

Senator Curtis S. Bramble proposes the following substitute bill:

TAXATION OF SHORT-TERM LODGING

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: Brad R. Wilson

LONG TITLE

General Description:

This bill addresses the taxation of short-term lodging.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses the transactions related to short-term lodging that are subject to state and local sales and use taxes;
- ▶ addresses sales and use tax exemptions related to short-term lodging;
- ▶ addresses the remittance of sales and use taxes related to short-term lodging; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides effective dates.

Utah Code Sections Affected:

AMENDS:

59-12-102 (Superseded 07/01/14), as last amended by Laws of Utah 2012, Chapters 255, 312, 405, and 410



26 **59-12-102 (Effective 07/01/14)**, as last amended by Laws of Utah 2012, Chapters 255,
27 312, 405, 410, and 424

28 **59-12-103 (Superseded 07/01/14)**, as last amended by Laws of Utah 2012, Chapters
29 207, 212, 254, and 255

30 **59-12-103 (Effective 07/01/14)**, as last amended by Laws of Utah 2012, Chapters 207,
31 212, 254, 255, and 424

32 **59-12-104**, as last amended by Laws of Utah 2012, Chapters 255, 399, 405, and 410

33 **59-12-104.2**, as last amended by Laws of Utah 2009, Chapter 203

34 **59-12-104.6**, as enacted by Laws of Utah 2011, Chapter 288

35 **59-12-107**, as last amended by Laws of Utah 2012, Chapters 178, 312, and 399

36 **59-12-107.1**, as last amended by Laws of Utah 2008, Chapters 382 and 384

37 **59-12-301**, as last amended by Laws of Utah 2012, Chapter 369

38 **59-12-352**, as last amended by Laws of Utah 2009, Chapter 92

39 **59-12-353**, as last amended by Laws of Utah 2004, Chapters 156 and 255

40 **59-12-603**, as last amended by Laws of Utah 2011, Chapter 309

41

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

43 Section 1. Section **59-12-102 (Superseded 07/01/14)** is amended to read:

44 **59-12-102 (Superseded 07/01/14). Definitions.**

45 As used in this chapter:

46 (1) "800 service" means a telecommunications service that:

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

48 (b) is typically marketed:

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

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

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

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

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

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

55 Federal Communications Commission.

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

- 57 (i) a subscriber purchases;
- 58 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
59 the subscriber's:
- 60 (A) prerecorded announcement; or
- 61 (B) live service; and
- 62 (iii) is typically marketed:
- 63 (A) under the name 900 service; or
- 64 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
65 Communications Commission.
- 66 (b) "900 service" does not include a charge for:
- 67 (i) a collection service a seller of a telecommunications service provides to a
68 subscriber; or
- 69 (ii) the following a subscriber sells to the subscriber's customer:
- 70 (A) a product; or
- 71 (B) a service.
- 72 (3) (a) "Admission or user fees" includes season passes.
- 73 (b) "Admission or user fees" does not include annual membership dues to private
74 organizations.
- 75 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
76 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
77 Agreement after November 12, 2002.
- 78 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 79 (a) listed under Subsection (6); and
- 80 (b) that are imposed within a local taxing jurisdiction.
- 81 (6) "Agreement sales and use tax" means a tax imposed under:
- 82 (a) Subsection 59-12-103(2)(a)(i)(A);
- 83 (b) Subsection 59-12-103(2)(b)(i);
- 84 (c) Subsection 59-12-103(2)(c)(i);
- 85 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 86 (e) Section 59-12-204;
- 87 (f) Section 59-12-401;

- 88 (g) Section 59-12-402;
- 89 (h) Section 59-12-703;
- 90 (i) Section 59-12-802;
- 91 (j) Section 59-12-804;
- 92 (k) Section 59-12-1102;
- 93 (l) Section 59-12-1302;
- 94 (m) Section 59-12-1402;
- 95 (n) Section 59-12-1802;
- 96 (o) Section 59-12-2003;
- 97 (p) Section 59-12-2103;
- 98 (q) Section 59-12-2213;
- 99 (r) Section 59-12-2214;
- 100 (s) Section 59-12-2215;
- 101 (t) Section 59-12-2216;
- 102 (u) Section 59-12-2217; or
- 103 (v) Section 59-12-2218.
- 104 (7) "Aircraft" is as defined in Section 72-10-102.
- 105 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 106 (a) except for:
- 107 (i) an airline as defined in Section 59-2-102; or
- 108 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 109 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 110 state, of an airline; and
- 111 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 112 whether the business entity performs the following in this state:
- 113 (i) check, diagnose, overhaul, and repair:
- 114 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 115 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 116 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 117 engine;
- 118 (iii) perform at least the following maintenance on a fixed wing turbine powered

119 aircraft:

120 (A) an inspection;

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

122 (C) changing landing gear; and

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

124 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and

125 completely apply new paint to the fixed wing turbine powered aircraft; and

126 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that

127 results in a change in the fixed wing turbine powered aircraft's certification requirements by the

128 authority that certifies the fixed wing turbine powered aircraft.

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

130 (a) is suitable for human consumption; and

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

132 (10) "Alternative energy" means:

133 (a) biomass energy;

134 (b) geothermal energy;

135 (c) hydroelectric energy;

136 (d) solar energy;

137 (e) wind energy; or

138 (f) energy that is derived from:

139 (i) coal-to-liquids;

140 (ii) nuclear fuel;

141 (iii) oil-impregnated diatomaceous earth;

142 (iv) oil sands;

143 (v) oil shale; or

144 (vi) petroleum coke.

145 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
146 facility" means a facility that:

147 (i) uses alternative energy to produce electricity; and

148 (ii) has a production capacity of 2 megawatts or greater.

149 (b) A facility is an alternative energy electricity production facility regardless of

150 whether the facility is:

151 (i) connected to an electric grid; or

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

153 (12) (a) "Ancillary service" means a service associated with, or incidental to, the

154 provision of telecommunications service.

155 (b) "Ancillary service" includes:

156 (i) a conference bridging service;

157 (ii) a detailed communications billing service;

158 (iii) directory assistance;

159 (iv) a vertical service; or

160 (v) a voice mail service.

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

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

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

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

168 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
169 washing of tangible personal property if the cleaning or washing labor is primarily performed
170 by an individual:

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

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

175 (16) "Authorized carrier" means:

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

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

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

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

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

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

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

188 (B) animal waste;

189 (C) methane produced:

190 (I) at landfills; or

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

192 (D) aquatic plants; and

193 (E) agricultural products.

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

195 (i) black liquor;

196 (ii) treated woods; or

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

198 (A) at landfills; or

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

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

202 (i) distinct and identifiable; and

203 (ii) sold for one nonitemized price.

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

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

206 the basis of the selection by the purchaser of the items of tangible personal property included in
207 the transaction;

208 (ii) the sale of real property;

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

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

211 (A) the tangible personal property:

- 212 (I) is essential to the use of the service; and
213 (II) is provided exclusively in connection with the service; and
214 (B) the service is the true object of the transaction;
215 (v) the retail sale of two services if:
216 (A) one service is provided that is essential to the use or receipt of a second service;
217 (B) the first service is provided exclusively in connection with the second service; and
218 (C) the second service is the true object of the transaction;
219 (vi) a transaction that includes tangible personal property or a product subject to
220 taxation under this chapter and tangible personal property or a product that is not subject to
221 taxation under this chapter if the:
222 (A) seller's purchase price of the tangible personal property or product subject to
223 taxation under this chapter is de minimis; or
224 (B) seller's sales price of the tangible personal property or product subject to taxation
225 under this chapter is de minimis; and
226 (vii) the retail sale of tangible personal property that is not subject to taxation under
227 this chapter and tangible personal property that is subject to taxation under this chapter if:
228 (A) that retail sale includes:
229 (I) food and food ingredients;
230 (II) a drug;
231 (III) durable medical equipment;
232 (IV) mobility enhancing equipment;
233 (V) an over-the-counter drug;
234 (VI) a prosthetic device; or
235 (VII) a medical supply; and
236 (B) subject to Subsection (18)(f):
237 (I) the seller's purchase price of the tangible personal property subject to taxation under
238 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
239 (II) the seller's sales price of the tangible personal property subject to taxation under
240 this chapter is 50% or less of the seller's total sales price of that retail sale.
241 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
242 service that is distinct and identifiable does not include:

- 243 (A) packaging that:
- 244 (I) accompanies the sale of the tangible personal property, product, or service; and
- 245 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
- 246 service;
- 247 (B) tangible personal property, a product, or a service provided free of charge with the
- 248 purchase of another item of tangible personal property, a product, or a service; or
- 249 (C) an item of tangible personal property, a product, or a service included in the
- 250 definition of "purchase price."
- 251 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
- 252 product, or a service is provided free of charge with the purchase of another item of tangible
- 253 personal property, a product, or a service if the sales price of the purchased item of tangible
- 254 personal property, product, or service does not vary depending on the inclusion of the tangible
- 255 personal property, product, or service provided free of charge.
- 256 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
- 257 does not include a price that is separately identified by tangible personal property, product, or
- 258 service on the following, regardless of whether the following is in paper format or electronic
- 259 format:
- 260 (A) a binding sales document; or
- 261 (B) another supporting sales-related document that is available to a purchaser.
- 262 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
- 263 supporting sales-related document that is available to a purchaser includes:
- 264 (A) a bill of sale;
- 265 (B) a contract;
- 266 (C) an invoice;
- 267 (D) a lease agreement;
- 268 (E) a periodic notice of rates and services;
- 269 (F) a price list;
- 270 (G) a rate card;
- 271 (H) a receipt; or
- 272 (I) a service agreement.
- 273 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal

274 property or a product subject to taxation under this chapter is de minimis if:

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

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

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

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

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

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

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

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

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

296 (i) on a transaction; and

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

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

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

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

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

303 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
304 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's

305 own purchases.

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

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

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

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

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

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

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

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

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

325 (25) "Component part" includes:

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

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

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

331 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

339 (28) "Computer software maintenance contract" means a contract that obligates a seller

340 of computer software to provide a customer with:

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

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

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

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

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

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

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

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

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

355 (i) by a seller of:

356 (A) tangible personal property;

357 (B) a product transferred electronically; or

358 (C) services; and

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

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

363 (i) transportation;

364 (ii) shipping;

365 (iii) postage;

366 (iv) handling;

- 367 (v) crating; or
- 368 (vi) packing.
- 369 (33) "Detailed telecommunications billing service" means an ancillary service of
- 370 separately stating information pertaining to individual calls on a customer's billing statement.
- 371 (34) "Dietary supplement" means a product, other than tobacco, that:
- 372 (a) is intended to supplement the diet;
- 373 (b) contains one or more of the following dietary ingredients:
- 374 (i) a vitamin;
- 375 (ii) a mineral;
- 376 (iii) an herb or other botanical;
- 377 (iv) an amino acid;
- 378 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 379 dietary intake; or
- 380 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 381 described in Subsections (34)(b)(i) through (v);
- 382 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 383 (A) tablet form;
- 384 (B) capsule form;
- 385 (C) powder form;
- 386 (D) softgel form;
- 387 (E) gelcap form; or
- 388 (F) liquid form; or
- 389 (ii) notwithstanding Subsection (34)(c)(i), if the product is not intended for ingestion in
- 390 a form described in Subsections (34)(c)(i)(A) through (F), is not represented:
- 391 (A) as conventional food; and
- 392 (B) for use as a sole item of:
- 393 (I) a meal; or
- 394 (II) the diet; and
- 395 (d) is required to be labeled as a dietary supplement:
- 396 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 397 (ii) as required by 21 C.F.R. Sec. 101.36.

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

400 (i) to:

401 (A) a mass audience; or

402 (B) addressees on a mailing list provided:

403 (I) by a purchaser of the mailing list; or

404 (II) at the discretion of the purchaser of the mailing list; and

405 (ii) if the cost of the printed material is not billed directly to the recipients.

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

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

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

411 (a) address information; or

412 (b) telephone number information.

413 (37) (a) "Disposable home medical equipment or supplies" means medical equipment
414 or supplies that:

415 (i) cannot withstand repeated use; and

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

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

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

419 (C) an office of a health care provider described in Subsection (37)(a)(ii)(B); or

420 (D) a person similar to a person described in Subsections (37)(a)(ii)(A) through (C).

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

422 (i) a drug;

423 (ii) durable medical equipment;

424 (iii) a hearing aid;

425 (iv) a hearing aid accessory;

426 (v) mobility enhancing equipment; or

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

428 (A) eyeglasses; or

429 (B) contact lenses.

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

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

434 (i) recognized in:

435 (A) the official United States Pharmacopoeia;

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

437 (C) the official National Formulary; or

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

439 (ii) intended for use in the:

440 (A) diagnosis of disease;

441 (B) cure of disease;

442 (C) mitigation of disease;

443 (D) treatment of disease; or

444 (E) prevention of disease; or

445 (iii) intended to affect:

446 (A) the structure of the body; or

447 (B) any function of the body.

448 (b) "Drug" does not include:

449 (i) food and food ingredients;

450 (ii) a dietary supplement;

451 (iii) an alcoholic beverage; or

452 (iv) a prosthetic device.

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

455 (i) can withstand repeated use;

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

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

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

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

460 equipment described in Subsection (39)(a).

461 (c) Notwithstanding Subsection (39)(a), "durable medical equipment" does not include
462 mobility enhancing equipment.

463 (40) "Electronic" means:

464 (a) relating to technology; and

465 (b) having:

466 (i) electrical capabilities;

467 (ii) digital capabilities;

468 (iii) magnetic capabilities;

469 (iv) wireless capabilities;

470 (v) optical capabilities;

471 (vi) electromagnetic capabilities; or

472 (vii) capabilities similar to Subsections (40)(b)(i) through (vi).

473 (41) "Employee" is as defined in Section 59-10-401.

474 (42) "Fixed guideway" means a public transit facility that uses and occupies:

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

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

477 (43) "Fixed wing turbine powered aircraft" means an aircraft that:

478 (a) is powered by turbine engines;

479 (b) operates on jet fuel; and

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

481 (44) "Fixed wireless service" means a telecommunications service that provides radio
482 communication between fixed points.

483 (45) (a) "Food and food ingredients" means substances:

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

485 (A) liquid form;

486 (B) concentrated form;

487 (C) solid form;

488 (D) frozen form;

489 (E) dried form; or

490 (F) dehydrated form; and

- 491 (ii) that are:
- 492 (A) sold for:
- 493 (I) ingestion by humans; or
- 494 (II) chewing by humans; and
- 495 (B) consumed for the substance's:
- 496 (I) taste; or
- 497 (II) nutritional value.
- 498 (b) "Food and food ingredients" includes an item described in Subsection (86)(b)(iii).
- 499 (c) "Food and food ingredients" does not include:
- 500 (i) an alcoholic beverage;
- 501 (ii) tobacco; or
- 502 (iii) prepared food.
- 503 (46) (a) "Fundraising sales" means sales:
- 504 (i) (A) made by a school; or
- 505 (B) made by a school student;
- 506 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 507 materials, or provide transportation; and
- 508 (iii) that are part of an officially sanctioned school activity.
- 509 (b) For purposes of Subsection (46)(a)(iii), "officially sanctioned school activity"
- 510 means a school activity:
- 511 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 512 district governing the authorization and supervision of fundraising activities;
- 513 (ii) that does not directly or indirectly compensate an individual teacher or other
- 514 educational personnel by direct payment, commissions, or payment in kind; and
- 515 (iii) the net or gross revenues from which are deposited in a dedicated account
- 516 controlled by the school or school district.
- 517 (47) "Geothermal energy" means energy contained in heat that continuously flows
- 518 outward from the earth that is used as the sole source of energy to produce electricity.
- 519 (48) "Governing board of the agreement" means the governing board of the agreement
- 520 that is:
- 521 (a) authorized to administer the agreement; and

- 522 (b) established in accordance with the agreement.
- 523 (49) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
- 524 (i) the executive branch of the state, including all departments, institutions, boards,
525 divisions, bureaus, offices, commissions, and committees;
- 526 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
527 Office of the Court Administrator, and similar administrative units in the judicial branch;
- 528 (iii) the legislative branch of the state, including the House of Representatives, the
529 Senate, the Legislative Printing Office, the Office of Legislative Research and General
530 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
531 Analyst;
- 532 (iv) the National Guard;
- 533 (v) an independent entity as defined in Section 63E-1-102; or
- 534 (vi) a political subdivision as defined in Section 17B-1-102.
- 535 (b) "Governmental entity" does not include the state systems of public and higher
536 education, including:
- 537 (i) a college campus of the Utah College of Applied Technology;
- 538 (ii) a school;
- 539 (iii) the State Board of Education;
- 540 (iv) the State Board of Regents; or
- 541 (v) an institution of higher education.
- 542 (50) "Hydroelectric energy" means water used as the sole source of energy to produce
543 electricity.
- 544 (51) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
545 other fuels:
- 546 (a) in mining or extraction of minerals;
- 547 (b) in agricultural operations to produce an agricultural product up to the time of
548 harvest or placing the agricultural product into a storage facility, including:
- 549 (i) commercial greenhouses;
- 550 (ii) irrigation pumps;
- 551 (iii) farm machinery;
- 552 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not

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

554 (v) other farming activities;

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

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

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

558 (d) by a scrap recycler if:

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

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

561 products:

562 (A) iron;

563 (B) steel;

564 (C) nonferrous metal;

565 (D) paper;

566 (E) glass;

567 (F) plastic;

568 (G) textile; or

569 (H) rubber; and

570 (ii) the new products under Subsection (51)(d)(i) would otherwise be made with

571 nonrecycled materials; or

572 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a

573 cogeneration facility as defined in Section 54-2-1.

574 (52) (a) Except as provided in Subsection (52)(b), "installation charge" means a charge

575 for installing:

576 (i) tangible personal property; or

577 (ii) a product transferred electronically.

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

579 (i) repairs or renovations of:

580 (A) tangible personal property; or

581 (B) a product transferred electronically; or

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

583 (A) to other tangible personal property; and

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

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

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

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

590 (B) an indeterminate term; and

591 (ii) consideration.

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

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

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

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

602 (A) upon completion of required payments; and

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

604 (I) \$100; or

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

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

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

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

612 (ii) maintenance of tangible personal property; or

613 (iii) inspection of tangible personal property.

614 (55) "Life science establishment" means an establishment in this state that is classified

615 under the following NAICS codes of the 2007 North American Industry Classification System
616 of the federal Executive Office of the President, Office of Management and Budget:

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

618 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

619 Manufacturing; or

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

621 (56) "Life science research and development facility" means a facility owned, leased,

622 or rented by a life science establishment if research and development is performed in 51% or

623 more of the total area of the facility.

624 (57) "Load and leave" means delivery to a purchaser by use of a tangible storage media

625 if the tangible storage media is not physically transferred to the purchaser.

626 (58) "Local taxing jurisdiction" means a:

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

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

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

630 (59) "Manufactured home" is as defined in Section 15A-1-302.

