the tangible personal
1009 property and real property are located; or

1010 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
1011 Subsection (84)(c)(iii) or (iv).

1012 (c) "Permanently attached to real property" does not include:

1013 (i) the attachment of portable or movable tangible personal property to real property if
1014 that portable or movable tangible personal property is attached to real property only for:

1015 (A) convenience;

1016 (B) stability; or

1017 (C) for an obvious temporary purpose;

- 1018 (ii) the detachment of tangible personal property from real property except for the
1019 detachment described in Subsection (84)(b)(ii);
- 1020 (iii) an attachment of the following tangible personal property to real property if the
1021 attachment to real property is only through a line that supplies water, electricity, gas,
1022 telecommunications, cable, or supplies a similar item as determined by the commission by rule
1023 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 1024 (A) a computer;
 - 1025 (B) a telephone;
 - 1026 (C) a television; or
 - 1027 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as
1028 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
1029 Administrative Rulemaking Act; or
- 1030 (iv) an item listed in Subsection (125)(c).
- 1031 (85) "Person" includes any individual, firm, partnership, joint venture, association,
1032 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
1033 municipality, district, or other local governmental entity of the state, or any group or
1034 combination acting as a unit.
- 1035 (86) "Place of primary use":
- 1036 (a) for telecommunications service other than mobile telecommunications service,
1037 means the street address representative of where the customer's use of the telecommunications
1038 service primarily occurs, which shall be:
- 1039 (i) the residential street address of the customer; or
 - 1040 (ii) the primary business street address of the customer; or
- 1041 (b) for mobile telecommunications service, is as defined in the Mobile
1042 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 1043 (87) (a) "Postpaid calling service" means a telecommunications service a person
1044 obtains by making a payment on a call-by-call basis:
- 1045 (i) through the use of a:
- 1046 (A) bank card;
 - 1047 (B) credit card;
 - 1048 (C) debit card; or

- 1049 (D) travel card; or
- 1050 (ii) by a charge made to a telephone number that is not associated with the origination
- 1051 or termination of the telecommunications service.
- 1052 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
- 1053 service, that would be a prepaid wireless calling service if the service were exclusively a
- 1054 telecommunications service.
- 1055 (88) "Postproduction" means an activity related to the finishing or duplication of a
- 1056 medium described in Subsection [59-12-104\(54\)\(a\)](#).
- 1057 (89) "Prepaid calling service" means a telecommunications service:
- 1058 (a) that allows a purchaser access to telecommunications service that is exclusively
- 1059 telecommunications service;
- 1060 (b) that:
- 1061 (i) is paid for in advance; and
- 1062 (ii) enables the origination of a call using an:
- 1063 (A) access number; or
- 1064 (B) authorization code;
- 1065 (c) that is dialed:
- 1066 (i) manually; or
- 1067 (ii) electronically; and
- 1068 (d) sold in predetermined units or dollars that decline:
- 1069 (i) by a known amount; and
- 1070 (ii) with use.
- 1071 (90) "Prepaid wireless calling service" means a telecommunications service:
- 1072 (a) that provides the right to utilize:
- 1073 (i) mobile wireless service; and
- 1074 (ii) other service that is not a telecommunications service, including:
- 1075 (A) the download of a product transferred electronically;
- 1076 (B) a content service; or
- 1077 (C) an ancillary service;
- 1078 (b) that:
- 1079 (i) is paid for in advance; and

- 1080 (ii) enables the origination of a call using an:
- 1081 (A) access number; or
- 1082 (B) authorization code;
- 1083 (c) that is dialed:
- 1084 (i) manually; or
- 1085 (ii) electronically; and
- 1086 (d) sold in predetermined units or dollars that decline:
- 1087 (i) by a known amount; and
- 1088 (ii) with use.
- 1089 (91) (a) "Prepared food" means:
- 1090 (i) food:
- 1091 (A) sold in a heated state; or
- 1092 (B) heated by a seller;
- 1093 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 1094 item; or
- 1095 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
- 1096 by the seller, including a:
- 1097 (A) plate;
- 1098 (B) knife;
- 1099 (C) fork;
- 1100 (D) spoon;
- 1101 (E) glass;
- 1102 (F) cup;
- 1103 (G) napkin; or
- 1104 (H) straw.
- 1105 (b) "Prepared food" does not include:
- 1106 (i) food that a seller only:
- 1107 (A) cuts;
- 1108 (B) repackages; or
- 1109 (C) pasteurizes; or
- 1110 (ii) (A) the following:

- 1111 (I) raw egg;
- 1112 (II) raw fish;
- 1113 (III) raw meat;
- 1114 (IV) raw poultry; or
- 1115 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
- 1116 and
- 1117 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1118 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1119 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
- 1120 (iii) the following if sold without eating utensils provided by the seller:
- 1121 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1122 classification under the 2002 North American Industry Classification System of the federal
- 1123 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1124 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1125 Manufacturing;
- 1126 (B) food and food ingredients sold in an unheated state:
- 1127 (I) by weight or volume; and
- 1128 (II) as a single item; or
- 1129 (C) a bakery item, including:
- 1130 (I) a bagel;
- 1131 (II) a bar;
- 1132 (III) a biscuit;
- 1133 (IV) bread;
- 1134 (V) a bun;
- 1135 (VI) a cake;
- 1136 (VII) a cookie;
- 1137 (VIII) a croissant;
- 1138 (IX) a danish;
- 1139 (X) a donut;
- 1140 (XI) a muffin;
- 1141 (XII) a pastry;

