

Nate Blouin proposes the following substitute bill:

Sales Tax on Food Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Nate Blouin

LONG TITLE

General Description:

This bill modifies the state sales and use tax.

Highlighted Provisions:

This bill:

- removes the state sales and use tax imposed on amounts paid or charged for food and food ingredients;
- adjusts the general sales tax rate to generate revenue for the General Fund that offsets the loss of revenue from the removal of the state sales tax on food and food ingredients; 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:

59-12-102, as last amended by Laws of Utah 2024, Chapter 274

59-12-103, as last amended by Laws of Utah 2024, Chapters 88, 501

59-12-108, as last amended by Laws of Utah 2023, Chapter 459

63N-2-502, as last amended by Laws of Utah 2023, Chapter 459

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

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

59-12-102 . 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.

- 65 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
 66 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
 67 Agreement after November 12, 2002.
- 68 (6) "Agreement combined tax rate" means the sum of the tax rates:
 69 (a) listed under Subsection (7); and
 70 (b) that are imposed within a local taxing jurisdiction.
- 71 (7) "Agreement sales and use tax" means a tax imposed under:
 72 (a) Subsection 59-12-103(2)(a)(i)(A);
 73 (b) Subsection 59-12-103(2)(b)(i);
 74 [~~(c)~~ Subsection 59-12-103(2)(c)(i);]
 75 [~~(d)~~ (c) Subsection 59-12-103(2)(d);
 76 [~~(e)~~ (d) Subsection 59-12-103(2)(e)(i)(A)(I);
 77 [~~(f)~~ (e) Section 59-12-204;
 78 [~~(g)~~ (f) Section 59-12-401;
 79 [~~(h)~~ (g) Section 59-12-402;
 80 [~~(i)~~ (h) Section 59-12-402.1;
 81 [~~(j)~~ (i) Section 59-12-703;
 82 [~~(k)~~ (j) Section 59-12-802;
 83 [~~(l)~~ (k) Section 59-12-804;
 84 [~~(m)~~ (l) Section 59-12-1102;
 85 [~~(n)~~ (m) Section 59-12-1302;
 86 [~~(o)~~ (n) Section 59-12-1402;
 87 [~~(p)~~ (o) Section 59-12-1802;
 88 [~~(q)~~ (p) Section 59-12-2003;
 89 [~~(r)~~ (q) Section 59-12-2103;
 90 [~~(s)~~ (r) Section 59-12-2213;
 91 [~~(t)~~ (s) Section 59-12-2214;
 92 [~~(u)~~ (t) Section 59-12-2215;
 93 [~~(v)~~ (u) Section 59-12-2216;
 94 [~~(w)~~ (v) Section 59-12-2217;
 95 [~~(x)~~ (w) Section 59-12-2218;
 96 [~~(y)~~ (x) Section 59-12-2219; or
 97 [~~(z)~~ (y) Section 59-12-2220.
- 98 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.

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

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(12)(a) Subject to Subsection (12)(b), "alternative energy electricity production facility"

means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

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

(i) connected to an electric grid; or

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

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

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

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

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

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

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

- (16) "Assisted cleaning or washing of tangible personal property" means cleaning or 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) "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:

- 201 (i) distinct and identifiable; and
202 (ii) sold for one nonitemized price.
- 203 (b) "Bundled transaction" does not include:
- 204 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
205 the basis of the selection by the purchaser of the items of tangible personal
206 property included in the transaction;
- 207 (ii) the sale of real property;
- 208 (iii) the sale of services to real property;
- 209 (iv) the retail sale of tangible personal property and a service if:
- 210 (A) the tangible personal property:
- 211 (I) is essential to the use of the service; and
212 (II) is provided exclusively in connection with the service; and
213 (B) the service is the true object of the transaction;
- 214 (v) the retail sale of two services if:
- 215 (A) one service is provided that is essential to the use or receipt of a second
216 service;
- 217 (B) the first service is provided exclusively in connection with the second service;
218 and
219 (C) the second service is the true object of the transaction;
- 220 (vi) a transaction that includes tangible personal property or a product subject to
221 taxation under this chapter and tangible personal property or a product that is not
222 subject to taxation under this chapter if the:
- 223 (A) seller's purchase price of the tangible personal property or product subject to
224 taxation under this chapter is de minimis; or
225 (B) seller's sales price of the tangible personal property or product subject to
226 taxation under this chapter is de minimis; and
- 227 (vii) the retail sale of tangible personal property that is not subject to taxation under
228 this chapter and tangible personal property that is subject to taxation under this
229 chapter if:
- 230 (A) that retail sale includes:
- 231 (I) food and food ingredients;
232 (II) a drug;
233 (III) durable medical equipment;
234 (IV) mobility enhancing equipment;

- 235 (V) an over-the-counter drug;
- 236 (VI) a prosthetic device; or
- 237 (VII) a medical supply; and
- 238 (B) subject to Subsection (19)(f):
- 239 (I) the seller's purchase price of the tangible personal property subject to
- 240 taxation under this chapter is 50% or less of the seller's total purchase price
- 241 of that retail sale; or
- 242 (II) the seller's sales price of the tangible personal property subject to taxation
- 243 under this chapter is 50% or less of the seller's total sales price of that retail
- 244 sale.
- 245 (c)(i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or
- 246 a service that is distinct and identifiable does not include:
- 247 (A) packaging that:
- 248 (I) accompanies the sale of the tangible personal property, product, or service;
- 249 and
- 250 (II) is incidental or immaterial to the sale of the tangible personal property,
- 251 product, or service;
- 252 (B) tangible personal property, a product, or a service provided free of charge with
- 253 the purchase of another item of tangible personal property, a product, or a
- 254 service; or
- 255 (C) an item of tangible personal property, a product, or a service included in the
- 256 definition of "purchase price."
- 257 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a
- 258 product, or a service is provided free of charge with the purchase of another item
- 259 of tangible personal property, a product, or a service if the sales price of the
- 260 purchased item of tangible personal property, product, or service does not vary
- 261 depending on the inclusion of the tangible personal property, product, or service
- 262 provided free of charge.
- 263 (d)(i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price
- 264 does not include a price that is separately identified by tangible personal property,
- 265 product, or service on the following, regardless of whether the following is in
- 266 paper format or electronic format:
- 267 (A) a binding sales document; or
- 268 (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

303 agreement that:

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

305 (i) on a transaction; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

336 (c) "Common carrier" does not include a person that provides transportation network

- 337 services, as defined in Section 13-51-102.
- 338 (28) "Component part" includes:
- 339 (a) poultry, dairy, and other livestock feed, and their components;
- 340 (b) baling ties and twine used in the baling of hay and straw;
- 341 (c) fuel used for providing temperature control of orchards and commercial greenhouses
- 342 doing a majority of their business in wholesale sales, and for providing power for
- 343 off-highway type farm machinery; and
- 344 (d) feed, seeds, and seedlings.
- 345 (29) "Computer" means an electronic device that accepts information:
- 346 (a)(i) in digital form; or
- 347 (ii) in a form similar to digital form; and
- 348 (b) manipulates that information for a result based on a sequence of instructions.
- 349 (30) "Computer software" means a set of coded instructions designed to cause:
- 350 (a) a computer to perform a task; or
- 351 (b) automatic data processing equipment to perform a task.
- 352 (31) "Computer software maintenance contract" means a contract that obligates a seller of
- 353 computer software to provide a customer with:
- 354 (a) future updates or upgrades to computer software;
- 355 (b) support services with respect to computer software; or
- 356 (c) a combination of Subsections (31)(a) and (b).
- 357 (32)(a) "Conference bridging service" means an ancillary service that links two or more
- 358 participants of an audio conference call or video conference call.
- 359 (b) "Conference bridging service" may include providing a telephone number as part of
- 360 the ancillary service described in Subsection (32)(a).
- 361 (c) "Conference bridging service" does not include a telecommunications service used to
- 362 reach the ancillary service described in Subsection (32)(a).
- 363 (33) "Construction materials" means any tangible personal property that will be converted
- 364 into real property.
- 365 (34) "Delivered electronically" means delivered to a purchaser by means other than tangible
- 366 storage media.
- 367 (35)(a) "Delivery charge" means a charge:
- 368 (i) by a seller of:
- 369 (A) tangible personal property;
- 370 (B) a product transferred electronically; or

- 371 (C) a service; and
- 372 (ii) for preparation and delivery of the tangible personal property, product transferred
- 373 electronically, or services described in Subsection (35)(a)(i) to a location
- 374 designated by the purchaser.
- 375 (b) "Delivery charge" includes a charge for the following:
- 376 (i) transportation;
- 377 (ii) shipping;
- 378 (iii) postage;
- 379 (iv) handling;
- 380 (v) crating; or
- 381 (vi) packing.
- 382 (36) "Detailed telecommunications billing service" means an ancillary service of separately
- 383 stating information pertaining to individual calls on a customer's billing statement.
- 384 (37) "Dietary supplement" means a product, other than tobacco, that:
- 385 (a) is intended to supplement the diet;
- 386 (b) contains one or more of the following dietary ingredients:
- 387 (i) a vitamin;
- 388 (ii) a mineral;
- 389 (iii) an herb or other botanical;
- 390 (iv) an amino acid;
- 391 (v) a dietary substance for use by humans to supplement the diet by increasing the
- 392 total dietary intake; or
- 393 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 394 described in Subsections (37)(b)(i) through (v);
- 395 (c)(i) except as provided in Subsection (37)(c)(ii), is intended for ingestion in:
- 396 (A) tablet form;
- 397 (B) capsule form;
- 398 (C) powder form;
- 399 (D) softgel form;
- 400 (E) gelcap form; or
- 401 (F) liquid form; or
- 402 (ii) if the product is not intended for ingestion in a form described in Subsections
- 403 (37)(c)(i)(A) through (F), is not represented:
- 404 (A) as conventional food; and

- 405 (B) for use as a sole item of:
- 406 (I) a meal; or
- 407 (II) the diet; and
- 408 (d) is required to be labeled as a dietary supplement:
- 409 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 410 (ii) as required by 21 C.F.R. Sec. 101.36.
- 411 (38)(a) "Digital audio work" means a work that results from the fixation of a series of
- 412 musical, spoken, or other sounds.
- 413 (b) "Digital audio work" includes a ringtone.
- 414 (39) "Digital audio-visual work" means a series of related images which, when shown in
- 415 succession, imparts an impression of motion, together with accompanying sounds, if any.
- 416 (40) "Digital book" means a work that is generally recognized in the ordinary and usual
- 417 sense as a book.
- 418 (41)(a) "Direct mail" means printed material delivered or distributed by United States
- 419 mail or other delivery service:
- 420 (i) to:
- 421 (A) a mass audience; or
- 422 (B) addressees on a mailing list provided:
- 423 (I) by a purchaser of the mailing list; or
- 424 (II) at the discretion of the purchaser of the mailing list; and
- 425 (ii) if the cost of the printed material is not billed directly to the recipients.
- 426 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 427 purchaser to a seller of direct mail for inclusion in a package containing the printed
- 428 material.
- 429 (c) "Direct mail" does not include multiple items of printed material delivered to a single
- 430 address.
- 431 (42) "Directory assistance" means an ancillary service of providing:
- 432 (a) address information; or
- 433 (b) telephone number information.
- 434 (43)(a) "Disposable home medical equipment or supplies" means medical equipment or
- 435 supplies that:
- 436 (i) cannot withstand repeated use; and
- 437 (ii) are purchased by, for, or on behalf of a person other than:
- 438 (A) a health care facility as defined in Section 26B-2-201;

- 439 (B) a health care provider as defined in Section 78B-3-403;
440 (C) an office of a health care provider described in Subsection (43)(a)(ii)(B); or
441 (D) a person similar to a person described in Subsections (43)(a)(ii)(A) through
442 (C).
- 443 (b) "Disposable home medical equipment or supplies" does not include:
444 (i) a drug;
445 (ii) durable medical equipment;
446 (iii) a hearing aid;
447 (iv) a hearing aid accessory;
448 (v) mobility enhancing equipment; or
449 (vi) tangible personal property used to correct impaired vision, including:
450 (A) eyeglasses; or
451 (B) contact lenses.
- 452 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
453 commission may by rule define what constitutes medical equipment or supplies.
- 454 (44) "Drilling equipment manufacturer" means a facility:
455 (a) located in the state;
456 (b) with respect to which 51% or more of the manufacturing activities of the facility
457 consist of manufacturing component parts of drilling equipment;
458 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
459 manufacturing process; and
460 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
461 manufacturing process.
- 462 (45)(a) "Drug" means a compound, substance, or preparation, or a component of a
463 compound, substance, or preparation that is:
464 (i) recognized in:
465 (A) the official United States Pharmacopoeia;
466 (B) the official Homeopathic Pharmacopoeia of the United States;
467 (C) the official National Formulary; or
468 (D) a supplement to a publication listed in Subsections (45)(a)(i)(A) through (C);
469 (ii) intended for use in the:
470 (A) diagnosis of disease;
471 (B) cure of disease;
472 (C) mitigation of disease;

- 473 (D) treatment of disease; or
474 (E) prevention of disease; or
475 (iii) intended to affect:
476 (A) the structure of the body; or
477 (B) any function of the body.
478 (b) "Drug" does not include:
479 (i) food and food ingredients;
480 (ii) a dietary supplement;
481 (iii) an alcoholic beverage; or
482 (iv) a prosthetic device.
483 (46)(a) "Durable medical equipment" means equipment that:
484 (i) can withstand repeated use;
485 (ii) is primarily and customarily used to serve a medical purpose;
486 (iii) generally is not useful to a person in the absence of illness or injury; and
487 (iv) is not worn in or on the body.
488 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
489 equipment described in Subsection (46)(a).
490 (c) "Durable medical equipment" does not include mobility enhancing equipment.
491 (47) "Electronic" means:
492 (a) relating to technology; and
493 (b) having:
494 (i) electrical capabilities;
495 (ii) digital capabilities;
496 (iii) magnetic capabilities;
497 (iv) wireless capabilities;
498 (v) optical capabilities;
499 (vi) electromagnetic capabilities; or
500 (vii) capabilities similar to Subsections (47)(b)(i) through (vi).
501 (48) "Electronic financial payment service" means an establishment:
502 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
503 Clearinghouse Activities, of the 2012 North American Industry Classification System
504 of the federal Executive Office of the President, Office of Management and Budget;
505 and
506 (b) that performs electronic financial payment services.

