

**SHORT-TERM RENTAL MODIFICATIONS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stewart E. Barlow**

Senate Sponsor: Daniel McCay

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**LONG TITLE**

**Committee Note:**

The Revenue and Taxation Interim Committee recommended this bill.

Legislative Vote: 16 voting for 0 voting against 2 absent

**General Description:**

This bill addresses the taxation of short-term rentals of accommodations and motor vehicles.

**Highlighted Provisions:**

This bill:

- defines "short-term rental" in the sales and use tax code;
- applies the defined term to the taxes on accommodations and motor vehicles; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**13-48a-101**, as enacted by Laws of Utah 2023, Chapter 361

**59-12-102 (Contingently Superseded 01/01/25)**, as last amended by Laws of Utah 2023, Chapters 329, 361



**59-12-102 (Contingently Effective 01/01/25)**, as last amended by Laws of Utah 2023, Chapters 329, 361 and 459

**59-12-103 (Contingently Superseded 01/01/25)**, as last amended by Laws of Utah 2023, Chapters 22, 213, 329, 361, and 471

**59-12-103 (Contingently Effective 01/01/25)**, as last amended by Laws of Utah 2023, Chapters 22, 213, 329, 361, 459, and 471

**59-12-602**, as last amended by Laws of Utah 2023, Chapter 361

**59-12-603**, as last amended by Laws of Utah 2023, Chapters 361, 471 and 479

**59-12-1201**, as last amended by Laws of Utah 2023, Chapters 361, 471

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

Section 1. Section **13-48a-101** is amended to read:

**13-48a-101. Definitions.**

As used in this chapter:

(1) (a) "Car sharing" means the authorized use of a motor vehicle:

(i) by an individual other than the owner of the motor vehicle; and

(ii) through a peer-to-peer car-sharing program.

(b) "Car sharing" does not mean the business of providing private passenger motor vehicles to the public as used in Section **31A-22-311**.

(2) (a) "Car-sharing agreement" means an agreement:

(i) applicable to a shared vehicle owner and a shared vehicle driver; and

(ii) that governs a shared vehicle driver's use of a shared vehicle through a car-sharing program.

(b) "Car-sharing agreement" does not mean:

(i) a rental agreement, as defined in Section **31A-22-311**; or

(ii) a short-term rental as that term is defined in Section ~~[59-12-602]~~ **59-12-102**.

(3) "Car-sharing delivery period" means the period of time during which a shared vehicle is being delivered to the location of the car-sharing start time, if applicable, as documented by the governing car-sharing agreement.

(4) "Car-sharing period" means the period of time that:

(a) (i) begins at the car-sharing delivery period; or

- 59 (ii) if there is no car-sharing delivery period, begins at the car-sharing start time; and  
60 (b) ends at the car-sharing termination time.

61 (5) (a) "Car-sharing program" or "peer-to-peer car-sharing program" means a business  
62 platform that connects motor vehicle owners with drivers to enable the sharing of motor  
63 vehicles for consideration.

64 (b) "Car-sharing program" does not mean:

- 65 (i) a motor vehicle rental company, as defined in Section 13-48-102; or  
66 (ii) a rental company, as defined in Section 31A-22-311.

67 (6) "Car-sharing start time" means the time when a shared vehicle becomes subject to  
68 the control of the shared vehicle driver at or after the time the reservation of the shared vehicle  
69 is scheduled to begin, as documented in the records of the car-sharing program.

70 (7) "Car-sharing termination time" means the earliest of the following events:

71 (a) the expiration of the agreed upon period of time established for the use of a shared  
72 vehicle according to the terms of the car-sharing agreement, if the shared vehicle is delivered to  
73 the location agreed upon in the car-sharing agreement;

74 (b) when the shared vehicle is returned to a location as alternatively agreed upon by the  
75 shared vehicle owner and shared vehicle driver as communicated through a car-sharing  
76 program, which alternatively agreed upon location shall be incorporated into the car-sharing  
77 agreement; and

78 (c) when the shared vehicle owner or shared vehicle owner's authorized designee takes  
79 possession and control of the shared vehicle.

80 (8) "Individual-owned shared vehicle" means:

81 (a) for a motor vehicle purchased in the state, a shared vehicle for which applicable  
82 sales tax and use tax was paid on the purchase; or

83 (b) for a motor vehicle not purchased in the state, a shared vehicle for which:

84 (i) an applicable use tax was paid to this state on the purchase; or  
85 (ii) sales tax or use tax was paid on the purchase in the jurisdiction in which the motor  
86 vehicle was purchased.

87 (9) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

88 (10) "Shared vehicle" means a motor vehicle that is available for use by an individual  
89 other than the shared vehicle owner through a car-sharing program.

(11) (a) "Shared vehicle driver" means an individual who has been authorized to drive a shared vehicle by the shared vehicle owner under a car-sharing program.

(b) "Shared vehicle driver" does not mean a renter, as defined in Section 31A-22-311.

(12) (a) "Shared vehicle owner" means:

(i) the registered owner of a motor vehicle made available for car sharing; or

(ii) a person designated by the registered owner of a motor vehicle made available for car sharing.

(b) "Shared vehicle owner" does not mean a rental company, as defined in Section 31A-22-311.

Section 2. Section 59-12-102 (Contingently Superseded 01/01/25) is amended to read:

**59-12-102 (Contingently Superseded 01/01/25). Definitions.**

As used in this chapter:

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

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

(b) is typically marketed:

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

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

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

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

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

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

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

(i) a subscriber purchases;

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

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

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

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

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

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

(A) a product; or

(B) a service.

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

(b) "Admission or user fees" does not include:

(i) annual membership dues to private organizations; or

(ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

(4) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

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

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

(a) listed under Subsection (7); and

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

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

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

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

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

(d) Subsection 59-12-103(2)(d);

- 152 (e) Subsection 59-12-103(2)(e)(i)(A)(I);  
153 (f) Section 59-12-204;  
154 (g) Section 59-12-401;  
155 (h) Section 59-12-402;  
156 (i) Section 59-12-402.1;  
157 (j) Section 59-12-703;  
158 (k) Section 59-12-802;  
159 (l) Section 59-12-804;  
160 (m) Section 59-12-1102;  
161 (n) Section 59-12-1302;  
162 (o) Section 59-12-1402;  
163 (p) Section 59-12-1802;  
164 (q) Section 59-12-2003;  
165 (r) Section 59-12-2103;  
166 (s) Section 59-12-2213;  
167 (t) Section 59-12-2214;  
168 (u) Section 59-12-2215;  
169 (v) Section 59-12-2216;  
170 (w) Section 59-12-2217;  
171 (x) Section 59-12-2218;  
172 (y) Section 59-12-2219; or  
173 (z) Section 59-12-2220.  
174 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.  
175 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:  
176 (a) except for:  
177 (i) an airline as defined in Section 59-2-102; or  
178 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"  
179 includes a corporation that is qualified to do business but is not otherwise doing business in the  
180 state, of an airline; and  
181 (b) that has the workers, expertise, and facilities to perform the following, regardless of  
182 whether the business entity performs the following in this state:

- 183 (i) check, diagnose, overhaul, and repair:  
184 (A) an onboard system of a fixed wing turbine powered aircraft; and  
185 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;  
186 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft  
187 engine;  
188 (iii) perform at least the following maintenance on a fixed wing turbine powered  
189 aircraft:  
190 (A) an inspection;  
191 (B) a repair, including a structural repair or modification;  
192 (C) changing landing gear; and  
193 (D) addressing issues related to an aging fixed wing turbine powered aircraft;  
194 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and  
195 completely apply new paint to the fixed wing turbine powered aircraft; and  
196 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that  
197 results in a change in the fixed wing turbine powered aircraft's certification requirements by the  
198 authority that certifies the fixed wing turbine powered aircraft.
- 199 (10) "Alcoholic beverage" means a beverage that:  
200 (a) is suitable for human consumption; and  
201 (b) contains .5% or more alcohol by volume.
- 202 (11) "Alternative energy" means:  
203 (a) biomass energy;  
204 (b) geothermal energy;  
205 (c) hydroelectric energy;  
206 (d) solar energy;  
207 (e) wind energy; or  
208 (f) energy that is derived from:  
209 (i) coal-to-liquids;  
210 (ii) nuclear fuel;  
211 (iii) oil-impregnated diatomaceous earth;  
212 (iv) oil sands;  
213 (v) oil shale;

214 (vi) petroleum coke; or  
215 (vii) waste heat from:  
216 (A) an industrial facility; or  
217 (B) a power station in which an electric generator is driven through a process in which  
218 water is heated, turns into steam, and spins a steam turbine.

219 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production  
220 facility" means a facility that:

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

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

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

227 (13) (a) "Ancillary service" means a service associated with, or incidental to, the  
228 provision of telecommunications service.

229 (b) "Ancillary service" includes:

- 230 (i) a conference bridging service;
- 231 (ii) a detailed communications billing service;
- 232 (iii) directory assistance;
- 233 (iv) a vertical service; or
- 234 (v) a voice mail service.

235 (14) "Area agency on aging" means the same as that term is defined in Section  
236 [26B-6-101](#).

237 (15) "Assisted amusement device" means an amusement device, skill device, or ride  
238 device that is started and stopped by an individual:

- 239 (a) who is not the purchaser or renter of the right to use or operate the amusement  
240 device, skill device, or ride device; and
- 241 (b) at the direction of the seller of the right to use the amusement device, skill device,  
242 or ride device.

243 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or  
244 washing of tangible personal property if the cleaning or washing labor is primarily performed



by an individual:

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

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

(17) "Authorized carrier" means:

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

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

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

(18) (a) [~~Except as provided in Subsection (18)(b), "biomass"~~] "Biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

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

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

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

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

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

- 276 (i) distinct and identifiable; and  
277 (ii) sold for one nonitemized price.  
278 (b) "Bundled transaction" does not include:  
279 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on  
280 the basis of the selection by the purchaser of the items of tangible personal property included in  
281 the transaction;  
282 (ii) the sale of real property;  
283 (iii) the sale of services to real property;  
284 (iv) the retail sale of tangible personal property and a service if:  
285 (A) the tangible personal property:  
286 (I) is essential to the use of the service; and  
287 (II) is provided exclusively in connection with the service; and  
288 (B) the service is the true object of the transaction;  
289 (v) the retail sale of two services if:  
290 (A) one service is provided that is essential to the use or receipt of a second service;  
291 (B) the first service is provided exclusively in connection with the second service; and  
292 (C) the second service is the true object of the transaction;  
293 (vi) a transaction that includes tangible personal property or a product subject to  
294 taxation under this chapter and tangible personal property or a product that is not subject to  
295 taxation under this chapter if the:  
296 (A) seller's purchase price of the tangible personal property or product subject to  
297 taxation under this chapter is de minimis; or  
298 (B) seller's sales price of the tangible personal property or product subject to taxation  
299 under this chapter is de minimis; and  
300 (vii) the retail sale of tangible personal property that is not subject to taxation under  
301 this chapter and tangible personal property that is subject to taxation under this chapter if:  
302 (A) that retail sale includes:  
303 (I) food and food ingredients;  
304 (II) a drug;  
305 (III) durable medical equipment;  
306 (IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (19)(f):

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

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

(c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

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

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

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

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

(ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

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

(ii) For purposes of Subsection (19)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

- (A) a bill of sale;
- (B) a contract;
- (C) an invoice;
- (D) a lease agreement;
- (E) a periodic notice of rates and services;
- (F) a price list;
- (G) a rate card;
- (H) a receipt; or
- (I) a service agreement.

(e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

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

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

(ii) For purposes of Subsection (19)(b)(vi), a seller:

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

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

(iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(20) "Car sharing" means the same as that term is defined in Section [13-48a-101](#).

(21) "Car-sharing program" means the same as that term is defined in Section [13-48a-101](#).

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

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

(i) on a transaction; and

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

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

(c) maintains a record of the transaction described in Subsection (22)(a)(i).

(23) "Certified service provider" means an agent certified:

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

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(24) (a) Subject to Subsection (24)(b), "clothing" means all human wearing apparel suitable for general use.

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

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

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

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

(26) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (60) or residential use under Subsection (115).

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

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

(ii) For purposes of Subsection (27)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

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

(28) "Component part" includes:

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

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

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

(d) feed, seeds, and seedlings.

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

(a) (i) in digital form; or

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

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

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

(a) a computer to perform a task; or

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

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

(a) future updates or upgrades to computer software;

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

(c) a combination of Subsections (31)(a) and (b).

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

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (32)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (32)(a).

(33) "Construction materials" means any tangible personal property that will be

431 converted into real property.

432 (34) "Delivered electronically" means delivered to a purchaser by means other than  
433 tangible storage media.

434 (35) (a) "Delivery charge" means a charge:

435 (i) by a seller of:

436 (A) tangible personal property;

437 (B) a product transferred electronically; or

438 (C) a service; and

439 (ii) for preparation and delivery of the tangible personal property, product transferred  
440 electronically, or services described in Subsection (35)(a)(i) to a location designated by the  
441 purchaser.

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

443 (i) transportation;

444 (ii) shipping;

445 (iii) postage;

446 (iv) handling;

447 (v) crating; or

448 (vi) packing.

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

451 (37) "Dietary supplement" means a product, other than tobacco, that:

452 (a) is intended to supplement the diet;

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

454 (i) a vitamin;

455 (ii) a mineral;

456 (iii) an herb or other botanical;

457 (iv) an amino acid;

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

460 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient  
461 described in Subsections (37)(b)(i) through (v);

- 462 (c) (i) except as provided in Subsection (37)(c)(ii), is intended for ingestion in:
- 463 (A) tablet form;
- 464 (B) capsule form;
- 465 (C) powder form;
- 466 (D) softgel form;
- 467 (E) gelcap form; or
- 468 (F) liquid form; or
- 469 (ii) if the product is not intended for ingestion in a form described in Subsections
- 470 (37)(c)(i)(A) through (F), is not represented:
- 471 (A) as conventional food; and
- 472 (B) for use as a sole item of:
- 473 (I) a meal; or
- 474 (II) the diet; and
- 475 (d) is required to be labeled as a dietary supplement:
- 476 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 477 (ii) as required by 21 C.F.R. Sec. 101.36.
- 478 (38) (a) "Digital audio work" means a work that results from the fixation of a series of
- 479 musical, spoken, or other sounds.
- 480 (b) "Digital audio work" includes a ringtone.
- 481 (39) "Digital audio-visual work" means a series of related images which, when shown
- 482 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 483 (40) "Digital book" means a work that is generally recognized in the ordinary and usual
- 484 sense as a book.
- 485 (41) (a) "Direct mail" means printed material delivered or distributed by United States
- 486 mail or other delivery service:
- 487 (i) to:
- 488 (A) a mass audience; or
- 489 (B) addressees on a mailing list provided:
- 490 (I) by a purchaser of the mailing list; or
- 491 (II) at the discretion of the purchaser of the mailing list; and
- 492 (ii) if the cost of the printed material is not billed directly to the recipients.



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

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

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

(a) address information; or

(b) telephone number information.

(43) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

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

(A) a health care facility as defined in Section 26B-2-201;

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

(C) an office of a health care provider described in Subsection (43)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (43)(a)(ii)(A) through (C).

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

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

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

(A) eyeglasses; or

(B) contact lenses.

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

(44) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

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

(c) that uses pressure of 800,000 or more pounds per square inch as part of the

524 manufacturing process; and

525 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the  
526 manufacturing process.

527 (45) (a) "Drug" means a compound, substance, or preparation, or a component of a  
528 compound, substance, or preparation that is:

529 (i) recognized in:

530 (A) the official United States Pharmacopoeia;

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

532 (C) the official National Formulary; or

533 (D) a supplement to a publication listed in Subsections (45)(a)(i)(A) through (C);

534 (ii) intended for use in the:

535 (A) diagnosis of disease;

536 (B) cure of disease;

537 (C) mitigation of disease;

538 (D) treatment of disease; or

539 (E) prevention of disease; or

540 (iii) intended to affect:

541 (A) the structure of the body; or

542 (B) any function of the body.

543 (b) "Drug" does not include:

544 (i) food and food ingredients;

545 (ii) a dietary supplement;

546 (iii) an alcoholic beverage; or

547 (iv) a prosthetic device.

548 (46) (a) [~~Except as provided in Subsection (46)(c), "durable"~~] "Durable" medical  
549 equipment" means equipment that:

550 (i) can withstand repeated use;

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

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

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

554 (b) "Durable medical equipment" includes parts used in the repair or replacement of the

555 equipment described in Subsection (46)(a).

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

557 (47) "Electronic" means:

558 (a) relating to technology; and

559 (b) having:

560 (i) electrical capabilities;

561 (ii) digital capabilities;

562 (iii) magnetic capabilities;

563 (iv) wireless capabilities;

564 (v) optical capabilities;

565 (vi) electromagnetic capabilities; or

566 (vii) capabilities similar to Subsections (47)(b)(i) through (vi).

567 (48) "Electronic financial payment service" means an establishment:

568 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and

569 Clearinghouse Activities, of the 2012 North American Industry Classification System of the

570 federal Executive Office of the President, Office of Management and Budget; and

571 (b) that performs electronic financial payment services.

572 (49) "Employee" means the same as that term is defined in Section [59-10-401](#).

573 (50) "Fixed guideway" means a public transit facility that uses and occupies:

574 (a) rail for the use of public transit; or

575 (b) a separate right-of-way for the use of public transit.

576 (51) "Fixed wing turbine powered aircraft" means an aircraft that:

577 (a) is powered by turbine engines;

578 (b) operates on jet fuel; and

579 (c) has wings that are permanently attached to the fuselage of the aircraft.

580 (52) "Fixed wireless service" means a telecommunications service that provides radio

581 communication between fixed points.

582 (53) (a) "Food and food ingredients" means substances:

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

584 (A) liquid form;

585 (B) concentrated form;

586 (C) solid form;  
587 (D) frozen form;  
588 (E) dried form; or  
589 (F) dehydrated form; and  
590 (ii) that are:  
591 (A) sold for:  
592 (I) ingestion by humans; or  
593 (II) chewing by humans; and  
594 (B) consumed for the substance's:  
595 (I) taste; or  
596 (II) nutritional value.  
597 (b) "Food and food ingredients" includes an item described in Subsection (99)(b)(iii).  
598 (c) "Food and food ingredients" does not include:  
599 (i) an alcoholic beverage;  
600 (ii) tobacco; or  
601 (iii) prepared food.  
602 (54) (a) "Fundraising sales" means sales:  
603 (i) (A) made by a school; or  
604 (B) made by a school student;  
605 (ii) that are for the purpose of raising funds for the school to purchase equipment,  
606 materials, or provide transportation; and  
607 (iii) that are part of an officially sanctioned school activity.  
608 (b) For purposes of Subsection (54)(a)(iii), "officially sanctioned school activity"  
609 means a school activity:  
610 (i) that is conducted in accordance with a formal policy adopted by the school or school  
611 district governing the authorization and supervision of fundraising activities;  
612 (ii) that does not directly or indirectly compensate an individual teacher or other  
613 educational personnel by direct payment, commissions, or payment in kind; and  
614 (iii) the net or gross [~~revenues~~] revenue from which are deposited in a dedicated  
615 account controlled by the school or school district.  
616 (55) "Geothermal energy" means energy contained in heat that continuously flows

outward from the earth that is used as the sole source of energy to produce electricity.

(56) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

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

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

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

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

(iv) the National Guard;

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

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

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

(i) a school;

(ii) the State Board of Education;

(iii) the Utah Board of Higher Education; or

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

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

(59) "Individual-owned shared vehicle" means the same as that term is defined in Section 13-48a-101.

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

(a) in mining or extraction of minerals;

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

648 harvest or placing the agricultural product into a storage facility, including:  
649 (i) commercial greenhouses;  
650 (ii) irrigation pumps;  
651 (iii) farm machinery;  
652 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered  
653 under Title 41, Chapter 1a, Part 2, Registration; and  
654 (v) other farming activities;  
655 (c) in manufacturing tangible personal property at an establishment described in:  
656 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
657 the federal Executive Office of the President, Office of Management and Budget; or  
658 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
659 American Industry Classification System of the federal Executive Office of the President,  
660 Office of Management and Budget;  
661 (d) by a scrap recycler if:  
662 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
663 one or more of the following items into prepared grades of processed materials for use in new  
664 products:  
665 (A) iron;  
666 (B) steel;  
667 (C) nonferrous metal;  
668 (D) paper;  
669 (E) glass;  
670 (F) plastic;  
671 (G) textile; or  
672 (H) rubber; and  
673 (ii) the new products under Subsection (60)(d)(i) would otherwise be made with  
674 nonrecycled materials; or  
675 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a  
676 cogeneration facility as defined in Section 54-2-1.  
677 (61) (a) [~~Except as provided in Subsection (61)(b), "installation"~~] "Installation charge"  
678 means a charge for installing:

- 679 (i) tangible personal property; or
- 680 (ii) a product transferred electronically.
- 681 (b) "Installation charge" does not include a charge for:
- 682 (i) repairs or renovations of:
- 683 (A) tangible personal property; or
- 684 (B) a product transferred electronically; or
- 685 (ii) attaching tangible personal property or a product transferred electronically:
- 686 (A) to other tangible personal property; and
- 687 (B) as part of a manufacturing or fabrication process.
- 688 (62) "Institution of higher education" means an institution of higher education listed in

689 Section 53B-2-101.

- 690 (63) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 691 personal property or a product transferred electronically for:
- 692 (i) (A) a fixed term; or
- 693 (B) an indeterminate term; and
- 694 (ii) consideration.
- 695 (b) "Lease" or "rental" includes:
- 696 (i) an agreement covering a motor vehicle and trailer if the amount of consideration
- 697 may be increased or decreased by reference to the amount realized upon sale or disposition of
- 698 the property as defined in Section 7701(h)(1), Internal Revenue Code; and
- 699 (ii) car sharing.
- 700 (c) "Lease" or "rental" does not include:
- 701 (i) a transfer of possession or control of property under a security agreement or
- 702 deferred payment plan that requires the transfer of title upon completion of the required
- 703 payments;
- 704 (ii) a transfer of possession or control of property under an agreement that requires the
- 705 transfer of title:
- 706 (A) upon completion of required payments; and
- 707 (B) if the payment of an option price does not exceed the greater of:
- 708 (I) \$100; or
- 709 (II) 1% of the total required payments; or

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

(d) For purposes of Subsection (63)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

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

(64) "Lesson" means a fixed period of time for the duration of which a trained instructor:

- (a) is present with a student in person or by video; and
- (b) actively instructs the student, including by providing observation or feedback.