631 (60) For purposes of Section 59-12-104, "manufacturing facility" means:

632 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard

633 Industrial Classification Manual of the federal Executive Office of the President, Office of

634 Management and Budget;

635 (b) a scrap recycler if:

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

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

638 products:

639 (A) iron;

640 (B) steel;

641 (C) nonferrous metal;

642 (D) paper;

643 (E) glass;

644 (F) plastic;

645 (G) textile; or

- 646 (H) rubber; and
- 647 (ii) the new products under Subsection (60)(b)(i) would otherwise be made with
- 648 nonrecycled materials; or
- 649 (c) a cogeneration facility as defined in Section 54-2-1.
- 650 (61) "Member of the immediate family of the producer" means a person who is related
- 651 to a producer described in Subsection 59-12-104(20)(a) as a:
 - 652 (a) child or stepchild, regardless of whether the child or stepchild is:
 - 653 (i) an adopted child or adopted stepchild; or
 - 654 (ii) a foster child or foster stepchild;
 - 655 (b) grandchild or stepgrandchild;
 - 656 (c) grandparent or stepgrandparent;
 - 657 (d) nephew or stepnephew;
 - 658 (e) niece or stepniece;
 - 659 (f) parent or stepparent;
 - 660 (g) sibling or stepsibling;
 - 661 (h) spouse;
 - 662 (i) person who is the spouse of a person described in Subsections (61)(a) through (g);
 - 663 or
 - 664 (j) person similar to a person described in Subsections (61)(a) through (i) as
 - 665 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
 - 666 Administrative Rulemaking Act.
- 667 (62) "Mobile home" is as defined in Section 15A-1-302.
- 668 (63) "Mobile telecommunications service" is as defined in the Mobile
- 669 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 670 (64) (a) "Mobile wireless service" means a telecommunications service, regardless of
- 671 the technology used, if:
 - 672 (i) the origination point of the conveyance, routing, or transmission is not fixed;
 - 673 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
 - 674 (iii) the origination point described in Subsection (64)(a)(i) and the termination point
 - 675 described in Subsection (64)(a)(ii) are not fixed.
- 676 (b) "Mobile wireless service" includes a telecommunications service that is provided

677 by a commercial mobile radio service provider.

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

680 (65) (a) Except as provided in Subsection (65)(c), "mobility enhancing equipment"
681 means equipment that is:

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

684 (ii) appropriate for use in a:

685 (A) home; or

686 (B) motor vehicle; and

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

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

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

692 (i) a motor vehicle;

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

695 (iii) durable medical equipment; or

696 (iv) a prosthetic device.

697 (66) "Model 1 seller" means a seller registered under the agreement that has selected a
698 certified service provider as the seller's agent to perform all of the seller's sales and use tax
699 functions for agreement sales and use taxes other than the seller's obligation under Section
700 59-12-124 to remit a tax on the seller's own purchases.

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

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

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

706 (i) collected by the seller; and

707 (ii) to the appropriate local taxing jurisdiction.

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

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

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

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

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

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

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

716 (b) For purposes of Subsection (68)(a), "model 3 seller" includes an affiliated group of
717 sellers using the same proprietary system.

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

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

721 (71) "Motor vehicle" is as defined in Section 41-1a-102.

722 (72) "Oil sands" means impregnated bituminous sands that:

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

725 (b) yield mixtures of liquid hydrocarbon; and

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

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

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

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

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

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

739 (b) For purposes of Subsection (76)(a), the transmission of a coded radio signal
740 includes a transmission by message or sound.

741 (77) "Pawnbroker" is as defined in Section 13-32a-102.

742 (78) "Pawn transaction" is as defined in Section 13-32a-102.

743 (79) (a) "Permanently attached to real property" means that for tangible personal
744 property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

761 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
762 Subsection (79)(c)(iii) or (iv).

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

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

766 (A) convenience;

767 (B) stability; or

768 (C) for an obvious temporary purpose;

769 (ii) the detachment of tangible personal property from real property except for the

770 detachment described in Subsection (79)(b)(ii);

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

775 (A) a computer;

776 (B) a telephone;

777 (C) a television; or

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

781 (iv) an item listed in Subsection [~~(117)~~] (121)(c).

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

786 (81) "Place of primary use":

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

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

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

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

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

796 (i) through the use of a:

797 (A) bank card;

798 (B) credit card;

799 (C) debit card; or

800 (D) travel card; or

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

803 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
804 service, that would be a prepaid wireless calling service if the service were exclusively a
805 telecommunications service.

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

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

809 (a) that allows a purchaser access to telecommunications service that is exclusively
810 telecommunications service;

811 (b) that:

812 (i) is paid for in advance; and

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

814 (A) access number; or

815 (B) authorization code;

816 (c) that is dialed:

817 (i) manually; or

818 (ii) electronically; and

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

820 (i) by a known amount; and

821 (ii) with use.

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

823 (a) that provides the right to utilize:

824 (i) mobile wireless service; and

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

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

827 (B) a content service; or

828 (C) an ancillary service;

829 (b) that:

830 (i) is paid for in advance; and

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

- 832 (A) access number; or
- 833 (B) authorization code;
- 834 (c) that is dialed:
- 835 (i) manually; or
- 836 (ii) electronically; and
- 837 (d) sold in predetermined units or dollars that decline:
- 838 (i) by a known amount; and
- 839 (ii) with use.
- 840 (86) (a) "Prepared food" means:
- 841 (i) food:
- 842 (A) sold in a heated state; or
- 843 (B) heated by a seller;
- 844 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 845 item; or
- 846 (iii) except as provided in Subsection (86)(c), food sold with an eating utensil provided
- 847 by the seller, including a:
- 848 (A) plate;
- 849 (B) knife;
- 850 (C) fork;
- 851 (D) spoon;
- 852 (E) glass;
- 853 (F) cup;
- 854 (G) napkin; or
- 855 (H) straw.
- 856 (b) "Prepared food" does not include:
- 857 (i) food that a seller only:
- 858 (A) cuts;
- 859 (B) repackages; or
- 860 (C) pasteurizes; or
- 861 (ii) (A) the following:
- 862 (I) raw egg;

- 863 (II) raw fish;
- 864 (III) raw meat;
- 865 (IV) raw poultry; or
- 866 (V) a food containing an item described in Subsections (86)(b)(ii)(A)(I) through (IV);
- 867 and
- 868 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 869 Food and Drug Administration's Food Code that a consumer cook the items described in
- 870 Subsection (86)(b)(ii)(A) to prevent food borne illness; or
- 871 (iii) the following if sold without eating utensils provided by the seller:
- 872 (A) food and food ingredients sold by a seller if the seller's proper primary
- 873 classification under the 2002 North American Industry Classification System of the federal
- 874 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 875 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 876 Manufacturing;
- 877 (B) food and food ingredients sold in an unheated state:
- 878 (I) by weight or volume; and
- 879 (II) as a single item; or
- 880 (C) a bakery item, including:
- 881 (I) a bagel;
- 882 (II) a bar;
- 883 (III) a biscuit;
- 884 (IV) bread;
- 885 (V) a bun;
- 886 (VI) a cake;
- 887 (VII) a cookie;
- 888 (VIII) a croissant;
- 889 (IX) a danish;
- 890 (X) a donut;
- 891 (XI) a muffin;
- 892 (XII) a pastry;
- 893 (XIII) a pie;

894 (XIV) a roll;
895 (XV) a tart;
896 (XVI) a torte; or
897 (XVII) a tortilla.
898 (c) Notwithstanding Subsection (86)(a)(iii), an eating utensil provided by the seller
899 does not include the following used to transport the food:
900 (i) a container; or
901 (ii) packaging.
902 (87) "Prescription" means an order, formula, or recipe that is issued:
903 (a) (i) orally;
904 (ii) in writing;
905 (iii) electronically; or
906 (iv) by any other manner of transmission; and
907 (b) by a licensed practitioner authorized by the laws of a state.
908 (88) (a) Except as provided in Subsection (88)(b)(ii) or (iii), "prewritten computer
909 software" means computer software that is not designed and developed:
910 (i) by the author or other creator of the computer software; and
911 (ii) to the specifications of a specific purchaser.
912 (b) "Prewritten computer software" includes:
913 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
914 software is not designed and developed:
915 (A) by the author or other creator of the computer software; and
916 (B) to the specifications of a specific purchaser;
917 (ii) notwithstanding Subsection (88)(a), computer software designed and developed by
918 the author or other creator of the computer software to the specifications of a specific purchaser
919 if the computer software is sold to a person other than the purchaser; or
920 (iii) notwithstanding Subsection (88)(a) and except as provided in Subsection (88)(c),
921 prewritten computer software or a prewritten portion of prewritten computer software:
922 (A) that is modified or enhanced to any degree; and
923 (B) if the modification or enhancement described in Subsection (88)(b)(iii)(A) is
924 designed and developed to the specifications of a specific purchaser.

925 (c) Notwithstanding Subsection (88)(b)(iii), "prewritten computer software" does not
926 include a modification or enhancement described in Subsection (88)(b)(iii) if the charges for
927 the modification or enhancement are:

928 (i) reasonable; and

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

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

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

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

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

938 (i) an extension line;

939 (ii) a station;

940 (iii) switching capacity; or

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

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

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

947 (i) an ancillary service;

948 (ii) computer software; or

949 (iii) a telecommunications service.

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

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

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

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

954 (b) "Prosthetic device" includes:

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

956 (ii) replacement parts for a prosthetic device;

957 (iii) a dental prosthesis; or

958 (iv) a hearing aid.

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

960 (i) corrective eyeglasses; or

961 (ii) contact lenses.

962 (92) (a) "Protective equipment" means an item:

963 (i) for human wear; and

964 (ii) that is:

965 (A) designed as protection:

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

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

968 (B) not suitable for general use.

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

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

972 (ii) that are consistent with the list of items that constitute "protective equipment"
973 under the agreement.

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

976 (i) regardless of:

977 (A) characteristics;

978 (B) copyright;

979 (C) form;

980 (D) format;

981 (E) method of reproduction; or

982 (F) source; and

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

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

986 (94) (a) "Purchase price" and "sales price" mean the total amount of consideration:

- 987 (i) valued in money; and
- 988 (ii) for which tangible personal property, a product transferred electronically, or
- 989 services are:
- 990 (A) sold;
- 991 (B) leased; or
- 992 (C) rented.
- 993 (b) "Purchase price" and "sales price" include:
- 994 (i) the seller's cost of the tangible personal property, a product transferred
- 995 electronically, or services sold;
- 996 (ii) expenses of the seller, including:
- 997 (A) the cost of materials used;
- 998 (B) a labor cost;
- 999 (C) a service cost;
- 1000 (D) interest;
- 1001 (E) a loss;
- 1002 (F) the cost of transportation to the seller; or
- 1003 (G) a tax imposed on the seller;
- 1004 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1005 (iv) consideration a seller receives from a person other than the purchaser if:
- 1006 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 1007 and
- 1008 (II) the consideration described in Subsection (94)(b)(iv)(A)(I) is directly related to a
- 1009 price reduction or discount on the sale;
- 1010 (B) the seller has an obligation to pass the price reduction or discount through to the
- 1011 purchaser;
- 1012 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 1013 the seller at the time of the sale to the purchaser; and
- 1014 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 1015 seller to claim a price reduction or discount; and
- 1016 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 1017 coupon, or other documentation with the understanding that the person other than the seller

1018 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1019 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1020 organization allowed a price reduction or discount, except that a preferred customer card that is
1021 available to any patron of a seller does not constitute membership in a group or organization
1022 allowed a price reduction or discount; or

1023 (III) the price reduction or discount is identified as a third party price reduction or
1024 discount on the:

1025 (Aa) invoice the purchaser receives; or

1026 (Bb) certificate, coupon, or other documentation the purchaser presents.

1027 (c) "Purchase price" and "sales price" do not include:

1028 (i) a discount:

1029 (A) in a form including:

1030 (I) cash;

1031 (II) term; or

1032 (III) coupon;

1033 (B) that is allowed by a seller;

1034 (C) taken by a purchaser on a sale; and

1035 (D) that is not reimbursed by a third party; or

1036 (ii) the following if separately stated on an invoice, bill of sale, or similar document
1037 provided to the purchaser:

1038 (A) the following from credit extended on the sale of tangible personal property or
1039 services:

1040 (I) a carrying charge;

1041 (II) a financing charge; or

1042 (III) an interest charge;

1043 (B) a delivery charge;

1044 (C) an installation charge;

1045 (D) a manufacturer rebate on a motor vehicle; or

1046 (E) a tax or fee legally imposed directly on the consumer.

1047 (95) "Purchaser" means a person to whom:

1048 (a) a sale of tangible personal property is made;

1049 (b) a product is transferred electronically; or

1050 (c) a service is furnished.

1051 (96) "Regularly rented" means:

1052 (a) rented to a guest for value three or more times during a calendar year; or

1053 (b) advertised or held out to the public as a place that is regularly rented to guests for
1054 value.

1055 (97) "Rental" is as defined in Subsection (54).

1056 (98) (a) Except as provided in Subsection (98)(b), "repairs or renovations of tangible
1057 personal property" means:

1058 (i) a repair or renovation of tangible personal property that is not permanently attached
1059 to real property; or

1060 (ii) attaching tangible personal property or a product transferred electronically to other
1061 tangible personal property or detaching tangible personal property or a product transferred
1062 electronically from other tangible personal property if:

1063 (A) the other tangible personal property to which the tangible personal property or
1064 product transferred electronically is attached or from which the tangible personal property or
1065 product transferred electronically is detached is not permanently attached to real property; and

1066 (B) the attachment of tangible personal property or a product transferred electronically
1067 to other tangible personal property or detachment of tangible personal property or a product
1068 transferred electronically from other tangible personal property is made in conjunction with a
1069 repair or replacement of tangible personal property or a product transferred electronically.

1070 (b) "Repairs or renovations of tangible personal property" does not include:

1071 (i) attaching prewritten computer software to other tangible personal property if the
1072 other tangible personal property to which the prewritten computer software is attached is not
1073 permanently attached to real property; or

1074 (ii) detaching prewritten computer software from other tangible personal property if the
1075 other tangible personal property from which the prewritten computer software is detached is
1076 not permanently attached to real property.

1077 (99) "Research and development" means the process of inquiry or experimentation
1078 aimed at the discovery of facts, devices, technologies, or applications and the process of
1079 preparing those devices, technologies, or applications for marketing.

1080 (100) (a) "Residential telecommunications services" means a telecommunications
1081 service or an ancillary service that is provided to an individual for personal use:

1082 (i) at a residential address; or

1083 (ii) at an institution, including a nursing home or a school, if the telecommunications
1084 service or ancillary service is provided to and paid for by the individual residing at the
1085 institution rather than the institution.

1086 (b) For purposes of Subsection (100)(a)(i), a residential address includes an:

1087 (i) apartment; or

1088 (ii) other individual dwelling unit.

1089 (101) "Residential use" means the use in or around a home, apartment building,
1090 sleeping quarters, and similar facilities or accommodations.

1091 (102) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1092 than:

1093 (a) resale;

1094 (b) sublease; or

1095 (c) subrent.

1096 (103) (a) "Retailer" means any person engaged in a regularly organized business in
1097 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1098 who is selling to the user or consumer and not for resale.

1099 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1100 engaged in the business of selling to users or consumers within the state.

1101 (104) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1102 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1103 Subsection 59-12-103(1), for consideration.

1104 (b) "Sale" includes:

1105 (i) installment and credit sales;

1106 (ii) any closed transaction constituting a sale;

1107 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1108 chapter;

1109 (iv) any transaction if the possession of property is transferred but the seller retains the
1110 title as security for the payment of the price; and

1111 (v) any transaction under which right to possession, operation, or use of any article of
1112 tangible personal property is granted under a lease or contract and the transfer of possession
1113 would be taxable if an outright sale were made.

1114 (105) "Sale at retail" is as defined in Subsection (102).

1115 (106) "Sale-leaseback transaction" means a transaction by which title to tangible
1116 personal property or a product transferred electronically that is subject to a tax under this
1117 chapter is transferred:

1118 (a) by a purchaser-lessee;

1119 (b) to a lessor;

1120 (c) for consideration; and

1121 (d) if:

1122 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1123 of the tangible personal property or product transferred electronically;

1124 (ii) the sale of the tangible personal property or product transferred electronically to the
1125 lessor is intended as a form of financing:

1126 (A) for the tangible personal property or product transferred electronically; and

1127 (B) to the purchaser-lessee; and

1128 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1129 is required to:

1130 (A) capitalize the tangible personal property or product transferred electronically for
1131 financial reporting purposes; and

1132 (B) account for the lease payments as payments made under a financing arrangement.

1133 (107) "Sales price" is as defined in Subsection (94).

1134 (108) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
1135 amounts charged by a school:

1136 (i) sales that are directly related to the school's educational functions or activities
1137 including:

1138 (A) the sale of:

1139 (I) textbooks;

1140 (II) textbook fees;

1141 (III) laboratory fees;

- 1142 (IV) laboratory supplies; or
- 1143 (V) safety equipment;
- 1144 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 1145 that:
- 1146 (I) a student is specifically required to wear as a condition of participation in a
- 1147 school-related event or school-related activity; and
- 1148 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 1149 place of ordinary clothing;
- 1150 (C) sales of the following if the net or gross revenues generated by the sales are
- 1151 deposited into a school district fund or school fund dedicated to school meals:
- 1152 (I) food and food ingredients; or
- 1153 (II) prepared food; or
- 1154 (D) transportation charges for official school activities; or
- 1155 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1156 event or school-related activity.
- 1157 (b) "Sales relating to schools" does not include:
- 1158 (i) bookstore sales of items that are not educational materials or supplies;
- 1159 (ii) except as provided in Subsection (108)(a)(i)(B):
- 1160 (A) clothing;
- 1161 (B) clothing accessories or equipment;
- 1162 (C) protective equipment; or
- 1163 (D) sports or recreational equipment; or
- 1164 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1165 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1166 (A) other than a:
- 1167 (I) school;
- 1168 (II) nonprofit organization authorized by a school board or a governing body of a
- 1169 private school to organize and direct a competitive secondary school activity; or
- 1170 (III) nonprofit association authorized by a school board or a governing body of a
- 1171 private school to organize and direct a competitive secondary school activity; and
- 1172 (B) that is required to collect sales and use taxes under this chapter.

1173 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1174 commission may make rules defining the term "passed through."

1175 (109) For purposes of this section and Section 59-12-104, "school":

1176 (a) means:

1177 (i) an elementary school or a secondary school that:

1178 (A) is a:

1179 (I) public school; or

1180 (II) private school; and

1181 (B) provides instruction for one or more grades kindergarten through 12; or

1182 (ii) a public school district; and

1183 (b) includes the Electronic High School as defined in Section 53A-15-1002.

1184 (110) "Seller" means a person that makes a sale, lease, or rental of:

1185 (a) tangible personal property;

1186 (b) a product transferred electronically; or

1187 (c) a service.

1188 (111) (a) "Semiconductor fabricating, processing, research, or development materials"
1189 means tangible personal property or a product transferred electronically if the tangible personal
1190 property or product transferred electronically is:

1191 (i) used primarily in the process of:

1192 (A) (I) manufacturing a semiconductor;

1193 (II) fabricating a semiconductor; or

1194 (III) research or development of a:

1195 (Aa) semiconductor; or

1196 (Bb) semiconductor manufacturing process; or

1197 (B) maintaining an environment suitable for a semiconductor; or

1198 (ii) consumed primarily in the process of:

1199 (A) (I) manufacturing a semiconductor;

1200 (II) fabricating a semiconductor; or

1201 (III) research or development of a:

1202 (Aa) semiconductor; or

1203 (Bb) semiconductor manufacturing process; or

- 1204 (B) maintaining an environment suitable for a semiconductor.
- 1205 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1206 includes:
- 1207 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1208 transferred electronically described in Subsection (111)(a); or
- 1209 (ii) a chemical, catalyst, or other material used to:
- 1210 (A) produce or induce in a semiconductor a:
- 1211 (I) chemical change; or
- 1212 (II) physical change;
- 1213 (B) remove impurities from a semiconductor; or
- 1214 (C) improve the marketable condition of a semiconductor.
- 1215 (112) "Senior citizen center" means a facility having the primary purpose of providing
- 1216 services to the aged as defined in Section 62A-3-101.
- 1217 (113) "Short-term lodging" means tourist home, cottage, hotel, motel, or trailer court
- 1218 accommodations and services that are regularly rented for less than 30 consecutive days.
- 1219 (114) (a) "Short-term lodging operator" means a person who owns, operates, or
- 1220 manages short-term lodging.
- 1221 (b) "Short-term lodging operator" does not include:
- 1222 (i) a travel agent who does not own, operate, or manage short-term lodging; or
- 1223 (ii) another person who:
- 1224 (A) does not own, operate, or manage short-term lodging; and
- 1225 (B) arranges, books, brokers, coordinates, or facilitates a transaction involving
- 1226 short-term lodging between a purchaser and a person who owns, operates, or manages
- 1227 short-term lodging.
- 1228 (115) "Short-term lodging transaction component" means each of the following
- 1229 amounts paid or charged for short-term lodging:
- 1230 (a) amounts paid or charged by a short-term lodging operator as a room cost for
- 1231 short-term lodging;
- 1232 (b) a tax under this chapter on an amount described in Subsection (115)(a); or
- 1233 (c) any additional amount, except for an amount described in Subsection (115)(a) or
- 1234 (b), paid or charged for service as part of the transaction for the purchase of short-term lodging.