- 507 (49) "Employee" means the same as that term is defined in Section 59-10-401.
- 508 (50) "Fixed guideway" means a public transit facility that uses and occupies:
- 509 (a) rail for the use of public transit; or
- 510 (b) a separate right-of-way for the use of public transit.
- 511 (51) "Fixed wing turbine powered aircraft" means an aircraft that:
- 512 (a) is powered by turbine engines;
- 513 (b) operates on jet fuel; and
- 514 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 515 (52) "Fixed wireless service" means a telecommunications service that provides radio
- 516 communication between fixed points.
- 517 (53)(a) "Food and food ingredients" means substances:
- 518 (i) regardless of whether the substances are in:
- 519 (A) liquid form;
- 520 (B) concentrated form;
- 521 (C) solid form;
- 522 (D) frozen form;
- 523 (E) dried form; or
- 524 (F) dehydrated form; and
- 525 (ii) that are:
- 526 (A) sold for:
- 527 (I) ingestion by humans; or
- 528 (II) chewing by humans; and
- 529 (B) consumed for the substance's:
- 530 (I) taste; or
- 531 (II) nutritional value.
- 532 (b) "Food and food ingredients" includes an item described in Subsection (99)(b)(iii).
- 533 (c) "Food and food ingredients" does not include:
- 534 (i) an alcoholic beverage;
- 535 (ii) tobacco; or
- 536 (iii) prepared food.
- 537 (54)(a) "Fundraising sales" means sales:
- 538 (i)(A) made by a school; or
- 539 (B) made by a school student;
- 540 (ii) that are for the purpose of raising funds for the school to purchase equipment,

- 541 materials, or provide transportation; and
- 542 (iii) that are part of an officially sanctioned school activity.
- 543 (b) For purposes of Subsection (54)(a)(iii), "officially sanctioned school activity" means
- 544 a school activity:
- 545 (i) that is conducted in accordance with a formal policy adopted by the school or
- 546 school district governing the authorization and supervision of fundraising
- 547 activities;
- 548 (ii) that does not directly or indirectly compensate an individual teacher or other
- 549 educational personnel by direct payment, commissions, or payment in kind; and
- 550 (iii) the net or gross revenue from which is deposited in a dedicated account
- 551 controlled by the school or school district.
- 552 (55) "Geothermal energy" means energy contained in heat that continuously flows outward
- 553 from the earth that is used as the sole source of energy to produce electricity.
- 554 (56) "Governing board of the agreement" means the governing board of the agreement that
- 555 is:
- 556 (a) authorized to administer the agreement; and
- 557 (b) established in accordance with the agreement.
- 558 (57)(a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
- 559 (i) the executive branch of the state, including all departments, institutions, boards,
- 560 divisions, bureaus, offices, commissions, and committees;
- 561 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
- 562 Administrative Office of the Courts, and similar administrative units in the
- 563 judicial branch;
- 564 (iii) the legislative branch of the state, including the House of Representatives, the
- 565 Senate, the Legislative Printing Office, the Office of Legislative Research and
- 566 General Counsel, the Office of the Legislative Auditor General, and the Office of
- 567 the Legislative Fiscal Analyst;
- 568 (iv) the National Guard;
- 569 (v) an independent entity as defined in Section 63E-1-102; or
- 570 (vi) a political subdivision as defined in Section 17B-1-102.
- 571 (b) "Governmental entity" does not include the state systems of public and higher
- 572 education, including:
- 573 (i) a school;
- 574 (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 harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

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

(v) other farming activities;

(c) in manufacturing tangible personal property at 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;

(d) by 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;

- 609 (G) textile; or
610 (H) rubber; and
611 (ii) the new products under Subsection (60)(d)(i) would otherwise be made with
612 nonrecycled materials; or
613 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
614 cogeneration facility as defined in Section 54-2-1.
- 615 (61)(a) "Installation charge" means a charge for installing:
616 (i) tangible personal property; or
617 (ii) a product transferred electronically.
618 (b) "Installation charge" does not include a charge for:
619 (i) repairs or renovations of:
620 (A) tangible personal property; or
621 (B) a product transferred electronically; or
622 (ii) attaching tangible personal property or a product transferred electronically:
623 (A) to other tangible personal property; and
624 (B) as part of a manufacturing or fabrication process.
- 625 (62) "Institution of higher education" means an institution of higher education listed in
626 Section 53B-2-101.
- 627 (63)(a) "Lease" or "rental" means a transfer of possession or control of tangible personal
628 property or a product transferred electronically for:
629 (i)(A) a fixed term; or
630 (B) an indeterminate term; and
631 (ii) consideration.
632 (b) "Lease" or "rental" includes:
633 (i) an agreement covering a motor vehicle and trailer if the amount of consideration
634 may be increased or decreased by reference to the amount realized upon sale or
635 disposition of the property as defined in Section 7701(h)(1), Internal Revenue
636 Code; and
637 (ii) car sharing.
638 (c) "Lease" or "rental" does not include:
639 (i) a transfer of possession or control of property under a security agreement or
640 deferred payment plan that requires the transfer of title upon completion of the
641 required payments;
642 (ii) a transfer of possession or control of property under an agreement that requires

- 643 the transfer of title:
- 644 (A) upon completion of required payments; and
- 645 (B) if the payment of an option price does not exceed the greater of:
- 646 (I) \$100; or
- 647 (II) 1% of the total required payments; or
- 648 (iii) providing tangible personal property along with an operator for a fixed period of
- 649 time or an indeterminate period of time if the operator is necessary for equipment
- 650 to perform as designed.
- 651 (d) For purposes of Subsection (63)(c)(iii), an operator is necessary for equipment to
- 652 perform as designed if the operator's duties exceed the:
- 653 (i) set-up of tangible personal property;
- 654 (ii) maintenance of tangible personal property; or
- 655 (iii) inspection of tangible personal property.
- 656 (64) "Lesson" means a fixed period of time for the duration of which a trained instructor:
- 657 (a) is present with a student in person or by video; and
- 658 (b) actively instructs the student, including by providing observation or feedback.
- 659 (65) "Life science establishment" means an establishment in this state that is classified
- 660 under the following NAICS codes of the 2007 North American Industry Classification
- 661 System of the federal Executive Office of the President, Office of Management and
- 662 Budget:
- 663 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 664 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
- 665 Manufacturing; or
- 666 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 667 (66) "Life science research and development facility" means a facility owned, leased, or
- 668 rented by a life science establishment if research and development is performed in 51%
- 669 or more of the total area of the facility.
- 670 (67) "Load and leave" means delivery to a purchaser by use of a tangible storage media if
- 671 the tangible storage media is not physically transferred to the purchaser.
- 672 (68) "Local taxing jurisdiction" means a:
- 673 (a) county that is authorized to impose an agreement sales and use tax;
- 674 (b) city that is authorized to impose an agreement sales and use tax; or
- 675 (c) town that is authorized to impose an agreement sales and use tax.
- 676 (69) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

- 677 (70) "Manufacturing facility" means:
- 678 (a) an establishment described in:
- 679 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 680 the federal Executive Office of the President, Office of Management and Budget;
- 681 or
- 682 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 683 American Industry Classification System of the federal Executive Office of the
- 684 President, Office of Management and Budget;
- 685 (b) a scrap recycler if:
- 686 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to
- 687 process one or more of the following items into prepared grades of processed
- 688 materials for use in new products:
- 689 (A) iron;
- 690 (B) steel;
- 691 (C) nonferrous metal;
- 692 (D) paper;
- 693 (E) glass;
- 694 (F) plastic;
- 695 (G) textile; or
- 696 (H) rubber; and
- 697 (ii) the new products under Subsection (70)(b)(i) would otherwise be made with
- 698 nonrecycled materials; or
- 699 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
- 700 placed in service on or after May 1, 2006.
- 701 (71)(a) "Marketplace" means a physical or electronic place, platform, or forum where
- 702 tangible personal property, a product transferred electronically, or a service is offered
- 703 for sale.
- 704 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated
- 705 sales software application.
- 706 (72)(a) "Marketplace facilitator" means a person, including an affiliate of the person,
- 707 that enters into a contract, an agreement, or otherwise with sellers, for consideration,
- 708 to facilitate the sale of a seller's product through a marketplace that the person owns,
- 709 operates, or controls and that directly or indirectly:
- 710 (i) does any of the following:

- 711 (A) lists, makes available, or advertises tangible personal property, a product
712 transferred electronically, or a service for sale by a marketplace seller on a
713 marketplace that the person owns, operates, or controls;
- 714 (B) facilitates the sale of a marketplace seller's tangible personal property, product
715 transferred electronically, or service by transmitting or otherwise
716 communicating an offer or acceptance of a retail sale between the marketplace
717 seller and a purchaser using the marketplace;
- 718 (C) owns, rents, licenses, makes available, or operates any electronic or physical
719 infrastructure or any property, process, method, copyright, trademark, or patent
720 that connects a marketplace seller to a purchaser for the purpose of making a
721 retail sale of tangible personal property, a product transferred electronically, or
722 a service;
- 723 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of
724 tangible personal property, a product transferred electronically, or a service,
725 regardless of ownership or control of the tangible personal property, the
726 product transferred electronically, or the service that is the subject of the retail
727 sale;
- 728 (E) provides software development or research and development activities related
729 to any activity described in this Subsection (72)(a)(i), if the software
730 development or research and development activity is directly related to the
731 person's marketplace;
- 732 (F) provides or offers fulfillment or storage services for a marketplace seller;
- 733 (G) sets prices for the sale of tangible personal property, a product transferred
734 electronically, or a service by a marketplace seller;
- 735 (H) provides or offers customer service to a marketplace seller or a marketplace
736 seller's purchaser or accepts or assists with taking orders, returns, or exchanges
737 of tangible personal property, a product transferred electronically, or a service
738 sold by a marketplace seller on the person's marketplace; or
- 739 (I) brands or otherwise identifies sales as those of the person; and
- 740 (ii) does any of the following:
- 741 (A) collects the sales price or purchase price of a retail sale of tangible personal
742 property, a product transferred electronically, or a service;
- 743 (B) provides payment processing services for a retail sale of tangible personal
744 property, a product transferred electronically, or a service;