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

- (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

Manufacturing; or

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

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

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

(68) "Local taxing jurisdiction" means a:

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

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

(70) "Manufacturing facility" means:



(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

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

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (70)(b)(i) would otherwise be made with nonrecycled materials; or

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

(71) (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(72) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

772 (A) lists, makes available, or advertises tangible personal property, a product  
773 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the  
774 person owns, operates, or controls;

775 (B) facilitates the sale of a marketplace seller's tangible personal property, product  
776 transferred electronically, or service by transmitting or otherwise communicating an offer or  
777 acceptance of a retail sale between the marketplace seller and a purchaser using the  
778 marketplace;

779 (C) owns, rents, licenses, makes available, or operates any electronic or physical  
780 infrastructure or any property, process, method, copyright, trademark, or patent that connects a  
781 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal  
782 property, a product transferred electronically, or a service;

783 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible  
784 personal property, a product transferred electronically, or a service, regardless of ownership or  
785 control of the tangible personal property, the product transferred electronically, or the service  
786 that is the subject of the retail sale;

787 (E) provides software development or research and development activities related to  
788 any activity described in this Subsection (72)(a)(i), if the software development or research and  
789 development activity is directly related to the person's marketplace;

790 (F) provides or offers fulfillment or storage services for a marketplace seller;

791 (G) sets prices for the sale of tangible personal property, a product transferred  
792 electronically, or a service by a marketplace seller;

793 (H) provides or offers customer service to a marketplace seller or a marketplace seller's  
794 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal  
795 property, a product transferred electronically, or a service sold by a marketplace seller on the  
796 person's marketplace; or

797 (I) brands or otherwise identifies sales as those of the person; and

798 (ii) does any of the following:

799 (A) collects the sales price or purchase price of a retail sale of tangible personal  
800 property, a product transferred electronically, or a service;

801 (B) provides payment processing services for a retail sale of tangible personal property,  
802 a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include:

(i) a person that only provides payment processing services; or

(ii) a person described in Subsection (72)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.

(73) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

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

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

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (74)(a) through (g);

or

(j) person similar to a person described in Subsections (74)(a) through (i) as

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

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

(76) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

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

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

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

(iii) the origination point described in Subsection (77)(a)(i) and the termination point described in Subsection (77)(a)(ii) are not fixed.

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

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

(78) (a) [~~Except as provided in Subsection (78)(c), "mobility"~~] "Mobility enhancing equipment" means equipment that is:

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

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

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

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (78)(a).

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

(i) a motor vehicle;

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

(iii) durable medical equipment; or

(iv) a prosthetic device.

(79) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

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

(a) except as provided in Subsection (80)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

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

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(81) (a) Subject to Subsection (81)(b), "model 3 seller" means a seller registered under the agreement that has:

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

(ii) total annual sales [~~revenues~~] revenue of at least \$500,000,000;

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

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

(B) due to each local taxing jurisdiction; and

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

(b) For purposes of Subsection (81)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

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

(83) "Modular home" means a modular unit as defined in Section 15A-1-302.

(84) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(85) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with

896 other hydrocarbons, or otherwise treated;

897 (b) yield mixtures of liquid hydrocarbon; and

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

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

902 (87) "Optional computer software maintenance contract" means a computer software  
903 maintenance contract that a customer is not obligated to purchase as a condition to the retail  
904 sale of computer software.

905 (88) (a) "Other fuels" means products that burn independently to produce heat or  
906 energy.

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

909 (89) (a) "Paging service" means a telecommunications service that provides  
910 transmission of a coded radio signal for the purpose of activating a specific pager.

911 (b) For purposes of Subsection (89)(a), the transmission of a coded radio signal  
912 includes a transmission by message or sound.

913 (90) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

914 (91) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).

915 (92) (a) "Permanently attached to real property" means that for tangible personal  
916 property attached to real property:

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

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

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

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

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

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

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

927 (i) the attachment of an accessory to the tangible personal property if the accessory is:  
928 (A) essential to the operation of the tangible personal property; and  
929 (B) attached only to facilitate the operation of the tangible personal property;  
930 (ii) a temporary detachment of tangible personal property from real property for a  
931 repair or renovation if the repair or renovation is performed where the tangible personal  
932 property and real property are located; or  
933 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
934 Subsection (92)(c)(iii) or (iv).  
935 (c) "Permanently attached to real property" does not include:  
936 (i) the attachment of portable or movable tangible personal property to real property if  
937 that portable or movable tangible personal property is attached to real property only for:  
938 (A) convenience;  
939 (B) stability; or  
940 (C) for an obvious temporary purpose;  
941 (ii) the detachment of tangible personal property from real property except for the  
942 detachment described in Subsection (92)(b)(ii);  
943 (iii) an attachment of the following tangible personal property to real property if the  
944 attachment to real property is only through a line that supplies water, electricity, gas,  
945 telecommunications, cable, or supplies a similar item as determined by the commission by rule  
946 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:  
947 (A) a computer;  
948 (B) a telephone;  
949 (C) a television; or  
950 (D) tangible personal property similar to Subsections (92)(c)(iii)(A) through (C) as  
951 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
952 Administrative Rulemaking Act; or  
953 (iv) an item listed in Subsection ~~[(136)(c)]~~ (137)(c).  
954 (93) "Person" includes any individual, firm, partnership, joint venture, association,  
955 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
956 municipality, district, or other local governmental entity of the state, or any group or  
957 combination acting as a unit.

958 (94) "Place of primary use":  
959 (a) for telecommunications service other than mobile telecommunications service,  
960 means the street address representative of where the customer's use of the telecommunications  
961 service primarily occurs, which shall be:  
962 (i) the residential street address of the customer; or  
963 (ii) the primary business street address of the customer; or  
964 (b) for mobile telecommunications service, means the same as that term is defined in  
965 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.  
966 (95) (a) "Postpaid calling service" means a telecommunications service a person  
967 obtains by making a payment on a call-by-call basis:  
968 (i) through the use of a:  
969 (A) bank card;  
970 (B) credit card;  
971 (C) debit card; or  
972 (D) travel card; or  
973 (ii) by a charge made to a telephone number that is not associated with the origination  
974 or termination of the telecommunications service.  
975 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
976 service, that would be a prepaid wireless calling service if the service were exclusively a  
977 telecommunications service.  
978 (96) "Postproduction" means an activity related to the finishing or duplication of a  
979 medium described in Subsection [59-12-104](#)(54)(a).  
980 (97) "Prepaid calling service" means a telecommunications service:  
981 (a) that allows a purchaser access to telecommunications service that is exclusively  
982 telecommunications service;  
983 (b) that:  
984 (i) is paid for in advance; and  
985 (ii) enables the origination of a call using an:  
986 (A) access number; or  
987 (B) authorization code;  
988 (c) that is dialed:



- 989 (i) manually; or  
990 (ii) electronically; and  
991 (d) sold in predetermined units or dollars that decline:  
992 (i) by a known amount; and  
993 (ii) with use.  
994 (98) "Prepaid wireless calling service" means a telecommunications service:  
995 (a) that provides the right to utilize:  
996 (i) mobile wireless service; and  
997 (ii) other service that is not a telecommunications service, including:  
998 (A) the download of a product transferred electronically;  
999 (B) a content service; or  
1000 (C) an ancillary service;  
1001 (b) that:  
1002 (i) is paid for in advance; and  
1003 (ii) enables the origination of a call using an:  
1004 (A) access number; or  
1005 (B) authorization code;  
1006 (c) that is dialed:  
1007 (i) manually; or  
1008 (ii) electronically; and  
1009 (d) sold in predetermined units or dollars that decline:  
1010 (i) by a known amount; and  
1011 (ii) with use.  
1012 (99) (a) "Prepared food" means:  
1013 (i) food:  
1014 (A) sold in a heated state; or  
1015 (B) heated by a seller;  
1016 (ii) two or more food ingredients mixed or combined by the seller for sale as a single  
1017 item; or  
1018 (iii) except as provided in Subsection (99)(c), food sold with an eating utensil provided  
1019 by the seller, including a:

1020 (A) plate;  
1021 (B) knife;  
1022 (C) fork;  
1023 (D) spoon;  
1024 (E) glass;  
1025 (F) cup;  
1026 (G) napkin; or  
1027 (H) straw.  
1028 (b) "Prepared food" does not include:  
1029 (i) food that a seller only:  
1030 (A) cuts;  
1031 (B) repackages; or  
1032 (C) pasteurizes;  
1033 (ii) (A) the following:  
1034 (I) raw egg;  
1035 (II) raw fish;  
1036 (III) raw meat;  
1037 (IV) raw poultry; or  
1038 (V) a food containing an item described in Subsections (99)(b)(ii)(A)(I) through (IV);  
1039 and  
1040 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the  
1041 Food and Drug Administration's Food Code that a consumer cook the items described in  
1042 Subsection (99)(b)(ii)(A) to prevent food borne illness; or  
1043 (iii) the following if sold without eating utensils provided by the seller:  
1044 (A) food and food ingredients sold by a seller if the seller's proper primary  
1045 classification under the 2002 North American Industry Classification System of the federal  
1046 Executive Office of the President, Office of Management and Budget, is manufacturing in  
1047 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla  
1048 Manufacturing;  
1049 (B) food and food ingredients sold in an unheated state:  
1050 (I) by weight or volume; and

1051 (II) as a single item; or  
1052 (C) a bakery item, including:  
1053 (I) a bagel;  
1054 (II) a bar;  
1055 (III) a biscuit;  
1056 (IV) bread;  
1057 (V) a bun;  
1058 (VI) a cake;  
1059 (VII) a cookie;  
1060 (VIII) a croissant;  
1061 (IX) a danish;  
1062 (X) a donut;  
1063 (XI) a muffin;  
1064 (XII) a pastry;  
1065 (XIII) a pie;  
1066 (XIV) a roll;  
1067 (XV) a tart;  
1068 (XVI) a torte; or  
1069 (XVII) a tortilla.  
1070 (c) An eating utensil provided by the seller does not include the following used to  
1071 transport the food:  
1072 (i) a container; or  
1073 (ii) packaging.  
1074 (100) "Prescription" means an order, formula, or recipe that is issued:  
1075 (a) (i) orally;  
1076 (ii) in writing;  
1077 (iii) electronically; or  
1078 (iv) by any other manner of transmission; and  
1079 (b) by a licensed practitioner authorized by the laws of a state.  
1080 (101) (a) [~~Except as provided in Subsection (101)(b)(ii) or (iii), "prewritten"~~]  
1081 "Prewritten" computer software" means computer software that is not designed and developed:

1082 (i) by the author or other creator of the computer software; and  
1083 (ii) to the specifications of a specific purchaser.  
1084 (b) "Prewritten computer software" includes:  
1085 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer  
1086 software is not designed and developed:  
1087 (A) by the author or other creator of the computer software; and  
1088 (B) to the specifications of a specific purchaser;  
1089 (ii) computer software designed and developed by the author or other creator of the  
1090 computer software to the specifications of a specific purchaser if the computer software is sold  
1091 to a person other than the purchaser; or  
1092 (iii) except as provided in Subsection (101)(c), prewritten computer software or a  
1093 prewritten portion of prewritten computer software:  
1094 (A) that is modified or enhanced to any degree; and  
1095 (B) if the modification or enhancement described in Subsection (101)(b)(iii)(A) is  
1096 designed and developed to the specifications of a specific purchaser.  
1097 (c) "Prewritten computer software" does not include a modification or enhancement  
1098 described in Subsection (101)(b)(iii) if the charges for the modification or enhancement are:  
1099 (i) reasonable; and  
1100 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the  
1101 invoice or other statement of price provided to the purchaser at the time of sale or later, as  
1102 demonstrated by:  
1103 (A) the books and records the seller keeps at the time of the transaction in the regular  
1104 course of business, including books and records the seller keeps at the time of the transaction in  
1105 the regular course of business for nontax purposes;  
1106 (B) a preponderance of the facts and circumstances at the time of the transaction; and  
1107 (C) the understanding of all of the parties to the transaction.  
1108 (102) (a) "Private communications service" means a telecommunications service:  
1109 (i) that entitles a customer to exclusive or priority use of one or more communications  
1110 channels between or among termination points; and  
1111 (ii) regardless of the manner in which the one or more communications channels are  
1112 connected.

1113 (b) "Private communications service" includes the following provided in connection  
1114 with the use of one or more communications channels:

- 1115 (i) an extension line;
- 1116 (ii) a station;
- 1117 (iii) switching capacity; or
- 1118 (iv) another associated service that is provided in connection with the use of one or  
1119 more communications channels as defined in Section 59-12-215.

1120 (103) (a) [~~Except as provided in Subsection (103)(b), "product"~~] "Product transferred  
1121 electronically" means a product transferred electronically that would be subject to a tax under  
1122 this chapter if that product was transferred in a manner other than electronically.

1123 (b) "Product transferred electronically" does not include:

- 1124 (i) an ancillary service;
- 1125 (ii) computer software; or
- 1126 (iii) a telecommunications service.

1127 (104) (a) "Prosthetic device" means a device that is worn on or in the body to:

- 1128 (i) artificially replace a missing portion of the body;
- 1129 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1130 (iii) support a weak or deformed portion of the body.

1131 (b) "Prosthetic device" includes:

- 1132 (i) parts used in the repairs or renovation of a prosthetic device;
- 1133 (ii) replacement parts for a prosthetic device;
- 1134 (iii) a dental prosthesis; or
- 1135 (iv) a hearing aid.

1136 (c) "Prosthetic device" does not include:

- 1137 (i) corrective eyeglasses; or
- 1138 (ii) contact lenses.

1139 (105) (a) "Protective equipment" means an item:

- 1140 (i) for human wear; and
- 1141 (ii) that is:
  - 1142 (A) designed as protection:
  - 1143 (I) to the wearer against injury or disease; or

1144 (II) against damage or injury of other persons or property; and  
1145 (B) not suitable for general use.

1146 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1147 commission shall make rules:

1148 (i) listing the items that constitute "protective equipment"; and  
1149 (ii) that are consistent with the list of items that constitute "protective equipment"  
1150 under the agreement.

1151 (106) (a) For purposes of Subsection 59-12-104(41), "publication" means any written  
1152 or printed matter, other than a photocopy:

1153 (i) regardless of:

1154 (A) characteristics;  
1155 (B) copyright;  
1156 (C) form;  
1157 (D) format;  
1158 (E) method of reproduction; or  
1159 (F) source; and

1160 (ii) made available in printed or electronic format.

1161 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1162 commission may by rule define the term "photocopy."

1163 (107) (a) "Purchase price" and "sales price" mean the total amount of consideration:

1164 (i) valued in money; and  
1165 (ii) for which tangible personal property, a product transferred electronically, or  
1166 services are:

1167 (A) sold;  
1168 (B) leased; or  
1169 (C) rented.

1170 (b) "Purchase price" and "sales price" include:

1171 (i) the seller's cost of the tangible personal property, a product transferred  
1172 electronically, or services sold;  
1173 (ii) expenses of the seller, including:  
1174 (A) the cost of materials used;

1175 (B) a labor cost;  
1176 (C) a service cost;  
1177 (D) interest;  
1178 (E) a loss;  
1179 (F) the cost of transportation to the seller; or  
1180 (G) a tax imposed on the seller;  
1181 (iii) a charge by the seller for any service necessary to complete the sale; or  
1182 (iv) consideration a seller receives from a person other than the purchaser if:  
1183 (A) (I) the seller actually receives consideration from a person other than the purchaser;  
1184 and  
1185 (II) the consideration described in Subsection (107)(b)(iv)(A)(I) is directly related to a  
1186 price reduction or discount on the sale;  
1187 (B) the seller has an obligation to pass the price reduction or discount through to the  
1188 purchaser;  
1189 (C) the amount of the consideration attributable to the sale is fixed and determinable by  
1190 the seller at the time of the sale to the purchaser; and  
1191 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the  
1192 seller to claim a price reduction or discount; and  
1193 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,  
1194 coupon, or other documentation with the understanding that the person other than the seller  
1195 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;  
1196 (II) the purchaser identifies that purchaser to the seller as a member of a group or  
1197 organization allowed a price reduction or discount, except that a preferred customer card that is  
1198 available to any patron of a seller does not constitute membership in a group or organization  
1199 allowed a price reduction or discount; or  
1200 (III) the price reduction or discount is identified as a third party price reduction or  
1201 discount on the:  
1202 (Aa) invoice the purchaser receives; or  
1203 (Bb) certificate, coupon, or other documentation the purchaser presents.  
1204 (c) "Purchase price" and "sales price" do not include:  
1205 (i) a discount:

- 1206 (A) in a form including:
- 1207 (I) cash;
- 1208 (II) term; or
- 1209 (III) coupon;
- 1210 (B) that is allowed by a seller;
- 1211 (C) taken by a purchaser on a sale; and
- 1212 (D) that is not reimbursed by a third party; or
- 1213 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately
- 1214 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
- 1215 sale or later, as demonstrated by the books and records the seller keeps at the time of the
- 1216 transaction in the regular course of business, including books and records the seller keeps at the
- 1217 time of the transaction in the regular course of business for nontax purposes, by a
- 1218 preponderance of the facts and circumstances at the time of the transaction, and by the
- 1219 understanding of all of the parties to the transaction:
- 1220 (A) the following from credit extended on the sale of tangible personal property or
- 1221 services:
- 1222 (I) a carrying charge;
- 1223 (II) a financing charge; or
- 1224 (III) an interest charge;
- 1225 (B) a delivery charge;
- 1226 (C) an installation charge;
- 1227 (D) a manufacturer rebate on a motor vehicle; or
- 1228 (E) a tax or fee legally imposed directly on the consumer.
- 1229 (108) "Purchaser" means a person to whom:
- 1230 (a) a sale of tangible personal property is made;
- 1231 (b) a product is transferred electronically; or
- 1232 (c) a service is furnished.
- 1233 (109) "Qualifying data center" means a data center facility that:
- 1234 (a) houses a group of networked server computers in one physical location in order to
- 1235 disseminate, manage, and store data and information;
- 1236 (b) is located in the state;



- 1237 (c) is a new operation constructed on or after July 1, 2016;
- 1238 (d) consists of one or more buildings that total 150,000 or more square feet;
- 1239 (e) is owned or leased by:
- 1240 (i) the operator of the data center facility; or
- 1241 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
- 1242 of the data center facility; and
- 1243 (f) is located on one or more parcels of land that are owned or leased by:
- 1244 (i) the operator of the data center facility; or
- 1245 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
- 1246 of the data center facility.
- 1247 (110) "Regularly rented" means:
- 1248 (a) rented to a guest for value three or more times during a calendar year; or
- 1249 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1250 value.
- 1251 (111) "Rental" means the same as that term is defined in Subsection (63).
- 1252 (112) (a) [~~Except as provided in Subsection (112)(b), "repairs"~~] "Repairs" or renovations
- 1253 of tangible personal property" means:
- 1254 (i) a repair or renovation of tangible personal property that is not permanently attached
- 1255 to real property; or
- 1256 (ii) attaching tangible personal property or a product transferred electronically to other
- 1257 tangible personal property or detaching tangible personal property or a product transferred
- 1258 electronically from other tangible personal property if:
- 1259 (A) the other tangible personal property to which the tangible personal property or
- 1260 product transferred electronically is attached or from which the tangible personal property or
- 1261 product transferred electronically is detached is not permanently attached to real property; and
- 1262 (B) the attachment of tangible personal property or a product transferred electronically
- 1263 to other tangible personal property or detachment of tangible personal property or a product
- 1264 transferred electronically from other tangible personal property is made in conjunction with a
- 1265 repair or replacement of tangible personal property or a product transferred electronically.
- 1266 (b) "Repairs or renovations of tangible personal property" does not include:
- 1267 (i) attaching prewritten computer software to other tangible personal property if the

1268 other tangible personal property to which the prewritten computer software is attached is not  
1269 permanently attached to real property; or

1270 (ii) detaching prewritten computer software from other tangible personal property if the  
1271 other tangible personal property from which the prewritten computer software is detached is  
1272 not permanently attached to real property.

1273 (113) "Research and development" means the process of inquiry or experimentation  
1274 aimed at the discovery of facts, devices, technologies, or applications and the process of  
1275 preparing those devices, technologies, or applications for marketing.

1276 (114) (a) "Residential telecommunications services" means a telecommunications  
1277 service or an ancillary service that is provided to an individual for personal use:

1278 (i) at a residential address; or

1279 (ii) at an institution, including a nursing home or a school, if the telecommunications  
1280 service or ancillary service is provided to and paid for by the individual residing at the  
1281 institution rather than the institution.

1282 (b) For purposes of Subsection (114)(a)(i), a residential address includes an:

1283 (i) apartment; or

1284 (ii) other individual dwelling unit.

1285 (115) "Residential use" means the use in or around a home, apartment building,  
1286 sleeping quarters, and similar facilities or accommodations.

1287 (116) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
1288 than:

1289 (a) resale;

1290 (b) sublease; or

1291 (c) subrent.

1292 (117) (a) "Retailer" means any person, unless prohibited by the Constitution of the  
1293 United States or federal law, that is engaged in a regularly organized business in tangible  
1294 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is  
1295 selling to the user or consumer and not for resale.

1296 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1297 engaged in the business of selling to users or consumers within the state.

1298 (118) (a) "Sale" means any transfer of title, exchange, or barter, conditional or

1299 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1300 Subsection 59-12-103(1), for consideration.

1301 (b) "Sale" includes:

1302 (i) installment and credit sales;

1303 (ii) any closed transaction constituting a sale;

1304 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
1305 chapter;

1306 (iv) any transaction if the possession of property is transferred but the seller retains the  
1307 title as security for the payment of the price; and

1308 (v) any transaction under which right to possession, operation, or use of any article of  
1309 tangible personal property is granted under a lease or contract and the transfer of possession  
1310 would be taxable if an outright sale were made.

1311 (119) "Sale at retail" means the same as that term is defined in Subsection (116).

1312 (120) "Sale-leaseback transaction" means a transaction by which title to tangible  
1313 personal property or a product transferred electronically that is subject to a tax under this  
1314 chapter is transferred:

1315 (a) by a purchaser-lessee;

1316 (b) to a lessor;

1317 (c) for consideration; and

1318 (d) if:

1319 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
1320 of the tangible personal property or product transferred electronically;

1321 (ii) the sale of the tangible personal property or product transferred electronically to the  
1322 lessor is intended as a form of financing:

1323 (A) for the tangible personal property or product transferred electronically; and

1324 (B) to the purchaser-lessee; and

1325 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
1326 is required to:

1327 (A) capitalize the tangible personal property or product transferred electronically for  
1328 financial reporting purposes; and

1329 (B) account for the lease payments as payments made under a financing arrangement.