- 1142 (XIII) a pie;
- 1143 (XIV) a roll;
- 1144 (XV) a tart;
- 1145 (XVI) a torte; or
- 1146 (XVII) a tortilla.
- 1147 (c) An eating utensil provided by the seller does not include the following used to
- 1148 transport the food:
 - 1149 (i) a container; or
 - 1150 (ii) packaging.
- 1151 (92) "Prescription" means an order, formula, or recipe that is issued:
 - 1152 (a) (i) orally;
 - 1153 (ii) in writing;
 - 1154 (iii) electronically; or
 - 1155 (iv) by any other manner of transmission; and
 - 1156 (b) by a licensed practitioner authorized by the laws of a state.
- 1157 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
- 1158 software" means computer software that is not designed and developed:
 - 1159 (i) by the author or other creator of the computer software; and
 - 1160 (ii) to the specifications of a specific purchaser.
- 1161 (b) "Prewritten computer software" includes:
 - 1162 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
 - 1163 software is not designed and developed:
 - 1164 (A) by the author or other creator of the computer software; and
 - 1165 (B) to the specifications of a specific purchaser;
 - 1166 (ii) computer software designed and developed by the author or other creator of the
 - 1167 computer software to the specifications of a specific purchaser if the computer software is sold
 - 1168 to a person other than the purchaser; or
 - 1169 (iii) except as provided in Subsection (93)(c), prewritten computer software or a
 - 1170 prewritten portion of prewritten computer software:
 - 1171 (A) that is modified or enhanced to any degree; and
 - 1172 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is

1173 designed and developed to the specifications of a specific purchaser.

1174 (c) "Prewritten computer software" does not include a modification or enhancement
1175 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

1176 (i) reasonable; and

1177 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
1178 invoice or other statement of price provided to the purchaser at the time of sale or later, as
1179 demonstrated by:

1180 (A) the books and records the seller keeps at the time of the transaction in the regular
1181 course of business, including books and records the seller keeps at the time of the transaction in
1182 the regular course of business for nontax purposes;

1183 (B) a preponderance of the facts and circumstances at the time of the transaction; and

1184 (C) the understanding of all of the parties to the transaction.

1185 (94) (a) "Private communications service" means a telecommunications service:

1186 (i) that entitles a customer to exclusive or priority use of one or more communications
1187 channels between or among termination points; and

1188 (ii) regardless of the manner in which the one or more communications channels are
1189 connected.

1190 (b) "Private communications service" includes the following provided in connection
1191 with the use of one or more communications channels:

1192 (i) an extension line;

1193 (ii) a station;

1194 (iii) switching capacity; or

1195 (iv) another associated service that is provided in connection with the use of one or
1196 more communications channels as defined in Section 59-12-215.

1197 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"
1198 means a product transferred electronically that would be subject to a tax under this chapter if
1199 that product was transferred in a manner other than electronically.

1200 (b) "Product transferred electronically" does not include:

1201 (i) an ancillary service;

1202 (ii) computer software; or

1203 (iii) a telecommunications service.

- 1204 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 1205 (i) artificially replace a missing portion of the body;
- 1206 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1207 (iii) support a weak or deformed portion of the body.
- 1208 (b) "Prosthetic device" includes:
- 1209 (i) parts used in the repairs or renovation of a prosthetic device;
- 1210 (ii) replacement parts for a prosthetic device;
- 1211 (iii) a dental prosthesis; or
- 1212 (iv) a hearing aid.
- 1213 (c) "Prosthetic device" does not include:
- 1214 (i) corrective eyeglasses; or
- 1215 (ii) contact lenses.
- 1216 (97) (a) "Protective equipment" means an item:
- 1217 (i) for human wear; and
- 1218 (ii) that is:
- 1219 (A) designed as protection:
- 1220 (I) to the wearer against injury or disease; or
- 1221 (II) against damage or injury of other persons or property; and
- 1222 (B) not suitable for general use.
- 1223 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1224 commission shall make rules:
- 1225 (i) listing the items that constitute "protective equipment"; and
- 1226 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1227 under the agreement.
- 1228 (98) (a) For purposes of Subsection [59-12-104\(41\)](#), "publication" means any written or
- 1229 printed matter, other than a photocopy:
- 1230 (i) regardless of:
- 1231 (A) characteristics;
- 1232 (B) copyright;
- 1233 (C) form;
- 1234 (D) format;

- 1235 (E) method of reproduction; or
- 1236 (F) source; and
- 1237 (ii) made available in printed or electronic format.
- 1238 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1239 commission may by rule define the term "photocopy."
- 1240 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 1241 (i) valued in money; and
- 1242 (ii) for which tangible personal property, a product transferred electronically, or
- 1243 services are:
 - 1244 (A) sold;
 - 1245 (B) leased; or
 - 1246 (C) rented.
- 1247 (b) "Purchase price" and "sales price" include:
- 1248 (i) the seller's cost of the tangible personal property, a product transferred
- 1249 electronically, or services sold;
- 1250 (ii) expenses of the seller, including:
 - 1251 (A) the cost of materials used;
 - 1252 (B) a labor cost;
 - 1253 (C) a service cost;
 - 1254 (D) interest;
 - 1255 (E) a loss;
 - 1256 (F) the cost of transportation to the seller; or
 - 1257 (G) a tax imposed on the seller;
- 1258 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1259 (iv) consideration a seller receives from a person other than the purchaser if:
 - 1260 (A) (I) the seller actually receives consideration from a person other than the purchaser;
 - 1261 and
 - 1262 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
 - 1263 price reduction or discount on the sale;
 - 1264 (B) the seller has an obligation to pass the price reduction or discount through to the
 - 1265 purchaser;

1266 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1267 the seller at the time of the sale to the purchaser; and

1268 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1269 seller to claim a price reduction or discount; and

1270 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1271 coupon, or other documentation with the understanding that the person other than the seller
1272 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1273 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1274 organization allowed a price reduction or discount, except that a preferred customer card that is
1275 available to any patron of a seller does not constitute membership in a group or organization
1276 allowed a price reduction or discount; or

1277 (III) the price reduction or discount is identified as a third party price reduction or
1278 discount on the:

1279 (Aa) invoice the purchaser receives; or

1280 (Bb) certificate, coupon, or other documentation the purchaser presents.