- 745 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee,
746 closing fee, a fee for inserting or making available tangible personal property, a
747 product transferred electronically, or a service on the person's marketplace, or
748 other consideration for the facilitation of a retail sale of tangible personal
749 property, a product transferred electronically, or a service, regardless of
750 ownership or control of the tangible personal property, the product transferred
751 electronically, or the service that is the subject of the retail sale;
- 752 (D) through terms and conditions, an agreement, or another arrangement with a
753 third person, collects payment from a purchase for a retail sale of tangible
754 personal property, a product transferred electronically, or a service and
755 transmits that payment to the marketplace seller, regardless of whether the
756 third person receives compensation or other consideration in exchange for the
757 service; or
- 758 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
759 property, a product transferred electronically, or service offered for sale.
- 760 (b) "Marketplace facilitator" does not include:
- 761 (i) a person that only provides payment processing services; or
- 762 (ii) a person described in Subsection (72)(a) to the extent the person is facilitating a
763 sale for a seller that is a restaurant as defined in Section 59-12-602.
- 764 (73) "Marketplace seller" means a seller that makes one or more retail sales through a
765 marketplace that a marketplace facilitator owns, operates, or controls, regardless of
766 whether the seller is required to be registered to collect and remit the tax under this part.
- 767 (74) "Member of the immediate family of the producer" means a person who is related to a
768 producer described in Subsection 59-12-104(20)(a) as a:
- 769 (a) child or stepchild, regardless of whether the child or stepchild is:
- 770 (i) an adopted child or adopted stepchild; or
- 771 (ii) a foster child or foster stepchild;
- 772 (b) grandchild or stepgrandchild;
- 773 (c) grandparent or stepgrandparent;
- 774 (d) nephew or stepnephew;
- 775 (e) niece or stepniece;
- 776 (f) parent or stepparent;
- 777 (g) sibling or stepsibling;
- 778 (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) "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 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 other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 881 (A) convenience;
882 (B) stability; or
883 (C) for an obvious temporary purpose;
- 884 (ii) the detachment of tangible personal property from real property except for the
885 detachment described in Subsection (92)(b)(ii);
- 886 (iii) an attachment of the following tangible personal property to real property if the
887 attachment to real property is only through a line that supplies water, electricity,
888 gas, telecommunications, cable, or supplies a similar item as determined by the
889 commission by rule made in accordance with Title 63G, Chapter 3, Utah
890 Administrative Rulemaking Act:
- 891 (A) a computer;
892 (B) a telephone;
893 (C) a television; or
894 (D) tangible personal property similar to Subsections (92)(c)(iii)(A) through (C)
895 as determined by the commission by rule made in accordance with Title 63G,
896 Chapter 3, Utah Administrative Rulemaking Act; or
- 897 (iv) an item listed in Subsection (137)(c).
- 898 (93) "Person" includes any individual, firm, partnership, joint venture, association,
899 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
900 municipality, district, or other local governmental entity of the state, or any group or
901 combination acting as a unit.
- 902 (94) "Place of primary use":
903 (a) for telecommunications service other than mobile telecommunications service,
904 means the street address representative of where the customer's use of the
905 telecommunications service primarily occurs, which shall be:
906 (i) the residential street address of the customer; or
907 (ii) the primary business street address of the customer; or
908 (b) for mobile telecommunications service, means the same as that term is defined in the
909 Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 910 (95)(a) "Postpaid calling service" means a telecommunications service a person obtains
911 by making a payment on a call-by-call basis:
912 (i) through the use of a:
913 (A) bank card;
914 (B) credit card;

- 915 (C) debit card; or
916 (D) travel card; or
917 (ii) by a charge made to a telephone number that is not associated with the origination
918 or termination of the telecommunications service.
- 919 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
920 service, that would be a prepaid wireless calling service if the service were
921 exclusively a telecommunications service.
- 922 (96) "Postproduction" means an activity related to the finishing or duplication of a medium
923 described in Subsection 59-12-104(54)(a).
- 924 (97) "Prepaid calling service" means a telecommunications service:
- 925 (a) that allows a purchaser access to telecommunications service that is exclusively
926 telecommunications service;
- 927 (b) that:
- 928 (i) is paid for in advance; and
929 (ii) enables the origination of a call using an:
- 930 (A) access number; or
931 (B) authorization code;
- 932 (c) that is dialed:
- 933 (i) manually; or
934 (ii) electronically; and
- 935 (d) sold in predetermined units or dollars that decline:
- 936 (i) by a known amount; and
937 (ii) with use.
- 938 (98) "Prepaid wireless calling service" means a telecommunications service:
- 939 (a) that provides the right to utilize:
- 940 (i) mobile wireless service; and
941 (ii) other service that is not a telecommunications service, including:
- 942 (A) the download of a product transferred electronically;
943 (B) a content service; or
944 (C) an ancillary service;
- 945 (b) that:
- 946 (i) is paid for in advance; and
947 (ii) enables the origination of a call using an:
- 948 (A) access number; or

- 949 (B) authorization code;
- 950 (c) that is dialed:
- 951 (i) manually; or
- 952 (ii) electronically; and
- 953 (d) sold in predetermined units or dollars that decline:
- 954 (i) by a known amount; and
- 955 (ii) with use.
- 956 (99)(a) "Prepared food" means:
- 957 (i) food:
- 958 (A) sold in a heated state; or
- 959 (B) heated by a seller;
- 960 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 961 item; or
- 962 (iii) except as provided in Subsection (99)(c), food sold with an eating utensil
- 963 provided by the seller, including a:
- 964 (A) plate;
- 965 (B) knife;
- 966 (C) fork;
- 967 (D) spoon;
- 968 (E) glass;
- 969 (F) cup;
- 970 (G) napkin; or
- 971 (H) straw.
- 972 (b) "Prepared food" does not include:
- 973 (i) food that a seller only:
- 974 (A) cuts;
- 975 (B) repackages; or
- 976 (C) pasteurizes;
- 977 (ii)(A) the following:
- 978 (I) raw egg;
- 979 (II) raw fish;
- 980 (III) raw meat;
- 981 (IV) raw poultry; or
- 982 (V) a food containing an item described in Subsections (99)(b)(ii)(A)(I)

- 983 through (IV); and
- 984 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of
- 985 the Food and Drug Administration's Food Code that a consumer cook the items
- 986 described in Subsection (99)(b)(ii)(A) to prevent food borne illness; or
- 987 (iii) the following if sold without eating utensils provided by the seller:
- 988 (A) food and food ingredients sold by a seller if the seller's proper primary
- 989 classification under the 2002 North American Industry Classification System
- 990 of the federal Executive Office of the President, Office of Management and
- 991 Budget, is manufacturing in Sector 311, Food Manufacturing, except for
- 992 Subsector 3118, Bakeries and Tortilla Manufacturing;
- 993 (B) food and food ingredients sold in an unheated state:
- 994 (I) by weight or volume; and
- 995 (II) as a single item; or
- 996 (C) a bakery item, including:
- 997 (I) a bagel;
- 998 (II) a bar;
- 999 (III) a biscuit;
- 1000 (IV) bread;
- 1001 (V) a bun;
- 1002 (VI) a cake;
- 1003 (VII) a cookie;
- 1004 (VIII) a croissant;
- 1005 (IX) a danish;
- 1006 (X) a donut;
- 1007 (XI) a muffin;
- 1008 (XII) a pastry;
- 1009 (XIII) a pie;
- 1010 (XIV) a roll;
- 1011 (XV) a tart;
- 1012 (XVI) a torte; or
- 1013 (XVII) a tortilla.
- 1014 (c) An eating utensil provided by the seller does not include the following used to
- 1015 transport the food:
- 1016 (i) a container; or

- 1017 (ii) packaging.
- 1018 (100) "Prescription" means an order, formula, or recipe that is issued:
- 1019 (a)(i) orally;
- 1020 (ii) in writing;
- 1021 (iii) electronically; or
- 1022 (iv) by any other manner of transmission; and
- 1023 (b) by a licensed practitioner authorized by the laws of a state.
- 1024 (101)(a) "Prewritten computer software" means computer software that is not designed
- 1025 and developed:
- 1026 (i) by the author or other creator of the computer software; and
- 1027 (ii) to the specifications of a specific purchaser.
- 1028 (b) "Prewritten computer software" includes:
- 1029 (i) a prewritten upgrade to computer software if the prewritten upgrade to the
- 1030 computer software is not designed and developed:
- 1031 (A) by the author or other creator of the computer software; and
- 1032 (B) to the specifications of a specific purchaser;
- 1033 (ii) computer software designed and developed by the author or other creator of the
- 1034 computer software to the specifications of a specific purchaser if the computer
- 1035 software is sold to a person other than the purchaser; or
- 1036 (iii) except as provided in Subsection (101)(c), prewritten computer software or a
- 1037 prewritten portion of prewritten computer software:
- 1038 (A) that is modified or enhanced to any degree; and
- 1039 (B) if the modification or enhancement described in Subsection (101)(b)(iii)(A) is
- 1040 designed and developed to the specifications of a specific purchaser.
- 1041 (c) "Prewritten computer software" does not include a modification or enhancement
- 1042 described in Subsection (101)(b)(iii) if the charges for the modification or
- 1043 enhancement are:
- 1044 (i) reasonable; and
- 1045 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the
- 1046 invoice or other statement of price provided to the purchaser at the time of sale or
- 1047 later, as demonstrated by:
- 1048 (A) the books and records the seller keeps at the time of the transaction in the
- 1049 regular course of business, including books and records the seller keeps at the
- 1050 time of the transaction in the regular course of business for nontax purposes;

- 1051 (B) a preponderance of the facts and circumstances at the time of the transaction;
1052 and
1053 (C) the understanding of all of the parties to the transaction.
- 1054 (102)(a) "Private communications service" means a telecommunications service:
1055 (i) that entitles a customer to exclusive or priority use of one or more
1056 communications channels between or among termination points; and
1057 (ii) regardless of the manner in which the one or more communications channels are
1058 connected.
- 1059 (b) "Private communications service" includes the following provided in connection
1060 with the use of one or more communications channels:
1061 (i) an extension line;
1062 (ii) a station;
1063 (iii) switching capacity; or
1064 (iv) another associated service that is provided in connection with the use of one or
1065 more communications channels as defined in Section 59-12-215.
- 1066 (103)(a) "Product transferred electronically" means a product transferred electronically
1067 that would be subject to a tax under this chapter if that product was transferred in a
1068 manner other than electronically.
- 1069 (b) "Product transferred electronically" does not include:
1070 (i) an ancillary service;
1071 (ii) computer software; or
1072 (iii) a telecommunications service.
- 1073 (104)(a) "Prosthetic device" means a device that is worn on or in the body to:
1074 (i) artificially replace a missing portion of the body;
1075 (ii) prevent or correct a physical deformity or physical malfunction; or
1076 (iii) support a weak or deformed portion of the body.
- 1077 (b) "Prosthetic device" includes:
1078 (i) parts used in the repairs or renovation of a prosthetic device;
1079 (ii) replacement parts for a prosthetic device;
1080 (iii) a dental prosthesis; or
1081 (iv) a hearing aid.
- 1082 (c) "Prosthetic device" does not include:
1083 (i) corrective eyeglasses; or
1084 (ii) contact lenses.

- 1085 (105)(a) "Protective equipment" means an item:
- 1086 (i) for human wear; and
- 1087 (ii) that is:
- 1088 (A) designed as protection:
- 1089 (I) to the wearer against injury or disease; or
- 1090 (II) against damage or injury of other persons or property; and
- 1091 (B) not suitable for general use.
- 1092 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1093 commission shall make rules:
- 1094 (i) listing the items that constitute "protective equipment"; and
- 1095 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1096 under the agreement.
- 1097 (106)(a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 1098 printed matter, other than a photocopy:
- 1099 (i) regardless of:
- 1100 (A) characteristics;
- 1101 (B) copyright;
- 1102 (C) form;
- 1103 (D) format;
- 1104 (E) method of reproduction; or
- 1105 (F) source; and
- 1106 (ii) made available in printed or electronic format.
- 1107 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1108 commission may by rule define the term "photocopy."
- 1109 (107)(a) "Purchase price" and "sales price" mean the total amount of consideration:
- 1110 (i) valued in money; and
- 1111 (ii) for which tangible personal property, a product transferred electronically, or
- 1112 services are:
- 1113 (A) sold;
- 1114 (B) leased; or
- 1115 (C) rented.
- 1116 (b) "Purchase price" and "sales price" include:
- 1117 (i) the seller's cost of the tangible personal property, a product transferred
- 1118 electronically, or services sold;

- 1119 (ii) expenses of the seller, including:
- 1120 (A) the cost of materials used;
- 1121 (B) a labor cost;
- 1122 (C) a service cost;
- 1123 (D) interest;
- 1124 (E) a loss;
- 1125 (F) the cost of transportation to the seller; or
- 1126 (G) a tax imposed on the seller;
- 1127 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1128 (iv) consideration a seller receives from a person other than the purchaser if:
- 1129 (A)(I) the seller actually receives consideration from a person other than the
- 1130 purchaser; and
- 1131 (II) the consideration described in Subsection (107)(b)(iv)(A)(I) is directly
- 1132 related to a price reduction or discount on the sale;
- 1133 (B) the seller has an obligation to pass the price reduction or discount through to
- 1134 the purchaser;
- 1135 (C) the amount of the consideration attributable to the sale is fixed and
- 1136 determinable by the seller at the time of the sale to the purchaser; and
- 1137 (D)(I)(Aa) the purchaser presents a certificate, coupon, or other
- 1138 documentation to the seller to claim a price reduction or discount; and
- 1139 (Bb) a person other than the seller authorizes, distributes, or grants the
- 1140 certificate, coupon, or other documentation with the understanding that
- 1141 the person other than the seller will reimburse any seller to whom the
- 1142 certificate, coupon, or other documentation is presented;
- 1143 (II) the purchaser identifies that purchaser to the seller as a member of a group
- 1144 or organization allowed a price reduction or discount, except that a
- 1145 preferred customer card that is available to any patron of a seller does not
- 1146 constitute membership in a group or organization allowed a price reduction
- 1147 or discount; or
- 1148 (III) the price reduction or discount is identified as a third party price reduction
- 1149 or discount on the:
- 1150 (Aa) invoice the purchaser receives; or
- 1151 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1152 (c) "Purchase price" and "sales price" do not include:

- 1153 (i) a discount:
- 1154 (A) in a form including:
- 1155 (I) cash;
- 1156 (II) term; or
- 1157 (III) coupon;
- 1158 (B) that is allowed by a seller;
- 1159 (C) taken by a purchaser on a sale; and
- 1160 (D) that is not reimbursed by a third party; or
- 1161 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if
- 1162 separately stated on an invoice, bill of sale, or similar document provided to the
- 1163 purchaser at the time of sale or later, as demonstrated by the books and records the
- 1164 seller keeps at the time of the transaction in the regular course of business,
- 1165 including books and records the seller keeps at the time of the transaction in the
- 1166 regular course of business for nontax purposes, by a preponderance of the facts
- 1167 and circumstances at the time of the transaction, and by the understanding of all of
- 1168 the parties to the transaction:
- 1169 (A) the following from credit extended on the sale of tangible personal property or
- 1170 services:
- 1171 (I) a carrying charge;
- 1172 (II) a financing charge; or
- 1173 (III) an interest charge;
- 1174 (B) a delivery charge;
- 1175 (C) an installation charge;
- 1176 (D) a manufacturer rebate on a motor vehicle; or
- 1177 (E) a tax or fee legally imposed directly on the consumer.
- 1178 (108) "Purchaser" means a person to whom:
- 1179 (a) a sale of tangible personal property is made;
- 1180 (b) a product is transferred electronically; or
- 1181 (c) a service is furnished.
- 1182 (109) "Qualifying data center" means a data center facility that:
- 1183 (a) houses a group of networked server computers in one physical location in order to
- 1184 disseminate, manage, and store data and information;
- 1185 (b) is located in the state;
- 1186 (c) is a new operation constructed on or after July 1, 2016;

- 1187 (d) consists of one or more buildings that total 150,000 or more square feet;
1188 (e) is owned or leased by:
1189 (i) the operator of the data center facility; or
1190 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1191 operator of the data center facility; and
1192 (f) is located on one or more parcels of land that are owned or leased by:
1193 (i) the operator of the data center facility; or
1194 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1195 operator of the data center facility.
- 1196 (110) "Regularly rented" means:
1197 (a) rented to a guest for value three or more times during a calendar year; or
1198 (b) advertised or held out to the public as a place that is regularly rented to guests for
1199 value.
- 1200 (111) "Rental" means the same as that term is defined in Subsection (63).
- 1201 (112)(a) "Repairs or renovations of tangible personal property" means:
1202 (i) a repair or renovation of tangible personal property that is not permanently
1203 attached to real property; or
1204 (ii) attaching tangible personal property or a product transferred electronically to
1205 other tangible personal property or detaching tangible personal property or a
1206 product transferred electronically from other tangible personal property if:
1207 (A) the other tangible personal property to which the tangible personal property or
1208 product transferred electronically is attached or from which the tangible
1209 personal property or product transferred electronically is detached is not
1210 permanently attached to real property; and
1211 (B) the attachment of tangible personal property or a product transferred
1212 electronically to other tangible personal property or detachment of tangible
1213 personal property or a product transferred electronically from other tangible
1214 personal property is made in conjunction with a repair or replacement of
1215 tangible personal property or a product transferred electronically.
- 1216 (b) "Repairs or renovations of tangible personal property" does not include:
1217 (i) attaching prewritten computer software to other tangible personal property if the
1218 other tangible personal property to which the prewritten computer software is
1219 attached is not permanently attached to real property; or
1220 (ii) detaching prewritten computer software from other tangible personal property if

1221 the other tangible personal property from which the prewritten computer software
1222 is detached is not permanently attached to real property.

1223 (113) "Research and development" means the process of inquiry or experimentation aimed
1224 at the discovery of facts, devices, technologies, or applications and the process of
1225 preparing those devices, technologies, or applications for marketing.

1226 (114)(a) "Residential telecommunications services" means a telecommunications service
1227 or an ancillary service that is provided to an individual for personal use:

1228 (i) at a residential address; or

1229 (ii) at an institution, including a nursing home or a school, if the telecommunications
1230 service or ancillary service is provided to and paid for by the individual residing at
1231 the institution rather than the institution.

1232 (b) For purposes of Subsection (114)(a)(i), a residential address includes an:

1233 (i) apartment; or

1234 (ii) other individual dwelling unit.

1235 (115) "Residential use" means the use in or around a home, apartment building, sleeping
1236 quarters, and similar facilities or accommodations.

1237 (116) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

1238 (a) resale;

1239 (b) sublease; or

1240 (c) subrent.

1241 (117)(a) "Retailer" means any person, unless prohibited by the Constitution of the
1242 United States or federal law, that is engaged in a regularly organized business in
1243 tangible personal property or any other taxable transaction under Subsection
1244 59-12-103(1), and who is selling to the user or consumer and not for resale.

1245 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1246 engaged in the business of selling to users or consumers within the state.

1247 (118)(a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise,
1248 in any manner, of tangible personal property or any other taxable transaction under
1249 Subsection 59-12-103(1), for consideration.

1250 (b) "Sale" includes:

1251 (i) installment and credit sales;

1252 (ii) any closed transaction constituting a sale;

1253 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1254 chapter;

- 1255 (iv) any transaction if the possession of property is transferred but the seller retains
1256 the title as security for the payment of the price; and
- 1257 (v) any transaction under which right to possession, operation, or use of any article of
1258 tangible personal property is granted under a lease or contract and the transfer of
1259 possession would be taxable if an outright sale were made.
- 1260 (119) "Sale at retail" means the same as that term is defined in Subsection (116).
- 1261 (120) "Sale-leaseback transaction" means a transaction by which title to tangible personal
1262 property or a product transferred electronically that is subject to a tax under this chapter
1263 is transferred:
- 1264 (a) by a purchaser-lessee;
1265 (b) to a lessor;
1266 (c) for consideration; and
1267 (d) if:
- 1268 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial
1269 purchase of the tangible personal property or product transferred electronically;
- 1270 (ii) the sale of the tangible personal property or product transferred electronically to
1271 the lessor is intended as a form of financing:
- 1272 (A) for the tangible personal property or product transferred electronically; and
1273 (B) to the purchaser-lessee; and
- 1274 (iii) in accordance with generally accepted accounting principles, the
1275 purchaser-lessee is required to:
- 1276 (A) capitalize the tangible personal property or product transferred electronically
1277 for financial reporting purposes; and
1278 (B) account for the lease payments as payments made under a financing
1279 arrangement.
- 1280 (121) "Sales price" means the same as that term is defined in Subsection (107).
- 1281 (122)(a) "Sales relating to schools" means the following sales by, amounts paid to, or
1282 amounts charged by a school:
- 1283 (i) sales that are directly related to the school's educational functions or activities
1284 including:
- 1285 (A) the sale of:
- 1286 (I) textbooks;
1287 (II) textbook fees;
1288 (III) laboratory fees;

- 1289 (IV) laboratory supplies; or
1290 (V) safety equipment;
1291 (B) the sale of a uniform, protective equipment, or sports or recreational
1292 equipment that:
1293 (I) a student is specifically required to wear as a condition of participation in a
1294 school-related event or school-related activity; and
1295 (II) is not readily adaptable to general or continued usage to the extent that it
1296 takes the place of ordinary clothing;
1297 (C) sales of the following if the net or gross revenue generated by the sales is
1298 deposited into a school district fund or school fund dedicated to school meals:
1299 (I) food and food ingredients; or
1300 (II) prepared food; or
1301 (D) transportation charges for official school activities; or
1302 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1303 event or school-related activity.
1304 (b) "Sales relating to schools" does not include:
1305 (i) bookstore sales of items that are not educational materials or supplies;
1306 (ii) except as provided in Subsection (122)(a)(i)(B):
1307 (A) clothing;
1308 (B) clothing accessories or equipment;
1309 (C) protective equipment; or
1310 (D) sports or recreational equipment; or
1311 (iii) amounts paid to or amounts charged by a school for admission to a
1312 school-related event or school-related activity if the amounts paid or charged are
1313 passed through to a person:
1314 (A) other than a:
1315 (I) school;
1316 (II) nonprofit organization authorized by a school board or a governing body of
1317 a private school to organize and direct a competitive secondary school
1318 activity; or
1319 (III) nonprofit association authorized by a school board or a governing body of
1320 a private school to organize and direct a competitive secondary school
1321 activity; and
1322 (B) that is required to collect sales and use taxes under this chapter.

- 1323 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1324 commission may make rules defining the term "passed through."
- 1325 (123) For purposes of this section and Section 59-12-104, "school" means:
- 1326 (a) an elementary school or a secondary school that:
- 1327 (i) is a:
- 1328 (A) public school; or
- 1329 (B) private school; and
- 1330 (ii) provides instruction for one or more grades kindergarten through 12; or
- 1331 (b) a public school district.
- 1332 (124)(a) "Seller" means a person that makes a sale, lease, or rental of:
- 1333 (i) tangible personal property;
- 1334 (ii) a product transferred electronically; or
- 1335 (iii) a service.
- 1336 (b) "Seller" includes a marketplace facilitator.
- 1337 (125)(a) "Semiconductor fabricating, processing, research, or development materials"
- 1338 means tangible personal property or a product transferred electronically if the
- 1339 tangible personal property or product transferred electronically is:
- 1340 (i) used primarily in the process of:
- 1341 (A)(I) manufacturing a semiconductor;
- 1342 (II) fabricating a semiconductor; or
- 1343 (III) research or development of a:
- 1344 (Aa) semiconductor; or
- 1345 (Bb) semiconductor manufacturing process; or
- 1346 (B) maintaining an environment suitable for a semiconductor; or
- 1347 (ii) consumed primarily in the process of:
- 1348 (A)(I) manufacturing a semiconductor;
- 1349 (II) fabricating a semiconductor; or
- 1350 (III) research or development of a:
- 1351 (Aa) semiconductor; or
- 1352 (Bb) semiconductor manufacturing process; or
- 1353 (B) maintaining an environment suitable for a semiconductor.
- 1354 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1355 includes:
- 1356 (i) parts used in the repairs or renovations of tangible personal property or a product

- 1357 transferred electronically described in Subsection (125)(a); or
- 1358 (ii) a chemical, catalyst, or other material used to:
- 1359 (A) produce or induce in a semiconductor a:
- 1360 (I) chemical change; or
- 1361 (II) physical change;
- 1362 (B) remove impurities from a semiconductor; or
- 1363 (C) improve the marketable condition of a semiconductor.
- 1364 (126) "Senior citizen center" means a facility having the primary purpose of providing
- 1365 services to the aged as defined in Section 26B-6-101.
- 1366 (127) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.
- 1367 (128) "Shared vehicle driver" means the same as that term is defined in Section 13-48a-101.
- 1368 (129) "Shared vehicle owner" means the same as that term is defined in Section 13-48a-101.
- 1369 (130)(a) Subject to Subsections (130)(b) and (c), "short-term lodging consumable"
- 1370 means tangible personal property that:
- 1371 (i) a business that provides accommodations and services described in Subsection
- 1372 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations
- 1373 and services to a purchaser;
- 1374 (ii) is intended to be consumed by the purchaser; and
- 1375 (iii) is:
- 1376 (A) included in the purchase price of the accommodations and services; and
- 1377 (B) not separately stated on an invoice, bill of sale, or other similar document
- 1378 provided to the purchaser.
- 1379 (b) "Short-term lodging consumable" includes:
- 1380 (i) a beverage;
- 1381 (ii) a brush or comb;
- 1382 (iii) a cosmetic;
- 1383 (iv) a hair care product;
- 1384 (v) lotion;
- 1385 (vi) a magazine;
- 1386 (vii) makeup;
- 1387 (viii) a meal;
- 1388 (ix) mouthwash;
- 1389 (x) nail polish remover;
- 1390 (xi) a newspaper;

- 1391 (xii) a notepad;
1392 (xiii) a pen;
1393 (xiv) a pencil;
1394 (xv) a razor;
1395 (xvi) saline solution;
1396 (xvii) a sewing kit;
1397 (xviii) shaving cream;
1398 (xix) a shoe shine kit;
1399 (xx) a shower cap;
1400 (xxi) a snack item;
1401 (xxii) soap;
1402 (xxiii) toilet paper;
1403 (xxiv) a toothbrush;
1404 (xxv) toothpaste; or
1405 (xxvi) an item similar to Subsections (130)(b)(i) through (xxv) as the commission
1406 may provide by rule made in accordance with Title 63G, Chapter 3, Utah
1407 Administrative Rulemaking Act.
- 1408 (c) "Short-term lodging consumable" does not include:
1409 (i) tangible personal property that is cleaned or washed to allow the tangible personal
1410 property to be reused; or
1411 (ii) a product transferred electronically.
- 1412 (131)(a) "Short-term rental" means a lease or rental for less than 30 consecutive days.
1413 (b) "Short-term rental" does not include car sharing.
- 1414 (132) "Simplified electronic return" means the electronic return:
1415 (a) described in Section 318(C) of the agreement; and
1416 (b) approved by the governing board of the agreement.
- 1417 (133) "Solar energy" means the sun used as the sole source of energy for producing
1418 electricity.
- 1419 (134)(a) "Sports or recreational equipment" means an item:
1420 (i) designed for human use; and
1421 (ii) that is:
1422 (A) worn in conjunction with:
1423 (I) an athletic activity; or
1424 (II) a recreational activity; and

- 1425 (B) not suitable for general use.
- 1426 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1427 commission shall make rules:
- 1428 (i) listing the items that constitute "sports or recreational equipment"; and
1429 (ii) that are consistent with the list of items that constitute "sports or recreational
1430 equipment" under the agreement.
- 1431 (135) "State" means the state of Utah, its departments, and agencies.
- 1432 (136) "Storage" means any keeping or retention of tangible personal property or any other
1433 taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
1434 sale in the regular course of business.
- 1435 (137)(a) "Tangible personal property" means personal property that:
- 1436 (i) may be:
- 1437 (A) seen;
1438 (B) weighed;
1439 (C) measured;
1440 (D) felt; or
1441 (E) touched; or
- 1442 (ii) is in any manner perceptible to the senses.
- 1443 (b) "Tangible personal property" includes:
- 1444 (i) electricity;
1445 (ii) water;
1446 (iii) gas;
1447 (iv) steam; or
1448 (v) prewritten computer software, regardless of the manner in which the prewritten
1449 computer software is transferred.
- 1450 (c) "Tangible personal property" includes the following regardless of whether the item is
1451 attached to real property:
- 1452 (i) a dishwasher;
1453 (ii) a dryer;
1454 (iii) a freezer;
1455 (iv) a microwave;
1456 (v) a refrigerator;
1457 (vi) a stove;
1458 (vii) a washer; or

1459 (viii) an item similar to Subsections (137)(c)(i) through (vii) as determined by the
1460 commission by rule made in accordance with Title 63G, Chapter 3, Utah
1461 Administrative Rulemaking Act.