1330 (121) "Sales price" means the same as that term is defined in Subsection (107).  
1331 (122) (a) "Sales relating to schools" means the following sales by, amounts paid to, or  
1332 amounts charged by a school:  
1333 (i) sales that are directly related to the school's educational functions or activities  
1334 including:  
1335 (A) the sale of:  
1336 (I) textbooks;  
1337 (II) textbook fees;  
1338 (III) laboratory fees;  
1339 (IV) laboratory supplies; or  
1340 (V) safety equipment;  
1341 (B) the sale of a uniform, protective equipment, or sports or recreational equipment  
1342 that:  
1343 (I) a student is specifically required to wear as a condition of participation in a  
1344 school-related event or school-related activity; and  
1345 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
1346 place of ordinary clothing;  
1347 (C) sales of the following if the net or gross [~~revenues~~] revenue generated by the sales  
1348 are deposited into a school district fund or school fund dedicated to school meals:  
1349 (I) food and food ingredients; or  
1350 (II) prepared food; or  
1351 (D) transportation charges for official school activities; or  
1352 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
1353 event or school-related activity.  
1354 (b) "Sales relating to schools" does not include:  
1355 (i) bookstore sales of items that are not educational materials or supplies;  
1356 (ii) except as provided in Subsection (122)(a)(i)(B):  
1357 (A) clothing;  
1358 (B) clothing accessories or equipment;  
1359 (C) protective equipment; or  
1360 (D) sports or recreational equipment; or

1361 (iii) amounts paid to or amounts charged by a school for admission to a school-related  
1362 event or school-related activity if the amounts paid or charged are passed through to a person:

1363 (A) other than a:

1364 (I) school;

1365 (II) nonprofit organization authorized by a school board or a governing body of a  
1366 private school to organize and direct a competitive secondary school activity; or

1367 (III) nonprofit association authorized by a school board or a governing body of a  
1368 private school to organize and direct a competitive secondary school activity; and

1369 (B) that is required to collect sales and use taxes under this chapter.

1370 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1371 commission may make rules defining the term "passed through."

1372 (123) For purposes of this section and Section 59-12-104, "school" means:

1373 (a) an elementary school or a secondary school that:

1374 (i) is a:

1375 (A) public school; or

1376 (B) private school; and

1377 (ii) provides instruction for one or more grades kindergarten through 12; or

1378 (b) a public school district.

1379 (124) (a) "Seller" means a person that makes a sale, lease, or rental of:

1380 (i) tangible personal property;

1381 (ii) a product transferred electronically; or

1382 (iii) a service.

1383 (b) "Seller" includes a marketplace facilitator.

1384 (125) (a) "Semiconductor fabricating, processing, research, or development materials"  
1385 means tangible personal property or a product transferred electronically if the tangible personal  
1386 property or product transferred electronically is:

1387 (i) used primarily in the process of:

1388 (A) (I) manufacturing a semiconductor;

1389 (II) fabricating a semiconductor; or

1390 (III) research or development of a:

1391 (Aa) semiconductor; or

1392 (Bb) semiconductor manufacturing process; or  
1393 (B) maintaining an environment suitable for a semiconductor; or  
1394 (ii) consumed primarily in the process of:  
1395 (A) (I) manufacturing a semiconductor;  
1396 (II) fabricating a semiconductor; or  
1397 (III) research or development of a:  
1398 (Aa) semiconductor; or  
1399 (Bb) semiconductor manufacturing process; or  
1400 (B) maintaining an environment suitable for a semiconductor.  
1401 (b) "Semiconductor fabricating, processing, research, or development materials"  
1402 includes:  
1403 (i) parts used in the repairs or renovations of tangible personal property or a product  
1404 transferred electronically described in Subsection (125)(a); or  
1405 (ii) a chemical, catalyst, or other material used to:  
1406 (A) produce or induce in a semiconductor a:  
1407 (I) chemical change; or  
1408 (II) physical change;  
1409 (B) remove impurities from a semiconductor; or  
1410 (C) improve the marketable condition of a semiconductor.  
1411 (126) "Senior citizen center" means a facility having the primary purpose of providing  
1412 services to the aged as defined in Section [26B-6-101](#).  
1413 (127) "Shared vehicle" means the same as that term is defined in Section [13-48a-101](#).  
1414 (128) "Shared vehicle driver" means the same as that term is defined in Section  
1415 [13-48a-101](#).  
1416 (129) "Shared vehicle owner" means the same as that term is defined in Section  
1417 [13-48a-101](#).  
1418 (130) (a) Subject to Subsections (130)(b) and (c), "short-term lodging consumable"  
1419 means tangible personal property that:  
1420 (i) a business that provides accommodations and services described in Subsection  
1421 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services  
1422 to a purchaser;

- 1423 (ii) is intended to be consumed by the purchaser; and  
1424 (iii) is:  
1425 (A) included in the purchase price of the accommodations and services; and  
1426 (B) not separately stated on an invoice, bill of sale, or other similar document provided  
1427 to the purchaser.
- 1428 (b) "Short-term lodging consumable" includes:  
1429 (i) a beverage;  
1430 (ii) a brush or comb;  
1431 (iii) a cosmetic;  
1432 (iv) a hair care product;  
1433 (v) lotion;  
1434 (vi) a magazine;  
1435 (vii) makeup;  
1436 (viii) a meal;  
1437 (ix) mouthwash;  
1438 (x) nail polish remover;  
1439 (xi) a newspaper;  
1440 (xii) a notepad;  
1441 (xiii) a pen;  
1442 (xiv) a pencil;  
1443 (xv) a razor;  
1444 (xvi) saline solution;  
1445 (xvii) a sewing kit;  
1446 (xviii) shaving cream;  
1447 (xix) a shoe shine kit;  
1448 (xx) a shower cap;  
1449 (xxi) a snack item;  
1450 (xxii) soap;  
1451 (xxiii) toilet paper;  
1452 (xxiv) a toothbrush;  
1453 (xxv) toothpaste; or

1454 (xxvi) an item similar to Subsections (130)(b)(i) through (xxv) as the commission may  
1455 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1456 Rulemaking Act.

1457 (c) "Short-term lodging consumable" does not include:

1458 (i) tangible personal property that is cleaned or washed to allow the tangible personal  
1459 property to be reused; or

1460 (ii) a product transferred electronically.

1461 (131) (a) "Short-term rental" means a lease or rental for less than 30 consecutive days.

1462 (b) "Short-term rental" does not include car sharing.

1463 ~~[(131)]~~ (132) "Simplified electronic return" means the electronic return:

1464 (a) described in Section 318(C) of the agreement; and

1465 (b) approved by the governing board of the agreement.

1466 ~~[(132)]~~ (133) "Solar energy" means the sun used as the sole source of energy for  
1467 producing electricity.

1468 ~~[(133)]~~ (134) (a) "Sports or recreational equipment" means an item:

1469 (i) designed for human use; and

1470 (ii) that is:

1471 (A) worn in conjunction with:

1472 (I) an athletic activity; or

1473 (II) a recreational activity; and

1474 (B) not suitable for general use.

1475 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1476 commission shall make rules:

1477 (i) listing the items that constitute "sports or recreational equipment"; and

1478 (ii) that are consistent with the list of items that constitute "sports or recreational  
1479 equipment" under the agreement.

1480 ~~[(134)]~~ (135) "State" means the state of Utah, its departments, and agencies.

1481 ~~[(135)]~~ (136) "Storage" means any keeping or retention of tangible personal property or  
1482 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose  
1483 except sale in the regular course of business.

1484 ~~[(136)]~~ (137) (a) ~~[Except as provided in Subsection (136)(d) or (e), "tangible]~~



1485 "Tangible personal property" means personal property that:

1486 (i) may be:

1487 (A) seen;

1488 (B) weighed;

1489 (C) measured;

1490 (D) felt; or

1491 (E) touched; or

1492 (ii) is in any manner perceptible to the senses.

1493 (b) "Tangible personal property" includes:

1494 (i) electricity;

1495 (ii) water;

1496 (iii) gas;

1497 (iv) steam; or

1498 (v) prewritten computer software, regardless of the manner in which the prewritten  
1499 computer software is transferred.

1500 (c) "Tangible personal property" includes the following regardless of whether the item  
1501 is attached to real property:

1502 (i) a dishwasher;

1503 (ii) a dryer;

1504 (iii) a freezer;

1505 (iv) a microwave;

1506 (v) a refrigerator;

1507 (vi) a stove;

1508 (vii) a washer; or

1509 (viii) an item similar to Subsections [~~(136)(c)(i)~~] (137)(c)(i) through (vii) as

1510 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
1511 Administrative Rulemaking Act.

1512 (d) "Tangible personal property" does not include a product that is transferred  
1513 electronically.

1514 (e) "Tangible personal property" does not include the following if attached to real  
1515 property, regardless of whether the attachment to real property is only through a line that

supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

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

~~[(137)]~~ (138) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection ~~[(137)(b)]~~ (138)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

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

(b) The following apply to Subsection ~~[(137)(a)]~~ (138)(a):

- (i) a pole;
- (ii) software;
- (iii) a supplementary power supply;
- (iv) temperature or environmental equipment or machinery;
- (v) test equipment;
- (vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections ~~[(137)(b)(i)]~~ (138)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection ~~[(137)(c)]~~ (138)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections ~~[(137)(b)(i)]~~ (138)(b)(i) through (vi).

~~[(138)]~~ (139) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

~~[(139)]~~ (140) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more

1547 of the following:

- 1548 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1549 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1550 (c) telecommunications transmission equipment, machinery, or software.

1551 ~~[(140)]~~ (141) (a) "Telecommunications service" means the electronic conveyance,  
1552 routing, or transmission of audio, data, video, voice, or any other information or signal to a  
1553 point, or among or between points.

1554 (b) "Telecommunications service" includes:

1555 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
1556 processing application is used to act:

1557 (A) on the code, form, or protocol of the content;

1558 (B) for the purpose of electronic conveyance, routing, or transmission; and

1559 (C) regardless of whether the service:

1560 (I) is referred to as voice over Internet protocol service; or

1561 (II) is classified by the Federal Communications Commission as enhanced or value  
1562 added;

1563 (ii) an 800 service;

1564 (iii) a 900 service;

1565 (iv) a fixed wireless service;

1566 (v) a mobile wireless service;

1567 (vi) a postpaid calling service;

1568 (vii) a prepaid calling service;

1569 (viii) a prepaid wireless calling service; or

1570 (ix) a private communications service.

1571 (c) "Telecommunications service" does not include:

1572 (i) advertising, including directory advertising;

1573 (ii) an ancillary service;

1574 (iii) a billing and collection service provided to a third party;

1575 (iv) a data processing and information service if:

1576 (A) the data processing and information service allows data to be:

1577 (I) (Aa) acquired;

1578 (Bb) generated;  
1579 (Cc) processed;  
1580 (Dd) retrieved; or  
1581 (Ee) stored; and  
1582 (II) delivered by an electronic transmission to a purchaser; and  
1583 (B) the purchaser's primary purpose for the underlying transaction is the processed data  
1584 or information;  
1585 (v) installation or maintenance of the following on a customer's premises:  
1586 (A) equipment; or  
1587 (B) wiring;  
1588 (vi) Internet access service;  
1589 (vii) a paging service;  
1590 (viii) a product transferred electronically, including:  
1591 (A) music;  
1592 (B) reading material;  
1593 (C) a ring tone;  
1594 (D) software; or  
1595 (E) video;  
1596 (ix) a radio and television audio and video programming service:  
1597 (A) regardless of the medium; and  
1598 (B) including:  
1599 (I) furnishing conveyance, routing, or transmission of a television audio and video  
1600 programming service by a programming service provider;  
1601 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or  
1602 (III) audio and video programming services delivered by a commercial mobile radio  
1603 service provider as defined in 47 C.F.R. Sec. 20.3;  
1604 (x) a value-added nonvoice data service; or  
1605 (xi) tangible personal property.  
1606 ~~[(141)]~~ (142) (a) "Telecommunications service provider" means a person that:  
1607 (i) owns, controls, operates, or manages a telecommunications service; and  
1608 (ii) engages in an activity described in Subsection ~~[(141)(a)(i)]~~ (142)(a)(i) for the

1609 shared use with or resale to any person of the telecommunications service.

1610 (b) A person described in Subsection [~~(141)(a)~~] (142)(a) is a telecommunications  
1611 service provider whether or not the Public Service Commission of Utah regulates:

1612 (i) that person; or

1613 (ii) the telecommunications service that the person owns, controls, operates, or  
1614 manages.

1615 [~~(142)~~] (143) (a) "Telecommunications switching or routing equipment, machinery, or  
1616 software" means an item listed in Subsection [~~(142)(b)~~] (143)(b) if that item is purchased or  
1617 leased primarily for switching or routing:

1618 (i) an ancillary service;

1619 (ii) data communications;

1620 (iii) voice communications; or

1621 (iv) telecommunications service.

1622 (b) The following apply to Subsection [~~(142)(a)~~] (143)(a):

1623 (i) a bridge;

1624 (ii) a computer;

1625 (iii) a cross connect;

1626 (iv) a modem;

1627 (v) a multiplexer;

1628 (vi) plug in circuitry;

1629 (vii) a router;

1630 (viii) software;

1631 (ix) a switch; or

1632 (x) equipment, machinery, or software that functions similarly to an item listed in

1633 Subsections [~~(142)(b)(i)~~] (143)(b)(i) through (ix) as determined by the commission by rule

1634 made in accordance with Subsection [~~(142)(c)~~] (143)(c).

1635 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1636 commission may by rule define what constitutes equipment, machinery, or software that  
1637 functions similarly to an item listed in Subsections [~~(142)(b)(i)~~] (143)(b)(i) through (ix).

1638 [~~(143)~~] (144) (a) "Telecommunications transmission equipment, machinery, or  
1639 software" means an item listed in Subsection [~~(143)(b)~~] (144)(b) if that item is purchased or

- 1640 leased primarily for sending, receiving, or transporting:
- 1641 (i) an ancillary service;
- 1642 (ii) data communications;
- 1643 (iii) voice communications; or
- 1644 (iv) telecommunications service.
- 1645 (b) The following apply to Subsection [~~(143)(a)~~] (144)(a):
- 1646 (i) an amplifier;
- 1647 (ii) a cable;
- 1648 (iii) a closure;
- 1649 (iv) a conduit;
- 1650 (v) a controller;
- 1651 (vi) a duplexer;
- 1652 (vii) a filter;
- 1653 (viii) an input device;
- 1654 (ix) an input/output device;
- 1655 (x) an insulator;
- 1656 (xi) microwave machinery or equipment;
- 1657 (xii) an oscillator;
- 1658 (xiii) an output device;
- 1659 (xiv) a pedestal;
- 1660 (xv) a power converter;
- 1661 (xvi) a power supply;
- 1662 (xvii) a radio channel;
- 1663 (xviii) a radio receiver;
- 1664 (xix) a radio transmitter;
- 1665 (xx) a repeater;
- 1666 (xxi) software;
- 1667 (xxii) a terminal;
- 1668 (xxiii) a timing unit;
- 1669 (xxiv) a transformer;
- 1670 (xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections ~~[(143)(b)(i)]~~ (144)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection ~~[(143)(c)]~~ (144)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections ~~[(143)(b)(i)]~~ (144)(b)(i) through (xxv).

~~[(144)]~~ (145) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

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

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

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

~~[(145)]~~ (146) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

~~[(146)]~~ (147) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

~~[(147)]~~ (148) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

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

~~[(148)]~~ (149) "Value-added nonvoice data service" means a service:

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

1702 (b) with respect to which a computer processing application is used to act on data or  
1703 information:

- 1704 (i) code;
- 1705 (ii) content;
- 1706 (iii) form; or
- 1707 (iv) protocol.

1708 ~~[(149)]~~ (150) (a) Subject to Subsection ~~[(149)(b)]~~ (150)(b), "vehicle" means the  
1709 following that are required to be titled, registered, or titled and registered:

- 1710 (i) an aircraft as defined in Section 72-10-102;
- 1711 (ii) a vehicle as defined in Section 41-1a-102;
- 1712 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1713 (iv) a vessel as defined in Section 41-1a-102.

1714 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1715 (i) a vehicle described in Subsection ~~[(149)(a)]~~ (150)(a); or
- 1716 (ii) (A) a locomotive;
- 1717 (B) a freight car;
- 1718 (C) railroad work equipment; or
- 1719 (D) other railroad rolling stock.

1720 ~~[(150)]~~ (151) "Vehicle dealer" means a person engaged in the business of buying,  
1721 selling, or exchanging a vehicle as defined in Subsection ~~[(149)]~~ (150).

1722 ~~[(151)]~~ (152) (a) "Vertical service" means an ancillary service that:

- 1723 (i) is offered in connection with one or more telecommunications services; and
- 1724 (ii) offers an advanced calling feature that allows a customer to:
  - 1725 (A) identify a caller; and
  - 1726 (B) manage multiple calls and call connections.

1727 (b) "Vertical service" includes an ancillary service that allows a customer to manage a  
1728 conference bridging service.

1729 ~~[(152)]~~ (153) (a) "Voice mail service" means an ancillary service that enables a  
1730 customer to receive, send, or store a recorded message.

1731 (b) "Voice mail service" does not include a vertical service that a customer is required  
1732 to have in order to utilize a voice mail service.



1733 ~~[(153)]~~ (154) (a) ~~[Except as provided in Subsection (153)(b), "waste"]~~ "Waste energy  
1734 facility" means a facility that generates electricity:

1735 (i) using as the primary source of energy waste materials that would be placed in a  
1736 landfill or refuse pit if it were not used to generate electricity, including:

1737 (A) tires;

1738 (B) waste coal;

1739 (C) oil shale; or

1740 (D) municipal solid waste; and

1741 (ii) in amounts greater than actually required for the operation of the facility.

1742 (b) "Waste energy facility" does not include a facility that incinerates:

1743 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1744 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1745 ~~[(154)]~~ (155) "Watercraft" means a vessel as defined in Section 73-18-2.

1746 ~~[(155)]~~ (156) "Wind energy" means wind used as the sole source of energy to produce  
1747 electricity.

1748 ~~[(156)]~~ (157) "ZIP Code" means a Zoning Improvement Plan Code assigned to a  
1749 geographic location by the United States Postal Service.

1750 Section 3. Section **59-12-102 (Contingently Effective 01/01/25)** is amended to read:

1751 **59-12-102 (Contingently Effective 01/01/25). Definitions.**

1752 As used in this chapter:

1753 (1) "800 service" means a telecommunications service that:

1754 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

1755 (b) is typically marketed:

1756 (i) under the name 800 toll-free calling;

1757 (ii) under the name 855 toll-free calling;

1758 (iii) under the name 866 toll-free calling;

1759 (iv) under the name 877 toll-free calling;

1760 (v) under the name 888 toll-free calling; or

1761 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the  
1762 Federal Communications Commission.

1763 (2) (a) "900 service" means an inbound toll telecommunications service that:

1764 (i) a subscriber purchases;  
1765 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to  
1766 the subscriber's:  
1767 (A) prerecorded announcement; or  
1768 (B) live service; and  
1769 (iii) is typically marketed:  
1770 (A) under the name 900 service; or  
1771 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal  
1772 Communications Commission.  
1773 (b) "900 service" does not include a charge for:  
1774 (i) a collection service a seller of a telecommunications service provides to a  
1775 subscriber; or  
1776 (ii) the following a subscriber sells to the subscriber's customer:  
1777 (A) a product; or  
1778 (B) a service.  
1779 (3) (a) "Admission or user fees" includes season passes.  
1780 (b) "Admission or user fees" does not include:  
1781 (i) annual membership dues to private organizations; or  
1782 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a  
1783 facility listed in Subsection [59-12-103](#)(1)(f).  
1784 (4) "Affiliate" or "affiliated person" means a person that, with respect to another  
1785 person:  
1786 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other  
1787 person; or  
1788 (b) is related to the other person because a third person, or a group of third persons who  
1789 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,  
1790 whether direct or indirect, in the related persons.  
1791 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on  
1792 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax  
1793 Agreement after November 12, 2002.  
1794 (6) "Agreement combined tax rate" means the sum of the tax rates:

- 1795 (a) listed under Subsection (7); and
- 1796 (b) that are imposed within a local taxing jurisdiction.
- 1797 (7) "Agreement sales and use tax" means a tax imposed under:
- 1798 (a) Subsection 59-12-103(2)(a)(i)(A);
- 1799 (b) Subsection 59-12-103(2)(b)(i);
- 1800 (c) Subsection 59-12-103(2)(d);
- 1801 (d) Subsection 59-12-103(2)(e)(i)(A)(I);
- 1802 (e) Section 59-12-204;
- 1803 (f) Section 59-12-401;
- 1804 (g) Section 59-12-402;
- 1805 (h) Section 59-12-402.1;
- 1806 (i) Section 59-12-703;
- 1807 (j) Section 59-12-802;
- 1808 (k) Section 59-12-804;
- 1809 (l) Section 59-12-1102;
- 1810 (m) Section 59-12-1302;
- 1811 (n) Section 59-12-1402;
- 1812 (o) Section 59-12-1802;
- 1813 (p) Section 59-12-2003;
- 1814 (q) Section 59-12-2103;
- 1815 (r) Section 59-12-2213;
- 1816 (s) Section 59-12-2214;
- 1817 (t) Section 59-12-2215;
- 1818 (u) Section 59-12-2216;
- 1819 (v) Section 59-12-2217;
- 1820 (w) Section 59-12-2218;
- 1821 (x) Section 59-12-2219; or
- 1822 (y) Section 59-12-2220.
- 1823 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 1824 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 1825 (a) except for:

- 1826 (i) an airline as defined in Section 59-2-102; or  
1827 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"  
1828 includes a corporation that is qualified to do business but is not otherwise doing business in the  
1829 state, of an airline; and
- 1830 (b) that has the workers, expertise, and facilities to perform the following, regardless of  
1831 whether the business entity performs the following in this state:
- 1832 (i) check, diagnose, overhaul, and repair:
- 1833 (A) an onboard system of a fixed wing turbine powered aircraft; and  
1834 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 1835 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft  
1836 engine;
- 1837 (iii) perform at least the following maintenance on a fixed wing turbine powered  
1838 aircraft:
- 1839 (A) an inspection;  
1840 (B) a repair, including a structural repair or modification;  
1841 (C) changing landing gear; and  
1842 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 1843 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and  
1844 completely apply new paint to the fixed wing turbine powered aircraft; and
- 1845 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that  
1846 results in a change in the fixed wing turbine powered aircraft's certification requirements by the  
1847 authority that certifies the fixed wing turbine powered aircraft.
- 1848 (10) "Alcoholic beverage" means a beverage that:
- 1849 (a) is suitable for human consumption; and  
1850 (b) contains .5% or more alcohol by volume.
- 1851 (11) "Alternative energy" means:
- 1852 (a) biomass energy;  
1853 (b) geothermal energy;  
1854 (c) hydroelectric energy;  
1855 (d) solar energy;  
1856 (e) wind energy; or

1857 (f) energy that is derived from:  
1858 (i) coal-to-liquids;  
1859 (ii) nuclear fuel;  
1860 (iii) oil-impregnated diatomaceous earth;  
1861 (iv) oil sands;  
1862 (v) oil shale;  
1863 (vi) petroleum coke; or  
1864 (vii) waste heat from:  
1865 (A) an industrial facility; or  
1866 (B) a power station in which an electric generator is driven through a process in which  
1867 water is heated, turns into steam, and spins a steam turbine.  
1868 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production  
1869 facility" means a facility that:  
1870 (i) uses alternative energy to produce electricity; and  
1871 (ii) has a production capacity of two megawatts or greater.  
1872 (b) A facility is an alternative energy electricity production facility regardless of  
1873 whether the facility is:  
1874 (i) connected to an electric grid; or  
1875 (ii) located on the premises of an electricity consumer.  
1876 (13) (a) "Ancillary service" means a service associated with, or incidental to, the  
1877 provision of telecommunications service.  
1878 (b) "Ancillary service" includes:  
1879 (i) a conference bridging service;  
1880 (ii) a detailed communications billing service;  
1881 (iii) directory assistance;  
1882 (iv) a vertical service; or  
1883 (v) a voice mail service.  
1884 (14) "Area agency on aging" means the same as that term is defined in Section  
1885 [26B-6-101](#).  
1886 (15) "Assisted amusement device" means an amusement device, skill device, or ride  
1887 device that is started and stopped by an individual:

1888 (a) who is not the purchaser or renter of the right to use or operate the amusement  
1889 device, skill device, or ride device; and

1890 (b) at the direction of the seller of the right to use the amusement device, skill device,  
1891 or ride device.