1235 regardless of how the additional amount is characterized.

1236 [~~(113)~~] (116) "Simplified electronic return" means the electronic return:

1237 (a) described in Section 318(C) of the agreement; and

1238 (b) approved by the governing board of the agreement.

1239 [~~(114)~~] (117) "Solar energy" means the sun used as the sole source of energy for
1240 producing electricity.

1241 [~~(115)~~] (118) (a) "Sports or recreational equipment" means an item:

1242 (i) designed for human use; and

1243 (ii) that is:

1244 (A) worn in conjunction with:

1245 (I) an athletic activity; or

1246 (II) a recreational activity; and

1247 (B) not suitable for general use.

1248 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1249 commission shall make rules:

1250 (i) listing the items that constitute "sports or recreational equipment"; and

1251 (ii) that are consistent with the list of items that constitute "sports or recreational
1252 equipment" under the agreement.

1253 [~~(116)~~] (119) "State" means the state of Utah, its departments, and agencies.

1254 [~~(117)~~] (120) "Storage" means any keeping or retention of tangible personal property or
1255 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
1256 except sale in the regular course of business.

1257 [~~(118)~~] (121) (a) Except as provided in Subsection [~~(118)~~] (121)(d) or (e), "tangible
1258 personal property" means personal property that:

1259 (i) may be:

1260 (A) seen;

1261 (B) weighed;

1262 (C) measured;

1263 (D) felt; or

1264 (E) touched; or

1265 (ii) is in any manner perceptible to the senses.

1266 (b) "Tangible personal property" includes:

1267 (i) electricity;

1268 (ii) water;

1269 (iii) gas;

1270 (iv) steam; or

1271 (v) prewritten computer software, regardless of the manner in which the prewritten

1272 computer software is transferred.

1273 (c) "Tangible personal property" includes the following regardless of whether the item

1274 is attached to real property:

1275 (i) a dishwasher;

1276 (ii) a dryer;

1277 (iii) a freezer;

1278 (iv) a microwave;

1279 (v) a refrigerator;

1280 (vi) a stove;

1281 (vii) a washer; or

1282 (viii) an item similar to Subsections [~~(118)~~] (121)(c)(i) through (vii) as determined by

1283 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

1284 Rulemaking Act.

1285 (d) "Tangible personal property" does not include a product that is transferred

1286 electronically.

1287 (e) "Tangible personal property" does not include the following if attached to real

1288 property, regardless of whether the attachment to real property is only through a line that

1289 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the

1290 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

1291 Rulemaking Act:

1292 (i) a hot water heater;

1293 (ii) a water filtration system; or

1294 (iii) a water softener system.

1295 [~~(119)~~] (122) (a) "Telecommunications enabling or facilitating equipment, machinery,

1296 or software" means an item listed in Subsection [~~(119)~~] (122)(b) if that item is purchased or

1297 leased primarily to enable or facilitate one or more of the following to function:

1298 (i) telecommunications switching or routing equipment, machinery, or software; or

1299 (ii) telecommunications transmission equipment, machinery, or software.

1300 (b) The following apply to Subsection [~~(119)~~] (122)(a):

1301 (i) a pole;

1302 (ii) software;

1303 (iii) a supplementary power supply;

1304 (iv) temperature or environmental equipment or machinery;

1305 (v) test equipment;

1306 (vi) a tower; or

1307 (vii) equipment, machinery, or software that functions similarly to an item listed in

1308 Subsections [~~(119)~~] (122)(b)(i) through (vi) as determined by the commission by rule made in

1309 accordance with Subsection [~~(119)~~] (122)(c).

1310 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1311 commission may by rule define what constitutes equipment, machinery, or software that

1312 functions similarly to an item listed in Subsections [~~(119)~~] (122)(b)(i) through (vi).

1313 [~~(120)~~] (123) "Telecommunications equipment, machinery, or software required for

1314 911 service" means equipment, machinery, or software that is required to comply with 47

1315 C.F.R. Sec. 20.18.

1316 [~~(121)~~] (124) "Telecommunications maintenance or repair equipment, machinery, or

1317 software" means equipment, machinery, or software purchased or leased primarily to maintain

1318 or repair one or more of the following, regardless of whether the equipment, machinery, or

1319 software is purchased or leased as a spare part or as an upgrade or modification to one or more

1320 of the following:

1321 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1322 (b) telecommunications switching or routing equipment, machinery, or software; or

1323 (c) telecommunications transmission equipment, machinery, or software.

1324 [~~(122)~~] (125) (a) "Telecommunications service" means the electronic conveyance,

1325 routing, or transmission of audio, data, video, voice, or any other information or signal to a

1326 point, or among or between points.

1327 (b) "Telecommunications service" includes:

- 1328 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1329 processing application is used to act:
- 1330 (A) on the code, form, or protocol of the content;
- 1331 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 1332 (C) regardless of whether the service:
- 1333 (I) is referred to as voice over Internet protocol service; or
- 1334 (II) is classified by the Federal Communications Commission as enhanced or value
1335 added;
- 1336 (ii) an 800 service;
- 1337 (iii) a 900 service;
- 1338 (iv) a fixed wireless service;
- 1339 (v) a mobile wireless service;
- 1340 (vi) a postpaid calling service;
- 1341 (vii) a prepaid calling service;
- 1342 (viii) a prepaid wireless calling service; or
- 1343 (ix) a private communications service.
- 1344 (c) "Telecommunications service" does not include:
- 1345 (i) advertising, including directory advertising;
- 1346 (ii) an ancillary service;
- 1347 (iii) a billing and collection service provided to a third party;
- 1348 (iv) a data processing and information service if:
- 1349 (A) the data processing and information service allows data to be:
- 1350 (I) (Aa) acquired;
- 1351 (Bb) generated;
- 1352 (Cc) processed;
- 1353 (Dd) retrieved; or
- 1354 (Ee) stored; and
- 1355 (II) delivered by an electronic transmission to a purchaser; and
- 1356 (B) the purchaser's primary purpose for the underlying transaction is the processed data
1357 or information;
- 1358 (v) installation or maintenance of the following on a customer's premises:

- 1359 (A) equipment; or
- 1360 (B) wiring;
- 1361 (vi) Internet access service;
- 1362 (vii) a paging service;
- 1363 (viii) a product transferred electronically, including:
 - 1364 (A) music;
 - 1365 (B) reading material;
 - 1366 (C) a ring tone;
 - 1367 (D) software; or
 - 1368 (E) video;
 - 1369 (ix) a radio and television audio and video programming service:
 - 1370 (A) regardless of the medium; and
 - 1371 (B) including:
 - 1372 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 1373 programming service by a programming service provider;
 - 1374 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 1375 (III) audio and video programming services delivered by a commercial mobile radio
 - 1376 service provider as defined in 47 C.F.R. Sec. 20.3;
 - 1377 (x) a value-added nonvoice data service; or
 - 1378 (xi) tangible personal property.
- 1379 [~~(123)~~] (126) (a) "Telecommunications service provider" means a person that:
 - 1380 (i) owns, controls, operates, or manages a telecommunications service; and
 - 1381 (ii) engages in an activity described in Subsection [~~(123)~~] (126)(a)(i) for the shared use
 - 1382 with or resale to any person of the telecommunications service.
- 1383 (b) A person described in Subsection [~~(123)~~] (126)(a) is a telecommunications service
- 1384 provider whether or not the Public Service Commission of Utah regulates:
 - 1385 (i) that person; or
 - 1386 (ii) the telecommunications service that the person owns, controls, operates, or
 - 1387 manages.
- 1388 [~~(124)~~] (127) (a) "Telecommunications switching or routing equipment, machinery, or
- 1389 software" means an item listed in Subsection [~~(124)~~] (127)(b) if that item is purchased or

1390 leased primarily for switching or routing:

- 1391 (i) an ancillary service;
- 1392 (ii) data communications;
- 1393 (iii) voice communications; or
- 1394 (iv) telecommunications service.

1395 (b) The following apply to Subsection [~~(124)~~] (127)(a):

- 1396 (i) a bridge;
- 1397 (ii) a computer;
- 1398 (iii) a cross connect;
- 1399 (iv) a modem;
- 1400 (v) a multiplexer;
- 1401 (vi) plug in circuitry;
- 1402 (vii) a router;
- 1403 (viii) software;
- 1404 (ix) a switch; or

1405 (x) equipment, machinery, or software that functions similarly to an item listed in
1406 Subsections [~~(124)~~] (127)(b)(i) through (ix) as determined by the commission by rule made in
1407 accordance with Subsection [~~(124)~~] (127)(c).

1408 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1409 commission may by rule define what constitutes equipment, machinery, or software that
1410 functions similarly to an item listed in Subsections [~~(124)~~] (127)(b)(i) through (ix).

1411 [~~(125)~~] (128) (a) "Telecommunications transmission equipment, machinery, or
1412 software" means an item listed in Subsection [~~(125)~~] (128)(b) if that item is purchased or
1413 leased primarily for sending, receiving, or transporting:

- 1414 (i) an ancillary service;
- 1415 (ii) data communications;
- 1416 (iii) voice communications; or
- 1417 (iv) telecommunications service.

1418 (b) The following apply to Subsection [~~(125)~~] (128)(a):

- 1419 (i) an amplifier;
- 1420 (ii) a cable;

- 1421 (iii) a closure;
- 1422 (iv) a conduit;
- 1423 (v) a controller;
- 1424 (vi) a duplexer;
- 1425 (vii) a filter;
- 1426 (viii) an input device;
- 1427 (ix) an input/output device;
- 1428 (x) an insulator;
- 1429 (xi) microwave machinery or equipment;
- 1430 (xii) an oscillator;
- 1431 (xiii) an output device;
- 1432 (xiv) a pedestal;
- 1433 (xv) a power converter;
- 1434 (xvi) a power supply;
- 1435 (xvii) a radio channel;
- 1436 (xviii) a radio receiver;
- 1437 (xix) a radio transmitter;
- 1438 (xx) a repeater;
- 1439 (xxi) software;
- 1440 (xxii) a terminal;
- 1441 (xxiii) a timing unit;
- 1442 (xxiv) a transformer;
- 1443 (xxv) a wire; or
- 1444 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1445 Subsections [~~(125)~~] (128)(b)(i) through (xxv) as determined by the commission by rule made in
- 1446 accordance with Subsection [~~(125)~~] (128)(c).
- 1447 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1448 commission may by rule define what constitutes equipment, machinery, or software that
- 1449 functions similarly to an item listed in Subsections [~~(125)~~] (128)(b)(i) through (xxv).
- 1450 [~~(126)~~] (129) (a) "Textbook for a higher education course" means a textbook or other
- 1451 printed material that is required for a course:

- 1452 (i) offered by an institution of higher education; and
- 1453 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1454 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1455 [~~(127)~~] (130) "Tobacco" means:

- 1456 (a) a cigarette;
- 1457 (b) a cigar;
- 1458 (c) chewing tobacco;
- 1459 (d) pipe tobacco; or
- 1460 (e) any other item that contains tobacco.

1461 [~~(128)~~] (131) "Unassisted amusement device" means an amusement device, skill
1462 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
1463 operate the amusement device, skill device, or ride device.

1464 [~~(129)~~] (132) (a) "Use" means the exercise of any right or power over tangible personal
1465 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1466 incident to the ownership or the leasing of that tangible personal property, product transferred
1467 electronically, or service.

1468 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1469 property, a product transferred electronically, or a service in the regular course of business and
1470 held for resale.

1471 [~~(130)~~] (133) "Value-added nonvoice data service" means a service:

1472 (a) that otherwise meets the definition of a telecommunications service except that a
1473 computer processing application is used to act primarily for a purpose other than conveyance,
1474 routing, or transmission; and

1475 (b) with respect to which a computer processing application is used to act on data or
1476 information:

- 1477 (i) code;
- 1478 (ii) content;
- 1479 (iii) form; or
- 1480 (iv) protocol.

1481 [~~(131)~~] (134) (a) Subject to Subsection [~~(131)~~] (134)(b), "vehicle" means the following
1482 that are required to be titled, registered, or titled and registered:

- 1483 (i) an aircraft as defined in Section 72-10-102;
- 1484 (ii) a vehicle as defined in Section 41-1a-102;
- 1485 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1486 (iv) a vessel as defined in Section 41-1a-102.
- 1487 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1488 (i) a vehicle described in Subsection (131)(a); or
- 1489 (ii) (A) a locomotive;
- 1490 (B) a freight car;
- 1491 (C) railroad work equipment; or
- 1492 (D) other railroad rolling stock.
- 1493 [~~(132)~~] (135) "Vehicle dealer" means a person engaged in the business of buying,
- 1494 selling, or exchanging a vehicle as defined in Subsection [~~(131)~~] (134).
- 1495 [~~(133)~~] (136) (a) "Vertical service" means an ancillary service that:
- 1496 (i) is offered in connection with one or more telecommunications services; and
- 1497 (ii) offers an advanced calling feature that allows a customer to:
- 1498 (A) identify a caller; and
- 1499 (B) manage multiple calls and call connections.
- 1500 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 1501 conference bridging service.
- 1502 [~~(134)~~] (137) (a) "Voice mail service" means an ancillary service that enables a
- 1503 customer to receive, send, or store a recorded message.
- 1504 (b) "Voice mail service" does not include a vertical service that a customer is required
- 1505 to have in order to utilize a voice mail service.
- 1506 [~~(135)~~] (138) (a) Except as provided in Subsection [~~(135)~~] (138)(b), "waste energy
- 1507 facility" means a facility that generates electricity:
- 1508 (i) using as the primary source of energy waste materials that would be placed in a
- 1509 landfill or refuse pit if it were not used to generate electricity, including:
- 1510 (A) tires;
- 1511 (B) waste coal;
- 1512 (C) oil shale; or
- 1513 (D) municipal solid waste; and

- 1514 (ii) in amounts greater than actually required for the operation of the facility.
- 1515 (b) "Waste energy facility" does not include a facility that incinerates:
- 1516 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1517 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1518 [~~136~~] (139) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1519 [~~137~~] (140) "Wind energy" means wind used as the sole source of energy to produce
- 1520 electricity.
- 1521 [~~138~~] (141) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
- 1522 geographic location by the United States Postal Service.
- 1523 Section 2. Section **59-12-102 (Effective 07/01/14)** is amended to read:
- 1524 **59-12-102 (Effective 07/01/14). Definitions.**
- 1525 As used in this chapter:
- 1526 (1) "800 service" means a telecommunications service that:
- 1527 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
- 1528 (b) is typically marketed:
- 1529 (i) under the name 800 toll-free calling;
- 1530 (ii) under the name 855 toll-free calling;
- 1531 (iii) under the name 866 toll-free calling;
- 1532 (iv) under the name 877 toll-free calling;
- 1533 (v) under the name 888 toll-free calling; or
- 1534 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
- 1535 Federal Communications Commission.
- 1536 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 1537 (i) a subscriber purchases;
- 1538 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 1539 the subscriber's:
- 1540 (A) prerecorded announcement; or
- 1541 (B) live service; and
- 1542 (iii) is typically marketed:
- 1543 (A) under the name 900 service; or
- 1544 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

- 1545 Communications Commission.
- 1546 (b) "900 service" does not include a charge for:
- 1547 (i) a collection service a seller of a telecommunications service provides to a
- 1548 subscriber; or
- 1549 (ii) the following a subscriber sells to the subscriber's customer:
- 1550 (A) a product; or
- 1551 (B) a service.
- 1552 (3) (a) "Admission or user fees" includes season passes.
- 1553 (b) "Admission or user fees" does not include annual membership dues to private
- 1554 organizations.
- 1555 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 1556 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 1557 Agreement after November 12, 2002.
- 1558 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 1559 (a) listed under Subsection (6); and
- 1560 (b) that are imposed within a local taxing jurisdiction.
- 1561 (6) "Agreement sales and use tax" means a tax imposed under:
- 1562 (a) Subsection 59-12-103(2)(a)(i)(A);
- 1563 (b) Subsection 59-12-103(2)(b)(i);
- 1564 (c) Subsection 59-12-103(2)(c)(i);
- 1565 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 1566 (e) Section 59-12-204;
- 1567 (f) Section 59-12-401;
- 1568 (g) Section 59-12-402;
- 1569 (h) Section 59-12-703;
- 1570 (i) Section 59-12-802;
- 1571 (j) Section 59-12-804;
- 1572 (k) Section 59-12-1102;
- 1573 (l) Section 59-12-1302;
- 1574 (m) Section 59-12-1402;
- 1575 (n) Section 59-12-1802;

- 1576 (o) Section 59-12-2003;
- 1577 (p) Section 59-12-2103;
- 1578 (q) Section 59-12-2213;
- 1579 (r) Section 59-12-2214;
- 1580 (s) Section 59-12-2215;
- 1581 (t) Section 59-12-2216;
- 1582 (u) Section 59-12-2217; or
- 1583 (v) Section 59-12-2218.
- 1584 (7) "Aircraft" is as defined in Section 72-10-102.
- 1585 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 1586 (a) except for:
- 1587 (i) an airline as defined in Section 59-2-102; or
- 1588 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 1589 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 1590 state, of an airline; and
- 1591 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 1592 whether the business entity performs the following in this state:
- 1593 (i) check, diagnose, overhaul, and repair:
- 1594 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 1595 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 1596 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 1597 engine;
- 1598 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 1599 aircraft:
- 1600 (A) an inspection;
- 1601 (B) a repair, including a structural repair or modification;
- 1602 (C) changing landing gear; and
- 1603 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 1604 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 1605 completely apply new paint to the fixed wing turbine powered aircraft; and
- 1606 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that

1607 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
1608 authority that certifies the fixed wing turbine powered aircraft.

1609 (9) "Alcoholic beverage" means a beverage that:

- 1610 (a) is suitable for human consumption; and
- 1611 (b) contains .5% or more alcohol by volume.

1612 (10) "Alternative energy" means:

- 1613 (a) biomass energy;
- 1614 (b) geothermal energy;
- 1615 (c) hydroelectric energy;
- 1616 (d) solar energy;
- 1617 (e) wind energy; or
- 1618 (f) energy that is derived from:
 - 1619 (i) coal-to-liquids;
 - 1620 (ii) nuclear fuel;
 - 1621 (iii) oil-impregnated diatomaceous earth;
 - 1622 (iv) oil sands;
 - 1623 (v) oil shale; or
 - 1624 (vi) petroleum coke.

1625 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
1626 facility" means a facility that:

- 1627 (i) uses alternative energy to produce electricity; and
- 1628 (ii) has a production capacity of 2 megawatts or greater.
- 1629 (b) A facility is an alternative energy electricity production facility regardless of
1630 whether the facility is:

- 1631 (i) connected to an electric grid; or
- 1632 (ii) located on the premises of an electricity consumer.

1633 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
1634 provision of telecommunications service.

- 1635 (b) "Ancillary service" includes:
 - 1636 (i) a conference bridging service;
 - 1637 (ii) a detailed communications billing service;

1638 (iii) directory assistance;

1639 (iv) a vertical service; or

1640 (v) a voice mail service.