1462 (d) "Tangible personal property" does not include a product that is transferred
1463 electronically.

1464 (e) "Tangible personal property" does not include the following if attached to real
1465 property, regardless of whether the attachment to real property is only through a line
1466 that supplies water, electricity, gas, telephone, cable, or supplies a similar item as
1467 determined by the commission by rule made in accordance with Title 63G, Chapter 3,
1468 Utah Administrative Rulemaking Act:

1469 (i) a hot water heater;
1470 (ii) a water filtration system; or
1471 (iii) a water softener system.

1472 (138)(a) "Telecommunications enabling or facilitating equipment, machinery, or
1473 software" means an item listed in Subsection (138)(b) if that item is purchased or
1474 leased primarily to enable or facilitate one or more of the following to function:

1475 (i) telecommunications switching or routing equipment, machinery, or software; or
1476 (ii) telecommunications transmission equipment, machinery, or software.

1477 (b) The following apply to Subsection (138)(a):

1478 (i) a pole;
1479 (ii) software;
1480 (iii) a supplementary power supply;
1481 (iv) temperature or environmental equipment or machinery;
1482 (v) test equipment;
1483 (vi) a tower; or
1484 (vii) equipment, machinery, or software that functions similarly to an item listed in
1485 Subsections (138)(b)(i) through (vi) as determined by the commission by rule
1486 made in accordance with Subsection (138)(c).

1487 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1488 commission may by rule define what constitutes equipment, machinery, or software
1489 that functions similarly to an item listed in Subsections (138)(b)(i) through (vi).

1490 (139) "Telecommunications equipment, machinery, or software required for 911 service"
1491 means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec.
1492 20.18.

- 1493 (140) "Telecommunications maintenance or repair equipment, machinery, or software"
1494 means equipment, machinery, or software purchased or leased primarily to maintain or
1495 repair one or more of the following, regardless of whether the equipment, machinery, or
1496 software is purchased or leased as a spare part or as an upgrade or modification to one or
1497 more of the following:
- 1498 (a) telecommunications enabling or facilitating equipment, machinery, or software;
 - 1499 (b) telecommunications switching or routing equipment, machinery, or software; or
 - 1500 (c) telecommunications transmission equipment, machinery, or software.
- 1501 (141)(a) "Telecommunications service" means the electronic conveyance, routing, or
1502 transmission of audio, data, video, voice, or any other information or signal to a
1503 point, or among or between points.
- 1504 (b) "Telecommunications service" includes:
- 1505 (i) an electronic conveyance, routing, or transmission with respect to which a
1506 computer processing application is used to act:
 - 1507 (A) on the code, form, or protocol of the content;
 - 1508 (B) for the purpose of electronic conveyance, routing, or transmission; and
 - 1509 (C) regardless of whether the service:
 - 1510 (I) is referred to as voice over Internet protocol service; or
 - 1511 (II) is classified by the Federal Communications Commission as enhanced or
1512 value added;
 - 1513 (ii) an 800 service;
 - 1514 (iii) a 900 service;
 - 1515 (iv) a fixed wireless service;
 - 1516 (v) a mobile wireless service;
 - 1517 (vi) a postpaid calling service;
 - 1518 (vii) a prepaid calling service;
 - 1519 (viii) a prepaid wireless calling service; or
 - 1520 (ix) a private communications service.
- 1521 (c) "Telecommunications service" does not include:
- 1522 (i) advertising, including directory advertising;
 - 1523 (ii) an ancillary service;
 - 1524 (iii) a billing and collection service provided to a third party;
 - 1525 (iv) a data processing and information service if:
 - 1526 (A) the data processing and information service allows data to be:

- 1527 (I)(Aa) acquired;
1528 (Bb) generated;
1529 (Cc) processed;
1530 (Dd) retrieved; or
1531 (Ee) stored; and
1532 (II) delivered by an electronic transmission to a purchaser; and
1533 (B) the purchaser's primary purpose for the underlying transaction is the processed
1534 data or information;
1535 (v) installation or maintenance of the following on a customer's premises:
1536 (A) equipment; or
1537 (B) wiring;
1538 (vi) Internet access service;
1539 (vii) a paging service;
1540 (viii) a product transferred electronically, including:
1541 (A) music;
1542 (B) reading material;
1543 (C) a ring tone;
1544 (D) software; or
1545 (E) video;
1546 (ix) a radio and television audio and video programming service:
1547 (A) regardless of the medium; and
1548 (B) including:
1549 (I) furnishing conveyance, routing, or transmission of a television audio and
1550 video programming service by a programming service provider;
1551 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
1552 (III) audio and video programming services delivered by a commercial mobile
1553 radio service provider as defined in 47 C.F.R. Sec. 20.3;
1554 (x) a value-added nonvoice data service; or
1555 (xi) tangible personal property.
1556 (142)(a) "Telecommunications service provider" means a person that:
1557 (i) owns, controls, operates, or manages a telecommunications service; and
1558 (ii) engages in an activity described in Subsection (142)(a)(i) for the shared use with
1559 or resale to any person of the telecommunications service.
1560 (b) A person described in Subsection (142)(a) is a telecommunications service provider

- 1561 whether or not the Public Service Commission of Utah regulates:
1562 (i) that person; or
1563 (ii) the telecommunications service that the person owns, controls, operates, or
1564 manages.
- 1565 (143)(a) "Telecommunications switching or routing equipment, machinery, or software"
1566 means an item listed in Subsection (143)(b) if that item is purchased or leased
1567 primarily for switching or routing:
1568 (i) an ancillary service;
1569 (ii) data communications;
1570 (iii) voice communications; or
1571 (iv) telecommunications service.
- 1572 (b) The following apply to Subsection (143)(a):
1573 (i) a bridge;
1574 (ii) a computer;
1575 (iii) a cross connect;
1576 (iv) a modem;
1577 (v) a multiplexer;
1578 (vi) plug in circuitry;
1579 (vii) a router;
1580 (viii) software;
1581 (ix) a switch; or
1582 (x) equipment, machinery, or software that functions similarly to an item listed in
1583 Subsections (143)(b)(i) through (ix) as determined by the commission by rule
1584 made in accordance with Subsection (143)(c).
- 1585 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1586 commission may by rule define what constitutes equipment, machinery, or software
1587 that functions similarly to an item listed in Subsections (143)(b)(i) through (ix).
- 1588 (144)(a) "Telecommunications transmission equipment, machinery, or software" means
1589 an item listed in Subsection (144)(b) if that item is purchased or leased primarily for
1590 sending, receiving, or transporting:
1591 (i) an ancillary service;
1592 (ii) data communications;
1593 (iii) voice communications; or
1594 (iv) telecommunications service.

1595 (b) The following apply to Subsection (144)(a):

1596 (i) an amplifier;

1597 (ii) a cable;

1598 (iii) a closure;

1599 (iv) a conduit;

1600 (v) a controller;

1601 (vi) a duplexer;

1602 (vii) a filter;

1603 (viii) an input device;

1604 (ix) an input/output device;

1605 (x) an insulator;

1606 (xi) microwave machinery or equipment;

1607 (xii) an oscillator;

1608 (xiii) an output device;

1609 (xiv) a pedestal;

1610 (xv) a power converter;

1611 (xvi) a power supply;

1612 (xvii) a radio channel;

1613 (xviii) a radio receiver;

1614 (xix) a radio transmitter;

1615 (xx) a repeater;

1616 (xxi) software;

1617 (xxii) a terminal;

1618 (xxiii) a timing unit;

1619 (xxiv) a transformer;

1620 (xxv) a wire; or

1621 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
1622 Subsections (144)(b)(i) through (xxv) as determined by the commission by rule
1623 made in accordance with Subsection (144)(c).

1624 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1625 commission may by rule define what constitutes equipment, machinery, or software
1626 that functions similarly to an item listed in Subsections (144)(b)(i) through (xxv).

1627 (145)(a) "Textbook for a higher education course" means a textbook or other printed
1628 material that is required for a course:

- 1629 (i) offered by an institution of higher education; and
- 1630 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1631 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 1632 (146) "Tobacco" means:
- 1633 (a) a cigarette;
- 1634 (b) a cigar;
- 1635 (c) chewing tobacco;
- 1636 (d) pipe tobacco; or
- 1637 (e) any other item that contains tobacco.
- 1638 (147) "Unassisted amusement device" means an amusement device, skill device, or ride
- 1639 device that is started and stopped by the purchaser or renter of the right to use or operate
- 1640 the amusement device, skill device, or ride device.
- 1641 (148)(a) "Use" means the exercise of any right or power over tangible personal property,
- 1642 a product transferred electronically, or a service under Subsection 59-12-103(1),
- 1643 incident to the ownership or the leasing of that tangible personal property, product
- 1644 transferred electronically, or service.
- 1645 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
- 1646 property, a product transferred electronically, or a service in the regular course of
- 1647 business and held for resale.
- 1648 (149) "Value-added nonvoice data service" means a service:
- 1649 (a) that otherwise meets the definition of a telecommunications service except that a
- 1650 computer processing application is used to act primarily for a purpose other than
- 1651 conveyance, routing, or transmission; and
- 1652 (b) with respect to which a computer processing application is used to act on data or
- 1653 information:
- 1654 (i) code;
- 1655 (ii) content;
- 1656 (iii) form; or
- 1657 (iv) protocol.
- 1658 (150)(a) Subject to Subsection (150)(b), "vehicle" means the following that are required
- 1659 to be titled, registered, or titled and registered:
- 1660 (i) an aircraft as defined in Section 72-10-102;
- 1661 (ii) a vehicle as defined in Section 41-1a-102;
- 1662 (iii) an off-highway vehicle as defined in Section 41-22-2; or

- 1663 (iv) a vessel as defined in Section 41-1a-102.
- 1664 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1665 (i) a vehicle described in Subsection (150)(a); or
- 1666 (ii)(A) a locomotive;
- 1667 (B) a freight car;
- 1668 (C) railroad work equipment; or
- 1669 (D) other railroad rolling stock.
- 1670 (151) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 1671 exchanging a vehicle as defined in Subsection (150).
- 1672 (152)(a) "Vertical service" means an ancillary service that:
- 1673 (i) is offered in connection with one or more telecommunications services; and
- 1674 (ii) offers an advanced calling feature that allows a customer to:
- 1675 (A) identify a caller; and
- 1676 (B) manage multiple calls and call connections.
- 1677 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 1678 conference bridging service.
- 1679 (153)(a) "Voice mail service" means an ancillary service that enables a customer to
- 1680 receive, send, or store a recorded message.
- 1681 (b) "Voice mail service" does not include a vertical service that a customer is required to
- 1682 have in order to utilize a voice mail service.
- 1683 (154)(a) "Waste energy facility" means a facility that generates electricity:
- 1684 (i) using as the primary source of energy waste materials that would be placed in a
- 1685 landfill or refuse pit if it were not used to generate electricity, including:
- 1686 (A) tires;
- 1687 (B) waste coal;
- 1688 (C) oil shale; or
- 1689 (D) municipal solid waste; and
- 1690 (ii) in amounts greater than actually required for the operation of the facility.
- 1691 (b) "Waste energy facility" does not include a facility that incinerates:
- 1692 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1693 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1694 (155) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1695 (156) "Wind energy" means wind used as the sole source of energy to produce electricity.
- 1696 (157) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic

1697 location by the United States Postal Service.