1281 (c) "Purchase price" and "sales price" do not include:

1282 (i) a discount:

1283 (A) in a form including:

1284 (I) cash;

1285 (II) term; or

1286 (III) coupon;

1287 (B) that is allowed by a seller;

1288 (C) taken by a purchaser on a sale; and

1289 (D) that is not reimbursed by a third party; or

1290 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
1291 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
1292 sale or later, as demonstrated by the books and records the seller keeps at the time of the
1293 transaction in the regular course of business, including books and records the seller keeps at the
1294 time of the transaction in the regular course of business for nontax purposes, by a
1295 preponderance of the facts and circumstances at the time of the transaction, and by the
1296 understanding of all of the parties to the transaction:

- 1297 (A) the following from credit extended on the sale of tangible personal property or
1298 services:
- 1299 (I) a carrying charge;
 - 1300 (II) a financing charge; or
 - 1301 (III) an interest charge;
- 1302 (B) a delivery charge;
- 1303 (C) an installation charge;
- 1304 (D) a manufacturer rebate on a motor vehicle; or
- 1305 (E) a tax or fee legally imposed directly on the consumer.
- 1306 (100) "Purchaser" means a person to whom:
- 1307 (a) a sale of tangible personal property is made;
 - 1308 (b) a product is transferred electronically; or
 - 1309 (c) a service is furnished.
- 1310 (101) "Qualifying enterprise data center" means an establishment that will:
- 1311 (a) own and operate a data center facility that will house a group of networked server
1312 computers in one physical location in order to centralize the dissemination, management, and
1313 storage of data and information;
 - 1314 (b) be located in the state;
 - 1315 (c) be a new operation constructed on or after July 1, 2016;
 - 1316 (d) consist of one or more buildings that total 150,000 or more square feet;
 - 1317 (e) be owned or leased by:
 - 1318 (i) the establishment; or
 - 1319 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1320 establishment; and
 - 1321 (f) be located on one or more parcels of land that are owned or leased by:
 - 1322 (i) the establishment; or
 - 1323 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1324 establishment.
- 1325 (102) "Regularly rented" means:
- 1326 (a) rented to a guest for value three or more times during a calendar year; or
 - 1327 (b) advertised or held out to the public as a place that is regularly rented to guests for

1328 value.

1329 (103) "Rental" means the same as that term is defined in Subsection (59).

1330 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible
1331 personal property" means:

1332 (i) a repair or renovation of tangible personal property that is not permanently attached
1333 to real property; or

1334 (ii) attaching tangible personal property or a product transferred electronically to other
1335 tangible personal property or detaching tangible personal property or a product transferred
1336 electronically from other tangible personal property if:

1337 (A) the other tangible personal property to which the tangible personal property or
1338 product transferred electronically is attached or from which the tangible personal property or
1339 product transferred electronically is detached is not permanently attached to real property; and

1340 (B) the attachment of tangible personal property or a product transferred electronically
1341 to other tangible personal property or detachment of tangible personal property or a product
1342 transferred electronically from other tangible personal property is made in conjunction with a
1343 repair or replacement of tangible personal property or a product transferred electronically.

1344 (b) "Repairs or renovations of tangible personal property" does not include:

1345 (i) attaching prewritten computer software to other tangible personal property if the
1346 other tangible personal property to which the prewritten computer software is attached is not
1347 permanently attached to real property; or

1348 (ii) detaching prewritten computer software from other tangible personal property if the
1349 other tangible personal property from which the prewritten computer software is detached is
1350 not permanently attached to real property.

1351 (105) "Research and development" means the process of inquiry or experimentation
1352 aimed at the discovery of facts, devices, technologies, or applications and the process of
1353 preparing those devices, technologies, or applications for marketing.

1354 (106) (a) "Residential telecommunications services" means a telecommunications
1355 service or an ancillary service that is provided to an individual for personal use:

1356 (i) at a residential address; or

1357 (ii) at an institution, including a nursing home or a school, if the telecommunications
1358 service or ancillary service is provided to and paid for by the individual residing at the

1359 institution rather than the institution.

1360 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

1361 (i) apartment; or

1362 (ii) other individual dwelling unit.

1363 (107) "Residential use" means the use in or around a home, apartment building,
1364 sleeping quarters, and similar facilities or accommodations.

1365 (108) (a) "Retailer" means any person engaged in a regularly organized business in
1366 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1367 who is selling to the user or consumer and not for resale.

1368 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1369 engaged in the business of selling to users or consumers within the state.

1370 (109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1371 than:

1372 (a) resale;

1373 (b) sublease; or

1374 (c) subrent.

1375 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1376 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1377 Subsection 59-12-103(1), for consideration.