1641 (13) "Area agency on aging" is as defined in Section 62A-3-101.

1642 (14) "Assisted amusement device" means an amusement device, skill device, or ride
1643 device that is started and stopped by an individual:

1644 (a) who is not the purchaser or renter of the right to use or operate the amusement
1645 device, skill device, or ride device; and

1646 (b) at the direction of the seller of the right to use the amusement device, skill device,
1647 or ride device.

1648 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
1649 washing of tangible personal property if the cleaning or washing labor is primarily performed
1650 by an individual:

1651 (a) who is not the purchaser of the cleaning or washing of the tangible personal
1652 property; and

1653 (b) at the direction of the seller of the cleaning or washing of the tangible personal
1654 property.

1655 (16) "Authorized carrier" means:

1656 (a) in the case of vehicles operated over public highways, the holder of credentials
1657 indicating that the vehicle is or will be operated pursuant to both the International Registration
1658 Plan and the International Fuel Tax Agreement;

1659 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
1660 certificate or air carrier's operating certificate; or

1661 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
1662 stock, the holder of a certificate issued by the United States Surface Transportation Board.

1663 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
1664 following that is used as the primary source of energy to produce fuel or electricity:

1665 (i) material from a plant or tree; or

1666 (ii) other organic matter that is available on a renewable basis, including:

1667 (A) slash and brush from forests and woodlands;

1668 (B) animal waste;

- 1669 (C) methane produced:
- 1670 (I) at landfills; or
- 1671 (II) as a byproduct of the treatment of wastewater residuals;
- 1672 (D) aquatic plants; and
- 1673 (E) agricultural products.
- 1674 (b) "Biomass energy" does not include:
- 1675 (i) black liquor;
- 1676 (ii) treated woods; or
- 1677 (iii) biomass from municipal solid waste other than methane produced:
- 1678 (A) at landfills; or
- 1679 (B) as a byproduct of the treatment of wastewater residuals.
- 1680 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 1681 property, products, or services if the tangible personal property, products, or services are:
- 1682 (i) distinct and identifiable; and
- 1683 (ii) sold for one nonitemized price.
- 1684 (b) "Bundled transaction" does not include:
- 1685 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 1686 the basis of the selection by the purchaser of the items of tangible personal property included in
- 1687 the transaction;
- 1688 (ii) the sale of real property;
- 1689 (iii) the sale of services to real property;
- 1690 (iv) the retail sale of tangible personal property and a service if:
- 1691 (A) the tangible personal property:
- 1692 (I) is essential to the use of the service; and
- 1693 (II) is provided exclusively in connection with the service; and
- 1694 (B) the service is the true object of the transaction;
- 1695 (v) the retail sale of two services if:
- 1696 (A) one service is provided that is essential to the use or receipt of a second service;
- 1697 (B) the first service is provided exclusively in connection with the second service; and
- 1698 (C) the second service is the true object of the transaction;
- 1699 (vi) a transaction that includes tangible personal property or a product subject to

1700 taxation under this chapter and tangible personal property or a product that is not subject to
1701 taxation under this chapter if the:

1702 (A) seller's purchase price of the tangible personal property or product subject to
1703 taxation under this chapter is de minimis; or

1704 (B) seller's sales price of the tangible personal property or product subject to taxation
1705 under this chapter is de minimis; and

1706 (vii) the retail sale of tangible personal property that is not subject to taxation under
1707 this chapter and tangible personal property that is subject to taxation under this chapter if:

1708 (A) that retail sale includes:

1709 (I) food and food ingredients;

1710 (II) a drug;

1711 (III) durable medical equipment;

1712 (IV) mobility enhancing equipment;

1713 (V) an over-the-counter drug;

1714 (VI) a prosthetic device; or

1715 (VII) a medical supply; and

1716 (B) subject to Subsection (18)(f):

1717 (I) the seller's purchase price of the tangible personal property subject to taxation under
1718 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

1719 (II) the seller's sales price of the tangible personal property subject to taxation under
1720 this chapter is 50% or less of the seller's total sales price of that retail sale.

1721 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
1722 service that is distinct and identifiable does not include:

1723 (A) packaging that:

1724 (I) accompanies the sale of the tangible personal property, product, or service; and

1725 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
1726 service;

1727 (B) tangible personal property, a product, or a service provided free of charge with the
1728 purchase of another item of tangible personal property, a product, or a service; or

1729 (C) an item of tangible personal property, a product, or a service included in the
1730 definition of "purchase price."

1731 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
1732 product, or a service is provided free of charge with the purchase of another item of tangible
1733 personal property, a product, or a service if the sales price of the purchased item of tangible
1734 personal property, product, or service does not vary depending on the inclusion of the tangible
1735 personal property, product, or service provided free of charge.

1736 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
1737 does not include a price that is separately identified by tangible personal property, product, or
1738 service on the following, regardless of whether the following is in paper format or electronic
1739 format:

1740 (A) a binding sales document; or

1741 (B) another supporting sales-related document that is available to a purchaser.

1742 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
1743 supporting sales-related document that is available to a purchaser includes:

1744 (A) a bill of sale;

1745 (B) a contract;

1746 (C) an invoice;

1747 (D) a lease agreement;

1748 (E) a periodic notice of rates and services;

1749 (F) a price list;

1750 (G) a rate card;

1751 (H) a receipt; or

1752 (I) a service agreement.

1753 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
1754 property or a product subject to taxation under this chapter is de minimis if:

1755 (A) the seller's purchase price of the tangible personal property or product is 10% or
1756 less of the seller's total purchase price of the bundled transaction; or

1757 (B) the seller's sales price of the tangible personal property or product is 10% or less of
1758 the seller's total sales price of the bundled transaction.

1759 (ii) For purposes of Subsection (18)(b)(vi), a seller:

1760 (A) shall use the seller's purchase price or the seller's sales price to determine if the
1761 purchase price or sales price of the tangible personal property or product subject to taxation

1762 under this chapter is de minimis; and

1763 (B) may not use a combination of the seller's purchase price and the seller's sales price
1764 to determine if the purchase price or sales price of the tangible personal property or product
1765 subject to taxation under this chapter is de minimis.

1766 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
1767 contract to determine if the sales price of tangible personal property or a product is de minimis.

1768 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
1769 the seller's purchase price and the seller's sales price to determine if tangible personal property
1770 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
1771 price of that retail sale.

1772 (19) "Certified automated system" means software certified by the governing board of
1773 the agreement that:

1774 (a) calculates the agreement sales and use tax imposed within a local taxing
1775 jurisdiction:

1776 (i) on a transaction; and

1777 (ii) in the states that are members of the agreement;

1778 (b) determines the amount of agreement sales and use tax to remit to a state that is a
1779 member of the agreement; and

1780 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

1781 (20) "Certified service provider" means an agent certified:

1782 (a) by the governing board of the agreement; and

1783 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
1784 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
1785 own purchases.

1786 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
1787 suitable for general use.

1788 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1789 commission shall make rules:

1790 (i) listing the items that constitute "clothing"; and

1791 (ii) that are consistent with the list of items that constitute "clothing" under the
1792 agreement.

1793 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

1794 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
1795 fuels that does not constitute industrial use under Subsection (51) or residential use under
1796 Subsection (101).

1797 (24) (a) "Common carrier" means a person engaged in or transacting the business of
1798 transporting passengers, freight, merchandise, or other property for hire within this state.

1799 (b) (i) "Common carrier" does not include a person who, at the time the person is
1800 traveling to or from that person's place of employment, transports a passenger to or from the
1801 passenger's place of employment.

1802 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
1803 Utah Administrative Rulemaking Act, the commission may make rules defining what
1804 constitutes a person's place of employment.

1805 (25) "Component part" includes:

1806 (a) poultry, dairy, and other livestock feed, and their components;

1807 (b) baling ties and twine used in the baling of hay and straw;

1808 (c) fuel used for providing temperature control of orchards and commercial
1809 greenhouses doing a majority of their business in wholesale sales, and for providing power for
1810 off-highway type farm machinery; and

1811 (d) feed, seeds, and seedlings.

1812 (26) "Computer" means an electronic device that accepts information:

1813 (a) (i) in digital form; or

1814 (ii) in a form similar to digital form; and

1815 (b) manipulates that information for a result based on a sequence of instructions.

1816 (27) "Computer software" means a set of coded instructions designed to cause:

1817 (a) a computer to perform a task; or

1818 (b) automatic data processing equipment to perform a task.

1819 (28) "Computer software maintenance contract" means a contract that obligates a seller
1820 of computer software to provide a customer with:

1821 (a) future updates or upgrades to computer software;

1822 (b) support services with respect to computer software; or

1823 (c) a combination of Subsections (28)(a) and (b).

1824 (29) (a) "Conference bridging service" means an ancillary service that links two or
1825 more participants of an audio conference call or video conference call.

1826 (b) "Conference bridging service" may include providing a telephone number as part of
1827 the ancillary service described in Subsection (29)(a).

1828 (c) "Conference bridging service" does not include a telecommunications service used
1829 to reach the ancillary service described in Subsection (29)(a).

1830 (30) "Construction materials" means any tangible personal property that will be
1831 converted into real property.

1832 (31) "Delivered electronically" means delivered to a purchaser by means other than
1833 tangible storage media.

1834 (32) (a) "Delivery charge" means a charge:

1835 (i) by a seller of:

1836 (A) tangible personal property;

1837 (B) a product transferred electronically; or

1838 (C) services; and

1839 (ii) for preparation and delivery of the tangible personal property, product transferred
1840 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
1841 purchaser.

1842 (b) "Delivery charge" includes a charge for the following:

1843 (i) transportation;

1844 (ii) shipping;

1845 (iii) postage;

1846 (iv) handling;

1847 (v) crating; or

1848 (vi) packing.

1849 (33) "Detailed telecommunications billing service" means an ancillary service of
1850 separately stating information pertaining to individual calls on a customer's billing statement.

1851 (34) "Dietary supplement" means a product, other than tobacco, that:

1852 (a) is intended to supplement the diet;

1853 (b) contains one or more of the following dietary ingredients:

1854 (i) a vitamin;

- 1855 (ii) a mineral;
- 1856 (iii) an herb or other botanical;
- 1857 (iv) an amino acid;
- 1858 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 1859 dietary intake; or
- 1860 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 1861 described in Subsections (34)(b)(i) through (v);
- 1862 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 1863 (A) tablet form;
- 1864 (B) capsule form;
- 1865 (C) powder form;
- 1866 (D) softgel form;
- 1867 (E) gelcap form; or
- 1868 (F) liquid form; or
- 1869 (ii) notwithstanding Subsection (34)(c)(i), if the product is not intended for ingestion in
- 1870 a form described in Subsections (34)(c)(i)(A) through (F), is not represented:
- 1871 (A) as conventional food; and
- 1872 (B) for use as a sole item of:
- 1873 (I) a meal; or
- 1874 (II) the diet; and
- 1875 (d) is required to be labeled as a dietary supplement:
- 1876 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 1877 (ii) as required by 21 C.F.R. Sec. 101.36.
- 1878 (35) (a) "Direct mail" means printed material delivered or distributed by United States
- 1879 mail or other delivery service:
- 1880 (i) to:
- 1881 (A) a mass audience; or
- 1882 (B) addressees on a mailing list provided:
- 1883 (I) by a purchaser of the mailing list; or
- 1884 (II) at the discretion of the purchaser of the mailing list; and
- 1885 (ii) if the cost of the printed material is not billed directly to the recipients.

1886 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
1887 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

1888 (c) "Direct mail" does not include multiple items of printed material delivered to a
1889 single address.

1890 (36) "Directory assistance" means an ancillary service of providing:

1891 (a) address information; or

1892 (b) telephone number information.

1893 (37) (a) "Disposable home medical equipment or supplies" means medical equipment
1894 or supplies that:

1895 (i) cannot withstand repeated use; and

1896 (ii) are purchased by, for, or on behalf of a person other than:

1897 (A) a health care facility as defined in Section 26-21-2;

1898 (B) a health care provider as defined in Section 78B-3-403;

1899 (C) an office of a health care provider described in Subsection (37)(a)(ii)(B); or

1900 (D) a person similar to a person described in Subsections (37)(a)(ii)(A) through (C).

1901 (b) "Disposable home medical equipment or supplies" does not include:

1902 (i) a drug;

1903 (ii) durable medical equipment;

1904 (iii) a hearing aid;

1905 (iv) a hearing aid accessory;

1906 (v) mobility enhancing equipment; or

1907 (vi) tangible personal property used to correct impaired vision, including:

1908 (A) eyeglasses; or

1909 (B) contact lenses.

1910 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1911 commission may by rule define what constitutes medical equipment or supplies.

1912 (38) (a) "Drug" means a compound, substance, or preparation, or a component of a
1913 compound, substance, or preparation that is:

1914 (i) recognized in:

1915 (A) the official United States Pharmacopoeia;

1916 (B) the official Homeopathic Pharmacopoeia of the United States;

- 1917 (C) the official National Formulary; or
- 1918 (D) a supplement to a publication listed in Subsections (38)(a)(i)(A) through (C);
- 1919 (ii) intended for use in the:
- 1920 (A) diagnosis of disease;
- 1921 (B) cure of disease;
- 1922 (C) mitigation of disease;
- 1923 (D) treatment of disease; or
- 1924 (E) prevention of disease; or
- 1925 (iii) intended to affect:
- 1926 (A) the structure of the body; or
- 1927 (B) any function of the body.
- 1928 (b) "Drug" does not include:
- 1929 (i) food and food ingredients;
- 1930 (ii) a dietary supplement;
- 1931 (iii) an alcoholic beverage; or
- 1932 (iv) a prosthetic device.
- 1933 (39) (a) Except as provided in Subsection (39)(c), "durable medical equipment" means
- 1934 equipment that:
- 1935 (i) can withstand repeated use;
- 1936 (ii) is primarily and customarily used to serve a medical purpose;
- 1937 (iii) generally is not useful to a person in the absence of illness or injury; and
- 1938 (iv) is not worn in or on the body.
- 1939 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 1940 equipment described in Subsection (39)(a).
- 1941 (c) Notwithstanding Subsection (39)(a), "durable medical equipment" does not include
- 1942 mobility enhancing equipment.
- 1943 (40) "Electronic" means:
- 1944 (a) relating to technology; and
- 1945 (b) having:
- 1946 (i) electrical capabilities;
- 1947 (ii) digital capabilities;

- 1948 (iii) magnetic capabilities;
- 1949 (iv) wireless capabilities;
- 1950 (v) optical capabilities;
- 1951 (vi) electromagnetic capabilities; or
- 1952 (vii) capabilities similar to Subsections (40)(b)(i) through (vi).
- 1953 (41) "Employee" is as defined in Section 59-10-401.
- 1954 (42) "Fixed guideway" means a public transit facility that uses and occupies:
 - 1955 (a) rail for the use of public transit; or
 - 1956 (b) a separate right-of-way for the use of public transit.
- 1957 (43) "Fixed wing turbine powered aircraft" means an aircraft that:
 - 1958 (a) is powered by turbine engines;
 - 1959 (b) operates on jet fuel; and
 - 1960 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 1961 (44) "Fixed wireless service" means a telecommunications service that provides radio
- 1962 communication between fixed points.
- 1963 (45) (a) "Food and food ingredients" means substances:
 - 1964 (i) regardless of whether the substances are in:
 - 1965 (A) liquid form;
 - 1966 (B) concentrated form;
 - 1967 (C) solid form;
 - 1968 (D) frozen form;
 - 1969 (E) dried form; or
 - 1970 (F) dehydrated form; and
 - 1971 (ii) that are:
 - 1972 (A) sold for:
 - 1973 (I) ingestion by humans; or
 - 1974 (II) chewing by humans; and
 - 1975 (B) consumed for the substance's:
 - 1976 (I) taste; or
 - 1977 (II) nutritional value.
- 1978 (b) "Food and food ingredients" includes an item described in Subsection (86)(b)(iii).

- 1979 (c) "Food and food ingredients" does not include:
- 1980 (i) an alcoholic beverage;
- 1981 (ii) tobacco; or
- 1982 (iii) prepared food.
- 1983 (46) (a) "Fundraising sales" means sales:
- 1984 (i) (A) made by a school; or
- 1985 (B) made by a school student;
- 1986 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 1987 materials, or provide transportation; and
- 1988 (iii) that are part of an officially sanctioned school activity.
- 1989 (b) For purposes of Subsection (46)(a)(iii), "officially sanctioned school activity"
- 1990 means a school activity:
- 1991 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 1992 district governing the authorization and supervision of fundraising activities;
- 1993 (ii) that does not directly or indirectly compensate an individual teacher or other
- 1994 educational personnel by direct payment, commissions, or payment in kind; and
- 1995 (iii) the net or gross revenues from which are deposited in a dedicated account
- 1996 controlled by the school or school district.
- 1997 (47) "Geothermal energy" means energy contained in heat that continuously flows
- 1998 outward from the earth that is used as the sole source of energy to produce electricity.
- 1999 (48) "Governing board of the agreement" means the governing board of the agreement
- 2000 that is:
- 2001 (a) authorized to administer the agreement; and
- 2002 (b) established in accordance with the agreement.
- 2003 (49) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
- 2004 (i) the executive branch of the state, including all departments, institutions, boards,
- 2005 divisions, bureaus, offices, commissions, and committees;
- 2006 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
- 2007 Office of the Court Administrator, and similar administrative units in the judicial branch;
- 2008 (iii) the legislative branch of the state, including the House of Representatives, the
- 2009 Senate, the Legislative Printing Office, the Office of Legislative Research and General

2010 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
2011 Analyst;

2012 (iv) the National Guard;

2013 (v) an independent entity as defined in Section 63E-1-102; or

2014 (vi) a political subdivision as defined in Section 17B-1-102.

2015 (b) "Governmental entity" does not include the state systems of public and higher
2016 education, including:

2017 (i) a college campus of the Utah College of Applied Technology;

2018 (ii) a school;

2019 (iii) the State Board of Education;

2020 (iv) the State Board of Regents; or

2021 (v) an institution of higher education.

2022 (50) "Hydroelectric energy" means water used as the sole source of energy to produce
2023 electricity.

2024 (51) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
2025 other fuels:

2026 (a) in mining or extraction of minerals;

2027 (b) in agricultural operations to produce an agricultural product up to the time of
2028 harvest or placing the agricultural product into a storage facility, including:

2029 (i) commercial greenhouses;

2030 (ii) irrigation pumps;

2031 (iii) farm machinery;

2032 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
2033 registered under Title 41, Chapter 1a, Part 2, Registration; and

2034 (v) other farming activities;

2035 (c) in manufacturing tangible personal property at an establishment described in SIC
2036 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
2037 Executive Office of the President, Office of Management and Budget;

2038 (d) by a scrap recycler if:

2039 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2040 one or more of the following items into prepared grades of processed materials for use in new

2041 products:

2042 (A) iron;

2043 (B) steel;

2044 (C) nonferrous metal;

2045 (D) paper;

2046 (E) glass;

2047 (F) plastic;

2048 (G) textile; or

2049 (H) rubber; and

2050 (ii) the new products under Subsection (51)(d)(i) would otherwise be made with

2051 nonrecycled materials; or

2052 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a

2053 cogeneration facility as defined in Section 54-2-1.

2054 (52) (a) Except as provided in Subsection (52)(b), "installation charge" means a charge

2055 for installing:

2056 (i) tangible personal property; or

2057 (ii) a product transferred electronically.

2058 (b) "Installation charge" does not include a charge for:

2059 (i) repairs or renovations of:

2060 (A) tangible personal property; or

2061 (B) a product transferred electronically; or

2062 (ii) attaching tangible personal property or a product transferred electronically:

2063 (A) to other tangible personal property; and

2064 (B) as part of a manufacturing or fabrication process.