1698 Section 2. Section **59-12-103** is amended to read:

1699 **59-12-103 . Sales and use tax base -- Rates -- Effective dates -- Use of sales and**
1700 **use tax revenue.**

1701 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales
1702 price for amounts paid or charged for the following transactions:

1703 (a) retail sales of tangible personal property made within the state;

1704 (b) amounts paid for:

1705 (i) telecommunications service, other than mobile telecommunications service, that
1706 originates and terminates within the boundaries of this state;

1707 (ii) mobile telecommunications service that originates and terminates within the
1708 boundaries of one state only to the extent permitted by the Mobile

1709 Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

1710 (iii) an ancillary service associated with a:

1711 (A) telecommunications service described in Subsection (1)(b)(i); or

1712 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

1713 (c) sales of the following for commercial use:

1714 (i) gas;

1715 (ii) electricity;

1716 (iii) heat;

1717 (iv) coal;

1718 (v) fuel oil; or

1719 (vi) other fuels;

1720 (d) sales of the following for residential use:

1721 (i) gas;

1722 (ii) electricity;

1723 (iii) heat;

1724 (iv) coal;

1725 (v) fuel oil; or

1726 (vi) other fuels;

1727 (e) sales of prepared food;

1728 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
1729 user fees for theaters, movies, operas, museums, planetariums, shows of any type or
1730 nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses,

- 1731 menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling
1732 matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling
1733 lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts,
1734 ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides,
1735 river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or
1736 any other amusement, entertainment, recreation, exhibition, cultural, or athletic
1737 activity;
- 1738 (g) amounts paid or charged for services for repairs or renovations of tangible personal
1739 property, unless Section 59-12-104 provides for an exemption from sales and use tax
1740 for:
- 1741 (i) the tangible personal property; and
1742 (ii) parts used in the repairs or renovations of the tangible personal property described
1743 in Subsection (1)(g)(i), regardless of whether:
- 1744 (A) any parts are actually used in the repairs or renovations of that tangible
1745 personal property; or
1746 (B) the particular parts used in the repairs or renovations of that tangible personal
1747 property are exempt from a tax under this chapter;
- 1748 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted
1749 cleaning or washing of tangible personal property;
- 1750 (i) amounts paid or charged for short-term rentals of tourist home, hotel, motel, or trailer
1751 court accommodations and services;
- 1752 (j) amounts paid or charged for laundry or dry cleaning services;
- 1753 (k) amounts paid or charged for leases or rentals of tangible personal property if within
1754 this state the tangible personal property is:
- 1755 (i) stored;
1756 (ii) used; or
1757 (iii) otherwise consumed;
- 1758 (l) amounts paid or charged for tangible personal property if within this state the tangible
1759 personal property is:
- 1760 (i) stored;
1761 (ii) used; or
1762 (iii) consumed;
- 1763 (m) amounts paid or charged for a sale:
- 1764 (i)(A) of a product transferred electronically; or

1765 (B) of a repair or renovation of a product transferred electronically; and
1766 (ii) regardless of whether the sale provides:
1767 (A) a right of permanent use of the product; or
1768 (B) a right to use the product that is less than a permanent use, including a right:
1769 (I) for a definite or specified length of time; and
1770 (II) that terminates upon the occurrence of a condition; and
1771 (n) sales of leased tangible personal property from the lessor to the lessee made in the
1772 state.
1773 (2)(a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are
1774 imposed on a transaction described in Subsection (1) equal to the sum of:
1775 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
1776 (A) ~~[4.70%]~~ 4.933% plus the rate specified in Subsection (11)(a); and
1777 (B)(I) the tax rate the state imposes in accordance with Part 18, Additional
1778 State Sales and Use Tax Act, if the location of the transaction as determined
1779 under Sections 59-12-211 through 59-12-215 is in a county in which the
1780 state imposes the tax under Part 18, Additional State Sales and Use Tax Act;
1781 and
1782 (II) the tax rate the state imposes in accordance with Part 20, Supplemental
1783 State Sales and Use Tax Act, if the location of the transaction as determined
1784 under Sections 59-12-211 through 59-12-215 is in a city, town, or the
1785 unincorporated area of a county in which the state imposes the tax under
1786 Part 20, Supplemental State Sales and Use Tax Act; and
1787 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1788 transaction under this chapter other than this part.
1789 (b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state
1790 tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal
1791 to the sum of:
1792 (i) a state tax imposed on the transaction at a tax rate of 2%; and
1793 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1794 transaction under this chapter other than this part.
1795 (c)(i) Except as provided in Subsection (2)(e) or (f), a local tax is imposed on
1796 amounts paid or charged for food and food ingredients equal to the sum of the tax
1797 rates a county, city, or town imposes under this chapter on the amounts paid or
1798 charged for food or food ingredients.

- 1799 (ii) There is no state tax imposed on amounts paid or charged for food and food
1800 ingredients.
- 1801 ~~[(e) Except as provided in Subsection (2)(f) or (g), a state tax and a local tax are imposed~~
1802 ~~on amounts paid or charged for food and food ingredients equal to the sum of:]~~
1803 ~~[(i) a state tax imposed on the amounts paid or charged for food and food ingredients~~
1804 ~~at a tax rate of 1.75%; and]~~
1805 ~~[(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on~~
1806 ~~the amounts paid or charged for food and food ingredients under this chapter other~~
1807 ~~than this part.]~~
- 1808 (d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid
1809 or charged for fuel to a common carrier that is a railroad for use in a locomotive
1810 engine at a rate of 4.85%.
- 1811 (e)(i)(A) If a shared vehicle owner certifies to the commission, on a form
1812 prescribed by the commission, that the shared vehicle is an individual-owned
1813 shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to
1814 car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle
1815 owner.
- 1816 (B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is
1817 required once during the time that the shared vehicle owner owns the shared
1818 vehicle.
- 1819 (C) The commission shall verify that a shared vehicle is an individual-owned
1820 shared vehicle by verifying that the applicable Utah taxes imposed under this
1821 chapter were paid on the purchase of the shared vehicle.
- 1822 (D) The exception under Subsection (2)(e)(i)(A) applies to a certified
1823 individual-owned shared vehicle shared through a car-sharing program even if
1824 non-certified shared vehicles are also available to be shared through the same
1825 car-sharing program.
- 1826 (ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.
- 1827 (iii)(A) A car-sharing program may rely in good faith on a shared vehicle owner's
1828 representation that the shared vehicle is an individual-owned shared vehicle
1829 certified with the commission as described in Subsection (2)(e)(i).
- 1830 (B) If a car-sharing program relies in good faith on a shared vehicle owner's
1831 representation that the shared vehicle is an individual-owned shared vehicle
1832 certified with the commission as described in Subsection (2)(e)(i), the

1833 car-sharing program is not liable for any tax, penalty, fee, or other sanction
1834 imposed on the shared vehicle owner.

1835 (iv) If all shared vehicles shared through a car-sharing program are certified as
1836 described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has
1837 no obligation to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax
1838 period.

1839 (v) A car-sharing program is not required to list or otherwise identify an
1840 individual-owned shared vehicle on a return or an attachment to a return.

1841 (vi) A car-sharing program shall:

1842 (A) retain tax information for each car-sharing program transaction; and

1843 (B) provide the information described in Subsection (2)(e)(vi)(A) to the
1844 commission at the commission's request.

1845 (f)(i) For a bundled transaction that is attributable to food and food ingredients and
1846 tangible personal property other than food and food ingredients, a state tax and a
1847 local tax is imposed on the entire bundled transaction equal to the sum of:

1848 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

1849 (I) the tax rate described in Subsection (2)(a)(i)(A); and

1850 (II)(Aa) the tax rate the state imposes in accordance with Part 18,

1851 Additional State Sales and Use Tax Act, if the location of the transaction
1852 as determined under Sections 59-12-211 through 59-12-215 is in a
1853 county in which the state imposes the tax under Part 18, Additional State
1854 Sales and Use Tax Act; and

1855 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental
1856 State Sales and Use Tax Act, if the location of the transaction as
1857 determined under Sections 59-12-211 through 59-12-215 is in a city,
1858 town, or the unincorporated area of a county in which the state imposes
1859 the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1860 (B) a local tax imposed on the entire bundled transaction at the sum of the tax
1861 rates described in Subsection (2)(a)(ii).

1862 (ii) If an optional computer software maintenance contract is a bundled transaction
1863 that consists of taxable and nontaxable products that are not separately itemized
1864 on an invoice or similar billing document, the purchase of the optional computer
1865 software maintenance contract is 40% taxable under this chapter and 60%
1866 nontaxable under this chapter.

(iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(f)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(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

- 1901 (B) is able to identify by reasonable and verifiable standards, from the books and
 1902 records the seller keeps in the seller's regular course of business, the portion of
 1903 the transaction that is not subject to taxation under this chapter.
- 1904 (ii) A purchaser and a seller may correct the taxability of a transaction if:
 1905 (A) after the transaction occurs, the purchaser and the seller discover that the
 1906 portion of the transaction that is not subject to taxation under this chapter was
 1907 not separately stated on an invoice, bill of sale, or similar document provided
 1908 to the purchaser because of an error or ignorance of the law; and
- 1909 (B) the seller is able to identify by reasonable and verifiable standards, from the
 1910 books and records the seller keeps in the seller's regular course of business, the
 1911 portion of the transaction that is not subject to taxation under this chapter.
- 1912 (iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller
 1913 keeps in the seller's regular course of business includes books and records the
 1914 seller keeps in the regular course of business for nontax purposes.
- 1915 (h)(i) If the sales price of a transaction is attributable to two or more items of tangible
 1916 personal property, products, or services that are subject to taxation under this
 1917 chapter at different rates, the entire purchase is subject to taxation under this
 1918 chapter at the higher tax rate unless the seller, at the time of the transaction:
- 1919 (A) separately states the items subject to taxation under this chapter at each of the
 1920 different rates on an invoice, bill of sale, or similar document provided to the
 1921 purchaser; or
- 1922 (B) is able to identify by reasonable and verifiable standards the tangible personal
 1923 property, product, or service that is subject to taxation under this chapter at the
 1924 lower tax rate from the books and records the seller keeps in the seller's regular
 1925 course of business.
- 1926 (ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the
 1927 seller's regular course of business includes books and records the seller keeps in
 1928 the regular course of business for nontax purposes.
- 1929 (i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate
 1930 imposed under the following shall take effect on the first day of a calendar quarter:
- 1931 (i) Subsection (2)(a)(i)(A);
 1932 (ii) Subsection (2)(b)(i); or
 1933 [~~(iii) Subsection (2)(c)(i); or~~]
 1934 [~~(iv)~~] (iii) Subsection (2)(f)(i)(A)(I).

- (j)(i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:
- (A) Subsection (2)(a)(i)(A);
 - (B) Subsection (2)(b)(i); or
 - ~~[(C) Subsection (2)(e)(i); or]~~
 - ~~[(D)]~~ (C) Subsection (2)(f)(i)(A)(I).
- (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:
- (A) Subsection (2)(a)(i)(A);
 - (B) Subsection (2)(b)(i); or
 - ~~[(C) Subsection (2)(e)(i); or]~~
 - ~~[(D)]~~ (C) Subsection (2)(f)(i)(A)(I).
- (k)(i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:
- (A) on the first day of a calendar quarter; and
 - (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- (ii) Subsection (2)(k)(i) applies to the tax rates described in the following:
- (A) Subsection (2)(a)(i)(A);
 - (B) Subsection (2)(b)(i); or
 - ~~[(C) Subsection (2)(e)(i); or]~~
 - ~~[(D)]~~ (C) Subsection (2)(f)(i)(A)(I).
- (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
- (l)(i) For a location described in Subsection (2)(l)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.
- (ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following

1969 uses:

- 1970 (A) a commercial use;
- 1971 (B) an industrial use; or
- 1972 (C) a residential use.

1973 (3)(a) The Division of Finance shall deposit the following state taxes [~~shall be deposited~~]
 1974 into the General Fund:

- 1975 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 1976 (ii) the tax imposed by Subsection (2)(b)(i);
- 1977 (iii) the tax imposed by Subsection (2)(d); and
- 1978 [~~(iii) the tax imposed by Subsection (2)(e)(i); and~~]
- 1979 (iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

1980 (b) The commission shall distribute the following local taxes [~~shall be distributed~~] to a
 1981 county, city, or town as provided in this chapter:

- 1982 (i) the tax imposed by Subsection (2)(a)(ii);
- 1983 (ii) the tax imposed by Subsection (2)(b)(ii);
- 1984 (iii) the tax imposed by Subsection [~~(2)(e)(ii)~~] (2)(c); and
- 1985 (iv) the tax imposed by Subsection (2)(f)(i)(B).

1986 [~~(e) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.~~]

1987 (4)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
 1988 2003, the lesser of the following amounts shall be expended as provided in
 1989 Subsections (4)(b) through (g):

- 1990 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 1991 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 1992 (B) for the fiscal year; or
- 1993 (ii) \$17,500,000.

1994 (b)(i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
 1995 described in Subsection (4)(a) shall be transferred each year as designated sales
 1996 and use tax revenue to the Division of Wildlife Resources to:

- 1997 (A) implement the measures described in Subsections 23A-3-214(3)(a) through
- 1998 (d) to protect sensitive plant and animal species; or
- 1999 (B) award grants, up to the amount authorized by the Legislature in an
- 2000 appropriations act, to political subdivisions of the state to implement the
- 2001 measures described in Subsections 23A-3-214(3)(a) through (d) to protect
- 2002 sensitive plant and animal species.