1378 (b) "Sale" includes:

1379 (i) installment and credit sales;

1380 (ii) any closed transaction constituting a sale;

1381 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1382 chapter;

1383 (iv) any transaction if the possession of property is transferred but the seller retains the
1384 title as security for the payment of the price; and

1385 (v) any transaction under which right to possession, operation, or use of any article of
1386 tangible personal property is granted under a lease or contract and the transfer of possession
1387 would be taxable if an outright sale were made.

1388 (111) "Sale at retail" means the same as that term is defined in Subsection (109).

1389 (112) "Sale-leaseback transaction" means a transaction by which title to tangible

1390 personal property or a product transferred electronically that is subject to a tax under this
1391 chapter is transferred:

- 1392 (a) by a purchaser-lessee;
- 1393 (b) to a lessor;
- 1394 (c) for consideration; and
- 1395 (d) if:
 - 1396 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1397 of the tangible personal property or product transferred electronically;
 - 1398 (ii) the sale of the tangible personal property or product transferred electronically to the
1399 lessor is intended as a form of financing:
 - 1400 (A) for the tangible personal property or product transferred electronically; and
 - 1401 (B) to the purchaser-lessee; and
 - 1402 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1403 is required to:
 - 1404 (A) capitalize the tangible personal property or product transferred electronically for
1405 financial reporting purposes; and
 - 1406 (B) account for the lease payments as payments made under a financing arrangement.
 - 1407 (113) "Sales price" means the same as that term is defined in Subsection (99).
 - 1408 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
1409 amounts charged by a school:
 - 1410 (i) sales that are directly related to the school's educational functions or activities
1411 including:
 - 1412 (A) the sale of:
 - 1413 (I) textbooks;
 - 1414 (II) textbook fees;
 - 1415 (III) laboratory fees;
 - 1416 (IV) laboratory supplies; or
 - 1417 (V) safety equipment;
 - 1418 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
1419 that:
 - 1420 (I) a student is specifically required to wear as a condition of participation in a

1421 school-related event or school-related activity; and
1422 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1423 place of ordinary clothing;
1424 (C) sales of the following if the net or gross revenues generated by the sales are
1425 deposited into a school district fund or school fund dedicated to school meals:
1426 (I) food and food ingredients; or
1427 (II) prepared food; or
1428 (D) transportation charges for official school activities; or
1429 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1430 event or school-related activity.
1431 (b) "Sales relating to schools" does not include:
1432 (i) bookstore sales of items that are not educational materials or supplies;
1433 (ii) except as provided in Subsection (114)(a)(i)(B):
1434 (A) clothing;
1435 (B) clothing accessories or equipment;
1436 (C) protective equipment; or
1437 (D) sports or recreational equipment; or
1438 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1439 event or school-related activity if the amounts paid or charged are passed through to a person:
1440 (A) other than a:
1441 (I) school;
1442 (II) nonprofit organization authorized by a school board or a governing body of a
1443 private school to organize and direct a competitive secondary school activity; or
1444 (III) nonprofit association authorized by a school board or a governing body of a
1445 private school to organize and direct a competitive secondary school activity; and
1446 (B) that is required to collect sales and use taxes under this chapter.
1447 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1448 commission may make rules defining the term "passed through."
1449 (115) For purposes of this section and Section 59-12-104, "school" means:
1450 [~~(a) means:~~]
1451 [~~(i)~~] (a) an elementary school or a secondary school that:

1452 ~~[(A)]~~ (i) is a:
1453 ~~[(+)]~~ (A) public school; or
1454 ~~[(#)]~~ (B) private school; and
1455 ~~[(B)]~~ (ii) provides instruction for one or more grades kindergarten through 12; or
1456 ~~[(+)]~~ (b) a public school district~~[-and].~~
1457 ~~[(b) includes the Electronic High School as defined in Section 53A-15-1002.]~~
1458 (116) "Seller" means a person that makes a sale, lease, or rental of:
1459 (a) tangible personal property;
1460 (b) a product transferred electronically; or
1461 (c) a service.
1462 (117) (a) "Semiconductor fabricating, processing, research, or development materials"
1463 means tangible personal property or a product transferred electronically if the tangible personal
1464 property or product transferred electronically is:
1465 (i) used primarily in the process of:
1466 (A) (I) manufacturing a semiconductor;
1467 (II) fabricating a semiconductor; or
1468 (III) research or development of a:
1469 (Aa) semiconductor; or
1470 (Bb) semiconductor manufacturing process; or
1471 (B) maintaining an environment suitable for a semiconductor; or
1472 (ii) consumed primarily in the process of:
1473 (A) (I) manufacturing a semiconductor;
1474 (II) fabricating a semiconductor; or
1475 (III) research or development of a:
1476 (Aa) semiconductor; or
1477 (Bb) semiconductor manufacturing process; or
1478 (B) maintaining an environment suitable for a semiconductor.
1479 (b) "Semiconductor fabricating, processing, research, or development materials"
1480 includes:
1481 (i) parts used in the repairs or renovations of tangible personal property or a product
1482 transferred electronically described in Subsection (117)(a); or

1483 (ii) a chemical, catalyst, or other material used to:

1484 (A) produce or induce in a semiconductor a:

1485 (I) chemical change; or

1486 (II) physical change;

1487 (B) remove impurities from a semiconductor; or

1488 (C) improve the marketable condition of a semiconductor.

1489 (118) "Senior citizen center" means a facility having the primary purpose of providing
1490 services to the aged as defined in Section [62A-3-101](#).