1892 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or  
1893 washing of tangible personal property if the cleaning or washing labor is primarily performed  
1894 by an individual:

1895 (a) who is not the purchaser of the cleaning or washing of the tangible personal  
1896 property; and

1897 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
1898 property.

1899 (17) "Authorized carrier" means:

1900 (a) in the case of vehicles operated over public highways, the holder of credentials  
1901 indicating that the vehicle is or will be operated pursuant to both the International Registration  
1902 Plan and the International Fuel Tax Agreement;

1903 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating  
1904 certificate or air carrier's operating certificate; or

1905 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling  
1906 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling  
1907 stock in more than one state.

1908 (18) (a) ~~[Except as provided in Subsection (18)(b), "biomass"]~~ "Biomass energy" means  
1909 any of the following that is used as the primary source of energy to produce fuel or electricity:

1910 (i) material from a plant or tree; or

1911 (ii) other organic matter that is available on a renewable basis, including:

1912 (A) slash and brush from forests and woodlands;

1913 (B) animal waste;

1914 (C) waste vegetable oil;

1915 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of  
1916 wastewater residuals, or through the conversion of a waste material through a nonincineration,  
1917 thermal conversion process;

1918 (E) aquatic plants; and

- 1919 (F) agricultural products.
- 1920 (b) "Biomass energy" does not include:
- 1921 (i) black liquor; or
- 1922 (ii) treated woods.
- 1923 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 1924 property, products, or services if the tangible personal property, products, or services are:
- 1925 (i) distinct and identifiable; and
- 1926 (ii) sold for one nonitemized price.
- 1927 (b) "Bundled transaction" does not include:
- 1928 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 1929 the basis of the selection by the purchaser of the items of tangible personal property included in
- 1930 the transaction;
- 1931 (ii) the sale of real property;
- 1932 (iii) the sale of services to real property;
- 1933 (iv) the retail sale of tangible personal property and a service if:
- 1934 (A) the tangible personal property:
- 1935 (I) is essential to the use of the service; and
- 1936 (II) is provided exclusively in connection with the service; and
- 1937 (B) the service is the true object of the transaction;
- 1938 (v) the retail sale of two services if:
- 1939 (A) one service is provided that is essential to the use or receipt of a second service;
- 1940 (B) the first service is provided exclusively in connection with the second service; and
- 1941 (C) the second service is the true object of the transaction;
- 1942 (vi) a transaction that includes tangible personal property or a product subject to
- 1943 taxation under this chapter and tangible personal property or a product that is not subject to
- 1944 taxation under this chapter if the:
- 1945 (A) seller's purchase price of the tangible personal property or product subject to
- 1946 taxation under this chapter is de minimis; or
- 1947 (B) seller's sales price of the tangible personal property or product subject to taxation
- 1948 under this chapter is de minimis; and
- 1949 (vii) the retail sale of tangible personal property that is not subject to taxation under

1950 this chapter and tangible personal property that is subject to taxation under this chapter if:

1951 (A) that retail sale includes:

1952 (I) food and food ingredients;

1953 (II) a drug;

1954 (III) durable medical equipment;

1955 (IV) mobility enhancing equipment;

1956 (V) an over-the-counter drug;

1957 (VI) a prosthetic device; or

1958 (VII) a medical supply; and

1959 (B) subject to Subsection (19)(f):

1960 (I) the seller's purchase price of the tangible personal property subject to taxation under  
1961 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

1962 (II) the seller's sales price of the tangible personal property subject to taxation under  
1963 this chapter is 50% or less of the seller's total sales price of that retail sale.

1964 (c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a  
1965 service that is distinct and identifiable does not include:

1966 (A) packaging that:

1967 (I) accompanies the sale of the tangible personal property, product, or service; and

1968 (II) is incidental or immaterial to the sale of the tangible personal property, product, or  
1969 service;

1970 (B) tangible personal property, a product, or a service provided free of charge with the  
1971 purchase of another item of tangible personal property, a product, or a service; or

1972 (C) an item of tangible personal property, a product, or a service included in the  
1973 definition of "purchase price."

1974 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a  
1975 product, or a service is provided free of charge with the purchase of another item of tangible  
1976 personal property, a product, or a service if the sales price of the purchased item of tangible  
1977 personal property, product, or service does not vary depending on the inclusion of the tangible  
1978 personal property, product, or service provided free of charge.

1979 (d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price  
1980 does not include a price that is separately identified by tangible personal property, product, or



1981 service on the following, regardless of whether the following is in paper format or electronic  
1982 format:

1983 (A) a binding sales document; or

1984 (B) another supporting sales-related document that is available to a purchaser.

1985 (ii) For purposes of Subsection (19)(d)(i), a binding sales document or another  
1986 supporting sales-related document that is available to a purchaser includes:

1987 (A) a bill of sale;

1988 (B) a contract;

1989 (C) an invoice;

1990 (D) a lease agreement;

1991 (E) a periodic notice of rates and services;

1992 (F) a price list;

1993 (G) a rate card;

1994 (H) a receipt; or

1995 (I) a service agreement.

1996 (e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal  
1997 property or a product subject to taxation under this chapter is de minimis if:

1998 (A) the seller's purchase price of the tangible personal property or product is 10% or  
1999 less of the seller's total purchase price of the bundled transaction; or

2000 (B) the seller's sales price of the tangible personal property or product is 10% or less of  
2001 the seller's total sales price of the bundled transaction.

2002 (ii) For purposes of Subsection (19)(b)(vi), a seller:

2003 (A) shall use the seller's purchase price or the seller's sales price to determine if the  
2004 purchase price or sales price of the tangible personal property or product subject to taxation  
2005 under this chapter is de minimis; and

2006 (B) may not use a combination of the seller's purchase price and the seller's sales price  
2007 to determine if the purchase price or sales price of the tangible personal property or product  
2008 subject to taxation under this chapter is de minimis.

2009 (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service  
2010 contract to determine if the sales price of tangible personal property or a product is de minimis.

2011 (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of

2012 the seller's purchase price and the seller's sales price to determine if tangible personal property  
2013 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales  
2014 price of that retail sale.

2015 (20) "Car sharing" means the same as that term is defined in Section 13-48a-101.

2016 (21) "Car-sharing program" means the same as that term is defined in Section  
2017 13-48a-101.

2018 (22) "Certified automated system" means software certified by the governing board of  
2019 the agreement that:

2020 (a) calculates the agreement sales and use tax imposed within a local taxing  
2021 jurisdiction:

2022 (i) on a transaction; and

2023 (ii) in the states that are members of the agreement;

2024 (b) determines the amount of agreement sales and use tax to remit to a state that is a  
2025 member of the agreement; and

2026 (c) maintains a record of the transaction described in Subsection (22)(a)(i).

2027 (23) "Certified service provider" means an agent certified:

2028 (a) by the governing board of the agreement; and

2029 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,  
2030 as outlined in the contract between the governing board of the agreement and the certified  
2031 service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the  
2032 seller's own purchases.

2033 (24) (a) Subject to Subsection (24)(b), "clothing" means all human wearing apparel  
2034 suitable for general use.

2035 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2036 commission shall make rules:

2037 (i) listing the items that constitute "clothing"; and

2038 (ii) that are consistent with the list of items that constitute "clothing" under the  
2039 agreement.

2040 (25) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

2041 (26) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
2042 fuels that does not constitute industrial use under Subsection (60) or residential use under

2043 Subsection (115).

2044 (27) (a) "Common carrier" means a person engaged in or transacting the business of  
2045 transporting passengers, freight, merchandise, or other property for hire within this state.

2046 (b) (i) "Common carrier" does not include a person that, at the time the person is  
2047 traveling to or from that person's place of employment, transports a passenger to or from the  
2048 passenger's place of employment.

2049 (ii) For purposes of Subsection (27)(b)(i), in accordance with Title 63G, Chapter 3,  
2050 Utah Administrative Rulemaking Act, the commission may make rules defining what  
2051 constitutes a person's place of employment.

2052 (c) "Common carrier" does not include a person that provides transportation network  
2053 services, as defined in Section [13-51-102](#).

2054 (28) "Component part" includes:

2055 (a) poultry, dairy, and other livestock feed, and their components;

2056 (b) baling ties and twine used in the baling of hay and straw;

2057 (c) fuel used for providing temperature control of orchards and commercial  
2058 greenhouses doing a majority of their business in wholesale sales, and for providing power for  
2059 off-highway type farm machinery; and

2060 (d) feed, seeds, and seedlings.

2061 (29) "Computer" means an electronic device that accepts information:

2062 (a) (i) in digital form; or

2063 (ii) in a form similar to digital form; and

2064 (b) manipulates that information for a result based on a sequence of instructions.

2065 (30) "Computer software" means a set of coded instructions designed to cause:

2066 (a) a computer to perform a task; or

2067 (b) automatic data processing equipment to perform a task.

2068 (31) "Computer software maintenance contract" means a contract that obligates a seller  
2069 of computer software to provide a customer with:

2070 (a) future updates or upgrades to computer software;

2071 (b) support services with respect to computer software; or

2072 (c) a combination of Subsections (31)(a) and (b).

2073 (32) (a) "Conference bridging service" means an ancillary service that links two or

2074 more participants of an audio conference call or video conference call.

2075 (b) "Conference bridging service" may include providing a telephone number as part of  
2076 the ancillary service described in Subsection (32)(a).

2077 (c) "Conference bridging service" does not include a telecommunications service used  
2078 to reach the ancillary service described in Subsection (32)(a).

2079 (33) "Construction materials" means any tangible personal property that will be  
2080 converted into real property.

2081 (34) "Delivered electronically" means delivered to a purchaser by means other than  
2082 tangible storage media.

2083 (35) (a) "Delivery charge" means a charge:

2084 (i) by a seller of:

2085 (A) tangible personal property;

2086 (B) a product transferred electronically; or

2087 (C) a service; and

2088 (ii) for preparation and delivery of the tangible personal property, product transferred  
2089 electronically, or services described in Subsection (35)(a)(i) to a location designated by the  
2090 purchaser.

2091 (b) "Delivery charge" includes a charge for the following:

2092 (i) transportation;

2093 (ii) shipping;

2094 (iii) postage;

2095 (iv) handling;

2096 (v) crating; or

2097 (vi) packing.

2098 (36) "Detailed telecommunications billing service" means an ancillary service of  
2099 separately stating information pertaining to individual calls on a customer's billing statement.

2100 (37) "Dietary supplement" means a product, other than tobacco, that:

2101 (a) is intended to supplement the diet;

2102 (b) contains one or more of the following dietary ingredients:

2103 (i) a vitamin;

2104 (ii) a mineral;

- 2105 (iii) an herb or other botanical;
- 2106 (iv) an amino acid;
- 2107 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 2108 dietary intake; or
- 2109 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 2110 described in Subsections (37)(b)(i) through (v);
- 2111 (c) (i) except as provided in Subsection (37)(c)(ii), is intended for ingestion in:
- 2112 (A) tablet form;
- 2113 (B) capsule form;
- 2114 (C) powder form;
- 2115 (D) softgel form;
- 2116 (E) gelcap form; or
- 2117 (F) liquid form; or
- 2118 (ii) if the product is not intended for ingestion in a form described in Subsections
- 2119 (37)(c)(i)(A) through (F), is not represented:
- 2120 (A) as conventional food; and
- 2121 (B) for use as a sole item of:
- 2122 (I) a meal; or
- 2123 (II) the diet; and
- 2124 (d) is required to be labeled as a dietary supplement:
- 2125 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 2126 (ii) as required by 21 C.F.R. Sec. 101.36.
- 2127 (38) (a) "Digital audio work" means a work that results from the fixation of a series of
- 2128 musical, spoken, or other sounds.
- 2129 (b) "Digital audio work" includes a ringtone.
- 2130 (39) "Digital audio-visual work" means a series of related images which, when shown
- 2131 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 2132 (40) "Digital book" means a work that is generally recognized in the ordinary and usual
- 2133 sense as a book.
- 2134 (41) (a) "Direct mail" means printed material delivered or distributed by United States
- 2135 mail or other delivery service:

- 2136 (i) to:
- 2137 (A) a mass audience; or
- 2138 (B) addressees on a mailing list provided:
- 2139 (I) by a purchaser of the mailing list; or
- 2140 (II) at the discretion of the purchaser of the mailing list; and
- 2141 (ii) if the cost of the printed material is not billed directly to the recipients.
- 2142 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 2143 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 2144 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 2145 single address.
- 2146 (42) "Directory assistance" means an ancillary service of providing:
- 2147 (a) address information; or
- 2148 (b) telephone number information.
- 2149 (43) (a) "Disposable home medical equipment or supplies" means medical equipment
- 2150 or supplies that:
- 2151 (i) cannot withstand repeated use; and
- 2152 (ii) are purchased by, for, or on behalf of a person other than:
- 2153 (A) a health care facility as defined in Section [26B-2-201](#);
- 2154 (B) a health care provider as defined in Section [78B-3-403](#);
- 2155 (C) an office of a health care provider described in Subsection (43)(a)(ii)(B); or
- 2156 (D) a person similar to a person described in Subsections (43)(a)(ii)(A) through (C).
- 2157 (b) "Disposable home medical equipment or supplies" does not include:
- 2158 (i) a drug;
- 2159 (ii) durable medical equipment;
- 2160 (iii) a hearing aid;
- 2161 (iv) a hearing aid accessory;
- 2162 (v) mobility enhancing equipment; or
- 2163 (vi) tangible personal property used to correct impaired vision, including:
- 2164 (A) eyeglasses; or
- 2165 (B) contact lenses.
- 2166 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2167 commission may by rule define what constitutes medical equipment or supplies.  
2168 (44) "Drilling equipment manufacturer" means a facility:  
2169 (a) located in the state;  
2170 (b) with respect to which 51% or more of the manufacturing activities of the facility  
2171 consist of manufacturing component parts of drilling equipment;  
2172 (c) that uses pressure of 800,000 or more pounds per square inch as part of the  
2173 manufacturing process; and  
2174 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the  
2175 manufacturing process.  
2176 (45) (a) "Drug" means a compound, substance, or preparation, or a component of a  
2177 compound, substance, or preparation that is:  
2178 (i) recognized in:  
2179 (A) the official United States Pharmacopoeia;  
2180 (B) the official Homeopathic Pharmacopoeia of the United States;  
2181 (C) the official National Formulary; or  
2182 (D) a supplement to a publication listed in Subsections (45)(a)(i)(A) through (C);  
2183 (ii) intended for use in the:  
2184 (A) diagnosis of disease;  
2185 (B) cure of disease;  
2186 (C) mitigation of disease;  
2187 (D) treatment of disease; or  
2188 (E) prevention of disease; or  
2189 (iii) intended to affect:  
2190 (A) the structure of the body; or  
2191 (B) any function of the body.  
2192 (b) "Drug" does not include:  
2193 (i) food and food ingredients;  
2194 (ii) a dietary supplement;  
2195 (iii) an alcoholic beverage; or  
2196 (iv) a prosthetic device.  
2197 (46) (a) [~~Except as provided in Subsection (46)(c), "durable"~~] "Durable" medical

2198 equipment" means equipment that:

2199 (i) can withstand repeated use;

2200 (ii) is primarily and customarily used to serve a medical purpose;

2201 (iii) generally is not useful to a person in the absence of illness or injury; and

2202 (iv) is not worn in or on the body.

2203 (b) "Durable medical equipment" includes parts used in the repair or replacement of the  
2204 equipment described in Subsection (46)(a).

2205 (c) "Durable medical equipment" does not include mobility enhancing equipment.

2206 (47) "Electronic" means:

2207 (a) relating to technology; and

2208 (b) having:

2209 (i) electrical capabilities;

2210 (ii) digital capabilities;

2211 (iii) magnetic capabilities;

2212 (iv) wireless capabilities;

2213 (v) optical capabilities;

2214 (vi) electromagnetic capabilities; or

2215 (vii) capabilities similar to Subsections (47)(b)(i) through (vi).

2216 (48) "Electronic financial payment service" means an establishment:

2217 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and  
2218 Clearinghouse Activities, of the 2012 North American Industry Classification System of the  
2219 federal Executive Office of the President, Office of Management and Budget; and

2220 (b) that performs electronic financial payment services.

2221 (49) "Employee" means the same as that term is defined in Section [59-10-401](#).

2222 (50) "Fixed guideway" means a public transit facility that uses and occupies:

2223 (a) rail for the use of public transit; or

2224 (b) a separate right-of-way for the use of public transit.

2225 (51) "Fixed wing turbine powered aircraft" means an aircraft that:

2226 (a) is powered by turbine engines;

2227 (b) operates on jet fuel; and

2228 (c) has wings that are permanently attached to the fuselage of the aircraft.



2229 (52) "Fixed wireless service" means a telecommunications service that provides radio  
2230 communication between fixed points.

2231 (53) (a) "Food and food ingredients" means substances:

2232 (i) regardless of whether the substances are in:

2233 (A) liquid form;

2234 (B) concentrated form;

2235 (C) solid form;

2236 (D) frozen form;

2237 (E) dried form; or

2238 (F) dehydrated form; and

2239 (ii) that are:

2240 (A) sold for:

2241 (I) ingestion by humans; or

2242 (II) chewing by humans; and

2243 (B) consumed for the substance's:

2244 (I) taste; or

2245 (II) nutritional value.

2246 (b) "Food and food ingredients" includes an item described in Subsection (99)(b)(iii).

2247 (c) "Food and food ingredients" does not include:

2248 (i) an alcoholic beverage;

2249 (ii) tobacco; or

2250 (iii) prepared food.

2251 (54) (a) "Fundraising sales" means sales:

2252 (i) (A) made by a school; or

2253 (B) made by a school student;

2254 (ii) that are for the purpose of raising funds for the school to purchase equipment,

2255 materials, or provide transportation; and

2256 (iii) that are part of an officially sanctioned school activity.

2257 (b) For purposes of Subsection (54)(a)(iii), "officially sanctioned school activity"

2258 means a school activity:

2259 (i) that is conducted in accordance with a formal policy adopted by the school or school

2260 district governing the authorization and supervision of fundraising activities;

2261 (ii) that does not directly or indirectly compensate an individual teacher or other  
2262 educational personnel by direct payment, commissions, or payment in kind; and

2263 (iii) the net or gross [~~revenues~~] revenue from which are deposited in a dedicated  
2264 account controlled by the school or school district.

2265 (55) "Geothermal energy" means energy contained in heat that continuously flows  
2266 outward from the earth that is used as the sole source of energy to produce electricity.

2267 (56) "Governing board of the agreement" means the governing board of the agreement  
2268 that is:

2269 (a) authorized to administer the agreement; and

2270 (b) established in accordance with the agreement.

2271 (57) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

2272 (i) the executive branch of the state, including all departments, institutions, boards,  
2273 divisions, bureaus, offices, commissions, and committees;

2274 (ii) the judicial branch of the state, including the courts, the Judicial Council, the  
2275 Administrative Office of the Courts, and similar administrative units in the judicial branch;

2276 (iii) the legislative branch of the state, including the House of Representatives, the  
2277 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
2278 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
2279 Analyst;

2280 (iv) the National Guard;

2281 (v) an independent entity as defined in Section 63E-1-102; or

2282 (vi) a political subdivision as defined in Section 17B-1-102.

2283 (b) "Governmental entity" does not include the state systems of public and higher  
2284 education, including:

2285 (i) a school;

2286 (ii) the State Board of Education;

2287 (iii) the Utah Board of Higher Education; or

2288 (iv) an institution of higher education described in Section 53B-1-102.

2289 (58) "Hydroelectric energy" means water used as the sole source of energy to produce  
2290 electricity.

2291 (59) "Individual-owned shared vehicle" means the same as that term is defined in  
2292 Section 13-48a-101.

2293 (60) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or  
2294 other fuels:

2295 (a) in mining or extraction of minerals;

2296 (b) in agricultural operations to produce an agricultural product up to the time of  
2297 harvest or placing the agricultural product into a storage facility, including:

2298 (i) commercial greenhouses;

2299 (ii) irrigation pumps;

2300 (iii) farm machinery;

2301 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered  
2302 under Title 41, Chapter 1a, Part 2, Registration; and

2303 (v) other farming activities;

2304 (c) in manufacturing tangible personal property at an establishment described in:

2305 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
2306 the federal Executive Office of the President, Office of Management and Budget; or

2307 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
2308 American Industry Classification System of the federal Executive Office of the President,  
2309 Office of Management and Budget;

2310 (d) by a scrap recycler if:

2311 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
2312 one or more of the following items into prepared grades of processed materials for use in new  
2313 products:

2314 (A) iron;

2315 (B) steel;

2316 (C) nonferrous metal;

2317 (D) paper;

2318 (E) glass;

2319 (F) plastic;

2320 (G) textile; or

2321 (H) rubber; and

(ii) the new products under Subsection (60)(d)(i) would otherwise be made with nonrecycled materials; or

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

(61) (a) [~~Except as provided in Subsection (61)(b), "installation"~~] "Installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

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

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

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

(A) to other tangible personal property; and

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

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

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

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes:

(i) an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code; and

(ii) car sharing.