2065 (53) "Institution of higher education" means an institution of higher education listed in

2066 Section 53B-2-101.

2067 (54) (a) "Lease" or "rental" means a transfer of possession or control of tangible

2068 personal property or a product transferred electronically for:

2069 (i) (A) a fixed term; or

2070 (B) an indeterminate term; and

2071 (ii) consideration.

2072 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
2073 amount of consideration may be increased or decreased by reference to the amount realized
2074 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
2075 Code.

2076 (c) "Lease" or "rental" does not include:

2077 (i) a transfer of possession or control of property under a security agreement or
2078 deferred payment plan that requires the transfer of title upon completion of the required
2079 payments;

2080 (ii) a transfer of possession or control of property under an agreement that requires the
2081 transfer of title:

2082 (A) upon completion of required payments; and

2083 (B) if the payment of an option price does not exceed the greater of:

2084 (I) \$100; or

2085 (II) 1% of the total required payments; or

2086 (iii) providing tangible personal property along with an operator for a fixed period of
2087 time or an indeterminate period of time if the operator is necessary for equipment to perform as
2088 designed.

2089 (d) For purposes of Subsection (54)(c)(iii), an operator is necessary for equipment to
2090 perform as designed if the operator's duties exceed the:

2091 (i) set-up of tangible personal property;

2092 (ii) maintenance of tangible personal property; or

2093 (iii) inspection of tangible personal property.

2094 (55) "Life science establishment" means an establishment in this state that is classified
2095 under the following NAICS codes of the 2007 North American Industry Classification System
2096 of the federal Executive Office of the President, Office of Management and Budget:

2097 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

2098 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
2099 Manufacturing; or

2100 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

2101 (56) "Life science research and development facility" means a facility owned, leased,
2102 or rented by a life science establishment if research and development is performed in 51% or

2103 more of the total area of the facility.

2104 (57) "Load and leave" means delivery to a purchaser by use of a tangible storage media
2105 if the tangible storage media is not physically transferred to the purchaser.

2106 (58) "Local taxing jurisdiction" means a:

2107 (a) county that is authorized to impose an agreement sales and use tax;

2108 (b) city that is authorized to impose an agreement sales and use tax; or

2109 (c) town that is authorized to impose an agreement sales and use tax.

2110 (59) "Manufactured home" is as defined in Section 15A-1-302.

2111 (60) For purposes of Section 59-12-104, "manufacturing facility" means:

2112 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard

2113 Industrial Classification Manual of the federal Executive Office of the President, Office of
2114 Management and Budget;

2115 (b) a scrap recycler if:

2116 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2117 one or more of the following items into prepared grades of processed materials for use in new
2118 products:

2119 (A) iron;

2120 (B) steel;

2121 (C) nonferrous metal;

2122 (D) paper;

2123 (E) glass;

2124 (F) plastic;

2125 (G) textile; or

2126 (H) rubber; and

2127 (ii) the new products under Subsection (60)(b)(i) would otherwise be made with
2128 nonrecycled materials; or

2129 (c) a cogeneration facility as defined in Section 54-2-1.

2130 (61) "Member of the immediate family of the producer" means a person who is related
2131 to a producer described in Subsection 59-12-104(20)(a) as a:

2132 (a) child or stepchild, regardless of whether the child or stepchild is:

2133 (i) an adopted child or adopted stepchild; or

- 2134 (ii) a foster child or foster stepchild;
- 2135 (b) grandchild or stepgrandchild;
- 2136 (c) grandparent or stepgrandparent;
- 2137 (d) nephew or stepnephew;
- 2138 (e) niece or stepniece;
- 2139 (f) parent or stepparent;
- 2140 (g) sibling or stepsibling;
- 2141 (h) spouse;
- 2142 (i) person who is the spouse of a person described in Subsections (61)(a) through (g);

2143 or

- 2144 (j) person similar to a person described in Subsections (61)(a) through (i) as
- 2145 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 2146 Administrative Rulemaking Act.

2147 (62) "Mobile home" is as defined in Section 15A-1-302.

2148 (63) "Mobile telecommunications service" is as defined in the Mobile

2149 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2150 (64) (a) "Mobile wireless service" means a telecommunications service, regardless of

2151 the technology used, if:

- 2152 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 2153 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 2154 (iii) the origination point described in Subsection (64)(a)(i) and the termination point
- 2155 described in Subsection (64)(a)(ii) are not fixed.

2156 (b) "Mobile wireless service" includes a telecommunications service that is provided

2157 by a commercial mobile radio service provider.

2158 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2159 commission may by rule define "commercial mobile radio service provider."

2160 (65) (a) Except as provided in Subsection (65)(c), "mobility enhancing equipment"

2161 means equipment that is:

- 2162 (i) primarily and customarily used to provide or increase the ability to move from one
- 2163 place to another;
- 2164 (ii) appropriate for use in a:

- 2165 (A) home; or
- 2166 (B) motor vehicle; and
- 2167 (iii) not generally used by persons with normal mobility.
- 2168 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
- 2169 the equipment described in Subsection (65)(a).
- 2170 (c) Notwithstanding Subsection (65)(a), "mobility enhancing equipment" does not
- 2171 include:
- 2172 (i) a motor vehicle;
- 2173 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
- 2174 vehicle manufacturer;
- 2175 (iii) durable medical equipment; or
- 2176 (iv) a prosthetic device.
- 2177 (66) "Model 1 seller" means a seller registered under the agreement that has selected a
- 2178 certified service provider as the seller's agent to perform all of the seller's sales and use tax
- 2179 functions for agreement sales and use taxes other than the seller's obligation under Section
- 2180 59-12-124 to remit a tax on the seller's own purchases.
- 2181 (67) "Model 2 seller" means a seller registered under the agreement that:
- 2182 (a) except as provided in Subsection (67)(b), has selected a certified automated system
- 2183 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 2184 (b) notwithstanding Subsection (67)(a), retains responsibility for remitting all of the
- 2185 sales tax:
- 2186 (i) collected by the seller; and
- 2187 (ii) to the appropriate local taxing jurisdiction.
- 2188 (68) (a) Subject to Subsection (68)(b), "model 3 seller" means a seller registered under
- 2189 the agreement that has:
- 2190 (i) sales in at least five states that are members of the agreement;
- 2191 (ii) total annual sales revenues of at least \$500,000,000;
- 2192 (iii) a proprietary system that calculates the amount of tax:
- 2193 (A) for an agreement sales and use tax; and
- 2194 (B) due to each local taxing jurisdiction; and
- 2195 (iv) entered into a performance agreement with the governing board of the agreement.

2196 (b) For purposes of Subsection (68)(a), "model 3 seller" includes an affiliated group of
2197 sellers using the same proprietary system.

2198 (69) "Model 4 seller" means a seller that is registered under the agreement and is not a
2199 model 1 seller, model 2 seller, or model 3 seller.

2200 (70) "Modular home" means a modular unit as defined in Section 15A-1-302.

2201 (71) "Motor vehicle" is as defined in Section 41-1a-102.

2202 (72) "Oil sands" means impregnated bituminous sands that:

2203 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
2204 other hydrocarbons, or otherwise treated;

2205 (b) yield mixtures of liquid hydrocarbon; and

2206 (c) require further processing other than mechanical blending before becoming finished
2207 petroleum products.

2208 (73) "Oil shale" means a group of fine black to dark brown shales containing kerogen
2209 material that yields petroleum upon heating and distillation.

2210 (74) "Optional computer software maintenance contract" means a computer software
2211 maintenance contract that a customer is not obligated to purchase as a condition to the retail
2212 sale of computer software.

2213 (75) (a) "Other fuels" means products that burn independently to produce heat or
2214 energy.

2215 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
2216 personal property.

2217 (76) (a) "Paging service" means a telecommunications service that provides
2218 transmission of a coded radio signal for the purpose of activating a specific pager.

2219 (b) For purposes of Subsection (76)(a), the transmission of a coded radio signal
2220 includes a transmission by message or sound.

2221 (77) "Pawnbroker" is as defined in Section 13-32a-102.

2222 (78) "Pawn transaction" is as defined in Section 13-32a-102.

2223 (79) (a) "Permanently attached to real property" means that for tangible personal
2224 property attached to real property:

2225 (i) the attachment of the tangible personal property to the real property:

2226 (A) is essential to the use of the tangible personal property; and

- 2227 (B) suggests that the tangible personal property will remain attached to the real
2228 property in the same place over the useful life of the tangible personal property; or
2229 (ii) if the tangible personal property is detached from the real property, the detachment
2230 would:
- 2231 (A) cause substantial damage to the tangible personal property; or
2232 (B) require substantial alteration or repair of the real property to which the tangible
2233 personal property is attached.
- 2234 (b) "Permanently attached to real property" includes:
2235 (i) the attachment of an accessory to the tangible personal property if the accessory is:
2236 (A) essential to the operation of the tangible personal property; and
2237 (B) attached only to facilitate the operation of the tangible personal property;
2238 (ii) a temporary detachment of tangible personal property from real property for a
2239 repair or renovation if the repair or renovation is performed where the tangible personal
2240 property and real property are located; or
2241 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
2242 Subsection (79)(c)(iii) or (iv).
- 2243 (c) "Permanently attached to real property" does not include:
2244 (i) the attachment of portable or movable tangible personal property to real property if
2245 that portable or movable tangible personal property is attached to real property only for:
2246 (A) convenience;
2247 (B) stability; or
2248 (C) for an obvious temporary purpose;
2249 (ii) the detachment of tangible personal property from real property except for the
2250 detachment described in Subsection (79)(b)(ii);
2251 (iii) an attachment of the following tangible personal property to real property if the
2252 attachment to real property is only through a line that supplies water, electricity, gas,
2253 telecommunications, cable, or supplies a similar item as determined by the commission by rule
2254 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
2255 (A) a computer;
2256 (B) a telephone;
2257 (C) a television; or

2258 (D) tangible personal property similar to Subsections (79)(c)(iii)(A) through (C) as
2259 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
2260 Administrative Rulemaking Act; or

2261 (iv) an item listed in Subsection [~~(117)~~] (121)(c).

2262 (80) "Person" includes any individual, firm, partnership, joint venture, association,
2263 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
2264 municipality, district, or other local governmental entity of the state, or any group or
2265 combination acting as a unit.

2266 (81) "Place of primary use":

2267 (a) for telecommunications service other than mobile telecommunications service,
2268 means the street address representative of where the customer's use of the telecommunications
2269 service primarily occurs, which shall be:

2270 (i) the residential street address of the customer; or

2271 (ii) the primary business street address of the customer; or

2272 (b) for mobile telecommunications service, is as defined in the Mobile
2273 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2274 (82) (a) "Postpaid calling service" means a telecommunications service a person
2275 obtains by making a payment on a call-by-call basis:

2276 (i) through the use of a:

2277 (A) bank card;

2278 (B) credit card;

2279 (C) debit card; or

2280 (D) travel card; or

2281 (ii) by a charge made to a telephone number that is not associated with the origination
2282 or termination of the telecommunications service.

2283 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
2284 service, that would be a prepaid wireless calling service if the service were exclusively a
2285 telecommunications service.

2286 (83) "Postproduction" means an activity related to the finishing or duplication of a
2287 medium described in Subsection 59-12-104(54)(a).

2288 (84) "Prepaid calling service" means a telecommunications service:

- 2289 (a) that allows a purchaser access to telecommunications service that is exclusively
2290 telecommunications service;
- 2291 (b) that:
- 2292 (i) is paid for in advance; and
- 2293 (ii) enables the origination of a call using an:
- 2294 (A) access number; or
- 2295 (B) authorization code;
- 2296 (c) that is dialed:
- 2297 (i) manually; or
- 2298 (ii) electronically; and
- 2299 (d) sold in predetermined units or dollars that decline:
- 2300 (i) by a known amount; and
- 2301 (ii) with use.
- 2302 (85) "Prepaid wireless calling service" means a telecommunications service:
- 2303 (a) that provides the right to utilize:
- 2304 (i) mobile wireless service; and
- 2305 (ii) other service that is not a telecommunications service, including:
- 2306 (A) the download of a product transferred electronically;
- 2307 (B) a content service; or
- 2308 (C) an ancillary service;
- 2309 (b) that:
- 2310 (i) is paid for in advance; and
- 2311 (ii) enables the origination of a call using an:
- 2312 (A) access number; or
- 2313 (B) authorization code;
- 2314 (c) that is dialed:
- 2315 (i) manually; or
- 2316 (ii) electronically; and
- 2317 (d) sold in predetermined units or dollars that decline:
- 2318 (i) by a known amount; and
- 2319 (ii) with use.

2320 (86) (a) "Prepared food" means:
2321 (i) food:
2322 (A) sold in a heated state; or
2323 (B) heated by a seller;
2324 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
2325 item; or
2326 (iii) except as provided in Subsection (86)(c), food sold with an eating utensil provided
2327 by the seller, including a:
2328 (A) plate;
2329 (B) knife;
2330 (C) fork;
2331 (D) spoon;
2332 (E) glass;
2333 (F) cup;
2334 (G) napkin; or
2335 (H) straw.
2336 (b) "Prepared food" does not include:
2337 (i) food that a seller only:
2338 (A) cuts;
2339 (B) repackages; or
2340 (C) pasteurizes; or
2341 (ii) (A) the following:
2342 (I) raw egg;
2343 (II) raw fish;
2344 (III) raw meat;
2345 (IV) raw poultry; or
2346 (V) a food containing an item described in Subsections (86)(b)(ii)(A)(I) through (IV);
2347 and
2348 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
2349 Food and Drug Administration's Food Code that a consumer cook the items described in
2350 Subsection (86)(b)(ii)(A) to prevent food borne illness; or

- 2351 (iii) the following if sold without eating utensils provided by the seller:
- 2352 (A) food and food ingredients sold by a seller if the seller's proper primary
- 2353 classification under the 2002 North American Industry Classification System of the federal
- 2354 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 2355 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 2356 Manufacturing;
- 2357 (B) food and food ingredients sold in an unheated state:
- 2358 (I) by weight or volume; and
- 2359 (II) as a single item; or
- 2360 (C) a bakery item, including:
- 2361 (I) a bagel;
- 2362 (II) a bar;
- 2363 (III) a biscuit;
- 2364 (IV) bread;
- 2365 (V) a bun;
- 2366 (VI) a cake;
- 2367 (VII) a cookie;
- 2368 (VIII) a croissant;
- 2369 (IX) a danish;
- 2370 (X) a donut;
- 2371 (XI) a muffin;
- 2372 (XII) a pastry;
- 2373 (XIII) a pie;
- 2374 (XIV) a roll;
- 2375 (XV) a tart;
- 2376 (XVI) a torte; or
- 2377 (XVII) a tortilla.
- 2378 (c) Notwithstanding Subsection (86)(a)(iii), an eating utensil provided by the seller
- 2379 does not include the following used to transport the food:
- 2380 (i) a container; or
- 2381 (ii) packaging.

- 2382 (87) "Prescription" means an order, formula, or recipe that is issued:
2383 (a) (i) orally;
2384 (ii) in writing;
2385 (iii) electronically; or
2386 (iv) by any other manner of transmission; and
2387 (b) by a licensed practitioner authorized by the laws of a state.
- 2388 (88) (a) Except as provided in Subsection (88)(b)(ii) or (iii), "prewritten computer
2389 software" means computer software that is not designed and developed:
2390 (i) by the author or other creator of the computer software; and
2391 (ii) to the specifications of a specific purchaser.
- 2392 (b) "Prewritten computer software" includes:
2393 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
2394 software is not designed and developed:
2395 (A) by the author or other creator of the computer software; and
2396 (B) to the specifications of a specific purchaser;
2397 (ii) notwithstanding Subsection (88)(a), computer software designed and developed by
2398 the author or other creator of the computer software to the specifications of a specific purchaser
2399 if the computer software is sold to a person other than the purchaser; or
2400 (iii) notwithstanding Subsection (88)(a) and except as provided in Subsection (88)(c),
2401 prewritten computer software or a prewritten portion of prewritten computer software:
2402 (A) that is modified or enhanced to any degree; and
2403 (B) if the modification or enhancement described in Subsection (88)(b)(iii)(A) is
2404 designed and developed to the specifications of a specific purchaser.
- 2405 (c) Notwithstanding Subsection (88)(b)(iii), "prewritten computer software" does not
2406 include a modification or enhancement described in Subsection (88)(b)(iii) if the charges for
2407 the modification or enhancement are:
2408 (i) reasonable; and
2409 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
2410 invoice or other statement of price provided to the purchaser at the time of sale or later, as
2411 demonstrated by:
2412 (A) the books and records the seller keeps at the time of the transaction in the regular

2413 course of business, including books and records the seller keeps at the time of the transaction in
2414 the regular course of business for nontax purposes;

2415 (B) a preponderance of the facts and circumstances at the time of the transaction; and

2416 (C) the understanding of all of the parties to the transaction.

2417 (89) (a) "Private communication service" means a telecommunications service:

2418 (i) that entitles a customer to exclusive or priority use of one or more communications
2419 channels between or among termination points; and

2420 (ii) regardless of the manner in which the one or more communications channels are
2421 connected.

2422 (b) "Private communications service" includes the following provided in connection
2423 with the use of one or more communications channels:

2424 (i) an extension line;

2425 (ii) a station;

2426 (iii) switching capacity; or

2427 (iv) another associated service that is provided in connection with the use of one or
2428 more communications channels as defined in Section 59-12-215.

2429 (90) (a) Except as provided in Subsection (90)(b), "product transferred electronically"
2430 means a product transferred electronically that would be subject to a tax under this chapter if
2431 that product was transferred in a manner other than electronically.

2432 (b) "Product transferred electronically" does not include:

2433 (i) an ancillary service;

2434 (ii) computer software; or

2435 (iii) a telecommunications service.

2436 (91) (a) "Prosthetic device" means a device that is worn on or in the body to:

2437 (i) artificially replace a missing portion of the body;

2438 (ii) prevent or correct a physical deformity or physical malfunction; or

2439 (iii) support a weak or deformed portion of the body.

2440 (b) "Prosthetic device" includes:

2441 (i) parts used in the repairs or renovation of a prosthetic device;

2442 (ii) replacement parts for a prosthetic device;

2443 (iii) a dental prosthesis; or

- 2444 (iv) a hearing aid.
- 2445 (c) "Prosthetic device" does not include:
- 2446 (i) corrective eyeglasses; or
- 2447 (ii) contact lenses.
- 2448 (92) (a) "Protective equipment" means an item:
- 2449 (i) for human wear; and
- 2450 (ii) that is:
- 2451 (A) designed as protection:
- 2452 (I) to the wearer against injury or disease; or
- 2453 (II) against damage or injury of other persons or property; and
- 2454 (B) not suitable for general use.
- 2455 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2456 commission shall make rules:
- 2457 (i) listing the items that constitute "protective equipment"; and
- 2458 (ii) that are consistent with the list of items that constitute "protective equipment"
- 2459 under the agreement.
- 2460 (93) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 2461 printed matter, other than a photocopy:
- 2462 (i) regardless of:
- 2463 (A) characteristics;
- 2464 (B) copyright;
- 2465 (C) form;
- 2466 (D) format;
- 2467 (E) method of reproduction; or
- 2468 (F) source; and
- 2469 (ii) made available in printed or electronic format.
- 2470 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2471 commission may by rule define the term "photocopy."
- 2472 (94) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 2473 (i) valued in money; and
- 2474 (ii) for which tangible personal property, a product transferred electronically, or

2475 services are:

2476 (A) sold;

2477 (B) leased; or

2478 (C) rented.