1491 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"
1492 means tangible personal property that:

1493 (i) a business that provides accommodations and services described in Subsection
1494 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services
1495 to a purchaser;

1496 (ii) is intended to be consumed by the purchaser; and

1497 (iii) is:

1498 (A) included in the purchase price of the accommodations and services; and

1499 (B) not separately stated on an invoice, bill of sale, or other similar document provided
1500 to the purchaser.

1501 (b) "Short-term lodging consumable" includes:

1502 (i) a beverage;

1503 (ii) a brush or comb;

1504 (iii) a cosmetic;

1505 (iv) a hair care product;

1506 (v) lotion;

1507 (vi) a magazine;

1508 (vii) makeup;

1509 (viii) a meal;

1510 (ix) mouthwash;

1511 (x) nail polish remover;

1512 (xi) a newspaper;

1513 (xii) a notepad;

- 1514 (xiii) a pen;
- 1515 (xiv) a pencil;
- 1516 (xv) a razor;
- 1517 (xvi) saline solution;
- 1518 (xvii) a sewing kit;
- 1519 (xviii) shaving cream;
- 1520 (xix) a shoe shine kit;
- 1521 (xx) a shower cap;
- 1522 (xxi) a snack item;
- 1523 (xxii) soap;
- 1524 (xxiii) toilet paper;
- 1525 (xxiv) a toothbrush;
- 1526 (xxv) toothpaste; or
- 1527 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may
- 1528 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1529 Rulemaking Act.
- 1530 (c) "Short-term lodging consumable" does not include:
- 1531 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1532 property to be reused; or
- 1533 (ii) a product transferred electronically.
- 1534 (120) "Simplified electronic return" means the electronic return:
- 1535 (a) described in Section 318(C) of the agreement; and
- 1536 (b) approved by the governing board of the agreement.
- 1537 (121) "Solar energy" means the sun used as the sole source of energy for producing
- 1538 electricity.
- 1539 (122) (a) "Sports or recreational equipment" means an item:
- 1540 (i) designed for human use; and
- 1541 (ii) that is:
- 1542 (A) worn in conjunction with:
- 1543 (I) an athletic activity; or
- 1544 (II) a recreational activity; and

1545 (B) not suitable for general use.

1546 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1547 commission shall make rules:

1548 (i) listing the items that constitute "sports or recreational equipment"; and

1549 (ii) that are consistent with the list of items that constitute "sports or recreational
1550 equipment" under the agreement.

1551 (123) "State" means the state of Utah, its departments, and agencies.

1552 (124) "Storage" means any keeping or retention of tangible personal property or any
1553 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
1554 sale in the regular course of business.

1555 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"
1556 means personal property that:

1557 (i) may be:

1558 (A) seen;

1559 (B) weighed;

1560 (C) measured;

1561 (D) felt; or

1562 (E) touched; or

1563 (ii) is in any manner perceptible to the senses.

1564 (b) "Tangible personal property" includes:

1565 (i) electricity;

1566 (ii) water;

1567 (iii) gas;

1568 (iv) steam; or

1569 (v) prewritten computer software, regardless of the manner in which the prewritten
1570 computer software is transferred.

1571 (c) "Tangible personal property" includes the following regardless of whether the item
1572 is attached to real property:

1573 (i) a dishwasher;

1574 (ii) a dryer;

1575 (iii) a freezer;

1576 (iv) a microwave;
1577 (v) a refrigerator;
1578 (vi) a stove;
1579 (vii) a washer; or
1580 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the
1581 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1582 Rulemaking Act.

1583 (d) "Tangible personal property" does not include a product that is transferred
1584 electronically.

1585 (e) "Tangible personal property" does not include the following if attached to real
1586 property, regardless of whether the attachment to real property is only through a line that
1587 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1588 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1589 Rulemaking Act:

- 1590 (i) a hot water heater;
- 1591 (ii) a water filtration system; or
- 1592 (iii) a water softener system.

1593 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1594 software" means an item listed in Subsection (126)(b) if that item is purchased or leased
1595 primarily to enable or facilitate one or more of the following to function:

- 1596 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1597 (ii) telecommunications transmission equipment, machinery, or software.

1598 (b) The following apply to Subsection (126)(a):

- 1599 (i) a pole;
- 1600 (ii) software;
- 1601 (iii) a supplementary power supply;
- 1602 (iv) temperature or environmental equipment or machinery;
- 1603 (v) test equipment;
- 1604 (vi) a tower; or
- 1605 (vii) equipment, machinery, or software that functions similarly to an item listed in
1606 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in

1607 accordance with Subsection (126)(c).

1608 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1609 commission may by rule define what constitutes equipment, machinery, or software that
1610 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

1611 (127) "Telecommunications equipment, machinery, or software required for 911
1612 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
1613 Sec. 20.18.

1614 (128) "Telecommunications maintenance or repair equipment, machinery, or software"
1615 means equipment, machinery, or software purchased or leased primarily to maintain or repair
1616 one or more of the following, regardless of whether the equipment, machinery, or software is
1617 purchased or leased as a spare part or as an upgrade or modification to one or more of the
1618 following:

1619 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1620 (b) telecommunications switching or routing equipment, machinery, or software; or

1621 (c) telecommunications transmission equipment, machinery, or software.

1622 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or
1623 transmission of audio, data, video, voice, or any other information or signal to a point, or
1624 among or between points.