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

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

2353 (ii) a transfer of possession or control of property under an agreement that requires the  
2354 transfer of title:

2355 (A) upon completion of required payments; and

2356 (B) if the payment of an option price does not exceed the greater of:

2357 (I) \$100; or

2358 (II) 1% of the total required payments; or

2359 (iii) providing tangible personal property along with an operator for a fixed period of  
2360 time or an indeterminate period of time if the operator is necessary for equipment to perform as  
2361 designed.

2362 (d) For purposes of Subsection (63)(c)(iii), an operator is necessary for equipment to  
2363 perform as designed if the operator's duties exceed the:

2364 (i) set-up of tangible personal property;

2365 (ii) maintenance of tangible personal property; or

2366 (iii) inspection of tangible personal property.

2367 (64) "Lesson" means a fixed period of time for the duration of which a trained  
2368 instructor:

2369 (a) is present with a student in person or by video; and

2370 (b) actively instructs the student, including by providing observation or feedback.

2371 (65) "Life science establishment" means an establishment in this state that is classified  
2372 under the following NAICS codes of the 2007 North American Industry Classification System  
2373 of the federal Executive Office of the President, Office of Management and Budget:

2374 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

2375 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus  
2376 Manufacturing; or

2377 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

2378 (66) "Life science research and development facility" means a facility owned, leased,  
2379 or rented by a life science establishment if research and development is performed in 51% or  
2380 more of the total area of the facility.

2381 (67) "Load and leave" means delivery to a purchaser by use of a tangible storage media  
2382 if the tangible storage media is not physically transferred to the purchaser.

2383 (68) "Local taxing jurisdiction" means a:

- 2384 (a) county that is authorized to impose an agreement sales and use tax;  
2385 (b) city that is authorized to impose an agreement sales and use tax; or  
2386 (c) town that is authorized to impose an agreement sales and use tax.  
2387 (69) "Manufactured home" means the same as that term is defined in Section  
2388 15A-1-302.  
2389 (70) "Manufacturing facility" means:  
2390 (a) an establishment described in:  
2391 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
2392 the federal Executive Office of the President, Office of Management and Budget; or  
2393 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
2394 American Industry Classification System of the federal Executive Office of the President,  
2395 Office of Management and Budget;  
2396 (b) a scrap recycler if:  
2397 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
2398 one or more of the following items into prepared grades of processed materials for use in new  
2399 products:  
2400 (A) iron;  
2401 (B) steel;  
2402 (C) nonferrous metal;  
2403 (D) paper;  
2404 (E) glass;  
2405 (F) plastic;  
2406 (G) textile; or  
2407 (H) rubber; and  
2408 (ii) the new products under Subsection (70)(b)(i) would otherwise be made with  
2409 nonrecycled materials; or  
2410 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is  
2411 placed in service on or after May 1, 2006.  
2412 (71) (a) "Marketplace" means a physical or electronic place, platform, or forum where  
2413 tangible personal property, a product transferred electronically, or a service is offered for sale.  
2414 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a

2415 dedicated sales software application.

2416 (72) (a) "Marketplace facilitator" means a person, including an affiliate of the person,  
2417 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to  
2418 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or  
2419 controls and that directly or indirectly:

2420 (i) does any of the following:

2421 (A) lists, makes available, or advertises tangible personal property, a product  
2422 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the  
2423 person owns, operates, or controls;

2424 (B) facilitates the sale of a marketplace seller's tangible personal property, product  
2425 transferred electronically, or service by transmitting or otherwise communicating an offer or  
2426 acceptance of a retail sale between the marketplace seller and a purchaser using the  
2427 marketplace;

2428 (C) owns, rents, licenses, makes available, or operates any electronic or physical  
2429 infrastructure or any property, process, method, copyright, trademark, or patent that connects a  
2430 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal  
2431 property, a product transferred electronically, or a service;

2432 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible  
2433 personal property, a product transferred electronically, or a service, regardless of ownership or  
2434 control of the tangible personal property, the product transferred electronically, or the service  
2435 that is the subject of the retail sale;

2436 (E) provides software development or research and development activities related to  
2437 any activity described in this Subsection (72)(a)(i), if the software development or research and  
2438 development activity is directly related to the person's marketplace;

2439 (F) provides or offers fulfillment or storage services for a marketplace seller;

2440 (G) sets prices for the sale of tangible personal property, a product transferred  
2441 electronically, or a service by a marketplace seller;

2442 (H) provides or offers customer service to a marketplace seller or a marketplace seller's  
2443 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal  
2444 property, a product transferred electronically, or a service sold by a marketplace seller on the  
2445 person's marketplace; or

- 2446 (I) brands or otherwise identifies sales as those of the person; and  
2447 (ii) does any of the following:
- 2448 (A) collects the sales price or purchase price of a retail sale of tangible personal  
2449 property, a product transferred electronically, or a service;
- 2450 (B) provides payment processing services for a retail sale of tangible personal property,  
2451 a product transferred electronically, or a service;
- 2452 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing  
2453 fee, a fee for inserting or making available tangible personal property, a product transferred  
2454 electronically, or a service on the person's marketplace, or other consideration for the  
2455 facilitation of a retail sale of tangible personal property, a product transferred electronically, or  
2456 a service, regardless of ownership or control of the tangible personal property, the product  
2457 transferred electronically, or the service that is the subject of the retail sale;
- 2458 (D) through terms and conditions, an agreement, or another arrangement with a third  
2459 person, collects payment from a purchase for a retail sale of tangible personal property, a  
2460 product transferred electronically, or a service and transmits that payment to the marketplace  
2461 seller, regardless of whether the third person receives compensation or other consideration in  
2462 exchange for the service; or
- 2463 (E) provides a virtual currency for a purchaser to use to purchase tangible personal  
2464 property, a product transferred electronically, or service offered for sale.
- 2465 (b) "Marketplace facilitator" does not include:
- 2466 (i) a person that only provides payment processing services; or  
2467 (ii) a person described in Subsection (72)(a) to the extent the person is facilitating a  
2468 sale for a seller that is a restaurant as defined in Section [59-12-602](#).
- 2469 (73) "Marketplace seller" means a seller that makes one or more retail sales through a  
2470 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the  
2471 seller is required to be registered to collect and remit the tax under this part.
- 2472 (74) "Member of the immediate family of the producer" means a person who is related  
2473 to a producer described in Subsection [59-12-104](#)(20)(a) as a:
- 2474 (a) child or stepchild, regardless of whether the child or stepchild is:
- 2475 (i) an adopted child or adopted stepchild; or  
2476 (ii) a foster child or foster stepchild;



- 2477 (b) grandchild or stepgrandchild;  
2478 (c) grandparent or stepgrandparent;  
2479 (d) nephew or stepnephew;  
2480 (e) niece or stepniece;  
2481 (f) parent or stepparent;  
2482 (g) sibling or stepsibling;  
2483 (h) spouse;  
2484 (i) person who is the spouse of a person described in Subsections (74)(a) through (g);

2485 or

- 2486 (j) person similar to a person described in Subsections (74)(a) through (i) as  
2487 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
2488 Administrative Rulemaking Act.

2489 (75) "Mobile home" means the same as that term is defined in Section 15A-1-302.

2490 (76) "Mobile telecommunications service" means the same as that term is defined in  
2491 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2492 (77) (a) "Mobile wireless service" means a telecommunications service, regardless of  
2493 the technology used, if:

- 2494 (i) the origination point of the conveyance, routing, or transmission is not fixed;  
2495 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or  
2496 (iii) the origination point described in Subsection (77)(a)(i) and the termination point  
2497 described in Subsection (77)(a)(ii) are not fixed.

2498 (b) "Mobile wireless service" includes a telecommunications service that is provided  
2499 by a commercial mobile radio service provider.

2500 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2501 commission may by rule define "commercial mobile radio service provider."

2502 (78) (a) [~~Except as provided in Subsection (78)(c), "mobility"~~] "Mobility enhancing  
2503 equipment" means equipment that is:

- 2504 (i) primarily and customarily used to provide or increase the ability to move from one  
2505 place to another;  
2506 (ii) appropriate for use in a:  
2507 (A) home; or

2508 (B) motor vehicle; and  
2509 (iii) not generally used by persons with normal mobility.  
2510 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
2511 the equipment described in Subsection (78)(a).  
2512 (c) "Mobility enhancing equipment" does not include:  
2513 (i) a motor vehicle;  
2514 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
2515 vehicle manufacturer;  
2516 (iii) durable medical equipment; or  
2517 (iv) a prosthetic device.  
2518 (79) "Model 1 seller" means a seller registered under the agreement that has selected a  
2519 certified service provider as the seller's agent to perform the seller's sales and use tax functions  
2520 for agreement sales and use taxes, as outlined in the contract between the governing board of  
2521 the agreement and the certified service provider, other than the seller's obligation under Section  
2522 [59-12-124](#) to remit a tax on the seller's own purchases.  
2523 (80) "Model 2 seller" means a seller registered under the agreement that:  
2524 (a) except as provided in Subsection (80)(b), has selected a certified automated system  
2525 to perform the seller's sales tax functions for agreement sales and use taxes; and  
2526 (b) retains responsibility for remitting all of the sales tax:  
2527 (i) collected by the seller; and  
2528 (ii) to the appropriate local taxing jurisdiction.  
2529 (81) (a) Subject to Subsection (81)(b), "model 3 seller" means a seller registered under  
2530 the agreement that has:  
2531 (i) sales in at least five states that are members of the agreement;  
2532 (ii) total annual sales [~~revenues~~] revenue of at least \$500,000,000;  
2533 (iii) a proprietary system that calculates the amount of tax:  
2534 (A) for an agreement sales and use tax; and  
2535 (B) due to each local taxing jurisdiction; and  
2536 (iv) entered into a performance agreement with the governing board of the agreement.  
2537 (b) For purposes of Subsection (81)(a), "model 3 seller" includes an affiliated group of  
2538 sellers using the same proprietary system.

2539 (82) "Model 4 seller" means a seller that is registered under the agreement and is not a  
2540 model 1 seller, model 2 seller, or model 3 seller.

2541 (83) "Modular home" means a modular unit as defined in Section 15A-1-302.

2542 (84) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

2543 (85) "Oil sands" means impregnated bituminous sands that:

2544 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with  
2545 other hydrocarbons, or otherwise treated;

2546 (b) yield mixtures of liquid hydrocarbon; and

2547 (c) require further processing other than mechanical blending before becoming finished  
2548 petroleum products.

2549 (86) "Oil shale" means a group of fine black to dark brown shales containing kerogen  
2550 material that yields petroleum upon heating and distillation.

2551 (87) "Optional computer software maintenance contract" means a computer software  
2552 maintenance contract that a customer is not obligated to purchase as a condition to the retail  
2553 sale of computer software.

2554 (88) (a) "Other fuels" means products that burn independently to produce heat or  
2555 energy.

2556 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
2557 personal property.

2558 (89) (a) "Paging service" means a telecommunications service that provides  
2559 transmission of a coded radio signal for the purpose of activating a specific pager.

2560 (b) For purposes of Subsection (89)(a), the transmission of a coded radio signal  
2561 includes a transmission by message or sound.

2562 (90) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

2563 (91) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

2564 (92) (a) "Permanently attached to real property" means that for tangible personal  
2565 property attached to real property:

2566 (i) the attachment of the tangible personal property to the real property:

2567 (A) is essential to the use of the tangible personal property; and

2568 (B) suggests that the tangible personal property will remain attached to the real  
2569 property in the same place over the useful life of the tangible personal property; or

2570 (ii) if the tangible personal property is detached from the real property, the detachment  
2571 would:

2572 (A) cause substantial damage to the tangible personal property; or

2573 (B) require substantial alteration or repair of the real property to which the tangible  
2574 personal property is attached.

2575 (b) "Permanently attached to real property" includes:

2576 (i) the attachment of an accessory to the tangible personal property if the accessory is:

2577 (A) essential to the operation of the tangible personal property; and

2578 (B) attached only to facilitate the operation of the tangible personal property;

2579 (ii) a temporary detachment of tangible personal property from real property for a  
2580 repair or renovation if the repair or renovation is performed where the tangible personal  
2581 property and real property are located; or

2582 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
2583 Subsection (92)(c)(iii) or (iv).

2584 (c) "Permanently attached to real property" does not include:

2585 (i) the attachment of portable or movable tangible personal property to real property if  
2586 that portable or movable tangible personal property is attached to real property only for:

2587 (A) convenience;

2588 (B) stability; or

2589 (C) for an obvious temporary purpose;

2590 (ii) the detachment of tangible personal property from real property except for the  
2591 detachment described in Subsection (92)(b)(ii);

2592 (iii) an attachment of the following tangible personal property to real property if the  
2593 attachment to real property is only through a line that supplies water, electricity, gas,  
2594 telecommunications, cable, or supplies a similar item as determined by the commission by rule  
2595 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

2596 (A) a computer;

2597 (B) a telephone;

2598 (C) a television; or

2599 (D) tangible personal property similar to Subsections (92)(c)(iii)(A) through (C) as  
2600 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

2601 Administrative Rulemaking Act; or  
2602 (iv) an item listed in Subsection ~~[(136)(c)]~~ (137)(c).  
2603 (93) "Person" includes any individual, firm, partnership, joint venture, association,  
2604 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
2605 municipality, district, or other local governmental entity of the state, or any group or  
2606 combination acting as a unit.  
2607 (94) "Place of primary use":  
2608 (a) for telecommunications service other than mobile telecommunications service,  
2609 means the street address representative of where the customer's use of the telecommunications  
2610 service primarily occurs, which shall be:  
2611 (i) the residential street address of the customer; or  
2612 (ii) the primary business street address of the customer; or  
2613 (b) for mobile telecommunications service, means the same as that term is defined in  
2614 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.  
2615 (95) (a) "Postpaid calling service" means a telecommunications service a person  
2616 obtains by making a payment on a call-by-call basis:  
2617 (i) through the use of a:  
2618 (A) bank card;  
2619 (B) credit card;  
2620 (C) debit card; or  
2621 (D) travel card; or  
2622 (ii) by a charge made to a telephone number that is not associated with the origination  
2623 or termination of the telecommunications service.  
2624 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
2625 service, that would be a prepaid wireless calling service if the service were exclusively a  
2626 telecommunications service.  
2627 (96) "Postproduction" means an activity related to the finishing or duplication of a  
2628 medium described in Subsection 59-12-104(54)(a).  
2629 (97) "Prepaid calling service" means a telecommunications service:  
2630 (a) that allows a purchaser access to telecommunications service that is exclusively  
2631 telecommunications service;

- 2632 (b) that:
- 2633 (i) is paid for in advance; and
- 2634 (ii) enables the origination of a call using an:
- 2635 (A) access number; or
- 2636 (B) authorization code;
- 2637 (c) that is dialed:
- 2638 (i) manually; or
- 2639 (ii) electronically; and
- 2640 (d) sold in predetermined units or dollars that decline:
- 2641 (i) by a known amount; and
- 2642 (ii) with use.
- 2643 (98) "Prepaid wireless calling service" means a telecommunications service:
- 2644 (a) that provides the right to utilize:
- 2645 (i) mobile wireless service; and
- 2646 (ii) other service that is not a telecommunications service, including:
- 2647 (A) the download of a product transferred electronically;
- 2648 (B) a content service; or
- 2649 (C) an ancillary service;
- 2650 (b) that:
- 2651 (i) is paid for in advance; and
- 2652 (ii) enables the origination of a call using an:
- 2653 (A) access number; or
- 2654 (B) authorization code;
- 2655 (c) that is dialed:
- 2656 (i) manually; or
- 2657 (ii) electronically; and
- 2658 (d) sold in predetermined units or dollars that decline:
- 2659 (i) by a known amount; and
- 2660 (ii) with use.
- 2661 (99) (a) "Prepared food" means:
- 2662 (i) food:

2663 (A) sold in a heated state; or  
2664 (B) heated by a seller;  
2665 (ii) two or more food ingredients mixed or combined by the seller for sale as a single  
2666 item; or  
2667 (iii) except as provided in Subsection (99)(c), food sold with an eating utensil provided  
2668 by the seller, including a:  
2669 (A) plate;  
2670 (B) knife;  
2671 (C) fork;  
2672 (D) spoon;  
2673 (E) glass;  
2674 (F) cup;  
2675 (G) napkin; or  
2676 (H) straw.  
2677 (b) "Prepared food" does not include:  
2678 (i) food that a seller only:  
2679 (A) cuts;  
2680 (B) repackages; or  
2681 (C) pasteurizes;  
2682 (ii) (A) the following:  
2683 (I) raw egg;  
2684 (II) raw fish;  
2685 (III) raw meat;  
2686 (IV) raw poultry; or  
2687 (V) a food containing an item described in Subsections (99)(b)(ii)(A)(I) through (IV);  
2688 and  
2689 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the  
2690 Food and Drug Administration's Food Code that a consumer cook the items described in  
2691 Subsection (99)(b)(ii)(A) to prevent food borne illness; or  
2692 (iii) the following if sold without eating utensils provided by the seller:  
2693 (A) food and food ingredients sold by a seller if the seller's proper primary

2694 classification under the 2002 North American Industry Classification System of the federal  
2695 Executive Office of the President, Office of Management and Budget, is manufacturing in  
2696 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla

2697 Manufacturing;

2698 (B) food and food ingredients sold in an unheated state:

2699 (I) by weight or volume; and

2700 (II) as a single item; or

2701 (C) a bakery item, including:

2702 (I) a bagel;

2703 (II) a bar;

2704 (III) a biscuit;

2705 (IV) bread;

2706 (V) a bun;

2707 (VI) a cake;

2708 (VII) a cookie;

2709 (VIII) a croissant;

2710 (IX) a danish;

2711 (X) a donut;

2712 (XI) a muffin;

2713 (XII) a pastry;

2714 (XIII) a pie;

2715 (XIV) a roll;

2716 (XV) a tart;

2717 (XVI) a torte; or

2718 (XVII) a tortilla.

2719 (c) An eating utensil provided by the seller does not include the following used to  
2720 transport the food:

2721 (i) a container; or

2722 (ii) packaging.

2723 (100) "Prescription" means an order, formula, or recipe that is issued:

2724 (a) (i) orally;



2725 (ii) in writing;  
2726 (iii) electronically; or  
2727 (iv) by any other manner of transmission; and  
2728 (b) by a licensed practitioner authorized by the laws of a state.  
2729 (101) (a) [~~Except as provided in Subsection (101)(b)(ii) or (iii), "prewritten"~~]  
2730 "Prewritten computer software" means computer software that is not designed and developed:  
2731 (i) by the author or other creator of the computer software; and  
2732 (ii) to the specifications of a specific purchaser.  
2733 (b) "Prewritten computer software" includes:  
2734 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer  
2735 software is not designed and developed:  
2736 (A) by the author or other creator of the computer software; and  
2737 (B) to the specifications of a specific purchaser;  
2738 (ii) computer software designed and developed by the author or other creator of the  
2739 computer software to the specifications of a specific purchaser if the computer software is sold  
2740 to a person other than the purchaser; or  
2741 (iii) except as provided in Subsection (101)(c), prewritten computer software or a  
2742 prewritten portion of prewritten computer software:  
2743 (A) that is modified or enhanced to any degree; and  
2744 (B) if the modification or enhancement described in Subsection (101)(b)(iii)(A) is  
2745 designed and developed to the specifications of a specific purchaser.  
2746 (c) "Prewritten computer software" does not include a modification or enhancement  
2747 described in Subsection (101)(b)(iii) if the charges for the modification or enhancement are:  
2748 (i) reasonable; and  
2749 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the  
2750 invoice or other statement of price provided to the purchaser at the time of sale or later, as  
2751 demonstrated by:  
2752 (A) the books and records the seller keeps at the time of the transaction in the regular  
2753 course of business, including books and records the seller keeps at the time of the transaction in  
2754 the regular course of business for nontax purposes;  
2755 (B) a preponderance of the facts and circumstances at the time of the transaction; and

- 2756 (C) the understanding of all of the parties to the transaction.
- 2757 (102) (a) "Private communications service" means a telecommunications service:
- 2758 (i) that entitles a customer to exclusive or priority use of one or more communications
- 2759 channels between or among termination points; and
- 2760 (ii) regardless of the manner in which the one or more communications channels are
- 2761 connected.
- 2762 (b) "Private communications service" includes the following provided in connection
- 2763 with the use of one or more communications channels:
- 2764 (i) an extension line;
- 2765 (ii) a station;
- 2766 (iii) switching capacity; or
- 2767 (iv) another associated service that is provided in connection with the use of one or
- 2768 more communications channels as defined in Section 59-12-215.
- 2769 (103) (a) ~~[Except as provided in Subsection (103)(b), "product"]~~ "Product transferred
- 2770 electronically" means a product transferred electronically that would be subject to a tax under
- 2771 this chapter if that product was transferred in a manner other than electronically.
- 2772 (b) "Product transferred electronically" does not include:
- 2773 (i) an ancillary service;
- 2774 (ii) computer software; or
- 2775 (iii) a telecommunications service.
- 2776 (104) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 2777 (i) artificially replace a missing portion of the body;
- 2778 (ii) prevent or correct a physical deformity or physical malfunction; or
- 2779 (iii) support a weak or deformed portion of the body.
- 2780 (b) "Prosthetic device" includes:
- 2781 (i) parts used in the repairs or renovation of a prosthetic device;
- 2782 (ii) replacement parts for a prosthetic device;
- 2783 (iii) a dental prosthesis; or
- 2784 (iv) a hearing aid.
- 2785 (c) "Prosthetic device" does not include:
- 2786 (i) corrective eyeglasses; or

2787 (ii) contact lenses.

2788 (105) (a) "Protective equipment" means an item:

2789 (i) for human wear; and

2790 (ii) that is:

2791 (A) designed as protection:

2792 (I) to the wearer against injury or disease; or

2793 (II) against damage or injury of other persons or property; and

2794 (B) not suitable for general use.