2479 (b) "Purchase price" and "sales price" include:

2480 (i) the seller's cost of the tangible personal property, a product transferred

2481 electronically, or services sold;

2482 (ii) expenses of the seller, including:

2483 (A) the cost of materials used;

2484 (B) a labor cost;

2485 (C) a service cost;

2486 (D) interest;

2487 (E) a loss;

2488 (F) the cost of transportation to the seller; or

2489 (G) a tax imposed on the seller;

2490 (iii) a charge by the seller for any service necessary to complete the sale; or

2491 (iv) consideration a seller receives from a person other than the purchaser if:

2492 (A) (I) the seller actually receives consideration from a person other than the purchaser;

2493 and

2494 (II) the consideration described in Subsection (94)(b)(iv)(A)(I) is directly related to a

2495 price reduction or discount on the sale;

2496 (B) the seller has an obligation to pass the price reduction or discount through to the

2497 purchaser;

2498 (C) the amount of the consideration attributable to the sale is fixed and determinable by

2499 the seller at the time of the sale to the purchaser; and

2500 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the

2501 seller to claim a price reduction or discount; and

2502 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,

2503 coupon, or other documentation with the understanding that the person other than the seller

2504 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

2505 (II) the purchaser identifies that purchaser to the seller as a member of a group or

2506 organization allowed a price reduction or discount, except that a preferred customer card that is
2507 available to any patron of a seller does not constitute membership in a group or organization
2508 allowed a price reduction or discount; or

2509 (III) the price reduction or discount is identified as a third party price reduction or
2510 discount on the:

2511 (Aa) invoice the purchaser receives; or

2512 (Bb) certificate, coupon, or other documentation the purchaser presents.

2513 (c) "Purchase price" and "sales price" do not include:

2514 (i) a discount:

2515 (A) in a form including:

2516 (I) cash;

2517 (II) term; or

2518 (III) coupon;

2519 (B) that is allowed by a seller;

2520 (C) taken by a purchaser on a sale; and

2521 (D) that is not reimbursed by a third party; or

2522 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately

2523 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of

2524 sale or later, as demonstrated by the books and records the seller keeps at the time of the

2525 transaction in the regular course of business, including books and records the seller keeps at the

2526 time of the transaction in the regular course of business for nontax purposes, by a

2527 preponderance of the facts and circumstances at the time of the transaction, and by the

2528 understanding of all of the parties to the transaction:

2529 (A) the following from credit extended on the sale of tangible personal property or
2530 services:

2531 (I) a carrying charge;

2532 (II) a financing charge; or

2533 (III) an interest charge;

2534 (B) a delivery charge;

2535 (C) an installation charge;

2536 (D) a manufacturer rebate on a motor vehicle; or

- 2537 (E) a tax or fee legally imposed directly on the consumer.
- 2538 (95) "Purchaser" means a person to whom:
- 2539 (a) a sale of tangible personal property is made;
- 2540 (b) a product is transferred electronically; or
- 2541 (c) a service is furnished.
- 2542 (96) "Regularly rented" means:
- 2543 (a) rented to a guest for value three or more times during a calendar year; or
- 2544 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 2545 value.
- 2546 (97) "Rental" is as defined in Subsection (54).
- 2547 (98) (a) Except as provided in Subsection (98)(b), "repairs or renovations of tangible
- 2548 personal property" means:
- 2549 (i) a repair or renovation of tangible personal property that is not permanently attached
- 2550 to real property; or
- 2551 (ii) attaching tangible personal property or a product transferred electronically to other
- 2552 tangible personal property or detaching tangible personal property or a product transferred
- 2553 electronically from other tangible personal property if:
- 2554 (A) the other tangible personal property to which the tangible personal property or
- 2555 product transferred electronically is attached or from which the tangible personal property or
- 2556 product transferred electronically is detached is not permanently attached to real property; and
- 2557 (B) the attachment of tangible personal property or a product transferred electronically
- 2558 to other tangible personal property or detachment of tangible personal property or a product
- 2559 transferred electronically from other tangible personal property is made in conjunction with a
- 2560 repair or replacement of tangible personal property or a product transferred electronically.
- 2561 (b) "Repairs or renovations of tangible personal property" does not include:
- 2562 (i) attaching prewritten computer software to other tangible personal property if the
- 2563 other tangible personal property to which the prewritten computer software is attached is not
- 2564 permanently attached to real property; or
- 2565 (ii) detaching prewritten computer software from other tangible personal property if the
- 2566 other tangible personal property from which the prewritten computer software is detached is
- 2567 not permanently attached to real property.

2568 (99) "Research and development" means the process of inquiry or experimentation
2569 aimed at the discovery of facts, devices, technologies, or applications and the process of
2570 preparing those devices, technologies, or applications for marketing.

2571 (100) (a) "Residential telecommunications services" means a telecommunications
2572 service or an ancillary service that is provided to an individual for personal use:

2573 (i) at a residential address; or

2574 (ii) at an institution, including a nursing home or a school, if the telecommunications
2575 service or ancillary service is provided to and paid for by the individual residing at the
2576 institution rather than the institution.

2577 (b) For purposes of Subsection (100)(a)(i), a residential address includes an:

2578 (i) apartment; or

2579 (ii) other individual dwelling unit.

2580 (101) "Residential use" means the use in or around a home, apartment building,
2581 sleeping quarters, and similar facilities or accommodations.

2582 (102) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
2583 than:

2584 (a) resale;

2585 (b) sublease; or

2586 (c) subrent.

2587 (103) (a) "Retailer" means any person engaged in a regularly organized business in
2588 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
2589 who is selling to the user or consumer and not for resale.

2590 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
2591 engaged in the business of selling to users or consumers within the state.

2592 (104) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
2593 otherwise, in any manner, of tangible personal property or any other taxable transaction under
2594 Subsection 59-12-103(1), for consideration.

2595 (b) "Sale" includes:

2596 (i) installment and credit sales;

2597 (ii) any closed transaction constituting a sale;

2598 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this

2599 chapter;

2600 (iv) any transaction if the possession of property is transferred but the seller retains the
2601 title as security for the payment of the price; and

2602 (v) any transaction under which right to possession, operation, or use of any article of
2603 tangible personal property is granted under a lease or contract and the transfer of possession
2604 would be taxable if an outright sale were made.

2605 (105) "Sale at retail" is as defined in Subsection (102).

2606 (106) "Sale-leaseback transaction" means a transaction by which title to tangible
2607 personal property or a product transferred electronically that is subject to a tax under this
2608 chapter is transferred:

2609 (a) by a purchaser-lessee;

2610 (b) to a lessor;

2611 (c) for consideration; and

2612 (d) if:

2613 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
2614 of the tangible personal property or product transferred electronically;

2615 (ii) the sale of the tangible personal property or product transferred electronically to the
2616 lessor is intended as a form of financing:

2617 (A) for the tangible personal property or product transferred electronically; and

2618 (B) to the purchaser-lessee; and

2619 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
2620 is required to:

2621 (A) capitalize the tangible personal property or product transferred electronically for
2622 financial reporting purposes; and

2623 (B) account for the lease payments as payments made under a financing arrangement.

2624 (107) "Sales price" is as defined in Subsection (94).

2625 (108) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
2626 amounts charged by a school:

2627 (i) sales that are directly related to the school's educational functions or activities
2628 including:

2629 (A) the sale of:

- 2630 (I) textbooks;
- 2631 (II) textbook fees;
- 2632 (III) laboratory fees;
- 2633 (IV) laboratory supplies; or
- 2634 (V) safety equipment;
- 2635 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 2636 that:
- 2637 (I) a student is specifically required to wear as a condition of participation in a
- 2638 school-related event or school-related activity; and
- 2639 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 2640 place of ordinary clothing;
- 2641 (C) sales of the following if the net or gross revenues generated by the sales are
- 2642 deposited into a school district fund or school fund dedicated to school meals:
- 2643 (I) food and food ingredients; or
- 2644 (II) prepared food; or
- 2645 (D) transportation charges for official school activities; or
- 2646 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 2647 event or school-related activity.
- 2648 (b) "Sales relating to schools" does not include:
- 2649 (i) bookstore sales of items that are not educational materials or supplies;
- 2650 (ii) except as provided in Subsection (108)(a)(i)(B):
- 2651 (A) clothing;
- 2652 (B) clothing accessories or equipment;
- 2653 (C) protective equipment; or
- 2654 (D) sports or recreational equipment; or
- 2655 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 2656 event or school-related activity if the amounts paid or charged are passed through to a person:
- 2657 (A) other than a:
- 2658 (I) school;
- 2659 (II) nonprofit organization authorized by a school board or a governing body of a
- 2660 private school to organize and direct a competitive secondary school activity; or

2661 (III) nonprofit association authorized by a school board or a governing body of a
2662 private school to organize and direct a competitive secondary school activity; and

2663 (B) that is required to collect sales and use taxes under this chapter.

2664 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2665 commission may make rules defining the term "passed through."

2666 (109) For purposes of this section and Section 59-12-104, "school":

2667 (a) means:

2668 (i) an elementary school or a secondary school that:

2669 (A) is a:

2670 (I) public school; or

2671 (II) private school; and

2672 (B) provides instruction for one or more grades kindergarten through 12; or

2673 (ii) a public school district; and

2674 (b) includes the Electronic High School as defined in Section 53A-15-1002.

2675 (110) "Seller" means a person that makes a sale, lease, or rental of:

2676 (a) tangible personal property;

2677 (b) a product transferred electronically; or

2678 (c) a service.

2679 (111) (a) "Semiconductor fabricating, processing, research, or development materials"

2680 means tangible personal property or a product transferred electronically if the tangible personal

2681 property or product transferred electronically is:

2682 (i) used primarily in the process of:

2683 (A) (I) manufacturing a semiconductor;

2684 (II) fabricating a semiconductor; or

2685 (III) research or development of a:

2686 (Aa) semiconductor; or

2687 (Bb) semiconductor manufacturing process; or

2688 (B) maintaining an environment suitable for a semiconductor; or

2689 (ii) consumed primarily in the process of:

2690 (A) (I) manufacturing a semiconductor;

2691 (II) fabricating a semiconductor; or

- 2692 (III) research or development of a:
- 2693 (Aa) semiconductor; or
- 2694 (Bb) semiconductor manufacturing process; or
- 2695 (B) maintaining an environment suitable for a semiconductor.
- 2696 (b) "Semiconductor fabricating, processing, research, or development materials"
- 2697 includes:
- 2698 (i) parts used in the repairs or renovations of tangible personal property or a product
- 2699 transferred electronically described in Subsection (111)(a); or
- 2700 (ii) a chemical, catalyst, or other material used to:
- 2701 (A) produce or induce in a semiconductor a:
- 2702 (I) chemical change; or
- 2703 (II) physical change;
- 2704 (B) remove impurities from a semiconductor; or
- 2705 (C) improve the marketable condition of a semiconductor.
- 2706 (112) "Senior citizen center" means a facility having the primary purpose of providing
- 2707 services to the aged as defined in Section 62A-3-101.
- 2708 (113) "Short-term lodging" means tourist home, cottage, hotel, motel, or trailer court
- 2709 accommodations and services that are regularly rented for less than 30 consecutive days.
- 2710 (114) (a) "Short-term lodging operator" means a person who owns, operates, or
- 2711 manages short-term lodging.
- 2712 (b) "Short-term lodging operator" does not include:
- 2713 (i) a travel agent who does not own, operate, or manage short-term lodging; or
- 2714 (ii) another person who:
- 2715 (A) does not own, operate, or manage short-term lodging; and
- 2716 (B) arranges, books, brokers, coordinates, or facilitates a transaction involving
- 2717 short-term lodging between a purchaser and a person who owns, operates, or manages
- 2718 short-term lodging.
- 2719 (115) "Short-term lodging transaction component" means each of the following
- 2720 amounts paid or charged for short-term lodging:
- 2721 (a) amounts paid or charged by a short-term lodging operator as a room cost for
- 2722 short-term lodging;

2723 (b) a tax under this chapter on an amount described in Subsection (115)(a); or
2724 (c) any additional amount, except for an amount described in Subsection (115)(a) or
2725 (b), paid or charged for service as part of the transaction for the purchase of short-term lodging,
2726 regardless of how the additional amount is characterized.

2727 [~~(113)~~] (116) "Simplified electronic return" means the electronic return:

2728 (a) described in Section 318(C) of the agreement; and

2729 (b) approved by the governing board of the agreement.

2730 [~~(114)~~] (117) "Solar energy" means the sun used as the sole source of energy for

2731 producing electricity.

2732 [~~(115)~~] (118) (a) "Sports or recreational equipment" means an item:

2733 (i) designed for human use; and

2734 (ii) that is:

2735 (A) worn in conjunction with:

2736 (I) an athletic activity; or

2737 (II) a recreational activity; and

2738 (B) not suitable for general use.

2739 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2740 commission shall make rules:

2741 (i) listing the items that constitute "sports or recreational equipment"; and

2742 (ii) that are consistent with the list of items that constitute "sports or recreational
2743 equipment" under the agreement.

2744 [~~(116)~~] (119) "State" means the state of Utah, its departments, and agencies.

2745 [~~(117)~~] (120) "Storage" means any keeping or retention of tangible personal property or
2746 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
2747 except sale in the regular course of business.

2748 [~~(118)~~] (121) (a) Except as provided in Subsection [~~(118)~~] (121)(d) or (e), "tangible
2749 personal property" means personal property that:

2750 (i) may be:

2751 (A) seen;

2752 (B) weighed;

2753 (C) measured;

- 2754 (D) felt; or
2755 (E) touched; or
2756 (ii) is in any manner perceptible to the senses.
2757 (b) "Tangible personal property" includes:
2758 (i) electricity;
2759 (ii) water;
2760 (iii) gas;
2761 (iv) steam; or
2762 (v) prewritten computer software, regardless of the manner in which the prewritten
2763 computer software is transferred.
2764 (c) "Tangible personal property" includes the following regardless of whether the item
2765 is attached to real property:
2766 (i) a dishwasher;
2767 (ii) a dryer;
2768 (iii) a freezer;
2769 (iv) a microwave;
2770 (v) a refrigerator;
2771 (vi) a stove;
2772 (vii) a washer; or
2773 (viii) an item similar to Subsections [~~(118)~~] (121)(c)(i) through (vii) as determined by
2774 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2775 Rulemaking Act.
2776 (d) "Tangible personal property" does not include a product that is transferred
2777 electronically.
2778 (e) "Tangible personal property" does not include the following if attached to real
2779 property, regardless of whether the attachment to real property is only through a line that
2780 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
2781 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2782 Rulemaking Act:
2783 (i) a hot water heater;
2784 (ii) a water filtration system; or

2785 (iii) a water softener system.

2786 [~~(119)~~] (122) (a) "Telecommunications enabling or facilitating equipment, machinery,
2787 or software" means an item listed in Subsection [~~(119)~~] (122)(b) if that item is purchased or
2788 leased primarily to enable or facilitate one or more of the following to function:

2789 (i) telecommunications switching or routing equipment, machinery, or software; or

2790 (ii) telecommunications transmission equipment, machinery, or software.

2791 (b) The following apply to Subsection [~~(119)~~] (122)(a):

2792 (i) a pole;

2793 (ii) software;

2794 (iii) a supplementary power supply;

2795 (iv) temperature or environmental equipment or machinery;

2796 (v) test equipment;

2797 (vi) a tower; or

2798 (vii) equipment, machinery, or software that functions similarly to an item listed in
2799 Subsections [~~(119)~~] (122)(b)(i) through (vi) as determined by the commission by rule made in
2800 accordance with Subsection [~~(119)~~] (122)(c).

2801 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2802 commission may by rule define what constitutes equipment, machinery, or software that
2803 functions similarly to an item listed in Subsections [~~(119)~~] (122)(b)(i) through (vi).

2804 [~~(120)~~] (123) "Telecommunications equipment, machinery, or software required for
2805 911 service" means equipment, machinery, or software that is required to comply with 47
2806 C.F.R. Sec. 20.18.

2807 [~~(121)~~] (124) "Telecommunications maintenance or repair equipment, machinery, or
2808 software" means equipment, machinery, or software purchased or leased primarily to maintain
2809 or repair one or more of the following, regardless of whether the equipment, machinery, or
2810 software is purchased or leased as a spare part or as an upgrade or modification to one or more
2811 of the following:

2812 (a) telecommunications enabling or facilitating equipment, machinery, or software;

2813 (b) telecommunications switching or routing equipment, machinery, or software; or

2814 (c) telecommunications transmission equipment, machinery, or software.

2815 [~~(122)~~] (125) (a) "Telecommunications service" means the electronic conveyance,

2816 routing, or transmission of audio, data, video, voice, or any other information or signal to a
2817 point, or among or between points.

2818 (b) "Telecommunications service" includes:

2819 (i) an electronic conveyance, routing, or transmission with respect to which a computer
2820 processing application is used to act:

2821 (A) on the code, form, or protocol of the content;

2822 (B) for the purpose of electronic conveyance, routing, or transmission; and

2823 (C) regardless of whether the service:

2824 (I) is referred to as voice over Internet protocol service; or

2825 (II) is classified by the Federal Communications Commission as enhanced or value
2826 added;

2827 (ii) an 800 service;

2828 (iii) a 900 service;

2829 (iv) a fixed wireless service;

2830 (v) a mobile wireless service;

2831 (vi) a postpaid calling service;

2832 (vii) a prepaid calling service;

2833 (viii) a prepaid wireless calling service; or

2834 (ix) a private communications service.

2835 (c) "Telecommunications service" does not include:

2836 (i) advertising, including directory advertising;

2837 (ii) an ancillary service;

2838 (iii) a billing and collection service provided to a third party;

2839 (iv) a data processing and information service if:

2840 (A) the data processing and information service allows data to be:

2841 (I) (Aa) acquired;

2842 (Bb) generated;

2843 (Cc) processed;

2844 (Dd) retrieved; or

2845 (Ee) stored; and

2846 (II) delivered by an electronic transmission to a purchaser; and

2847 (B) the purchaser's primary purpose for the underlying transaction is the processed data
2848 or information;

2849 (v) installation or maintenance of the following on a customer's premises:

2850 (A) equipment; or

2851 (B) wiring;

2852 (vi) Internet access service;

2853 (vii) a paging service;

2854 (viii) a product transferred electronically, including:

2855 (A) music;

2856 (B) reading material;

2857 (C) a ring tone;

2858 (D) software; or

2859 (E) video;

2860 (ix) a radio and television audio and video programming service:

2861 (A) regardless of the medium; and

2862 (B) including:

2863 (I) furnishing conveyance, routing, or transmission of a television audio and video
2864 programming service by a programming service provider;

2865 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or

2866 (III) audio and video programming services delivered by a commercial mobile radio
2867 service provider as defined in 47 C.F.R. Sec. 20.3;

2868 (x) a value-added nonvoice data service; or

2869 (xi) tangible personal property.

2870 [~~(123)~~] (126) (a) "Telecommunications service provider" means a person that:

2871 (i) owns, controls, operates, or manages a telecommunications service; and

2872 (ii) engages in an activity described in Subsection [~~(123)~~] (126)(a)(i) for the shared use
2873 with or resale to any person of the telecommunications service.

2874 (b) A person described in Subsection [~~(123)~~] (126)(a) is a telecommunications service
2875 provider whether or not the Public Service Commission of Utah regulates:

2876 (i) that person; or

2877 (ii) the telecommunications service that the person owns, controls, operates, or

2878 manages.

2879 [~~(124)~~] (127) (a) "Telecommunications switching or routing equipment, machinery, or
2880 software" means an item listed in Subsection [~~(124)~~] (127)(b) if that item is purchased or
2881 leased primarily for switching or routing:

- 2882 (i) an ancillary service;
- 2883 (ii) data communications;
- 2884 (iii) voice communications; or
- 2885 (iv) telecommunications service.