1625 (b) "Telecommunications service" includes:

1626 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1627 processing application is used to act:

1628 (A) on the code, form, or protocol of the content;

1629 (B) for the purpose of electronic conveyance, routing, or transmission; and

1630 (C) regardless of whether the service:

1631 (I) is referred to as voice over Internet protocol service; or

1632 (II) is classified by the Federal Communications Commission as enhanced or value
1633 added;

1634 (ii) an 800 service;

1635 (iii) a 900 service;

1636 (iv) a fixed wireless service;

1637 (v) a mobile wireless service;

- 1638 (vi) a postpaid calling service;
- 1639 (vii) a prepaid calling service;
- 1640 (viii) a prepaid wireless calling service; or
- 1641 (ix) a private communications service.
- 1642 (c) "Telecommunications service" does not include:
- 1643 (i) advertising, including directory advertising;
- 1644 (ii) an ancillary service;
- 1645 (iii) a billing and collection service provided to a third party;
- 1646 (iv) a data processing and information service if:
- 1647 (A) the data processing and information service allows data to be:
- 1648 (I) (Aa) acquired;
- 1649 (Bb) generated;
- 1650 (Cc) processed;
- 1651 (Dd) retrieved; or
- 1652 (Ee) stored; and
- 1653 (II) delivered by an electronic transmission to a purchaser; and
- 1654 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1655 or information;
- 1656 (v) installation or maintenance of the following on a customer's premises:
- 1657 (A) equipment; or
- 1658 (B) wiring;
- 1659 (vi) Internet access service;
- 1660 (vii) a paging service;
- 1661 (viii) a product transferred electronically, including:
- 1662 (A) music;
- 1663 (B) reading material;
- 1664 (C) a ring tone;
- 1665 (D) software; or
- 1666 (E) video;
- 1667 (ix) a radio and television audio and video programming service:
- 1668 (A) regardless of the medium; and

- 1669 (B) including:
- 1670 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1671 programming service by a programming service provider;
- 1672 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1673 (III) audio and video programming services delivered by a commercial mobile radio
- 1674 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1675 (x) a value-added nonvoice data service; or
- 1676 (xi) tangible personal property.
- 1677 (130) (a) "Telecommunications service provider" means a person that:
- 1678 (i) owns, controls, operates, or manages a telecommunications service; and
- 1679 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or
- 1680 resale to any person of the telecommunications service.
- 1681 (b) A person described in Subsection (130)(a) is a telecommunications service provider
- 1682 whether or not the Public Service Commission of Utah regulates:
- 1683 (i) that person; or
- 1684 (ii) the telecommunications service that the person owns, controls, operates, or
- 1685 manages.
- 1686 (131) (a) "Telecommunications switching or routing equipment, machinery, or
- 1687 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
- 1688 primarily for switching or routing:
- 1689 (i) an ancillary service;
- 1690 (ii) data communications;
- 1691 (iii) voice communications; or
- 1692 (iv) telecommunications service.
- 1693 (b) The following apply to Subsection (131)(a):
- 1694 (i) a bridge;
- 1695 (ii) a computer;
- 1696 (iii) a cross connect;
- 1697 (iv) a modem;
- 1698 (v) a multiplexer;
- 1699 (vi) plug in circuitry;

1700 (vii) a router;
1701 (viii) software;
1702 (ix) a switch; or
1703 (x) equipment, machinery, or software that functions similarly to an item listed in
1704 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in
1705 accordance with Subsection (131)(c).

1706 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1707 commission may by rule define what constitutes equipment, machinery, or software that
1708 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

1709 (132) (a) "Telecommunications transmission equipment, machinery, or software"
1710 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for
1711 sending, receiving, or transporting:

1712 (i) an ancillary service;
1713 (ii) data communications;
1714 (iii) voice communications; or
1715 (iv) telecommunications service.

1716 (b) The following apply to Subsection (132)(a):

1717 (i) an amplifier;
1718 (ii) a cable;
1719 (iii) a closure;
1720 (iv) a conduit;
1721 (v) a controller;
1722 (vi) a duplexer;
1723 (vii) a filter;
1724 (viii) an input device;
1725 (ix) an input/output device;
1726 (x) an insulator;
1727 (xi) microwave machinery or equipment;
1728 (xii) an oscillator;
1729 (xiii) an output device;
1730 (xiv) a pedestal;

- 1731 (xv) a power converter;
- 1732 (xvi) a power supply;
- 1733 (xvii) a radio channel;
- 1734 (xviii) a radio receiver;
- 1735 (xix) a radio transmitter;
- 1736 (xx) a repeater;
- 1737 (xxi) software;
- 1738 (xxii) a terminal;
- 1739 (xxiii) a timing unit;
- 1740 (xxiv) a transformer;
- 1741 (xxv) a wire; or
- 1742 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1743 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in
- 1744 accordance with Subsection (132)(c).

1745 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1746 commission may by rule define what constitutes equipment, machinery, or software that

1747 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

1748 (133) (a) "Textbook for a higher education course" means a textbook or other printed

1749 material that is required for a course:

- 1750 (i) offered by an institution of higher education; and
- 1751 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1752 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1753 (134) "Tobacco" means:

- 1754 (a) a cigarette;
- 1755 (b) a cigar;
- 1756 (c) chewing tobacco;
- 1757 (d) pipe tobacco; or
- 1758 (e) any other item that contains tobacco.

1759 (135) "Unassisted amusement device" means an amusement device, skill device, or

1760 ride device that is started and stopped by the purchaser or renter of the right to use or operate

1761 the amusement device, skill device, or ride device.

1762 (136) (a) "Use" means the exercise of any right or power over tangible personal
1763 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1764 incident to the ownership or the leasing of that tangible personal property, product transferred
1765 electronically, or service.