2795 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2796 commission shall make rules:

2797 (i) listing the items that constitute "protective equipment"; and

2798 (ii) that are consistent with the list of items that constitute "protective equipment"

2799 under the agreement.

2800 (106) (a) For purposes of Subsection 59-12-104(41), "publication" means any written

2801 or printed matter, other than a photocopy:

2802 (i) regardless of:

2803 (A) characteristics;

2804 (B) copyright;

2805 (C) form;

2806 (D) format;

2807 (E) method of reproduction; or

2808 (F) source; and

2809 (ii) made available in printed or electronic format.

2810 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2811 commission may by rule define the term "photocopy."

2812 (107) (a) "Purchase price" and "sales price" mean the total amount of consideration:

2813 (i) valued in money; and

2814 (ii) for which tangible personal property, a product transferred electronically, or

2815 services are:

2816 (A) sold;

2817 (B) leased; or

2818 (C) rented.

2819 (b) "Purchase price" and "sales price" include:

2820 (i) the seller's cost of the tangible personal property, a product transferred

2821 electronically, or services sold;

2822 (ii) expenses of the seller, including:

2823 (A) the cost of materials used;

2824 (B) a labor cost;

2825 (C) a service cost;

2826 (D) interest;

2827 (E) a loss;

2828 (F) the cost of transportation to the seller; or

2829 (G) a tax imposed on the seller;

2830 (iii) a charge by the seller for any service necessary to complete the sale; or

2831 (iv) consideration a seller receives from a person other than the purchaser if:

2832 (A) (I) the seller actually receives consideration from a person other than the purchaser;

2833 and

2834 (II) the consideration described in Subsection (107)(b)(iv)(A)(I) is directly related to a

2835 price reduction or discount on the sale;

2836 (B) the seller has an obligation to pass the price reduction or discount through to the

2837 purchaser;

2838 (C) the amount of the consideration attributable to the sale is fixed and determinable by

2839 the seller at the time of the sale to the purchaser; and

2840 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the

2841 seller to claim a price reduction or discount; and

2842 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,

2843 coupon, or other documentation with the understanding that the person other than the seller

2844 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

2845 (II) the purchaser identifies that purchaser to the seller as a member of a group or

2846 organization allowed a price reduction or discount, except that a preferred customer card that is

2847 available to any patron of a seller does not constitute membership in a group or organization

2848 allowed a price reduction or discount; or

2849 (III) the price reduction or discount is identified as a third party price reduction or  
2850 discount on the:

2851 (Aa) invoice the purchaser receives; or  
2852 (Bb) certificate, coupon, or other documentation the purchaser presents.  
2853 (c) "Purchase price" and "sales price" do not include:  
2854 (i) a discount:  
2855 (A) in a form including:  
2856 (I) cash;  
2857 (II) term; or  
2858 (III) coupon;  
2859 (B) that is allowed by a seller;  
2860 (C) taken by a purchaser on a sale; and  
2861 (D) that is not reimbursed by a third party; or  
2862 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately  
2863 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of  
2864 sale or later, as demonstrated by the books and records the seller keeps at the time of the  
2865 transaction in the regular course of business, including books and records the seller keeps at the  
2866 time of the transaction in the regular course of business for nontax purposes, by a  
2867 preponderance of the facts and circumstances at the time of the transaction, and by the  
2868 understanding of all of the parties to the transaction:

2869 (A) the following from credit extended on the sale of tangible personal property or  
2870 services:  
2871 (I) a carrying charge;  
2872 (II) a financing charge; or  
2873 (III) an interest charge;  
2874 (B) a delivery charge;  
2875 (C) an installation charge;  
2876 (D) a manufacturer rebate on a motor vehicle; or  
2877 (E) a tax or fee legally imposed directly on the consumer.  
2878 (108) "Purchaser" means a person to whom:  
2879 (a) a sale of tangible personal property is made;

- 2880 (b) a product is transferred electronically; or  
2881 (c) a service is furnished.
- 2882 (109) "Qualifying data center" means a data center facility that:  
2883 (a) houses a group of networked server computers in one physical location in order to  
2884 disseminate, manage, and store data and information;  
2885 (b) is located in the state;  
2886 (c) is a new operation constructed on or after July 1, 2016;  
2887 (d) consists of one or more buildings that total 150,000 or more square feet;  
2888 (e) is owned or leased by:  
2889 (i) the operator of the data center facility; or  
2890 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator  
2891 of the data center facility; and  
2892 (f) is located on one or more parcels of land that are owned or leased by:  
2893 (i) the operator of the data center facility; or  
2894 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator  
2895 of the data center facility.
- 2896 (110) "Regularly rented" means:  
2897 (a) rented to a guest for value three or more times during a calendar year; or  
2898 (b) advertised or held out to the public as a place that is regularly rented to guests for  
2899 value.
- 2900 (111) "Rental" means the same as that term is defined in Subsection (63).  
2901 (112) (a) [~~Except as provided in Subsection (112)(b), "repairs"~~] "Repairs" or renovations  
2902 of tangible personal property" means:  
2903 (i) a repair or renovation of tangible personal property that is not permanently attached  
2904 to real property; or  
2905 (ii) attaching tangible personal property or a product transferred electronically to other  
2906 tangible personal property or detaching tangible personal property or a product transferred  
2907 electronically from other tangible personal property if:  
2908 (A) the other tangible personal property to which the tangible personal property or  
2909 product transferred electronically is attached or from which the tangible personal property or  
2910 product transferred electronically is detached is not permanently attached to real property; and

2911 (B) the attachment of tangible personal property or a product transferred electronically  
2912 to other tangible personal property or detachment of tangible personal property or a product  
2913 transferred electronically from other tangible personal property is made in conjunction with a  
2914 repair or replacement of tangible personal property or a product transferred electronically.

2915 (b) "Repairs or renovations of tangible personal property" does not include:

2916 (i) attaching prewritten computer software to other tangible personal property if the  
2917 other tangible personal property to which the prewritten computer software is attached is not  
2918 permanently attached to real property; or

2919 (ii) detaching prewritten computer software from other tangible personal property if the  
2920 other tangible personal property from which the prewritten computer software is detached is  
2921 not permanently attached to real property.

2922 (113) "Research and development" means the process of inquiry or experimentation  
2923 aimed at the discovery of facts, devices, technologies, or applications and the process of  
2924 preparing those devices, technologies, or applications for marketing.

2925 (114) (a) "Residential telecommunications services" means a telecommunications  
2926 service or an ancillary service that is provided to an individual for personal use:

2927 (i) at a residential address; or

2928 (ii) at an institution, including a nursing home or a school, if the telecommunications  
2929 service or ancillary service is provided to and paid for by the individual residing at the  
2930 institution rather than the institution.

2931 (b) For purposes of Subsection (114)(a)(i), a residential address includes an:

2932 (i) apartment; or

2933 (ii) other individual dwelling unit.

2934 (115) "Residential use" means the use in or around a home, apartment building,  
2935 sleeping quarters, and similar facilities or accommodations.

2936 (116) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
2937 than:

2938 (a) resale;

2939 (b) sublease; or

2940 (c) subrent.

2941 (117) (a) "Retailer" means any person, unless prohibited by the Constitution of the

2942 United States or federal law, that is engaged in a regularly organized business in tangible  
2943 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is  
2944 selling to the user or consumer and not for resale.

2945 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
2946 engaged in the business of selling to users or consumers within the state.

2947 (118) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
2948 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
2949 Subsection 59-12-103(1), for consideration.

2950 (b) "Sale" includes:

2951 (i) installment and credit sales;

2952 (ii) any closed transaction constituting a sale;

2953 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
2954 chapter;

2955 (iv) any transaction if the possession of property is transferred but the seller retains the  
2956 title as security for the payment of the price; and

2957 (v) any transaction under which right to possession, operation, or use of any article of  
2958 tangible personal property is granted under a lease or contract and the transfer of possession  
2959 would be taxable if an outright sale were made.

2960 (119) "Sale at retail" means the same as that term is defined in Subsection (116).

2961 (120) "Sale-leaseback transaction" means a transaction by which title to tangible  
2962 personal property or a product transferred electronically that is subject to a tax under this  
2963 chapter is transferred:

2964 (a) by a purchaser-lessee;

2965 (b) to a lessor;

2966 (c) for consideration; and

2967 (d) if:

2968 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
2969 of the tangible personal property or product transferred electronically;

2970 (ii) the sale of the tangible personal property or product transferred electronically to the  
2971 lessor is intended as a form of financing:

2972 (A) for the tangible personal property or product transferred electronically; and



2973 (B) to the purchaser-lessee; and  
2974 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
2975 is required to:  
2976 (A) capitalize the tangible personal property or product transferred electronically for  
2977 financial reporting purposes; and  
2978 (B) account for the lease payments as payments made under a financing arrangement.  
2979 (121) "Sales price" means the same as that term is defined in Subsection (107).  
2980 (122) (a) "Sales relating to schools" means the following sales by, amounts paid to, or  
2981 amounts charged by a school:  
2982 (i) sales that are directly related to the school's educational functions or activities  
2983 including:  
2984 (A) the sale of:  
2985 (I) textbooks;  
2986 (II) textbook fees;  
2987 (III) laboratory fees;  
2988 (IV) laboratory supplies; or  
2989 (V) safety equipment;  
2990 (B) the sale of a uniform, protective equipment, or sports or recreational equipment  
2991 that:  
2992 (I) a student is specifically required to wear as a condition of participation in a  
2993 school-related event or school-related activity; and  
2994 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
2995 place of ordinary clothing;  
2996 (C) sales of the following if the net or gross [~~revenues~~] revenue generated by the sales  
2997 are deposited into a school district fund or school fund dedicated to school meals:  
2998 (I) food and food ingredients; or  
2999 (II) prepared food; or  
3000 (D) transportation charges for official school activities; or  
3001 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
3002 event or school-related activity.  
3003 (b) "Sales relating to schools" does not include:

3004 (i) bookstore sales of items that are not educational materials or supplies;  
3005 (ii) except as provided in Subsection (122)(a)(i)(B):  
3006 (A) clothing;  
3007 (B) clothing accessories or equipment;  
3008 (C) protective equipment; or  
3009 (D) sports or recreational equipment; or  
3010 (iii) amounts paid to or amounts charged by a school for admission to a school-related  
3011 event or school-related activity if the amounts paid or charged are passed through to a person:  
3012 (A) other than a:  
3013 (I) school;  
3014 (II) nonprofit organization authorized by a school board or a governing body of a  
3015 private school to organize and direct a competitive secondary school activity; or  
3016 (III) nonprofit association authorized by a school board or a governing body of a  
3017 private school to organize and direct a competitive secondary school activity; and  
3018 (B) that is required to collect sales and use taxes under this chapter.  
3019 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3020 commission may make rules defining the term "passed through."  
3021 (123) For purposes of this section and Section 59-12-104, "school" means:  
3022 (a) an elementary school or a secondary school that:  
3023 (i) is a:  
3024 (A) public school; or  
3025 (B) private school; and  
3026 (ii) provides instruction for one or more grades kindergarten through 12; or  
3027 (b) a public school district.  
3028 (124) (a) "Seller" means a person that makes a sale, lease, or rental of:  
3029 (i) tangible personal property;  
3030 (ii) a product transferred electronically; or  
3031 (iii) a service.  
3032 (b) "Seller" includes a marketplace facilitator.  
3033 (125) (a) "Semiconductor fabricating, processing, research, or development materials"  
3034 means tangible personal property or a product transferred electronically if the tangible personal

3035 property or product transferred electronically is:

3036 (i) used primarily in the process of:

3037 (A) (I) manufacturing a semiconductor;

3038 (II) fabricating a semiconductor; or

3039 (III) research or development of a:

3040 (Aa) semiconductor; or

3041 (Bb) semiconductor manufacturing process; or

3042 (B) maintaining an environment suitable for a semiconductor; or

3043 (ii) consumed primarily in the process of:

3044 (A) (I) manufacturing a semiconductor;

3045 (II) fabricating a semiconductor; or

3046 (III) research or development of a:

3047 (Aa) semiconductor; or

3048 (Bb) semiconductor manufacturing process; or

3049 (B) maintaining an environment suitable for a semiconductor.

3050 (b) "Semiconductor fabricating, processing, research, or development materials"

3051 includes:

3052 (i) parts used in the repairs or renovations of tangible personal property or a product

3053 transferred electronically described in Subsection (125)(a); or

3054 (ii) a chemical, catalyst, or other material used to:

3055 (A) produce or induce in a semiconductor a:

3056 (I) chemical change; or

3057 (II) physical change;

3058 (B) remove impurities from a semiconductor; or

3059 (C) improve the marketable condition of a semiconductor.

3060 (126) "Senior citizen center" means a facility having the primary purpose of providing

3061 services to the aged as defined in Section 26B-6-101.

3062 (127) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.

3063 (128) "Shared vehicle driver" means the same as that term is defined in Section

3064 13-48a-101.

3065 (129) "Shared vehicle owner" means the same as that term is defined in Section

3066 13-48a-101.

3067 (130) (a) Subject to Subsections (130)(b) and (c), "short-term lodging consumable"

3068 means tangible personal property that:

3069 (i) a business that provides accommodations and services described in Subsection

3070 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services

3071 to a purchaser;

3072 (ii) is intended to be consumed by the purchaser; and

3073 (iii) is:

3074 (A) included in the purchase price of the accommodations and services; and

3075 (B) not separately stated on an invoice, bill of sale, or other similar document provided

3076 to the purchaser.

3077 (b) "Short-term lodging consumable" includes:

3078 (i) a beverage;

3079 (ii) a brush or comb;

3080 (iii) a cosmetic;

3081 (iv) a hair care product;

3082 (v) lotion;

3083 (vi) a magazine;

3084 (vii) makeup;

3085 (viii) a meal;

3086 (ix) mouthwash;

3087 (x) nail polish remover;

3088 (xi) a newspaper;

3089 (xii) a notepad;

3090 (xiii) a pen;

3091 (xiv) a pencil;

3092 (xv) a razor;

3093 (xvi) saline solution;

3094 (xvii) a sewing kit;

3095 (xviii) shaving cream;

3096 (xix) a shoe shine kit;

3097 (xx) a shower cap;  
3098 (xxi) a snack item;  
3099 (xxii) soap;  
3100 (xxiii) toilet paper;  
3101 (xxiv) a toothbrush;  
3102 (xxv) toothpaste; or  
3103 (xxvi) an item similar to Subsections (130)(b)(i) through (xxv) as the commission may  
3104 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
3105 Rulemaking Act.  
3106 (c) "Short-term lodging consumable" does not include:  
3107 (i) tangible personal property that is cleaned or washed to allow the tangible personal  
3108 property to be reused; or  
3109 (ii) a product transferred electronically.  
3110 (131) (a) "Short-term rental" means a lease or rental for less than 30 consecutive days.  
3111 (b) "Short-term rental" does not include car sharing.  
3112 ~~[(131)]~~ (132) "Simplified electronic return" means the electronic return:  
3113 (a) described in Section 318(C) of the agreement; and  
3114 (b) approved by the governing board of the agreement.  
3115 ~~[(132)]~~ (133) "Solar energy" means the sun used as the sole source of energy for  
3116 producing electricity.  
3117 ~~[(133)]~~ (134) (a) "Sports or recreational equipment" means an item:  
3118 (i) designed for human use; and  
3119 (ii) that is:  
3120 (A) worn in conjunction with:  
3121 (I) an athletic activity; or  
3122 (II) a recreational activity; and  
3123 (B) not suitable for general use.  
3124 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3125 commission shall make rules:  
3126 (i) listing the items that constitute "sports or recreational equipment"; and  
3127 (ii) that are consistent with the list of items that constitute "sports or recreational

3128 equipment" under the agreement.

3129 ~~[(134)]~~ (135) "State" means the state of Utah, its departments, and agencies.

3130 ~~[(135)]~~ (136) "Storage" means any keeping or retention of tangible personal property or

3131 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose

3132 except sale in the regular course of business.

3133 ~~[(136)]~~ (137) (a) ~~[Except as provided in Subsection (136)(d) or (e), "tangible]~~

3134 "Tangible personal property" means personal property that:

3135 (i) may be:

3136 (A) seen;

3137 (B) weighed;

3138 (C) measured;

3139 (D) felt; or

3140 (E) touched; or

3141 (ii) is in any manner perceptible to the senses.

3142 (b) "Tangible personal property" includes:

3143 (i) electricity;

3144 (ii) water;

3145 (iii) gas;

3146 (iv) steam; or

3147 (v) prewritten computer software, regardless of the manner in which the prewritten

3148 computer software is transferred.

3149 (c) "Tangible personal property" includes the following regardless of whether the item

3150 is attached to real property:

3151 (i) a dishwasher;

3152 (ii) a dryer;

3153 (iii) a freezer;

3154 (iv) a microwave;

3155 (v) a refrigerator;

3156 (vi) a stove;

3157 (vii) a washer; or

3158 (viii) an item similar to Subsections ~~[(136)(e)(i)]~~ (137)(c)(i) through (vii) as

3159 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
3160 Administrative Rulemaking Act.

3161 (d) "Tangible personal property" does not include a product that is transferred  
3162 electronically.

3163 (e) "Tangible personal property" does not include the following if attached to real  
3164 property, regardless of whether the attachment to real property is only through a line that  
3165 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the  
3166 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
3167 Rulemaking Act:

3168 (i) a hot water heater;

3169 (ii) a water filtration system; or

3170 (iii) a water softener system.

3171 ~~[(137)]~~ (138) (a) "Telecommunications enabling or facilitating equipment, machinery,  
3172 or software" means an item listed in Subsection ~~[(137)(b)]~~ (138)(b) if that item is purchased or  
3173 leased primarily to enable or facilitate one or more of the following to function:

3174 (i) telecommunications switching or routing equipment, machinery, or software; or

3175 (ii) telecommunications transmission equipment, machinery, or software.

3176 (b) The following apply to Subsection ~~[(137)(a)]~~ (138)(b):

3177 (i) a pole;

3178 (ii) software;

3179 (iii) a supplementary power supply;

3180 (iv) temperature or environmental equipment or machinery;

3181 (v) test equipment;

3182 (vi) a tower; or

3183 (vii) equipment, machinery, or software that functions similarly to an item listed in  
3184 Subsections ~~[(137)(b)(i)]~~ (138)(b)(i) through (vi) as determined by the commission by rule  
3185 made in accordance with Subsection ~~[(137)(c)]~~ (138)(c).

3186 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3187 commission may by rule define what constitutes equipment, machinery, or software that  
3188 functions similarly to an item listed in Subsections ~~[(137)(b)(i)]~~ (138)(b)(i) through (vi).

3189 ~~[(138)]~~ (139) "Telecommunications equipment, machinery, or software required for

3190 911 service" means equipment, machinery, or software that is required to comply with 47  
3191 C.F.R. Sec. 20.18.

3192 ~~[(139)]~~ (140) "Telecommunications maintenance or repair equipment, machinery, or  
3193 software" means equipment, machinery, or software purchased or leased primarily to maintain  
3194 or repair one or more of the following, regardless of whether the equipment, machinery, or  
3195 software is purchased or leased as a spare part or as an upgrade or modification to one or more  
3196 of the following:

3197 (a) telecommunications enabling or facilitating equipment, machinery, or software;

3198 (b) telecommunications switching or routing equipment, machinery, or software; or

3199 (c) telecommunications transmission equipment, machinery, or software.

3200 ~~[(140)]~~ (141) (a) "Telecommunications service" means the electronic conveyance,  
3201 routing, or transmission of audio, data, video, voice, or any other information or signal to a  
3202 point, or among or between points.

3203 (b) "Telecommunications service" includes:

3204 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
3205 processing application is used to act:

3206 (A) on the code, form, or protocol of the content;

3207 (B) for the purpose of electronic conveyance, routing, or transmission; and

3208 (C) regardless of whether the service:

3209 (I) is referred to as voice over Internet protocol service; or

3210 (II) is classified by the Federal Communications Commission as enhanced or value  
3211 added;

3212 (ii) an 800 service;

3213 (iii) a 900 service;

3214 (iv) a fixed wireless service;

3215 (v) a mobile wireless service;

3216 (vi) a postpaid calling service;

3217 (vii) a prepaid calling service;

3218 (viii) a prepaid wireless calling service; or

3219 (ix) a private communications service.

3220 (c) "Telecommunications service" does not include:



- 3221 (i) advertising, including directory advertising;  
3222 (ii) an ancillary service;  
3223 (iii) a billing and collection service provided to a third party;  
3224 (iv) a data processing and information service if:  
3225 (A) the data processing and information service allows data to be:  
3226 (I) (Aa) acquired;  
3227 (Bb) generated;  
3228 (Cc) processed;  
3229 (Dd) retrieved; or  
3230 (Ee) stored; and  
3231 (II) delivered by an electronic transmission to a purchaser; and  
3232 (B) the purchaser's primary purpose for the underlying transaction is the processed data  
3233 or information;  
3234 (v) installation or maintenance of the following on a customer's premises:  
3235 (A) equipment; or  
3236 (B) wiring;  
3237 (vi) Internet access service;  
3238 (vii) a paging service;  
3239 (viii) a product transferred electronically, including:  
3240 (A) music;  
3241 (B) reading material;  
3242 (C) a ring tone;  
3243 (D) software; or  
3244 (E) video;  
3245 (ix) a radio and television audio and video programming service:  
3246 (A) regardless of the medium; and  
3247 (B) including:  
3248 (I) furnishing conveyance, routing, or transmission of a television audio and video  
3249 programming service by a programming service provider;  
3250 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or  
3251 (III) audio and video programming services delivered by a commercial mobile radio

3252 service provider as defined in 47 C.F.R. Sec. 20.3;

3253 (x) a value-added nonvoice data service; or

3254 (xi) tangible personal property.

3255 ~~[(141)]~~ (142) (a) "Telecommunications service provider" means a person that:

3256 (i) owns, controls, operates, or manages a telecommunications service; and

3257 (ii) engages in an activity described in Subsection ~~[(141)(a)(i)]~~ (142)(a)(i) for the  
3258 shared use with or resale to any person of the telecommunications service.

3259 (b) A person described in Subsection ~~[(141)(a)]~~ (142)(a) is a telecommunications  
3260 service provider whether or not the Public Service Commission of Utah regulates:

3261 (i) that person; or

3262 (ii) the telecommunications service that the person owns, controls, operates, or  
3263 manages.

3264 ~~[(142)]~~ (143) (a) "Telecommunications switching or routing equipment, machinery, or  
3265 software" means an item listed in Subsection ~~[(142)(b)]~~ (143)(b) if that item is purchased or  
3266 leased primarily for switching or routing:

3267 (i) an ancillary service;

3268 (ii) data communications;

3269 (iii) voice communications; or

3270 (iv) telecommunications service.