2886 (b) The following apply to Subsection [~~(124)~~] (127)(a):

- 2887 (i) a bridge;
- 2888 (ii) a computer;
- 2889 (iii) a cross connect;
- 2890 (iv) a modem;
- 2891 (v) a multiplexer;
- 2892 (vi) plug in circuitry;
- 2893 (vii) a router;
- 2894 (viii) software;
- 2895 (ix) a switch; or

2896 (x) equipment, machinery, or software that functions similarly to an item listed in
2897 Subsections [~~(124)~~] (127)(b)(i) through (ix) as determined by the commission by rule made in
2898 accordance with Subsection [~~(124)~~] (127)(c).

2899 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2900 commission may by rule define what constitutes equipment, machinery, or software that
2901 functions similarly to an item listed in Subsections [~~(124)~~] (127)(b)(i) through (ix).

2902 [~~(125)~~] (128) (a) "Telecommunications transmission equipment, machinery, or
2903 software" means an item listed in Subsection [~~(125)~~] (128)(b) if that item is purchased or
2904 leased primarily for sending, receiving, or transporting:

- 2905 (i) an ancillary service;
- 2906 (ii) data communications;
- 2907 (iii) voice communications; or
- 2908 (iv) telecommunications service.

- 2909 (b) The following apply to Subsection [~~(125)~~] (128)(a):
- 2910 (i) an amplifier;
 - 2911 (ii) a cable;
 - 2912 (iii) a closure;
 - 2913 (iv) a conduit;
 - 2914 (v) a controller;
 - 2915 (vi) a duplexer;
 - 2916 (vii) a filter;
 - 2917 (viii) an input device;
 - 2918 (ix) an input/output device;
 - 2919 (x) an insulator;
 - 2920 (xi) microwave machinery or equipment;
 - 2921 (xii) an oscillator;
 - 2922 (xiii) an output device;
 - 2923 (xiv) a pedestal;
 - 2924 (xv) a power converter;
 - 2925 (xvi) a power supply;
 - 2926 (xvii) a radio channel;
 - 2927 (xviii) a radio receiver;
 - 2928 (xix) a radio transmitter;
 - 2929 (xx) a repeater;
 - 2930 (xxi) software;
 - 2931 (xxii) a terminal;
 - 2932 (xxiii) a timing unit;
 - 2933 (xxiv) a transformer;
 - 2934 (xxv) a wire; or
 - 2935 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
 - 2936 Subsections [~~(125)~~] (128)(b)(i) through (xxv) as determined by the commission by rule made in
 - 2937 accordance with Subsection [~~(125)~~] (128)(c).
- 2938 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2939 commission may by rule define what constitutes equipment, machinery, or software that

2940 functions similarly to an item listed in Subsections [~~(125)~~] (128)(b)(i) through (xxv).

2941 [~~(126)~~] (129) (a) "Textbook for a higher education course" means a textbook or other
2942 printed material that is required for a course:

2943 (i) offered by an institution of higher education; and

2944 (ii) that the purchaser of the textbook or other printed material attends or will attend.

2945 (b) "Textbook for a higher education course" includes a textbook in electronic format.

2946 [~~(127)~~] (130) "Tobacco" means:

2947 (a) a cigarette;

2948 (b) a cigar;

2949 (c) chewing tobacco;

2950 (d) pipe tobacco; or

2951 (e) any other item that contains tobacco.

2952 [~~(128)~~] (131) "Unassisted amusement device" means an amusement device, skill

2953 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
2954 operate the amusement device, skill device, or ride device.

2955 [~~(129)~~] (132) (a) "Use" means the exercise of any right or power over tangible personal
2956 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
2957 incident to the ownership or the leasing of that tangible personal property, product transferred
2958 electronically, or service.

2959 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
2960 property, a product transferred electronically, or a service in the regular course of business and
2961 held for resale.

2962 [~~(130)~~] (133) "Value-added nonvoice data service" means a service:

2963 (a) that otherwise meets the definition of a telecommunications service except that a
2964 computer processing application is used to act primarily for a purpose other than conveyance,
2965 routing, or transmission; and

2966 (b) with respect to which a computer processing application is used to act on data or
2967 information:

2968 (i) code;

2969 (ii) content;

2970 (iii) form; or

- 2971 (iv) protocol.
- 2972 [~~(131)~~] (134) (a) Subject to Subsection [~~(131)~~] (134)(b), "vehicle" means the following
- 2973 that are required to be titled, registered, or titled and registered:
- 2974 (i) an aircraft as defined in Section 72-10-102;
- 2975 (ii) a vehicle as defined in Section 41-1a-102;
- 2976 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 2977 (iv) a vessel as defined in Section 41-1a-102.
- 2978 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 2979 (i) a vehicle described in Subsection [~~(131)~~] (134)(a); or
- 2980 (ii) (A) a locomotive;
- 2981 (B) a freight car;
- 2982 (C) railroad work equipment; or
- 2983 (D) other railroad rolling stock.
- 2984 [~~(132)~~] (135) "Vehicle dealer" means a person engaged in the business of buying,
- 2985 selling, or exchanging a vehicle as defined in Subsection [~~(131)~~] (134).
- 2986 [~~(133)~~] (136) (a) "Vertical service" means an ancillary service that:
- 2987 (i) is offered in connection with one or more telecommunications services; and
- 2988 (ii) offers an advanced calling feature that allows a customer to:
- 2989 (A) identify a caller; and
- 2990 (B) manage multiple calls and call connections.
- 2991 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 2992 conference bridging service.
- 2993 [~~(134)~~] (137) (a) "Voice mail service" means an ancillary service that enables a
- 2994 customer to receive, send, or store a recorded message.
- 2995 (b) "Voice mail service" does not include a vertical service that a customer is required
- 2996 to have in order to utilize a voice mail service.
- 2997 [~~(135)~~] (138) (a) Except as provided in Subsection [~~(135)~~] (138)(b), "waste energy
- 2998 facility" means a facility that generates electricity:
- 2999 (i) using as the primary source of energy waste materials that would be placed in a
- 3000 landfill or refuse pit if it were not used to generate electricity, including:
- 3001 (A) tires;

- 3002 (B) waste coal;
- 3003 (C) oil shale; or
- 3004 (D) municipal solid waste; and
- 3005 (ii) in amounts greater than actually required for the operation of the facility.
- 3006 (b) "Waste energy facility" does not include a facility that incinerates:
- 3007 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 3008 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 3009 [~~136~~] (139) "Watercraft" means a vessel as defined in Section 73-18-2.
- 3010 [~~137~~] (140) "Wind energy" means wind used as the sole source of energy to produce
- 3011 electricity.
- 3012 [~~138~~] (141) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
- 3013 geographic location by the United States Postal Service.
- 3014 Section 3. Section **59-12-103 (Superseded 07/01/14)** is amended to read:
- 3015 **59-12-103 (Superseded 07/01/14). Sales and use tax base -- Rates -- Effective dates**
- 3016 **-- Use of sales and use tax revenues.**
- 3017 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
- 3018 charged for the following transactions:
- 3019 (a) retail sales of tangible personal property made within the state;
- 3020 (b) amounts paid for:
- 3021 (i) telecommunications service, other than mobile telecommunications service, that
- 3022 originates and terminates within the boundaries of this state;
- 3023 (ii) mobile telecommunications service that originates and terminates within the
- 3024 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 3025 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 3026 (iii) an ancillary service associated with a:
- 3027 (A) telecommunications service described in Subsection (1)(b)(i); or
- 3028 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 3029 (c) sales of the following for commercial use:
- 3030 (i) gas;
- 3031 (ii) electricity;
- 3032 (iii) heat;

- 3033 (iv) coal;
- 3034 (v) fuel oil; or
- 3035 (vi) other fuels;
- 3036 (d) sales of the following for residential use:
- 3037 (i) gas;
- 3038 (ii) electricity;
- 3039 (iii) heat;
- 3040 (iv) coal;
- 3041 (v) fuel oil; or
- 3042 (vi) other fuels;
- 3043 (e) sales of prepared food;
- 3044 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 3045 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 3046 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 3047 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 3048 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 3049 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 3050 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 3051 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 3052 exhibition, cultural, or athletic activity;
- 3053 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 3054 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 3055 (i) the tangible personal property; and
- 3056 (ii) parts used in the repairs or renovations of the tangible personal property described
- 3057 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
- 3058 of that tangible personal property;
- 3059 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 3060 assisted cleaning or washing of tangible personal property;
- 3061 (i) subject to Subsection 59-12-107(3)(i), amounts paid or charged for [tourist home,
- 3062 hotel, motel, or trailer court accommodations and services that are regularly rented for less than
- 3063 30 consecutive days;] short-term lodging as follows:

3064 (i) if, at the time a purchaser receives a reservation confirmation for the purchase of
3065 short-term lodging, the seller separately states each short-term lodging transaction component
3066 on an invoice, bill of sale, or similar document provided to the purchaser, the tax is imposed
3067 only on amounts paid or charged as a room cost for the short-term lodging; or

3068 (ii) if, at the time a purchaser receives a reservation confirmation for the purchase of
3069 short-term lodging, the seller does not separately state each short-term lodging transaction
3070 component on an invoice, bill of sale, or similar document provided to the purchaser, the tax is
3071 imposed on the sum of:

3072 (A) amounts paid or charged as a room cost for short-term lodging; and

3073 (B) any additional amount, except for an amount described in Subsection (1)(i)(ii)(A)
3074 or a tax under this chapter on an amount described in Subsection (1)(i)(ii)(A), paid or charged
3075 for service as part of the transaction for the purchase of short-term lodging, regardless of how
3076 the additional amount is characterized;

3077 (j) amounts paid or charged for laundry or dry cleaning services;

3078 (k) amounts paid or charged for leases or rentals of tangible personal property if within
3079 this state the tangible personal property is:

3080 (i) stored;

3081 (ii) used; or

3082 (iii) otherwise consumed;

3083 (l) amounts paid or charged for tangible personal property if within this state the
3084 tangible personal property is:

3085 (i) stored;

3086 (ii) used; or

3087 (iii) consumed; and

3088 (m) amounts paid or charged for a sale:

3089 (i) (A) of a product transferred electronically; or

3090 (B) of a repair or renovation of a product transferred electronically; and

3091 (ii) regardless of whether the sale provides:

3092 (A) a right of permanent use of the product; or

3093 (B) a right to use the product that is less than a permanent use, including a right:

3094 (I) for a definite or specified length of time; and

3095 (II) that terminates upon the occurrence of a condition.

3096 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax

3097 is imposed on a transaction described in Subsection (1) equal to the sum of:

3098 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

3099 (A) 4.70%; and

3100 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales

3101 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

3102 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional

3103 State Sales and Use Tax Act; and

3104 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales

3105 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

3106 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state

3107 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3108 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

3109 transaction under this chapter other than this part.

3110 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed

3111 on a transaction described in Subsection (1)(d) equal to the sum of:

3112 (i) a state tax imposed on the transaction at a tax rate of 2%; and

3113 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

3114 transaction under this chapter other than this part.

3115 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed

3116 on amounts paid or charged for food and food ingredients equal to the sum of:

3117 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at

3118 a tax rate of 1.75%; and

3119 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

3120 amounts paid or charged for food and food ingredients under this chapter other than this part.

3121 (d) (i) For a bundled transaction that is attributable to food and food ingredients and

3122 tangible personal property other than food and food ingredients, a state tax and a local tax is

3123 imposed on the entire bundled transaction equal to the sum of:

3124 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

3125 (I) the tax rate described in Subsection (2)(a)(i)(A); and

3126 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
3127 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3128 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
3129 Additional State Sales and Use Tax Act; and

3130 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
3131 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3132 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
3133 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3134 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
3135 described in Subsection (2)(a)(ii).

3136 (ii) If an optional computer software maintenance contract is a bundled transaction that
3137 consists of taxable and nontaxable products that are not separately itemized on an invoice or
3138 similar billing document, the purchase of the optional computer software maintenance contract
3139 is 40% taxable under this chapter and 60% nontaxable under this chapter.

3140 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
3141 transaction described in Subsection (2)(d)(i) or (ii):

3142 (A) if the sales price of the bundled transaction is attributable to tangible personal
3143 property, a product, or a service that is subject to taxation under this chapter and tangible
3144 personal property, a product, or service that is not subject to taxation under this chapter, the
3145 entire bundled transaction is subject to taxation under this chapter unless:

3146 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3147 personal property, product, or service that is not subject to taxation under this chapter from the
3148 books and records the seller keeps in the seller's regular course of business; or

3149 (II) state or federal law provides otherwise; or

3150 (B) if the sales price of a bundled transaction is attributable to two or more items of
3151 tangible personal property, products, or services that are subject to taxation under this chapter
3152 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
3153 higher tax rate unless:

3154 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3155 personal property, product, or service that is subject to taxation under this chapter at the lower
3156 tax rate from the books and records the seller keeps in the seller's regular course of business; or

- 3157 (II) state or federal law provides otherwise.
- 3158 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
3159 seller's regular course of business includes books and records the seller keeps in the regular
3160 course of business for nontax purposes.
- 3161 (e) Subject to Subsections (2)(f) and (g), a tax rate repeal or tax rate change for a tax
3162 rate imposed under the following shall take effect on the first day of a calendar quarter:
- 3163 (i) Subsection (2)(a)(i)(A);
- 3164 (ii) Subsection (2)(b)(i);
- 3165 (iii) Subsection (2)(c)(i); or
- 3166 (iv) Subsection (2)(d)(i)(A)(I).
- 3167 (f) (i) A tax rate increase takes effect on the first day of the first billing period that
3168 begins on or after the effective date of the tax rate increase if the billing period for the
3169 transaction begins before the effective date of a tax rate increase imposed under:
- 3170 (A) Subsection (2)(a)(i)(A);
- 3171 (B) Subsection (2)(b)(i);
- 3172 (C) Subsection (2)(c)(i); or
- 3173 (D) Subsection (2)(d)(i)(A)(I).
- 3174 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
3175 statement for the billing period is rendered on or after the effective date of the repeal of the tax
3176 or the tax rate decrease imposed under:
- 3177 (A) Subsection (2)(a)(i)(A);
- 3178 (B) Subsection (2)(b)(i);
- 3179 (C) Subsection (2)(c)(i); or
- 3180 (D) Subsection (2)(d)(i)(A)(I).
- 3181 (g) (i) For a tax rate described in Subsection (2)(g)(ii), if a tax due on a catalogue sale
3182 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal
3183 or change in a tax rate takes effect:
- 3184 (A) on the first day of a calendar quarter; and
- 3185 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 3186 (ii) Subsection (2)(g)(i) applies to the tax rates described in the following:
- 3187 (A) Subsection (2)(a)(i)(A);

- 3188 (B) Subsection (2)(b)(i);
- 3189 (C) Subsection (2)(c)(i); or
- 3190 (D) Subsection (2)(d)(i)(A)(I).
- 3191 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 3192 the commission may by rule define the term "catalogue sale."
- 3193 (3) (a) The following state taxes shall be deposited into the General Fund:
- 3194 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 3195 (ii) the tax imposed by Subsection (2)(b)(i);
- 3196 (iii) the tax imposed by Subsection (2)(c)(i); or
- 3197 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
- 3198 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 3199 in this chapter:
- 3200 (i) the tax imposed by Subsection (2)(a)(ii);
- 3201 (ii) the tax imposed by Subsection (2)(b)(ii);
- 3202 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 3203 (iv) the tax imposed by Subsection (2)(d)(i)(B).
- 3204 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 3205 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
- 3206 through (g):
- 3207 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 3208 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 3209 (B) for the fiscal year; or
- 3210 (ii) \$17,500,000.
- 3211 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
- 3212 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
- 3213 Department of Natural Resources to:
- 3214 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
- 3215 protect sensitive plant and animal species; or
- 3216 (B) award grants, up to the amount authorized by the Legislature in an appropriations
- 3217 act, to political subdivisions of the state to implement the measures described in Subsections
- 3218 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

3219 (ii) Money transferred to the Department of Natural Resources under Subsection
3220 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
3221 person to list or attempt to have listed a species as threatened or endangered under the
3222 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

3223 (iii) At the end of each fiscal year:

3224 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3225 Conservation and Development Fund created in Section 73-10-24;

3226 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3227 Program Subaccount created in Section 73-10c-5; and

3228 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3229 Program Subaccount created in Section 73-10c-5.

3230 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
3231 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
3232 created in Section 4-18-6.

3233 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
3234 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
3235 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
3236 water rights.

3237 (ii) At the end of each fiscal year:

3238 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3239 Conservation and Development Fund created in Section 73-10-24;

3240 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3241 Program Subaccount created in Section 73-10c-5; and

3242 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3243 Program Subaccount created in Section 73-10c-5.

3244 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
3245 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
3246 Fund created in Section 73-10-24 for use by the Division of Water Resources.

3247 (ii) In addition to the uses allowed of the Water Resources Conservation and
3248 Development Fund under Section 73-10-24, the Water Resources Conservation and
3249 Development Fund may also be used to:

3250 (A) conduct hydrologic and geotechnical investigations by the Division of Water
3251 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
3252 quantifying surface and ground water resources and describing the hydrologic systems of an
3253 area in sufficient detail so as to enable local and state resource managers to plan for and
3254 accommodate growth in water use without jeopardizing the resource;

3255 (B) fund state required dam safety improvements; and

3256 (C) protect the state's interest in interstate water compact allocations, including the
3257 hiring of technical and legal staff.

3258 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3259 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
3260 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

3261 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3262 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
3263 created in Section 73-10c-5 for use by the Division of Drinking Water to:

3264 (i) provide for the installation and repair of collection, treatment, storage, and
3265 distribution facilities for any public water system, as defined in Section 19-4-102;

3266 (ii) develop underground sources of water, including springs and wells; and

3267 (iii) develop surface water sources.

3268 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3269 2006, the difference between the following amounts shall be expended as provided in this
3270 Subsection (5), if that difference is greater than \$1:

3271 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
3272 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

3273 (ii) \$17,500,000.

3274 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

3275 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
3276 credits; and

3277 (B) expended by the Department of Natural Resources for watershed rehabilitation or
3278 restoration.

3279 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3280 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund

3281 created in Section 73-10-24.

3282 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
3283 remaining difference described in Subsection (5)(a) shall be:

3284 (A) transferred each fiscal year to the Division of Water Resources as dedicated
3285 credits; and

3286 (B) expended by the Division of Water Resources for cloud-seeding projects
3287 authorized by Title 73, Chapter 15, Modification of Weather.

3288 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3289 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
3290 created in Section 73-10-24.

3291 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
3292 remaining difference described in Subsection (5)(a) shall be deposited into the Water
3293 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
3294 Division of Water Resources for:

3295 (i) preconstruction costs:

3296 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
3297 26, Bear River Development Act; and

3298 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
3299 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

3300 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
3301 Chapter 26, Bear River Development Act;

3302 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
3303 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

3304 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
3305 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

3306 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
3307 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
3308 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
3309 incurred for employing additional technical staff for the administration of water rights.

3310 (f) At the end of each fiscal year, any unexpended dedicated credits described in
3311 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development

3312 Fund created in Section 73-10-24.

3313 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3314 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
3315 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
3316 the Transportation Fund created by Section 72-2-102.

3317 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
3318 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section
3319 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
3320 by a 1/64% tax rate on the taxable transactions under Subsection (1).

3321 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
3322 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,
3323 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
3324 created by Section 72-2-124:

3325 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
3326 the revenues collected from the following taxes, which represents a portion of the
3327 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
3328 on vehicles and vehicle-related products:

- 3329 (A) the tax imposed by Subsection (2)(a)(i)(A);
- 3330 (B) the tax imposed by Subsection (2)(b)(i);
- 3331 (C) the tax imposed by Subsection (2)(c)(i); and
- 3332 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

3333 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
3334 current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through
3335 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
3336 (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

3337 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of
3338 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total
3339 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D)
3340 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
3341 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
3342 (8)(a) equal to the product of:

3343 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the
3344 previous fiscal year; and

3345 (B) the total sales and use tax revenue generated by the taxes described in Subsections
3346 (8)(a)(i)(A) through (D) in the current fiscal year.