1766 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1767 property, a product transferred electronically, or a service in the regular course of business and
1768 held for resale.

1769 (137) "Value-added nonvoice data service" means a service:

1770 (a) that otherwise meets the definition of a telecommunications service except that a
1771 computer processing application is used to act primarily for a purpose other than conveyance,
1772 routing, or transmission; and

1773 (b) with respect to which a computer processing application is used to act on data or
1774 information:

- 1775 (i) code;
- 1776 (ii) content;
- 1777 (iii) form; or
- 1778 (iv) protocol.

1779 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are
1780 required to be titled, registered, or titled and registered:

- 1781 (i) an aircraft as defined in Section 72-10-102;
- 1782 (ii) a vehicle as defined in Section 41-1a-102;
- 1783 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1784 (iv) a vessel as defined in Section 41-1a-102.

1785 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1786 (i) a vehicle described in Subsection (138)(a); or
- 1787 (ii) (A) a locomotive;
- 1788 (B) a freight car;
- 1789 (C) railroad work equipment; or
- 1790 (D) other railroad rolling stock.

1791 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or
1792 exchanging a vehicle as defined in Subsection (138).

1793 (140) (a) "Vertical service" means an ancillary service that:
1794 (i) is offered in connection with one or more telecommunications services; and
1795 (ii) offers an advanced calling feature that allows a customer to:
1796 (A) identify a caller; and
1797 (B) manage multiple calls and call connections.
1798 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1799 conference bridging service.

1800 (141) (a) "Voice mail service" means an ancillary service that enables a customer to
1801 receive, send, or store a recorded message.

1802 (b) "Voice mail service" does not include a vertical service that a customer is required
1803 to have in order to utilize a voice mail service.

1804 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a
1805 facility that generates electricity:

1806 (i) using as the primary source of energy waste materials that would be placed in a
1807 landfill or refuse pit if it were not used to generate electricity, including:

1808 (A) tires;

1809 (B) waste coal;

1810 (C) oil shale; or

1811 (D) municipal solid waste; and

1812 (ii) in amounts greater than actually required for the operation of the facility.

1813 (b) "Waste energy facility" does not include a facility that incinerates:

1814 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1815 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1816 (143) "Watercraft" means a vessel as defined in Section 73-18-2.

1817 (144) "Wind energy" means wind used as the sole source of energy to produce
1818 electricity.

1819 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
1820 location by the United States Postal Service.

1821 Section 6. Section **63I-2-253** is amended to read:

1822 **63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.**

1823 [~~(1) Section 53A-1-403.5 is repealed July 1, 2017.~~]

- 1824 [~~(2)~~ Section ~~53A-1-411~~ is repealed July 1, 2017.]
- 1825 [~~(3)~~ Section ~~53A-1-415~~ is repealed July 1, 2019.]
- 1826 [~~(4)~~ Section ~~53A-1-709~~ is repealed July 1, 2020.]
- 1827 [~~(5)~~ Subsection ~~53A-1-1207(3)(b)(ii)(B)~~ is repealed July 1, 2020.]
- 1828 [~~(6)~~ Section ~~53A-1-1208~~ is repealed July 1, 2020.]
- 1829 [~~(7)~~ Subsection ~~53A-1a-513(4)~~ is repealed July 1, 2017.]
- 1830 [~~(8)~~ Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is
- 1831 repealed July 1, 2017.]
- 1832 [~~(9)~~ Section ~~53A-24-601~~ is repealed January 1, 2018.]
- 1833 [~~(10)~~] (1) Section ~~53A-24-602~~ is repealed July 1, 2018.
- 1834 [~~(11)~~] (2) (a) Subsections ~~53B-2a-103(2)~~ and (4) are repealed July 1, 2019.
- 1835 (b) When repealing Subsections ~~53B-2a-103(2)~~ and (4), the Office of Legislative
- 1836 Research and General Counsel shall, in addition to its authority under Subsection ~~36-12-12(3)~~,
- 1837 make necessary changes to subsection numbering and cross references.
- 1838 [~~(12)~~ Subsections ~~53B-7-101(2)(b)(iii)(A)~~ and (3) are repealed January 1, 2018.]
- 1839 [~~(13)~~] (3) Subsection ~~53B-7-705(6)(b)(ii)(B)~~ is repealed July 1, 2021.
- 1840 [~~(14)~~] (4) Subsection ~~53B-7-707(4)(b)~~ is repealed July 1, 2021.
- 1841 [~~(15)~~] (5) (a) The following sections are repealed on July 1, 2023:
- 1842 (i) Section ~~53B-8-202~~;
- 1843 (ii) Section ~~53B-8-203~~;
- 1844 (iii) Section ~~53B-8-204~~; and
- 1845 (iv) Section ~~53B-8-205~~.
- 1846 (b) (i) Subsection ~~53B-8-201(2)~~ is repealed on July 1, 2023.
- 1847 (ii) When repealing Subsection ~~53B-8-201(2)~~, the Office of Legislative Research and
- 1848 General Counsel shall, in addition to its authority under Subsection ~~36-12-12(3)~~, make
- 1849 necessary changes to subsection numbering and cross references.
- 1850 [~~(16)~~] (6) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is
- 1851 repealed July 1, 2023.
- 1852 (7) Subsection ~~53E-5-306(3)(b)(ii)(B)~~ is repealed July 1, 2020.
- 1853 (8) Section ~~53E-5-307~~ is repealed July 1, 2020.
- 1854 (9) Section ~~53F-4-204~~ is repealed July 1, 2019.