3271 (b) The following apply to Subsection ~~[(142)(a)]~~ (143)(b):

3272 (i) a bridge;

3273 (ii) a computer;

3274 (iii) a cross connect;

3275 (iv) a modem;

3276 (v) a multiplexer;

3277 (vi) plug in circuitry;

3278 (vii) a router;

3279 (viii) software;

3280 (ix) a switch; or

3281 (x) equipment, machinery, or software that functions similarly to an item listed in

3282 Subsections ~~[(142)(b)(i)]~~ (143)(b)(i) through (ix) as determined by the commission by rule

3283 made in accordance with Subsection [~~(142)(c)~~] (143)(c).

3284 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3285 commission may by rule define what constitutes equipment, machinery, or software that  
3286 functions similarly to an item listed in Subsections [~~(142)(b)(i)~~] (143)(b)(i) through (ix).

3287 [~~(143)~~] (144) (a) "Telecommunications transmission equipment, machinery, or  
3288 software" means an item listed in Subsection [~~(143)(b)~~] (144)(b) if that item is purchased or  
3289 leased primarily for sending, receiving, or transporting:

3290 (i) an ancillary service;

3291 (ii) data communications;

3292 (iii) voice communications; or

3293 (iv) telecommunications service.

3294 (b) The following apply to Subsection [~~(143)(a)~~] (144)(a):

3295 (i) an amplifier;

3296 (ii) a cable;

3297 (iii) a closure;

3298 (iv) a conduit;

3299 (v) a controller;

3300 (vi) a duplexer;

3301 (vii) a filter;

3302 (viii) an input device;

3303 (ix) an input/output device;

3304 (x) an insulator;

3305 (xi) microwave machinery or equipment;

3306 (xii) an oscillator;

3307 (xiii) an output device;

3308 (xiv) a pedestal;

3309 (xv) a power converter;

3310 (xvi) a power supply;

3311 (xvii) a radio channel;

3312 (xviii) a radio receiver;

3313 (xix) a radio transmitter;

3314 (xx) a repeater;  
3315 (xxi) software;  
3316 (xxii) a terminal;  
3317 (xxiii) a timing unit;  
3318 (xxiv) a transformer;  
3319 (xxv) a wire; or  
3320 (xxvi) equipment, machinery, or software that functions similarly to an item listed in  
3321 Subsections ~~[(143)(b)(i)]~~ (144)(b)(i) through (xxv) as determined by the commission by rule  
3322 made in accordance with Subsection ~~[(143)(c)]~~ (144)(c).

3323 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3324 commission may by rule define what constitutes equipment, machinery, or software that  
3325 functions similarly to an item listed in Subsections ~~[(143)(b)(i)]~~ (144)(b)(i) through (xxv).

3326 ~~[(144)]~~ (145) (a) "Textbook for a higher education course" means a textbook or other  
3327 printed material that is required for a course:

- 3328 (i) offered by an institution of higher education; and  
3329 (ii) that the purchaser of the textbook or other printed material attends or will attend.  
3330 (b) "Textbook for a higher education course" includes a textbook in electronic format.

3331 ~~[(145)]~~ (146) "Tobacco" means:

- 3332 (a) a cigarette;  
3333 (b) a cigar;  
3334 (c) chewing tobacco;  
3335 (d) pipe tobacco; or  
3336 (e) any other item that contains tobacco.

3337 ~~[(146)]~~ (147) "Unassisted amusement device" means an amusement device, skill  
3338 device, or ride device that is started and stopped by the purchaser or renter of the right to use or  
3339 operate the amusement device, skill device, or ride device.

3340 ~~[(147)]~~ (148) (a) "Use" means the exercise of any right or power over tangible personal  
3341 property, a product transferred electronically, or a service under Subsection 59-12-103(1),  
3342 incident to the ownership or the leasing of that tangible personal property, product transferred  
3343 electronically, or service.

3344 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal

property, a product transferred electronically, or a service in the regular course of business and held for resale.

~~[(148)]~~ (149) "Value-added nonvoice data service" means a service:

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

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

- (i) code;
- (ii) content;
- (iii) form; or
- (iv) protocol.

~~[(149)]~~ (150) (a) Subject to Subsection ~~[(149)(b)]~~ (150)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

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

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

- (i) a vehicle described in Subsection ~~[(149)(a)]~~ (150)(b); or
- (ii) (A) a locomotive;
- (B) a freight car;
- (C) railroad work equipment; or
- (D) other railroad rolling stock.

~~[(150)]~~ (151) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection ~~[(149)]~~ (150).

~~[(151)]~~ (152) (a) "Vertical service" means an ancillary service that:

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

3376 (b) "Vertical service" includes an ancillary service that allows a customer to manage a  
3377 conference bridging service.

3378 ~~[(152)]~~ (153) (a) "Voice mail service" means an ancillary service that enables a  
3379 customer to receive, send, or store a recorded message.

3380 (b) "Voice mail service" does not include a vertical service that a customer is required  
3381 to have in order to utilize a voice mail service.

3382 ~~[(153)]~~ (154) (a) ~~[Except as provided in Subsection (153)(b), "waste"]~~ "Waste energy  
3383 facility" means a facility that generates electricity:

3384 (i) using as the primary source of energy waste materials that would be placed in a  
3385 landfill or refuse pit if it were not used to generate electricity, including:

3386 (A) tires;

3387 (B) waste coal;

3388 (C) oil shale; or

3389 (D) municipal solid waste; and

3390 (ii) in amounts greater than actually required for the operation of the facility.

3391 (b) "Waste energy facility" does not include a facility that incinerates:

3392 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

3393 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

3394 ~~[(154)]~~ (155) "Watercraft" means a vessel as defined in Section 73-18-2.

3395 ~~[(155)]~~ (156) "Wind energy" means wind used as the sole source of energy to produce  
3396 electricity.

3397 ~~[(156)]~~ (157) "ZIP Code" means a Zoning Improvement Plan Code assigned to a  
3398 geographic location by the United States Postal Service.

3399 Section 4. Section **59-12-103 (Contingently Superseded 01/01/25)** is amended to  
3400 read:

3401 **59-12-103 (Contingently Superseded 01/01/25). Sales and use tax base -- Rates --**  
3402 **Effective dates -- Use of sales and use tax revenue.**

3403 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or  
3404 sales price for amounts paid or charged for the following transactions:

3405 (a) retail sales of tangible personal property made within the state;

3406 (b) amounts paid for:

3407 (i) telecommunications service, other than mobile telecommunications service, that  
3408 originates and terminates within the boundaries of this state;

3409 (ii) mobile telecommunications service that originates and terminates within the  
3410 boundaries of one state only to the extent permitted by the Mobile Telecommunications  
3411 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

3412 (iii) an ancillary service associated with a:

3413 (A) telecommunications service described in Subsection (1)(b)(i); or

3414 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

3415 (c) sales of the following for commercial use:

3416 (i) gas;

3417 (ii) electricity;

3418 (iii) heat;

3419 (iv) coal;

3420 (v) fuel oil; or

3421 (vi) other fuels;

3422 (d) sales of the following for residential use:

3423 (i) gas;

3424 (ii) electricity;

3425 (iii) heat;

3426 (iv) coal;

3427 (v) fuel oil; or

3428 (vi) other fuels;

3429 (e) sales of prepared food;

3430 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or  
3431 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,  
3432 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,  
3433 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit  
3434 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf  
3435 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,  
3436 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,  
3437 horseback rides, sports activities, or any other amusement, entertainment, recreation,

3438 exhibition, cultural, or athletic activity;

3439 (g) amounts paid or charged for services for repairs or renovations of tangible personal

3440 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

3441 (i) the tangible personal property; and

3442 (ii) parts used in the repairs or renovations of the tangible personal property described

3443 in Subsection (1)(g)(i), regardless of whether:

3444 (A) any parts are actually used in the repairs or renovations of that tangible personal

3445 property; or

3446 (B) the particular parts used in the repairs or renovations of that tangible personal

3447 property are exempt from a tax under this chapter;

3448 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for

3449 assisted cleaning or washing of tangible personal property;

3450 (i) amounts paid or charged for short-term rentals of tourist home, hotel, motel, or

3451 trailer court accommodations and services [~~that are regularly rented for less than 30~~

3452 ~~consecutive days~~];

3453 (j) amounts paid or charged for laundry or dry cleaning services;

3454 (k) amounts paid or charged for leases or rentals of tangible personal property if within

3455 this state the tangible personal property is:

3456 (i) stored;

3457 (ii) used; or

3458 (iii) otherwise consumed;

3459 (l) amounts paid or charged for tangible personal property if within this state the

3460 tangible personal property is:

3461 (i) stored;

3462 (ii) used; or

3463 (iii) consumed;

3464 (m) amounts paid or charged for a sale:

3465 (i) (A) of a product transferred electronically; or

3466 (B) of a repair or renovation of a product transferred electronically; and

3467 (ii) regardless of whether the sale provides:

3468 (A) a right of permanent use of the product; or



3469 (B) a right to use the product that is less than a permanent use, including a right:  
3470 (I) for a definite or specified length of time; and  
3471 (II) that terminates upon the occurrence of a condition; and  
3472 (n) sales of leased tangible personal property from the lessor to the lessee made in the  
3473 state.

3474 (2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax  
3475 are imposed on a transaction described in Subsection (1) equal to the sum of:  
3476 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:  
3477 (A) 4.70% plus the rate specified in Subsection (11)(a); and  
3478 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales  
3479 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
3480 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional  
3481 State Sales and Use Tax Act; and  
3482 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
3483 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
3484 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state  
3485 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and  
3486 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
3487 transaction under this chapter other than this part.

3488 (b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a  
3489 state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to  
3490 the sum of:  
3491 (i) a state tax imposed on the transaction at a tax rate of 2%; and  
3492 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
3493 transaction under this chapter other than this part.

3494 (c) Except as provided in Subsection (2)(f) or (g), a state tax and a local tax are  
3495 imposed on amounts paid or charged for food and food ingredients equal to the sum of:  
3496 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at  
3497 a tax rate of 1.75%; and  
3498 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
3499 amounts paid or charged for food and food ingredients under this chapter other than this part.

3500 (d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts  
3501 paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at  
3502 a rate of 4.85%.

3503 (e) (i) (A) If a shared vehicle owner certifies to the commission, on a form prescribed  
3504 by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax  
3505 imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a  
3506 shared vehicle driver, or a shared vehicle owner.

3507 (B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is  
3508 required once during the time that the shared vehicle owner owns the shared vehicle.

3509 (C) The commission shall verify that a shared vehicle is an individual-owned shared  
3510 vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the  
3511 purchase of the shared vehicle.

3512 (D) The exception under Subsection (2)(e)(i)(A) applies to a certified  
3513 individual-owned shared vehicle shared through a car-sharing program even if non-certified  
3514 shared vehicles are also available to be shared through the same car-sharing program.

3515 (ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

3516 (iii) (A) A car-sharing program may rely in good faith on a shared vehicle owner's  
3517 representation that the shared vehicle is an individual-owned shared vehicle certified with the  
3518 commission as described in Subsection (2)(e)(i).

3519 (B) If a car-sharing program relies in good faith on a shared vehicle owner's  
3520 representation that the shared vehicle is an individual-owned shared vehicle certified with the  
3521 commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any  
3522 tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

3523 (iv) If all shared vehicles shared through a car-sharing program are certified as  
3524 described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation  
3525 to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

3526 (v) [~~(A)~~] A car-sharing program is not required to list or otherwise identify an  
3527 individual-owned shared vehicle on a return or an attachment to a return.

3528 (vi) A car-sharing program shall:

3529 (A) retain tax information for each car-sharing program transaction; and

3530 (B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at

3531 the commission's request.

3532 (f) (i) For a bundled transaction that is attributable to food and food ingredients and  
3533 tangible personal property other than food and food ingredients, a state tax and a local tax is  
3534 imposed on the entire bundled transaction equal to the sum of:

3535 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

3536 (I) the tax rate described in Subsection (2)(a)(i)(A); and

3537 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
3538 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
3539 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
3540 Additional State Sales and Use Tax Act; and

3541 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
3542 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
3543 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which  
3544 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3545 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates  
3546 described in Subsection (2)(a)(ii).

3547 (ii) If an optional computer software maintenance contract is a bundled transaction that  
3548 consists of taxable and nontaxable products that are not separately itemized on an invoice or  
3549 similar billing document, the purchase of the optional computer software maintenance contract  
3550 is 40% taxable under this chapter and 60% nontaxable under this chapter.

3551 (iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled  
3552 transaction described in Subsection (2)(f)(i) or (ii):

3553 (A) if the sales price of the bundled transaction is attributable to tangible personal  
3554 property, a product, or a service that is subject to taxation under this chapter and tangible  
3555 personal property, a product, or service that is not subject to taxation under this chapter, the  
3556 entire bundled transaction is subject to taxation under this chapter unless:

3557 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
3558 personal property, product, or service that is not subject to taxation under this chapter from the  
3559 books and records the seller keeps in the seller's regular course of business; or

3560 (II) state or federal law provides otherwise; or

3561 (B) if the sales price of a bundled transaction is attributable to two or more items of

tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the

3593 regular course of business for nontax purposes.

3594 (h) (i) If the sales price of a transaction is attributable to two or more items of tangible  
3595 personal property, products, or services that are subject to taxation under this chapter at  
3596 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate  
3597 unless the seller, at the time of the transaction:

3598 (A) separately states the items subject to taxation under this chapter at each of the  
3599 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

3600 (B) is able to identify by reasonable and verifiable standards the tangible personal  
3601 property, product, or service that is subject to taxation under this chapter at the lower tax rate  
3602 from the books and records the seller keeps in the seller's regular course of business.

3603 (ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the  
3604 seller's regular course of business includes books and records the seller keeps in the regular  
3605 course of business for nontax purposes.

3606 (i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax  
3607 rate imposed under the following shall take effect on the first day of a calendar quarter:

3608 (i) Subsection (2)(a)(i)(A);

3609 (ii) Subsection (2)(b)(i);

3610 (iii) Subsection (2)(c)(i); or

3611 (iv) Subsection (2)(f)(i)(A)(I).

3612 (j) (i) A tax rate increase takes effect on the first day of the first billing period that  
3613 begins on or after the effective date of the tax rate increase if the billing period for the  
3614 transaction begins before the effective date of a tax rate increase imposed under:

3615 (A) Subsection (2)(a)(i)(A);

3616 (B) Subsection (2)(b)(i);

3617 (C) Subsection (2)(c)(i); or

3618 (D) Subsection (2)(f)(i)(A)(I).

3619 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing  
3620 statement for the billing period is rendered on or after the effective date of the repeal of the tax  
3621 or the tax rate decrease imposed under:

3622 (A) Subsection (2)(a)(i)(A);

3623 (B) Subsection (2)(b)(i);

- 3624 (C) Subsection (2)(c)(i); or  
3625 (D) Subsection (2)(f)(i)(A)(I).
- 3626 (k) (i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale  
3627 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal  
3628 or change in a tax rate takes effect:
- 3629 (A) on the first day of a calendar quarter; and  
3630 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 3631 (ii) Subsection (2)(k)(i) applies to the tax rates described in the following:
- 3632 (A) Subsection (2)(a)(i)(A);  
3633 (B) Subsection (2)(b)(i);  
3634 (C) Subsection (2)(c)(i); or  
3635 (D) Subsection (2)(f)(i)(A)(I).
- 3636 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
3637 the commission may by rule define the term "catalogue sale."
- 3638 (l) (i) For a location described in Subsection (2)(l)(ii), the commission shall determine  
3639 the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the  
3640 predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.
- 3641 (ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil,  
3642 or other fuel is furnished through a single meter for two or more of the following uses:
- 3643 (A) a commercial use;  
3644 (B) an industrial use; or  
3645 (C) a residential use.
- 3646 (3) (a) The following state taxes shall be deposited into the General Fund:
- 3647 (i) the tax imposed by Subsection (2)(a)(i)(A);  
3648 (ii) the tax imposed by Subsection (2)(b)(i);  
3649 (iii) the tax imposed by Subsection (2)(c)(i); and  
3650 (iv) the tax imposed by Subsection (2)(f)(i)(A)(I).
- 3651 (b) The following local taxes shall be distributed to a county, city, or town as provided  
3652 in this chapter:
- 3653 (i) the tax imposed by Subsection (2)(a)(ii);  
3654 (ii) the tax imposed by Subsection (2)(b)(ii);

3655 (iii) the tax imposed by Subsection (2)(c)(ii); and  
3656 (iv) the tax imposed by Subsection (2)(f)(i)(B).  
3657 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General  
3658 Fund.  
3659 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
3660 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)  
3661 through (g):  
3662 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:  
3663 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and  
3664 (B) for the fiscal year; or  
3665 (ii) \$17,500,000.  
3666 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
3667 described in Subsection (4)(a) shall be transferred each year as designated sales and use tax  
3668 revenue to the Department of Natural Resources to:  
3669 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to  
3670 protect sensitive plant and animal species; or  
3671 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
3672 act, to political subdivisions of the state to implement the measures described in Subsections  
3673 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.  
3674 (ii) Money transferred to the Department of Natural Resources under Subsection  
3675 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
3676 person to list or attempt to have listed a species as threatened or endangered under the  
3677 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.  
3678 (iii) At the end of each fiscal year:  
3679 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the  
3680 Water Resources Conservation and Development Fund created in Section 73-10-24;  
3681 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the  
3682 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and  
3683 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the  
3684 Drinking Water Loan Program Subaccount created in Section 73-10c-5.  
3685 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in

Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described



in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water

3748 Resources Conservation and Development Fund created in Section 73-10-24 for use by the  
3749 Division of Water Resources for:

3750 (i) preconstruction costs:

3751 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
3752 26, Bear River Development Act; and

3753 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project  
3754 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

3755 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
3756 Chapter 26, Bear River Development Act;

3757 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
3758 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

3759 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and  
3760 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

3761 (e) After making the transfers required by Subsections (5)(b) and (c), 15% of the  
3762 remaining difference described in Subsection (5)(a) shall be deposited each year into the Water  
3763 Rights Restricted Account created by Section 73-2-1.6.

3764 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a),  
3765 each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account  
3766 created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the  
3767 transactions described in Subsection (1) for the fiscal year.

3768 (7) (a) Notwithstanding Subsection (3)(a) and subject to Subsection (7)(b), for a fiscal  
3769 year beginning on or after July 1, 2023, the commission shall deposit into the Transportation  
3770 Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under  
3771 Subsection (3)(a) equal to 17% of the revenue collected from the following sales and use taxes:

3772 (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

3773 (ii) the tax imposed by Subsection (2)(b)(i);

3774 (iii) the tax imposed by Subsection (2)(c)(i); and

3775 (iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

3776 (b) (i) As used in this Subsection (7)(b):

3777 (A) "Additional growth revenue" means the amount of relevant revenue collected in  
3778 the current fiscal year that exceeds by more than 3% the relevant revenue collected in the

3779 previous fiscal year.

3780 (B) "Combined amount" means the combined total amount of money deposited into the  
3781 Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

3782 (C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation  
3783 Investment Fund created in Subsection 72-2-124(10).

3784 (D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that  
3785 equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv).

3786 (ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually  
3787 reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by  
3788 an amount equal to the amount of the deposit under this Subsection (7)(b) to the Cottonwood  
3789 Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the  
3790 limit in Subsection (7)(b)(iii).

3791 (iii) The commission shall annually deposit the amount described in Subsection  
3792 (7)(b)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount  
3793 for any single fiscal year of \$20,000,000.

3794 (iv) If the amount of relevant revenue declines in a fiscal year compared to the previous  
3795 fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood  
3796 Canyons fund under this Subsection (7)(b) in the same proportion as the decline in relevant  
3797 revenue.

3798 (c) (i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1,  
3799 2023, the commission shall annually reduce the deposit into the Transportation Investment  
3800 Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

3801 (A) the amount of revenue generated in the current fiscal year by the portion of taxes  
3802 listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described  
3803 in Subsections (7)(a)(i) through (iv);

3804 (B) the amount of revenue generated in the current fiscal year by registration fees  
3805 designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund  
3806 of 2005; and

3807 (C) [~~revenues~~] revenue transferred by the Division of Finance to the Transportation  
3808 Investment Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.

3809 (ii) The amount described in Subsection (7)(c)(i) may not exceed \$45,000,000 in a

3810 given fiscal year.

3811 (iii) The commission shall annually deposit the amount described in Subsection  
3812 (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

3813 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under  
3814 Subsection (7), and subject to Subsections (8)(b) and (d)(ii), for a fiscal year beginning on or  
3815 after July 1, 2018, the commission shall annually deposit into the Transportation Investment  
3816 Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a)  
3817 in an amount equal to 3.68% of the ~~[revenues]~~ revenue collected from the following taxes:

3818 (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

3819 (ii) the tax imposed by Subsection (2)(b)(i);

3820 (iii) the tax imposed by Subsection (2)(c)(i); and

3821 (iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

3822 (b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually  
3823 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by  
3824 an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by  
3825 the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale  
3826 or use in this state that exceeds 29.4 cents per gallon.

3827 (c) The commission shall annually deposit the amount described in Subsection (8)(b)  
3828 into the Transit Transportation Investment Fund created in Section 72-2-124.

3829 (d) (i) As used in this Subsection (8)(d):

3830 (A) "Additional growth revenue" means the amount of relevant revenue collected in  
3831 the current fiscal year that exceeds by more than 3% the relevant revenue collected in the  
3832 previous fiscal year.

3833 (B) "Combined amount" means the combined total amount of money deposited into the  
3834 Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

3835 (C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation  
3836 Investment Fund created in Subsection 72-2-124(10).

3837 (D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that  
3838 equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through  
3839 (iv).

3840 (ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually

reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (8)(d)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of \$20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the commission receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(11) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26B-1-315.

(12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the commission shall deposit \$200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(13) (a) For each fiscal year beginning with fiscal year 2020-21, the commission shall annually transfer \$1,813,400 of the revenue deposited into the Transportation Investment Fund

of 2005 under Subsections (7) and (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) is less than \$1,813,400 for a fiscal year, the commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) during the fiscal year to the General Fund.

(14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the ~~[revenues]~~ revenue collected from the following sales and use taxes:

- (a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
- (b) the tax imposed by Subsection (2)(b)(i);
- (c) the tax imposed by Subsection (2)(c)(i); and
- (d) the tax imposed by Subsection (2)(f)(i)(A)(I).