- 2003 (ii) Money transferred to the Division of Wildlife Resources under Subsection
2004 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or
2005 any other person to list or attempt to have listed a species as threatened or
2006 endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et
2007 seq.
- 2008 (iii) At the end of each fiscal year:
- 2009 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to
2010 the Water Resources Conservation and Development Fund created in Section
2011 73-10-24;
- 2012 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the
2013 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and
- 2014 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the
2015 Drinking Water Loan Program Subaccount created in Section 73-10c-5.
- 2016 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
2017 Subsection (4)(a) shall be deposited each year in the Agriculture Resource
2018 Development Fund created in Section 4-18-106.
- 2019 (d)(i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount
2020 described in Subsection (4)(a) shall be transferred each year as designated sales
2021 and use tax revenue to the Division of Water Rights to cover the costs incurred in
2022 hiring legal and technical staff for the adjudication of water rights.
- 2023 (ii) At the end of each fiscal year:
- 2024 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to
2025 the Water Resources Conservation and Development Fund created in Section
2026 73-10-24;
- 2027 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the
2028 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and
- 2029 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the
2030 Drinking Water Loan Program Subaccount created in Section 73-10c-5.
- 2031 (e)(i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount
2032 described in Subsection (4)(a) shall be deposited into the Water Resources
2033 Conservation and Development Fund created in Section 73-10-24 for use by the
2034 Division of Water Resources.
- 2035 (ii) In addition to the uses allowed of the Water Resources Conservation and
2036 Development Fund under Section 73-10-24, the Water Resources Conservation

- 2037 and Development Fund may also be used to:
- 2038 (A) conduct hydrologic and geotechnical investigations by the Division of Water
- 2039 Resources in a cooperative effort with other state, federal, or local entities, for
- 2040 the purpose of quantifying surface and ground water resources and describing
- 2041 the hydrologic systems of an area in sufficient detail so as to enable local and
- 2042 state resource managers to plan for and accommodate growth in water use
- 2043 without jeopardizing the resource;
- 2044 (B) fund state required dam safety improvements; and
- 2045 (C) protect the state's interest in interstate water compact allocations, including the
- 2046 hiring of technical and legal staff.
- 2047 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in
- 2048 Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program
- 2049 Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund
- 2050 wastewater projects.
- 2051 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
- 2052 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program
- 2053 Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:
- 2054 (i) provide for the installation and repair of collection, treatment, storage, and
- 2055 distribution facilities for any public water system, as defined in Section 19-4-102;
- 2056 (ii) develop underground sources of water, including springs and wells; and
- 2057 (iii) develop surface water sources.
- 2058 (5)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 2059 2006, the difference between the following amounts shall be expended as provided in
- 2060 this Subsection (5), if that difference is greater than \$1:
- 2061 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for
- 2062 the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1);
- 2063 and
- 2064 (ii) \$17,500,000.
- 2065 (b)(i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:
- 2066 (A) transferred each fiscal year to the Department of Natural Resources as
- 2067 designated sales and use tax revenue; and
- 2068 (B) expended by the Department of Natural Resources for watershed rehabilitation
- 2069 or restoration.
- 2070 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use

- 2071 tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources
2072 Conservation and Development Fund created in Section 73-10-24.
- 2073 (c)(i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
2074 remaining difference described in Subsection (5)(a) shall be:
- 2075 (A) transferred each fiscal year to the Division of Water Resources as designated
2076 sales and use tax revenue; and
- 2077 (B) expended by the Division of Water Resources for cloud-seeding projects
2078 authorized by Title 73, Chapter 15, Modification of Weather.
- 2079 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use
2080 tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources
2081 Conservation and Development Fund created in Section 73-10-24.
- 2082 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
2083 remaining difference described in Subsection (5)(a) shall be deposited into the Water
2084 Resources Conservation and Development Fund created in Section 73-10-24 for use
2085 by the Division of Water Resources for:
- 2086 (i) preconstruction costs:
- 2087 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73,
2088 Chapter 26, Bear River Development Act; and
- 2089 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
2090 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;
- 2091 (ii) the cost of employing a civil engineer to oversee any project authorized by Title
2092 73, Chapter 26, Bear River Development Act;
- 2093 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline
2094 project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development
2095 Act; and
- 2096 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
2097 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i)
2098 through (iii).
- 2099 (e) After making the transfers required by Subsections (5)(b) and (c), 15% of the
2100 remaining difference described in Subsection (5)(a) shall be deposited each year into
2101 the Water Rights Restricted Account created by Section 73-2-1.6.
- 2102 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each
2103 fiscal year, the commission shall deposit into the Water Infrastructure Restricted
2104 Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax

2105 rate on the transactions described in Subsection (1) for the fiscal year.

2106 (7)(a) Notwithstanding Subsection (3)(a) and subject to Subsections (7)(b), (c), and (d),

2107 for a fiscal year beginning on or after July 1, 2023, the commission shall deposit into

2108 the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of

2109 the taxes listed under Subsection (3)(a) equal to 17% of the revenue collected from

2110 the following sales and use taxes:

2111 (i) the tax imposed by Subsection (2)(a)(i)(A) at a [~~4.7%~~] 4.933% rate;

2112 (ii) the tax imposed by Subsection (2)(b)(i); and

2113 [~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]

2114 [~~(iv)~~] (iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

2115 (b)(i) For a fiscal year beginning on or after July 1, 2024, the commission shall

2116 annually reduce the deposit under Subsection (7)(a) into the Transportation

2117 Investment Fund of 2005 by an amount equal to .44% of the revenue collected

2118 from the following sales and use taxes:

2119 (A) the tax imposed by Subsection (2)(a)(i)(A) at a [~~4.7%~~] 4.933% rate;

2120 (B) the tax imposed by Subsection (2)(b)(i); and

2121 [~~(C) the tax imposed by Subsection (2)(c)(i); and~~]

2122 [~~(D)~~] (C) the tax imposed by Subsection (2)(f)(i)(A)(I).

2123 (ii) The commission shall annually deposit the amount described in Subsection

2124 (7)(b)(i) into the Cottonwood Canyons Transportation Investment Fund created in

2125 Section 72-2-124.

2126 (c)(i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1,

2127 2023, the commission shall annually reduce the deposit into the Transportation

2128 Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is

2129 equal to 5% of:

2130 (A) the amount of revenue generated in the current fiscal year by the portion of

2131 taxes listed under Subsection (3)(a) that equals 20.68% of the revenue

2132 collected from taxes described in Subsections (7)(a)(i) through (iv);

2133 (B) the amount of revenue generated in the current fiscal year by registration fees

2134 designated under Section 41-1a-1201 to be deposited into the Transportation

2135 Investment Fund of 2005; and

2136 (C) revenue transferred by the Division of Finance to the Transportation

2137 Investment Fund of 2005 in accordance with Section 72-2-106 in the current

2138 fiscal year.

2139 (ii) The amount described in Subsection (7)(c)(i) may not exceed \$45,000,000 in a
 2140 given fiscal year.

2141 (iii) The commission shall annually deposit the amount described in Subsection
 2142 (7)(c)(i) into the Active Transportation Investment Fund created in Subsection
 2143 72-2-124(11).

2144 (d)(i) For a fiscal year beginning on or after July 1, 2024, the commission shall
 2145 annually reduce the deposit into the Transportation Investment Fund of 2005
 2146 under this Subsection (7) by an amount that is equal to 1% of the revenue
 2147 collected from the following sales and use taxes:

2148 (A) the tax imposed by Subsection (2)(a)(i)(A) at a ~~[4.7%]~~ 4.933% rate;
 2149 (B) the tax imposed by Subsection (2)(b)(i); and
 2150 ~~[(C) the tax imposed by Subsection (2)(c)(i); and]~~
 2151 ~~[(D)]~~ (C) the tax imposed by Subsection (2)(f)(i)(A)(I).

2152 (ii) The commission shall annually deposit the amount described in Subsection
 2153 (7)(d)(i) into the Commuter Rail Subaccount created in Section 72-2-124.

2154 (8)(a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
 2155 Subsection (7), and subject to Subsections (8)(b) and (d)(ii), for a fiscal year
 2156 beginning on or after July 1, 2018, the commission shall annually deposit into the
 2157 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the
 2158 taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenue
 2159 collected from the following taxes:

2160 (i) the tax imposed by Subsection (2)(a)(i)(A) at a ~~[4.7%]~~ 4.933% rate;
 2161 (ii) the tax imposed by Subsection (2)(b)(i); and
 2162 ~~[(iii) the tax imposed by Subsection (2)(c)(i); and]~~
 2163 ~~[(iv)]~~ (iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

2164 (b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
 2165 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection
 2166 (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the
 2167 current fiscal year by the portion of the tax imposed on motor and special fuel that is
 2168 sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

2169 (c) The commission shall annually deposit the amount described in Subsection (8)(b)
 2170 into the Transit Transportation Investment Fund created in Section 72-2-124.

2171 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
 2172 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies

- 2173 Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.
- 2174 (10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal
2175 year during which the commission receives notice under Section 63N-2-510 that
2176 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the
2177 commission shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the
2178 revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact
2179 Mitigation Fund, created in Section 63N-2-512.
- 2180 (11)(a) The rate specified in this subsection is 0.15%.
- 2181 (b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning
2182 on or after July 1, 2019, annually transfer the amount of revenue collected from the
2183 rate described in Subsection (11)(a) on the transactions that are subject to the sales
2184 and use tax under Subsection (2)(a)(i)(A) into the Medicaid ACA Fund created in
2185 Section 26B-1-315.
- 2186 (12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2187 2020-21, the commission shall deposit \$200,000 into the General Fund as a dedicated
2188 credit solely for use of the Search and Rescue Financial Assistance Program created in,
2189 and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.
- 2190 (13)(a) For each fiscal year beginning with fiscal year 2020-21, the commission shall
2191 annually transfer \$1,813,400 of the revenue deposited into the Transportation
2192 Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.
- 2193 (b) If the total revenue deposited into the Transportation Investment Fund of 2005 under
2194 Subsections (7) and (8) is less than \$1,813,400 for a fiscal year, the commission shall
2195 transfer the total revenue deposited into the Transportation Investment Fund of 2005
2196 under Subsections (7) and (8) during the fiscal year to the General Fund.
- 2197 (14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning
2198 the first day of the calendar quarter one year after the sales and use tax boundary for a
2199 housing and transit reinvestment zone is established, the commission, at least annually,
2200 shall transfer an amount equal to 15% of the sales and use tax increment within an
2201 established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit
2202 Transportation Investment Fund created in Section 72-2-124.
- 2203 (15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning
2204 on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted
2205 Account, created in Section 51-9-902, a portion of the taxes listed under Subsection
2206 (3)(a) equal to 1% of the revenue collected from the following sales and use taxes:

- 2207 (a) the tax imposed by Subsection (2)(a)(i)(A) at a ~~[4.7%]~~ 4.933% rate;
- 2208 (b) the tax imposed by Subsection (2)(b)(i); and
- 2209 ~~[(e) the tax imposed by Subsection (2)(c)(i); and]~~
- 2210 ~~[(d)]~~ (c) the tax imposed by Subsection (2)(f)(i)(A)(I).
- 2211 (16) Notwithstanding Subsection (3)(a), beginning October 1, 2024 the commission shall
- 2212 transfer to the Utah Fairpark Area Investment and Restoration District, created in
- 2213 Section 11-70-201, the revenue from the sales and use tax imposed by Subsection
- 2214 (2)(a)(i)(A) at a ~~[4.7%]~~ 4.933% rate, on transactions occurring within the district sales
- 2215 tax area, as defined in Section 11-70-101.
- 2216 (17)(a) As used in this Subsection (17):
- 2217 (i) "Additional land" means point of the mountain state land described in Subsection
- 2218 11-59-102(6)(b) that the point of the mountain authority acquires after the point of
- 2219 the mountain authority provides the commission a map under Subsection (17)(c).
- 2220 (ii) "Point of the mountain authority" means the Point of the Mountain State Land
- 2221 Authority, created in Section 11-59-201.
- 2222 (iii) "Point of the mountain state land" means the same as that term is defined in
- 2223 Section 11-59-102.
- 2224 (b) Notwithstanding Subsection (3)(a), the commission shall distribute to the point of the
- 2225 mountain authority 50% of the revenue from the sales and use tax imposed by
- 2226 Subsection (2)(a)(i)(A) at a ~~[4.7%]~~ 4.933% rate, on transactions occurring on the
- 2227 point of the mountain state land.
- 2228 (c) The distribution under Subsection (17)(b) shall begin the next calendar quarter that
- 2229 begins at least 90 days after the point of the mountain authority provides the
- 2230 commission a map that:
- 2231 (i) accurately describes the point of the mountain state land; and
- 2232 (ii) the point of the mountain authority certifies as accurate.
- 2233 (d) A distribution under Subsection (17)(b) with respect to additional land shall begin
- 2234 the next calendar quarter that begins at least 90 days after the point of the mountain
- 2235 authority provides the commission a map of point of the mountain state land that:
- 2236 (i) accurately describes the point of the mountain state land, including the additional
- 2237 land; and
- 2238 (ii) the point of the mountain authority certifies as accurate.
- 2239 (e)(i) Upon the payment in full of bonds secured by the sales and use tax revenue
- 2240 distributed to the point of the mountain authority under Subsection (17)(b), the

2241 point of the mountain authority shall immediately notify the commission in
2242 writing that the bonds are paid in full.