1855 Section 7. Section **63N-3-105** is amended to read:

1856 **63N-3-105. Qualification for assistance.**

1857 (1) Except as provided in Section **63N-3-108**, **63N-3-109**, or **63N-3-109.5**, [~~or~~
1858 **63N-3-110**,] the administrator shall determine which industries, companies, and individuals
1859 qualify to receive money from the Industrial Assistance Account. Except as provided by
1860 Subsection (2), to qualify for financial assistance from the restricted account, an applicant
1861 shall:

1862 (a) demonstrate to the satisfaction of the administrator that the applicant will expend
1863 funds in Utah with employees, vendors, subcontractors, or other businesses in an amount
1864 proportional with money provided from the restricted account at a minimum ratio of 2 to 1 per
1865 year or other more stringent requirements as established from time to time by the board for a
1866 minimum period of five years beginning with the date the loan or grant was approved;

1867 (b) demonstrate to the satisfaction of the administrator the applicant's ability to sustain
1868 economic activity in the state sufficient to repay, by means of cash or appropriate credits, the
1869 loan provided by the restricted account; and

1870 (c) satisfy other criteria the administrator considers appropriate.

1871 (2) (a) The administrator may exempt an applicant from the requirements of Subsection
1872 (1)(a) or (b) if:

1873 (i) the financial assistance is provided to an applicant for the purpose of locating all or
1874 any portion of its operations to an economically disadvantaged rural area;

1875 (ii) the applicant is part of a targeted industry;

1876 (iii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a,
1877 Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations
1878 Act, and its operations, as demonstrated to the satisfaction of the administrator, will provide
1879 significant economic stimulus to the growth of commerce and industry in the state; or

1880 (iv) the applicant is an entity offering an economic opportunity under Section
1881 **63N-3-109**.

1882 (b) The administrator may not exempt the applicant from the requirement under
1883 Subsection **63N-3-106(2)(b)** that the loan be structured so that the repayment or return to the
1884 state equals at least the amount of the assistance together with an annual interest charge.

1885 (3) The administrator shall:

- 1886 (a) for applicants not described in Subsection (2)(a):
1887 (i) make findings as to whether or not each applicant has satisfied each of the
1888 conditions set forth in Subsection (1); and
1889 (ii) monitor the continued compliance by each applicant with each of the conditions set
1890 forth in Subsection (1) for five years;
1891 (b) for applicants described in Subsection (2)(a), make findings as to whether the
1892 economic activities of each applicant has resulted in the creation of new jobs on a per capita
1893 basis in the economically disadvantaged rural area or targeted industry in which the applicant is
1894 located;
1895 (c) monitor the compliance by each applicant with the provisions of any contract or
1896 agreement entered into between the applicant and the state as provided in Section 63N-3-107;
1897 and
1898 (d) make funding decisions based upon appropriate findings and compliance.

1899 **Section 8. Repealer.**

1900 This bill repeals:

1901 Section **53A-1a-804, Scholarship program created -- Qualifications -- Application.**

1902 Section **53A-1a-805, Eligible private schools.**

1903 Section **53A-1a-806, Scholarship payments.**

1904 Section **53A-1a-808, Board to make rules.**

1905 Section **53A-1a-811, Review by legislative auditor general.**

1906 Section **53A-15-1001, Title.**

1907 Section **53E-6-1001, Enactment of compact.**

1908 Section **53E-6-1002, Purpose and intent of compact -- Findings.**

1909 Section **53E-6-1003, Definitions.**

1910 Section **53E-6-1004, Contracts for acceptance of educational personnel.**

1911 Section **53E-6-1005, Effect of compact on other state laws and regulations.**

1912 Section **53E-6-1006, Agreement by party states.**

1913 Section **53E-6-1007, Evaluation of compact.**

1914 Section **53E-6-1008, Scope of compact.**

1915 Section **53E-6-1009, Effective date -- Withdrawal from compact -- Continuing**
1916 **obligations.**

- 1917 Section **53E-6-1010**, Construction of compact.
- 1918 Section **53E-6-1011**, Superintendent of public instruction as designated state
1919 **official.**
- 1920 Section **53E-10-601**, Definitions.
- 1921 Section **53E-10-602**, Electronic High School created -- Purpose.
- 1922 Section **53E-10-603**, Courses and credit.
- 1923 Section **53E-10-604**, Student eligibility for enrollment.
- 1924 Section **53E-10-605**, Services to students with disabilities.
- 1925 Section **53E-10-606**, Payment for an Electronic High School course.
- 1926 Section **53E-10-607**, Electronic High School diploma.
- 1927 Section **53E-10-608**, Review by legislative auditor general.
- 1928 Section **53E-10-609**, State contribution for the Electronic High School.
- 1929 Section **53F-2-313**, Weighted pupil units for career and technical education
1930 **set-aside programs.**
- 1931 Section **53F-2-413**, Alternative programs.
- 1932 Section **53F-2-517**, Quality Teaching Block Grant Program -- State contributions.
- 1933 Section **53F-2-518**, Appropriation for retirement and social security.
- 1934 Section **53F-5-208**, Reading Performance Improvement Scholarship Program.
- 1935 Section **53F-6-202**, Smart School Technology Program.
- 1936 Section **53G-3-103**, Legislative findings.
- 1937 Section **53G-4-1001.5**, Purpose of part.
- 1938 Section **63N-3-110**, Selection of educational technology provider to implement
1939 **whole-school one-to-one mobile device technology deployment plan for schools.**