Section 5. Section 59-12-103 (Contingently Effective 01/01/25) is amended to read:

**59-12-103 (Contingently Effective 01/01/25). Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenue.**

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

- (a) retail sales of tangible personal property made within the state;
- (b) amounts paid for:
  - (i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;
  - (ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

- 3903 (iii) an ancillary service associated with a:
- 3904 (A) telecommunications service described in Subsection (1)(b)(i); or
- 3905 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 3906 (c) sales of the following for commercial use:
- 3907 (i) gas;
- 3908 (ii) electricity;
- 3909 (iii) heat;
- 3910 (iv) coal;
- 3911 (v) fuel oil; or
- 3912 (vi) other fuels;
- 3913 (d) sales of the following for residential use:
- 3914 (i) gas;
- 3915 (ii) electricity;
- 3916 (iii) heat;
- 3917 (iv) coal;
- 3918 (v) fuel oil; or
- 3919 (vi) other fuels;
- 3920 (e) sales of prepared food;
- 3921 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 3922 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 3923 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 3924 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 3925 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 3926 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 3927 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 3928 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 3929 exhibition, cultural, or athletic activity;
- 3930 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 3931 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 3932 (i) the tangible personal property; and
- 3933 (ii) parts used in the repairs or renovations of the tangible personal property described



3934 in Subsection (1)(g)(i), regardless of whether:

3935 (A) any parts are actually used in the repairs or renovations of that tangible personal  
3936 property; or

3937 (B) the particular parts used in the repairs or renovations of that tangible personal  
3938 property are exempt from a tax under this chapter;

3939 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for  
3940 assisted cleaning or washing of tangible personal property;

3941 (i) amounts paid or charged for short-term rentals of tourist home, hotel, motel, or  
3942 trailer court accommodations and services [~~that are regularly rented for less than 30~~  
3943 ~~consecutive days~~];

3944 (j) amounts paid or charged for laundry or dry cleaning services;

3945 (k) amounts paid or charged for leases or rentals of tangible personal property if within  
3946 this state the tangible personal property is:

3947 (i) stored;

3948 (ii) used; or

3949 (iii) otherwise consumed;

3950 (l) amounts paid or charged for tangible personal property if within this state the  
3951 tangible personal property is:

3952 (i) stored;

3953 (ii) used; or

3954 (iii) consumed;

3955 (m) amounts paid or charged for a sale:

3956 (i) (A) of a product transferred electronically; or

3957 (B) of a repair or renovation of a product transferred electronically; and

3958 (ii) regardless of whether the sale provides:

3959 (A) a right of permanent use of the product; or

3960 (B) a right to use the product that is less than a permanent use, including a right:

3961 (I) for a definite or specified length of time; and

3962 (II) that terminates upon the occurrence of a condition; and

3963 (n) sales of leased tangible personal property from the lessor to the lessee made in the  
3964 state.



(2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (11)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) (i) Except as provided in Subsection (2)(f) or (g), a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of the tax rates a county, city, or town imposes under this chapter on the amounts paid or charged for food or food ingredients.

(ii) There is no state tax imposed on amounts paid or charged for food and food ingredients.

(d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e) (i) (A) If a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a

3996 shared vehicle driver, or a shared vehicle owner.

3997 (B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is  
3998 required once during the time that the shared vehicle owner owns the shared vehicle.

3999 (C) The commission shall verify that a shared vehicle is an individual-owned shared  
4000 vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the  
4001 purchase of the shared vehicle.

4002 (D) The exception under Subsection (2)(e)(i)(A) applies to a certified  
4003 individual-owned shared vehicle shared through a car-sharing program even if non-certified  
4004 shared vehicles are also available to be shared through the same car-sharing program.

4005 (ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

4006 (iii) (A) A car-sharing program may rely in good faith on a shared vehicle owner's  
4007 representation that the shared vehicle is an individual-owned shared vehicle certified with the  
4008 commission as described in Subsection (2)(e)(i).

4009 (B) If a car-sharing program relies in good faith on a shared vehicle owner's  
4010 representation that the shared vehicle is an individual-owned shared vehicle certified with the  
4011 commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any  
4012 tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

4013 (iv) If all shared vehicles shared through a car-sharing program are certified as  
4014 described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation  
4015 to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

4016 (v) [~~(A)~~] A car-sharing program is not required to list or otherwise identify an  
4017 individual-owned shared vehicle on a return or an attachment to a return.

4018 (vi) A car-sharing program shall:

4019 (A) retain tax information for each car-sharing program transaction; and

4020 (B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at  
4021 the commission's request.

4022 (f) (i) For a bundled transaction that is attributable to food and food ingredients and  
4023 tangible personal property other than food and food ingredients, a state tax and a local tax is  
4024 imposed on the entire bundled transaction equal to the sum of:

4025 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

4026 (I) the tax rate described in Subsection (2)(a)(i)(A); and

4027 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
4028 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
4029 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
4030 Additional State Sales and Use Tax Act; and

4031 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
4032 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
4033 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which  
4034 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

4035 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates  
4036 described in Subsection (2)(a)(ii).

4037 (ii) If an optional computer software maintenance contract is a bundled transaction that  
4038 consists of taxable and nontaxable products that are not separately itemized on an invoice or  
4039 similar billing document, the purchase of the optional computer software maintenance contract  
4040 is 40% taxable under this chapter and 60% nontaxable under this chapter.

4041 (iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled  
4042 transaction described in Subsection (2)(f)(i) or (ii):

4043 (A) if the sales price of the bundled transaction is attributable to tangible personal  
4044 property, a product, or a service that is subject to taxation under this chapter and tangible  
4045 personal property, a product, or service that is not subject to taxation under this chapter, the  
4046 entire bundled transaction is subject to taxation under this chapter unless:

4047 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
4048 personal property, product, or service that is not subject to taxation under this chapter from the  
4049 books and records the seller keeps in the seller's regular course of business; or

4050 (II) state or federal law provides otherwise; or

4051 (B) if the sales price of a bundled transaction is attributable to two or more items of  
4052 tangible personal property, products, or services that are subject to taxation under this chapter  
4053 at different rates, the entire bundled transaction is subject to taxation under this chapter at the  
4054 higher tax rate unless:

4055 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
4056 personal property, product, or service that is subject to taxation under this chapter at the lower  
4057 tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the

4089 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

4090 (B) is able to identify by reasonable and verifiable standards the tangible personal  
4091 property, product, or service that is subject to taxation under this chapter at the lower tax rate  
4092 from the books and records the seller keeps in the seller's regular course of business.

4093 (ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the  
4094 seller's regular course of business includes books and records the seller keeps in the regular  
4095 course of business for nontax purposes.

4096 (i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax  
4097 rate imposed under the following shall take effect on the first day of a calendar quarter:

4098 (i) Subsection (2)(a)(i)(A);

4099 (ii) Subsection (2)(b)(i); or

4100 (iii) Subsection (2)(f)(i)(A)(I).

4101 (j) (i) A tax rate increase takes effect on the first day of the first billing period that  
4102 begins on or after the effective date of the tax rate increase if the billing period for the  
4103 transaction begins before the effective date of a tax rate increase imposed under:

4104 (A) Subsection (2)(a)(i)(A);

4105 (B) Subsection (2)(b)(i); or

4106 (C) Subsection (2)(f)(i)(A)(I).

4107 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing  
4108 statement for the billing period is rendered on or after the effective date of the repeal of the tax  
4109 or the tax rate decrease imposed under:

4110 (A) Subsection (2)(a)(i)(A);

4111 (B) Subsection (2)(b)(i); or

4112 (C) Subsection (2)(f)(i)(A)(I).

4113 (k) (i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale  
4114 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal  
4115 or change in a tax rate takes effect:

4116 (A) on the first day of a calendar quarter; and

4117 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

4118 (ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

4119 (A) Subsection (2)(a)(i)(A);

4120 (B) Subsection (2)(b)(i); or  
4121 (C) Subsection (2)(f)(i)(A)(I).  
4122 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
4123 the commission may by rule define the term "catalogue sale."  
4124 (l) (i) For a location described in Subsection (2)(l)(ii), the commission shall determine  
4125 the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the  
4126 predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.  
4127 (ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil,  
4128 or other fuel is furnished through a single meter for two or more of the following uses:  
4129 (A) a commercial use;  
4130 (B) an industrial use; or  
4131 (C) a residential use.  
4132 (3) (a) The following state taxes shall be deposited into the General Fund:  
4133 (i) the tax imposed by Subsection (2)(a)(i)(A);  
4134 (ii) the tax imposed by Subsection (2)(b)(i); and  
4135 (iii) the tax imposed by Subsection (2)(f)(i)(A)(I).  
4136 (b) The following local taxes shall be distributed to a county, city, or town as provided  
4137 in this chapter:  
4138 (i) the tax imposed by Subsection (2)(a)(ii);  
4139 (ii) the tax imposed by Subsection (2)(b)(ii);  
4140 (iii) the tax imposed by Subsection (2)(c); and  
4141 (iv) the tax imposed by Subsection (2)(f)(i)(B).  
4142 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General  
4143 Fund.  
4144 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
4145 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)  
4146 through (g):  
4147 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:  
4148 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and  
4149 (B) for the fiscal year; or  
4150 (ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and



4213 (ii) \$17,500,000.

4214 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

4215 (A) transferred each fiscal year to the Department of Natural Resources as designated

4216 sales and use tax revenue; and

4217 (B) expended by the Department of Natural Resources for watershed rehabilitation or

4218 restoration.

4219 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use

4220 tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation

4221 and Development Fund created in Section 73-10-24.

4222 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the

4223 remaining difference described in Subsection (5)(a) shall be:

4224 (A) transferred each fiscal year to the Division of Water Resources as designated sales

4225 and use tax revenue; and

4226 (B) expended by the Division of Water Resources for cloud-seeding projects

4227 authorized by Title 73, Chapter 15, Modification of Weather.

4228 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use

4229 tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation

4230 and Development Fund created in Section 73-10-24.

4231 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the

4232 remaining difference described in Subsection (5)(a) shall be deposited into the Water

4233 Resources Conservation and Development Fund created in Section 73-10-24 for use by the

4234 Division of Water Resources for:

4235 (i) preconstruction costs:

4236 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter

4237 26, Bear River Development Act; and

4238 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project

4239 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

4240 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,

4241 Chapter 26, Bear River Development Act;

4242 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project

4243 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year.

(7) (a) Notwithstanding Subsection (3)(a) and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2023, the commission shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 17% of the revenue collected from the following sales and use taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i); and

(iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) (i) As used in this Subsection (7)(b):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iii).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (7)(b)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of \$20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b) in the same proportion as the decline in relevant revenue.

(c) (i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1, 2023, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

(A) the amount of revenue generated in the current fiscal year by the portion of taxes listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv);

(B) the amount of revenue generated in the current fiscal year by registration fees designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund of 2005; and

(C) [~~revenues~~] revenue transferred by the Division of Finance to the Transportation Investment Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.

(ii) The amount described in Subsection (7)(c)(i) may not exceed \$45,000,000 in a given fiscal year.

(iii) The commission shall annually deposit the amount described in Subsection (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7), and subject to Subsections (8)(b) and (d)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the [~~revenues~~] revenue collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i); and

(iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually

reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(d) (i) As used in this Subsection (8)(d):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iii).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (8)(d)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of \$20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund

created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the commission receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(11) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26B-1-315.

(12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the commission shall deposit \$200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(13) (a) For each fiscal year beginning with fiscal year 2020-21, the commission shall annually transfer \$1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) is less than \$1,813,400 for a fiscal year, the commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) during the fiscal year to the General Fund.

(14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure

Restricted Account, created in Section [51-9-902](#), a portion of the taxes listed under Subsection (3)(a) equal to 1% of the ~~[revenues]~~ revenue collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i); and

(c) the tax imposed by Subsection (2)(f)(i)(A)(I).

Section 6. Section **59-12-602** is amended to read:

**59-12-602. Definitions.**

As used in this part:

(1) (a) ~~[Subject to Subsection (1)(b), "airport]~~ "Airport facility" means an airport of regional significance, as defined by the Transportation Commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) "Airport facility" includes:

(i) an appurtenance to an airport, including a fixed guideway that provides transportation service to or from the airport;

(ii) a control tower, including a radar system;

(iii) a public area of an airport; or

(iv) a terminal facility.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section [41-22-2](#).

(3) "All-terrain type II vehicle" means the same as that term is defined in Section [41-22-2](#).

(4) "All-terrain type III vehicle" means the same as that term is defined in Section [41-22-2](#).

(5) "Convention facility" means any publicly owned or operated convention center, sports arena, or other facility at which conventions, conferences, and other gatherings are held and whose primary business or function is to host such conventions, conferences, and other gatherings.

(6) "Cultural facility" means any publicly owned or operated museum, theater, art center, music hall, or other cultural or arts facility.

(7) (a) ~~[Except as provided in Subsection (7)(b), "off-highway]~~ "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III

4399 vehicle, or motorcycle.

4400 (b) "Off-highway vehicle" does not include a vehicle that is a motor vehicle under  
4401 Section [41-1a-102](#).

4402 (8) "Motorcycle" means the same as that term is defined in Section [41-22-2](#).

4403 (9) "Recreation facility" or "tourist facility" means any publicly owned or operated  
4404 park, campground, marina, dock, golf course, water park, historic park, monument,  
4405 planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

4406 (10) (a) ~~[Except as provided in Subsection (10)(c), "recreational]~~ "Recreational  
4407 vehicle" means a vehicular unit other than a mobile home, primarily designed as a temporary  
4408 dwelling for travel, recreational, or vacation use, that is pulled by another vehicle.

4409 (b) "Recreational vehicle" includes:

4410 (i) a travel trailer;

4411 (ii) a camping trailer; and

4412 (iii) a fifth wheel trailer.

4413 (c) "Recreational vehicle" does not include a vehicle that is a motor vehicle under  
4414 Section [41-1a-102](#).

4415 (11) (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda fountain,  
4416 or fast-food service where food is prepared for immediate consumption.

4417 (b) "Restaurant" does not include:

4418 (i) any retail establishment whose primary business or function is the sale of fuel or  
4419 food items for off-premise, but not immediate, consumption; and

4420 (ii) a theater that sells food items, but not a dinner theater.

4421 ~~[(12) (a) "Short-term rental" means a lease or rental that is 30 days or less.]~~

4422 ~~[(b) "Short-term rental" does not include car sharing as that term is defined in Section~~  
4423 ~~[13-48a-101](#).]~~

4424 ~~[(13)]~~ (12) "Snowmobile" means the same as that term is defined in Section [41-22-2](#).

4425 ~~[(14)]~~ (13) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable  
4426 vehicle without motive power, designed as a temporary dwelling for travel, recreational, or  
4427 vacation use that does not require a special highway movement permit when drawn by a  
4428 self-propelled motor vehicle.

4429 Section 7. Section **59-12-603** is amended to read:



**59-12-603. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.**

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) a county legislative body of any county may impose a tax of not to exceed 7% on all short-term rentals of off-highway vehicles and recreational vehicles;

(iii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:

(A) alcoholic beverages;

(B) food and food ingredients; or

(C) prepared food;

(iv) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection

**59-12-103(1)(i); and**

(v) ~~[beginning on July 1, 2023,]~~ if a county legislative body of any county imposes a tax under Subsection (1)(a)(i), a tax at the same rate applies to car sharing of less than 30 days, except for ~~[-(A)]~~ car sharing for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement~~[-and]~~.

~~[(B) car sharing for more than 30 days.]~~

(b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section



17-31-5.5.

(2) (a) Subject to Subsection (2)(c), a county may use revenue from the imposition of a tax under Subsection (1) for:

(i) financing tourism promotion; and

(ii) the development, operation, and maintenance of:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; or

(E) a tourist facility.

(b) (i) In addition to the uses described in Subsection (2)(a) and subject to Subsection (2)(b)(ii), a county of the fourth, fifth, or sixth class or a county with a population density of fewer than 15 people per square mile may expend the revenue from the imposition of a tax under Subsections (1)(a)(i) and (ii) on the following activities to mitigate the impacts of tourism:

(A) solid waste disposal;

(B) search and rescue activities;

(C) law enforcement activities;

(D) emergency medical services; or

(E) fire protection services.

(ii) A county may only expend the revenue as outlined in Subsection (2)(b)(i) if the county's tourism tax advisory board created under Subsection 17-31-8(1)(a) has prioritized the use of revenue to mitigate the impacts of tourism.

(c) A county of the first class shall expend at least \$450,000 each year of the revenue from the imposition of a tax authorized by Subsection (1)(a)(iv) within the county to fund a marketing and ticketing system designed to:

(i) promote tourism in ski areas within the county by persons that do not reside within the state; and

(ii) combine the sale of:

(A) ski lift tickets; and

(B) accommodations and services described in Subsection 59-12-103(1)(i).

(3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:

- (a) an airport facility;
- (b) a convention facility;
- (c) a cultural facility;
- (d) a recreation facility; or
- (e) a tourist facility.

(4) (a) To impose a tax under Subsection (1), the county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section [59-12-106](#).

(5) To maintain in effect a tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to the county's tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(6) (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section [17-31-8](#), the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

(b) The tax advisory board shall be composed of nine members appointed as follows:

(i) four members shall be residents of a county of the first class appointed by the county legislative body of the county of the first class; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

(c) Five members of the tax advisory board constitute a quorum.

4523 (d) The county legislative body of the county of the first class shall determine:  
4524 (i) terms of the members of the tax advisory board;  
4525 (ii) procedures and requirements for removing a member of the tax advisory board;  
4526 (iii) voting requirements, except that action of the tax advisory board shall be by at  
4527 least a majority vote of a quorum of the tax advisory board;  
4528 (iv) chairs or other officers of the tax advisory board;  
4529 (v) how meetings are to be called and the frequency of meetings; and  
4530 (vi) the compensation, if any, of members of the tax advisory board.

4531 (e) The tax advisory board under this Subsection (6) shall advise the county legislative  
4532 body of the county of the first class on the expenditure of revenue collected within the county  
4533 of the first class from the taxes described in Subsection (1)(a).

4534 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part  
4535 shall be administered, collected, and enforced in accordance with:

4536 (A) the same procedures used to administer, collect, and enforce the tax under:  
4537 (I) Part 1, Tax Collection; or  
4538 (II) Part 2, Local Sales and Use Tax Act; and  
4539 (B) Chapter 1, General Taxation Policies.

4540 (ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or  
4541 Subsections 59-12-205(2) through (5).

4542 (b) Except as provided in Subsection (7)(c):

4543 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the  
4544 commission shall distribute the revenue to the county imposing the tax; and

4545 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue  
4546 according to the distribution formula provided in Subsection (8).

4547 (c) The commission shall retain and deposit an administrative charge in accordance  
4548 with Section 59-1-306 from the revenue the commission collects from a tax under this part.

4549 (8) The commission shall distribute the revenue generated by the tax under Subsection  
4550 (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the  
4551 following formula:

4552 (a) the commission shall distribute 70% of the revenue based on the percentages  
4553 generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by

the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

(b) the commission shall distribute 30% of the revenue based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(9) (a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (9)(c), if a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

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

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(d) (i) Except as provided in Subsection (9)(e), if the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

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

4585 (B) after a 90-day period beginning on the day on which the commission receives  
4586 notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the  
4587 annexing area.

4588 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

4589 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,  
4590 repeal, or change in the rate of a tax under this part for the annexing area;

4591 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

4592 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

4593 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
4594 (9)(d)(ii)(A), the rate of the tax.

4595 (e) (i) If the billing period for a transaction begins before the effective date of the  
4596 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of  
4597 the tax or the tax rate increase shall take effect on the first day of the first billing period that  
4598 begins after the effective date of the enactment of the tax or the tax rate increase.

4599 (ii) If the billing period for a transaction begins before the effective date of the repeal  
4600 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax  
4601 rate decrease shall take effect on the first day of the last billing period that began before the  
4602 effective date of the repeal of the tax or the tax rate decrease.

4603 Section 8. Section **59-12-1201** is amended to read:

4604 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**  
4605 **collection, and enforcement of tax -- Administrative charge -- Deposits.**

4606 (1) (a) Except as provided in Subsections (3) and (4), there is imposed a tax of 2.5% on  
4607 all short-term [~~leases and~~] rentals of motor vehicles [~~not exceeding 30 days~~].

4608 (b) The tax imposed in this section is in addition to all other state, county, or municipal  
4609 fees and taxes imposed on rentals of motor vehicles.

4610 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax  
4611 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

4612 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall  
4613 take effect on the first day of the first billing period:

4614 (A) that begins after the effective date of the tax rate increase; and

4615 (B) if the billing period for the transaction begins before the effective date of a tax rate

4616 increase imposed under Subsection (1).

4617 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax  
4618 rate decrease shall take effect on the first day of the last billing period:

4619 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
4620 and

4621 (B) if the billing period for the transaction begins before the effective date of the repeal  
4622 of the tax or the tax rate decrease imposed under Subsection (1).

4623 (3) ~~[Beginning on July 1, 2023, a]~~ A tax imposed under Subsection (1) applies at the  
4624 same rate to car sharing of less than 30 days, except for~~[(a)]~~ car sharing for the purpose of  
4625 temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an  
4626 insurance agreement~~[, and]~~.

4627 ~~[(b) car sharing for more than 30 days.]~~

4628 (4) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

4629 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

4630 (b) the motor vehicle is rented as a personal household goods moving van; or

4631 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily  
4632 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an  
4633 insurance agreement.

4634 (5) (a) (i) The tax authorized under this section shall be administered, collected, and  
4635 enforced in accordance with:

4636 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,  
4637 Tax Collection; and

4638 (B) Chapter 1, General Taxation Policies.

4639 (ii) Notwithstanding Subsection (5)(a)(i), a tax under this part is not subject to  
4640 Subsections 59-12-103(4) through (9) or Section 59-12-107.1 or 59-12-123.

4641 (b) The commission shall retain and deposit an administrative charge in accordance  
4642 with Section 59-1-306 from the ~~[revenues]~~ revenue the commission collects from a tax under  
4643 this part.

4644 (c) Except as provided under Subsection (5)(b)~~[, all revenue received by the~~  
4645 ~~commission under this section shall be deposited daily with the state treasurer and credited~~  
4646 ~~monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117]~~:

4647            (i) the commission shall deposit daily with the state treasurer all revenue received  
4648 under this section; and

4649            (ii) the state treasurer shall credit monthly all revenue received under this section to the  
4650 Marda Dillree Corridor Preservation Fund under Section [72-2-117](#).

4651            Section 9. **Effective date.**

4652            This bill takes effect on July 1, 2024.