2243 (ii) The commission shall discontinue distributions of sales and use tax revenue under
2244 Subsection (17)(b) at the beginning of the calendar quarter that begins at least 90
2245 days after the date that the commission receives the written notice under
2246 Subsection (17)(e)(i).

2247 Section 3. Section **59-12-108** is amended to read:

2248 **59-12-108 . Monthly payment -- Amount of tax a seller may retain -- Penalty --**
2249 **Certain amounts allocated to local taxing jurisdictions.**

2250 (1)(a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this
2251 chapter of \$50,000 or more for the previous calendar year shall:

2252 (i) file a return with the commission:

2253 (A) monthly on or before the last day of the month immediately following the
2254 month for which the seller collects a tax under this chapter; and
2255 (B) for the month for which the seller collects a tax under this chapter; and

2256 (ii) except as provided in Subsection (1)(b), remit with the return required by
2257 Subsection (1)(a)(i) the amount the person is required to remit to the commission
2258 for each tax, fee, or charge described in Subsection (1)(c):

2259 (A) if that seller's tax liability under this chapter for the previous calendar year is
2260 less than \$96,000, by any method permitted by the commission; or
2261 (B) if that seller's tax liability under this chapter for the previous calendar year is
2262 \$96,000 or more, by electronic funds transfer.

2263 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i) the
2264 amount the seller is required to remit to the commission for each tax, fee, or charge
2265 described in Subsection (1)(c) if that seller:

2266 (i) is required by Section 59-12-107 to file the return electronically; or
2267 (ii)(A) is required to collect and remit a tax under Section 59-12-107; and
2268 (B) files a simplified electronic return.

2269 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

2270 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
2271 (ii) a fee under Section 19-6-714;
2272 (iii) a fee under Section 19-6-805;
2273 (iv) a charge under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications
2274 Service Charges; or

- 2275 (v) a tax under this chapter.
- 2276 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,
2277 Utah Administrative Rulemaking Act, the commission shall make rules providing for
2278 a method for making same-day payments other than by electronic funds transfer if
2279 making payments by electronic funds transfer fails.
- 2280 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2281 commission shall establish by rule procedures and requirements for determining the
2282 amount a seller is required to remit to the commission under this Subsection (1).
- 2283 (2)(a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a seller
2284 described in Subsection (4) may retain each month the amount allowed by this
2285 Subsection (2).
- 2286 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
2287 each month 1.31% of any amounts the seller is required to remit to the commission:
- 2288 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax
2289 and a local tax imposed in accordance with the following, for the month for which
2290 the seller is filing a return in accordance with Subsection (1):
- 2291 (A) Subsection 59-12-103(2)(a);
2292 (B) Subsection 59-12-103(2)(b); and
2293 (C) Subsection 59-12-103(2)(d); and
- 2294 (ii) for an agreement sales and use tax.
- 2295 (c)(i) A seller subject to Subsection (1) or a seller described in Subsection (4) may
2296 retain each month the amount calculated under Subsection (2)(c)(ii) for a
2297 transaction described in Subsection 59-12-103(1) that is subject to the ~~[state tax~~
2298 ~~and the local]~~tax imposed in accordance with Subsection 59-12-103(2)(c).
- 2299 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount
2300 equal to the sum of:
- 2301 (A) 1.31% of any amounts the seller is required to remit to the commission for:
- 2302 (I) the ~~[state tax and the local]~~tax imposed in accordance with Subsection
2303 59-12-103(2)(c);
2304 (II) the month for which the seller is filing a return in accordance with
2305 Subsection (1); and
2306 (III) an agreement sales and use tax; and
- 2307 (B) 1.31% of the difference between:
- 2308 (I) the amounts the seller would have been required to remit to the commission:

- 2309 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had
 2310 been subject to the state tax and the local tax imposed in accordance with
 2311 Subsection 59-12-103(2)(a);
 2312 (Bb) for the month for which the seller is filing a return in accordance with
 2313 Subsection (1); and
 2314 (Cc) for an agreement sales and use tax; and
 2315 (II) the amounts the seller is required to remit to the commission for:
 2316 (Aa) the ~~[state tax and the local]~~ tax imposed in accordance with Subsection
 2317 59-12-103(2)(c);
 2318 (Bb) the month for which the seller is filing a return in accordance with
 2319 Subsection (1); and
 2320 (Cc) an agreement sales and use tax.
- 2321 (d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
 2322 each month 1% of any amounts the seller is required to remit to the commission:
 2323 (i) for the month for which the seller is filing a return in accordance with Subsection
 2324 (1); and
 2325 (ii) under:
 2326 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
 2327 (B) Subsection 59-12-603(1)(a)(i)(A);
 2328 (C) Subsection 59-12-603(1)(a)(i)(B); or
 2329 (D) Subsection 59-12-603(1)(a)(ii).
- 2330 (3) A state government entity that is required to remit taxes monthly in accordance with
 2331 Subsection (1) may not retain any amount under Subsection (2).
- 2332 (4) A seller that has a tax liability under this chapter for the previous calendar year of less
 2333 than \$50,000 may:
 2334 (a) voluntarily meet the requirements of Subsection (1); and
 2335 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the amounts
 2336 allowed by Subsection (2).
- 2337 (5) ~~[Penalties for late payment shall be as provided in Section 59-1-401.]~~ Section 59-1-401
 2338 provides the penalties for late payment.
- 2339 (6)(a) Except as provided in Subsection (6)(c), for any amounts required to be remitted
 2340 to the commission under this part, the commission shall each month calculate an
 2341 amount equal to the difference between:
 2342 (i) the total amount retained for that month by all sellers had the percentages listed

- 2343 under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and
2344 (ii) the total amount retained for that month by all sellers at the percentages listed
2345 under Subsections (2)(b) and (2)(c)(ii).
- 2346 (b) The commission shall each month allocate the amount calculated under Subsection
2347 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales
2348 and use tax that the commission distributes to each county, city, and town for that
2349 month compared to the total agreement sales and use tax that the commission
2350 distributes for that month to all counties, cities, and towns.
- 2351 (c) The amount the commission calculates under Subsection (6)(a) may not include an
2352 amount collected from a tax that:
- 2353 (i) the state imposes within a county, city, or town, including the unincorporated area
2354 of a county; and
2355 (ii) is not imposed within the entire state.
- 2356 Section 4. Section **63N-2-502** is amended to read:
2357 **63N-2-502 . Definitions.**
2358 As used in this part:
- 2359 (1) "Agreement" means an agreement described in Section 63N-2-503.
2360 (2) "Base taxable value" means the value of hotel property before the construction on a
2361 qualified hotel begins, as that value is established by the county in which the hotel
2362 property is located, using a reasonable valuation method that may include the value of
2363 the hotel property on the county assessment rolls the year before the year during which
2364 construction on the qualified hotel begins.
- 2365 (3) "Certified claim" means a claim that the office has approved and certified as provided in
2366 Section 63N-2-505.
- 2367 (4) "Claim" means a written document submitted by a qualified hotel owner or host local
2368 government to request a convention incentive.
- 2369 (5) "Claimant" means the qualified hotel owner or host local government that submits a
2370 claim under Subsection 63N-2-505(1)(a) for a convention incentive.
- 2371 (6) "Commission" means the Utah State Tax Commission.
- 2372 (7) "Community reinvestment agency" means the same as that term is defined in Section
2373 17C-1-102.
- 2374 (8) "Construction revenue" means revenue generated from state taxes and local taxes
2375 imposed on transactions occurring during the eligibility period as a result of the
2376 construction of the hotel property, including purchases made by a qualified hotel owner

- 2377 and its subcontractors.
- 2378 (9) "Convention incentive" means an incentive for the development of a qualified hotel, in
2379 the form of payment from the incentive fund as provided in this part, as authorized in an
2380 agreement.
- 2381 (10) "Eligibility period" means:
- 2382 (a) the period that:
- 2383 (i) begins the date construction of a qualified hotel begins; and
- 2384 (ii) ends:
- 2385 (A) for purposes of the state portion, 20 years after the date of initial occupancy of
2386 that qualified hotel; or
- 2387 (B) for purposes of the local portion and incremental property tax revenue, 25
2388 years after the date of initial occupancy of that hotel; or
- 2389 (b) as provided in an agreement between the office and a qualified hotel owner or host
2390 local government, a period that:
- 2391 (i) begins no earlier than the date construction of a qualified hotel begins; and
- 2392 (ii) is shorter than the period described in Subsection (10)(a).
- 2393 (11) "Endorsement letter" means a letter:
- 2394 (a) from the county in which a qualified hotel is located or is proposed to be located;
- 2395 (b) signed by the county executive; and
- 2396 (c) expressing the county's endorsement of a developer of a qualified hotel as meeting all
2397 the county's criteria for receiving the county's endorsement.
- 2398 (12) "Host agency" means the community reinvestment agency of the host local
2399 government.
- 2400 (13) "Host local government" means:
- 2401 (a) a county that enters into an agreement with the office for the construction of a
2402 qualified hotel within the unincorporated area of the county; or
- 2403 (b) a city or town that enters into an agreement with the office for the construction of a
2404 qualified hotel within the boundary of the city or town.
- 2405 (14) "Hotel property" means a qualified hotel and any property that is included in the same
2406 development as the qualified hotel, including convention, exhibit, and meeting space,
2407 retail shops, restaurants, parking, and other ancillary facilities and amenities.
- 2408 (15) "Incentive fund" means the Convention Incentive Fund created in Section 63N-2-503.5.
- 2409 (16) "Incremental property tax revenue" means the amount of property tax revenue
2410 generated from hotel property that equals the difference between:

- 2411 (a) the amount of property tax revenue generated in any tax year by all taxing entities
2412 from hotel property, using the current assessed value of the hotel property; and
- 2413 (b) the amount of property tax revenue that would be generated that tax year by all
2414 taxing entities from hotel property, using the hotel property's base taxable value.
- 2415 (17) "Local portion" means the portion of new tax revenue that is generated by local taxes.
- 2416 (18) "Local taxes" means a tax imposed under:
- 2417 (a) Section 59-12-204;
- 2418 (b) Section 59-12-301;
- 2419 (c) Sections 59-12-352 and 59-12-353;
- 2420 (d) Subsection 59-12-603(1)(a); or
- 2421 (e) Section 59-12-1102.
- 2422 (19) "New tax revenue" means construction revenue, offsite revenue, and onsite revenue.
- 2423 (20) "Offsite revenue" means revenue generated from state taxes and local taxes imposed
2424 on transactions by a third-party seller occurring other than on hotel property during the
2425 eligibility period, if:
- 2426 (a) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act;
2427 and
- 2428 (b) the third-party seller voluntarily consents to the disclosure of information to the
2429 office, as provided in Subsection 63N-2-505(2)(b)(i)(E).
- 2430 (21) "Onsite revenue" means revenue generated from state taxes and local taxes imposed on
2431 transactions occurring on hotel property during the eligibility period.
- 2432 (22) "Public infrastructure" means:
- 2433 (a) water, sewer, storm drainage, electrical, telecommunications, and other similar
2434 systems and lines;
- 2435 (b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public
2436 transportation facilities; and
- 2437 (c) other buildings, facilities, infrastructure, and improvements that benefit the public.
- 2438 (23) "Qualified hotel" means a full-service hotel development constructed in the state on or
2439 after July 1, 2014 that:
- 2440 (a) requires a significant capital investment;
- 2441 (b) includes at least 85 square feet of convention, exhibit, and meeting space per guest
2442 room; and
- 2443 (c) is located within 1,000 feet of a convention center that contains at least 500,000
2444 square feet of convention, exhibit, and meeting space.

- 2445 (24) "Qualified hotel owner" means a person [~~who~~] that owns a qualified hotel.
- 2446 (25) "Review committee" means the independent review committee established under
- 2447 Section 63N-2-504.
- 2448 (26) "Significant capital investment" means an amount of at least \$200,000,000.
- 2449 (27) "State portion" means the portion of new tax revenue that is generated by state taxes.
- 2450 (28) "State taxes" means a tax imposed under Subsection 59-12-103(2)(a)(i), (2)(b)(i), [
- 2451 ~~(2)(e)(i),~~] or (2)(e)(i)(A).
- 2452 (29) "Third-party seller" means a person [~~who~~] that is a seller in a transaction:
- 2453 (a) occurring other than on hotel property;
- 2454 (b) that is:
- 2455 (i) the sale, rental, or lease of a room or of convention or exhibit space or other
- 2456 facilities on hotel property; or
- 2457 (ii) the sale of tangible personal property or a service that is part of a bundled
- 2458 transaction, as defined in Section 59-12-102, with a sale, rental, or lease described
- 2459 in Subsection (29)(b)(i); and
- 2460 (c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.
- 2461 Section 5. **Effective Date.**
- 2462 This bill takes effect on January 1, 2026.