3347 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
3348 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes
3349 described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of
3350 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
3351 Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

3352 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
3353 from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited
3354 under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues
3355 collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the
3356 current fiscal year under Subsection (8)(a).

3357 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
3358 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of
3359 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under
3360 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section
3361 72-2-124.

3362 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
3363 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
3364 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

3365 (11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b),
3366 and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July
3367 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
3368 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the
3369 transactions described in Subsection (1).

3370 (b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into
3371 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
3372 charged for food and food ingredients, except for tax revenue generated by a bundled
3373 transaction attributable to food and food ingredients and tangible personal property other than

3374 food and food ingredients described in Subsection (2)(d).

3375 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
3376 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
3377 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
3378 .025% tax rate on the transactions described in Subsection (1) to be expended to address
3379 chokepoints in construction management.

3380 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
3381 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
3382 food ingredients, except for tax revenue generated by a bundled transaction attributable to food
3383 and food ingredients and tangible personal property other than food and food ingredients
3384 described in Subsection (2)(d).

3385 Section 4. Section **59-12-103 (Effective 07/01/14)** is amended to read:

3386 **59-12-103 (Effective 07/01/14). Sales and use tax base -- Rates -- Effective dates --**
3387 **Use of sales and use tax revenues.**

3388 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
3389 charged for the following transactions:

3390 (a) retail sales of tangible personal property made within the state;

3391 (b) amounts paid for:

3392 (i) telecommunications service, other than mobile telecommunications service, that
3393 originates and terminates within the boundaries of this state;

3394 (ii) mobile telecommunications service that originates and terminates within the
3395 boundaries of one state only to the extent permitted by the Mobile Telecommunications
3396 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

3397 (iii) an ancillary service associated with a:

3398 (A) telecommunications service described in Subsection (1)(b)(i); or

3399 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

3400 (c) sales of the following for commercial use:

3401 (i) gas;

3402 (ii) electricity;

3403 (iii) heat;

3404 (iv) coal;

- 3405 (v) fuel oil; or
- 3406 (vi) other fuels;
- 3407 (d) sales of the following for residential use:
 - 3408 (i) gas;
 - 3409 (ii) electricity;
 - 3410 (iii) heat;
 - 3411 (iv) coal;
 - 3412 (v) fuel oil; or
 - 3413 (vi) other fuels;
- 3414 (e) sales of prepared food;
- 3415 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 3416 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 3417 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 3418 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 3419 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 3420 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 3421 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 3422 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 3423 exhibition, cultural, or athletic activity;
- 3424 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 3425 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
 - 3426 (i) the tangible personal property; and
 - 3427 (ii) parts used in the repairs or renovations of the tangible personal property described
 - 3428 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
 - 3429 of that tangible personal property;
- 3430 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 3431 assisted cleaning or washing of tangible personal property;
 - 3432 (i) subject to Subsection 59-12-107(3)(i), amounts paid or charged for [tourist home,
 - 3433 ~~hotel, motel, or trailer court accommodations and services that are regularly rented for less than~~
 - 3434 ~~30 consecutive days;]~~ short-term lodging as follows:
 - 3435 (i) if, at the time a purchaser receives a reservation confirmation for the purchase of

3436 short-term lodging, the seller separately states each short-term lodging transaction component
3437 on an invoice, bill of sale, or similar document provided to the purchaser, the tax is imposed
3438 only on amounts paid or charged as a room cost for the short-term lodging; or

3439 (ii) if, at the time a purchaser receives a reservation confirmation for the purchase of
3440 short-term lodging, the seller does not separately state each short-term lodging transaction
3441 component on an invoice, bill of sale, or similar document provided to the purchaser, the tax is
3442 imposed on the sum of:

3443 (A) amounts paid or charged as a room cost for short-term lodging; and

3444 (B) any additional amount, except for an amount described in Subsection (1)(i)(ii)(A)
3445 or a tax under this chapter on an amount described in Subsection (1)(i)(ii)(A), paid or charged
3446 for service as part of the transaction for the purchase of short-term lodging, regardless of how
3447 the additional amount is characterized;

3448 (j) amounts paid or charged for laundry or dry cleaning services;

3449 (k) amounts paid or charged for leases or rentals of tangible personal property if within
3450 this state the tangible personal property is:

3451 (i) stored;

3452 (ii) used; or

3453 (iii) otherwise consumed;

3454 (l) amounts paid or charged for tangible personal property if within this state the
3455 tangible personal property is:

3456 (i) stored;

3457 (ii) used; or

3458 (iii) consumed; and

3459 (m) amounts paid or charged for a sale:

3460 (i) (A) of a product transferred electronically; or

3461 (B) of a repair or renovation of a product transferred electronically; and

3462 (ii) regardless of whether the sale provides:

3463 (A) a right of permanent use of the product; or

3464 (B) a right to use the product that is less than a permanent use, including a right:

3465 (I) for a definite or specified length of time; and

3466 (II) that terminates upon the occurrence of a condition.

3467 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
3468 is imposed on a transaction described in Subsection (1) equal to the sum of:

3469 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

3470 (A) 4.70%; and

3471 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
3472 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
3473 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
3474 State Sales and Use Tax Act; and

3475 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
3476 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
3477 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
3478 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3479 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3480 transaction under this chapter other than this part.

3481 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
3482 on a transaction described in Subsection (1)(d) equal to the sum of:

3483 (i) a state tax imposed on the transaction at a tax rate of 2%; and

3484 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3485 transaction under this chapter other than this part.

3486 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
3487 on amounts paid or charged for food and food ingredients equal to the sum of:

3488 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
3489 a tax rate of 1.75%; and

3490 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3491 amounts paid or charged for food and food ingredients under this chapter other than this part.

3492 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
3493 tangible personal property other than food and food ingredients, a state tax and a local tax is
3494 imposed on the entire bundled transaction equal to the sum of:

3495 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

3496 (I) the tax rate described in Subsection (2)(a)(i)(A); and

3497 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State

3498 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3499 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
3500 Additional State Sales and Use Tax Act; and

3501 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
3502 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3503 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
3504 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3505 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
3506 described in Subsection (2)(a)(ii).

3507 (ii) If an optional computer software maintenance contract is a bundled transaction that
3508 consists of taxable and nontaxable products that are not separately itemized on an invoice or
3509 similar billing document, the purchase of the optional computer software maintenance contract
3510 is 40% taxable under this chapter and 60% nontaxable under this chapter.

3511 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
3512 transaction described in Subsection (2)(d)(i) or (ii):

3513 (A) if the sales price of the bundled transaction is attributable to tangible personal
3514 property, a product, or a service that is subject to taxation under this chapter and tangible
3515 personal property, a product, or service that is not subject to taxation under this chapter, the
3516 entire bundled transaction is subject to taxation under this chapter unless:

3517 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3518 personal property, product, or service that is not subject to taxation under this chapter from the
3519 books and records the seller keeps in the seller's regular course of business; or

3520 (II) state or federal law provides otherwise; or

3521 (B) if the sales price of a bundled transaction is attributable to two or more items of
3522 tangible personal property, products, or services that are subject to taxation under this chapter
3523 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
3524 higher tax rate unless:

3525 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3526 personal property, product, or service that is subject to taxation under this chapter at the lower
3527 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3528 (II) state or federal law provides otherwise.

3529 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
3530 seller's regular course of business includes books and records the seller keeps in the regular
3531 course of business for nontax purposes.

3532 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
3533 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
3534 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
3535 of tangible personal property, other property, a product, or a service that is not subject to
3536 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
3537 the seller, at the time of the transaction:

3538 (A) separately states the portion of the transaction that is not subject to taxation under
3539 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

3540 (B) is able to identify by reasonable and verifiable standards, from the books and
3541 records the seller keeps in the seller's regular course of business, the portion of the transaction
3542 that is not subject to taxation under this chapter.

3543 (ii) A purchaser and a seller may correct the taxability of a transaction if:

3544 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
3545 the transaction that is not subject to taxation under this chapter was not separately stated on an
3546 invoice, bill of sale, or similar document provided to the purchaser because of an error or
3547 ignorance of the law; and

3548 (B) the seller is able to identify by reasonable and verifiable standards, from the books
3549 and records the seller keeps in the seller's regular course of business, the portion of the
3550 transaction that is not subject to taxation under this chapter.

3551 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
3552 in the seller's regular course of business includes books and records the seller keeps in the
3553 regular course of business for nontax purposes.

3554 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
3555 personal property, products, or services that are subject to taxation under this chapter at
3556 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
3557 unless the seller, at the time of the transaction:

3558 (A) separately states the items subject to taxation under this chapter at each of the
3559 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

3560 (B) is able to identify by reasonable and verifiable standards the tangible personal
3561 property, product, or service that is subject to taxation under this chapter at the lower tax rate
3562 from the books and records the seller keeps in the seller's regular course of business.

3563 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
3564 seller's regular course of business includes books and records the seller keeps in the regular
3565 course of business for nontax purposes.

3566 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
3567 rate imposed under the following shall take effect on the first day of a calendar quarter:

3568 (i) Subsection (2)(a)(i)(A);

3569 (ii) Subsection (2)(b)(i);

3570 (iii) Subsection (2)(c)(i); or

3571 (iv) Subsection (2)(d)(i)(A)(I).

3572 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
3573 begins on or after the effective date of the tax rate increase if the billing period for the
3574 transaction begins before the effective date of a tax rate increase imposed under:

3575 (A) Subsection (2)(a)(i)(A);

3576 (B) Subsection (2)(b)(i);

3577 (C) Subsection (2)(c)(i); or

3578 (D) Subsection (2)(d)(i)(A)(I).

3579 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
3580 statement for the billing period is rendered on or after the effective date of the repeal of the tax
3581 or the tax rate decrease imposed under:

3582 (A) Subsection (2)(a)(i)(A);

3583 (B) Subsection (2)(b)(i);

3584 (C) Subsection (2)(c)(i); or

3585 (D) Subsection (2)(d)(i)(A)(I).

3586 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
3587 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
3588 change in a tax rate takes effect:

3589 (A) on the first day of a calendar quarter; and

3590 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

- 3591 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
- 3592 (A) Subsection (2)(a)(i)(A);
- 3593 (B) Subsection (2)(b)(i);
- 3594 (C) Subsection (2)(c)(i); or
- 3595 (D) Subsection (2)(d)(i)(A)(I).
- 3596 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 3597 the commission may by rule define the term "catalogue sale."
- 3598 (3) (a) The following state taxes shall be deposited into the General Fund:
- 3599 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 3600 (ii) the tax imposed by Subsection (2)(b)(i);
- 3601 (iii) the tax imposed by Subsection (2)(c)(i); or
- 3602 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
- 3603 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 3604 in this chapter:
- 3605 (i) the tax imposed by Subsection (2)(a)(ii);
- 3606 (ii) the tax imposed by Subsection (2)(b)(ii);
- 3607 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 3608 (iv) the tax imposed by Subsection (2)(d)(i)(B).
- 3609 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 3610 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
- 3611 through (g):
- 3612 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 3613 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 3614 (B) for the fiscal year; or
- 3615 (ii) \$17,500,000.
- 3616 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
- 3617 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
- 3618 Department of Natural Resources to:
- 3619 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
- 3620 protect sensitive plant and animal species; or
- 3621 (B) award grants, up to the amount authorized by the Legislature in an appropriations

3622 act, to political subdivisions of the state to implement the measures described in Subsections
3623 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

3624 (ii) Money transferred to the Department of Natural Resources under Subsection
3625 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
3626 person to list or attempt to have listed a species as threatened or endangered under the
3627 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

3628 (iii) At the end of each fiscal year:

3629 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3630 Conservation and Development Fund created in Section 73-10-24;

3631 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3632 Program Subaccount created in Section 73-10c-5; and

3633 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3634 Program Subaccount created in Section 73-10c-5.

3635 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
3636 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
3637 created in Section 4-18-6.

3638 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
3639 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
3640 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
3641 water rights.

3642 (ii) At the end of each fiscal year:

3643 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3644 Conservation and Development Fund created in Section 73-10-24;

3645 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3646 Program Subaccount created in Section 73-10c-5; and

3647 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3648 Program Subaccount created in Section 73-10c-5.

3649 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
3650 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
3651 Fund created in Section 73-10-24 for use by the Division of Water Resources.

3652 (ii) In addition to the uses allowed of the Water Resources Conservation and

3653 Development Fund under Section 73-10-24, the Water Resources Conservation and
3654 Development Fund may also be used to:

3655 (A) conduct hydrologic and geotechnical investigations by the Division of Water
3656 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
3657 quantifying surface and ground water resources and describing the hydrologic systems of an
3658 area in sufficient detail so as to enable local and state resource managers to plan for and
3659 accommodate growth in water use without jeopardizing the resource;

3660 (B) fund state required dam safety improvements; and

3661 (C) protect the state's interest in interstate water compact allocations, including the
3662 hiring of technical and legal staff.

3663 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3664 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
3665 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

3666 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3667 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
3668 created in Section 73-10c-5 for use by the Division of Drinking Water to:

3669 (i) provide for the installation and repair of collection, treatment, storage, and
3670 distribution facilities for any public water system, as defined in Section 19-4-102;

3671 (ii) develop underground sources of water, including springs and wells; and

3672 (iii) develop surface water sources.

3673 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3674 2006, the difference between the following amounts shall be expended as provided in this
3675 Subsection (5), if that difference is greater than \$1:

3676 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
3677 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

3678 (ii) \$17,500,000.

3679 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

3680 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
3681 credits; and

3682 (B) expended by the Department of Natural Resources for watershed rehabilitation or
3683 restoration.

3684 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3685 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
3686 created in Section 73-10-24.

3687 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
3688 remaining difference described in Subsection (5)(a) shall be:

3689 (A) transferred each fiscal year to the Division of Water Resources as dedicated
3690 credits; and

3691 (B) expended by the Division of Water Resources for cloud-seeding projects
3692 authorized by Title 73, Chapter 15, Modification of Weather.

3693 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3694 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
3695 created in Section 73-10-24.

3696 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
3697 remaining difference described in Subsection (5)(a) shall be deposited into the Water
3698 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
3699 Division of Water Resources for:

3700 (i) preconstruction costs:

3701 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
3702 26, Bear River Development Act; and

3703 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
3704 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

3705 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
3706 Chapter 26, Bear River Development Act;

3707 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
3708 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

3709 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
3710 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

3711 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
3712 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
3713 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
3714 incurred for employing additional technical staff for the administration of water rights.

3715 (f) At the end of each fiscal year, any unexpended dedicated credits described in
3716 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
3717 Fund created in Section 73-10-24.

3718 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3719 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
3720 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
3721 the Transportation Fund created by Section 72-2-102.

3722 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
3723 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section
3724 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
3725 by a 1/64% tax rate on the taxable transactions under Subsection (1).

3726 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
3727 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,
3728 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
3729 created by Section 72-2-124:

3730 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
3731 the revenues collected from the following taxes, which represents a portion of the
3732 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
3733 on vehicles and vehicle-related products:

3734 (A) the tax imposed by Subsection (2)(a)(i)(A);

3735 (B) the tax imposed by Subsection (2)(b)(i);

3736 (C) the tax imposed by Subsection (2)(c)(i); and

3737 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

3738 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
3739 current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through
3740 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
3741 (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

3742 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of
3743 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total
3744 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D)
3745 generated in the current fiscal year than the total percentage of sales and use taxes deposited in

3746 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
3747 (8)(a) equal to the product of:

3748 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the
3749 previous fiscal year; and

3750 (B) the total sales and use tax revenue generated by the taxes described in Subsections
3751 (8)(a)(i)(A) through (D) in the current fiscal year.

3752 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
3753 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes
3754 described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of
3755 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
3756 Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

3757 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
3758 from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited
3759 under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues
3760 collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the
3761 current fiscal year under Subsection (8)(a).

3762 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
3763 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of
3764 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under
3765 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section
3766 72-2-124.

3767 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
3768 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
3769 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

3770 (11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b),
3771 and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July
3772 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
3773 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the
3774 transactions described in Subsection (1).

3775 (b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into
3776 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or

3777 charged for food and food ingredients, except for tax revenue generated by a bundled
3778 transaction attributable to food and food ingredients and tangible personal property other than
3779 food and food ingredients described in Subsection (2)(d).

3780 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
3781 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
3782 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
3783 .025% tax rate on the transactions described in Subsection (1) to be expended to address
3784 chokepoints in construction management.

3785 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
3786 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
3787 food ingredients, except for tax revenue generated by a bundled transaction attributable to food
3788 and food ingredients and tangible personal property other than food and food ingredients
3789 described in Subsection (2)(d).

3790 Section 5. Section **59-12-104** is amended to read:

3791 **59-12-104. Exemptions.**

3792 The following sales and uses are exempt from the taxes imposed by this chapter:

3793 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
3794 under Chapter 13, Motor and Special Fuel Tax Act;

3795 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
3796 subdivisions; however, this exemption does not apply to sales of:

3797 (a) construction materials except:

3798 (i) construction materials purchased by or on behalf of institutions of the public
3799 education system as defined in Utah Constitution Article X, Section 2, provided the
3800 construction materials are clearly identified and segregated and installed or converted to real
3801 property which is owned by institutions of the public education system; and

3802 (ii) construction materials purchased by the state, its institutions, or its political
3803 subdivisions which are installed or converted to real property by employees of the state, its
3804 institutions, or its political subdivisions; or

3805 (b) tangible personal property in connection with the construction, operation,
3806 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
3807 providing additional project capacity, as defined in Section 11-13-103;

- 3808 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
- 3809 (i) the proceeds of each sale do not exceed \$1; and
- 3810 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
- 3811 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 3812 (b) Subsection (3)(a) applies to:
- 3813 (i) food and food ingredients; or
- 3814 (ii) prepared food;
- 3815 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
- 3816 (i) alcoholic beverages;
- 3817 (ii) food and food ingredients; or
- 3818 (iii) prepared food;
- 3819 (b) sales of tangible personal property or a product transferred electronically:
- 3820 (i) to a passenger;
- 3821 (ii) by a commercial airline carrier; and
- 3822 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 3823 (c) services related to Subsection (4)(a) or (b);
- 3824 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
- 3825 and equipment:
- 3826 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
- 3827 North American Industry Classification System of the federal Executive Office of the
- 3828 President, Office of Management and Budget; and
- 3829 (II) for:
- 3830 (Aa) installation in an aircraft, including services relating to the installation of parts or
- 3831 equipment in the aircraft;
- 3832 (Bb) renovation of an aircraft; or
- 3833 (Cc) repair of an aircraft; or
- 3834 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
- 3835 commerce; or
- 3836 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
- 3837 aircraft operated by a common carrier in interstate or foreign commerce; and
- 3838 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,

3839 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
3840 refund:

3841 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

3842 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

3843 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
3844 the sale prior to filing for the refund;

3845 (iv) for sales and use taxes paid under this chapter on the sale;

3846 (v) in accordance with Section 59-1-1410; and

3847 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
3848 the person files for the refund on or before September 30, 2011;

3849 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
3850 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
3851 exhibitor, distributor, or commercial television or radio broadcaster;

3852 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
3853 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
3854 washing of tangible personal property;

3855 (b) if a seller that sells at the same business location assisted cleaning or washing of
3856 tangible personal property and cleaning or washing of tangible personal property that is not
3857 assisted cleaning or washing of tangible personal property, the exemption described in
3858 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
3859 or washing of the tangible personal property; and

3860 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
3861 Utah Administrative Rulemaking Act, the commission may make rules:

3862 (i) governing the circumstances under which sales are at the same business location;
3863 and

3864 (ii) establishing the procedures and requirements for a seller to separately account for
3865 sales of assisted cleaning or washing of tangible personal property;

3866 (8) sales made to or by religious or charitable institutions in the conduct of their regular
3867 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
3868 fulfilled;

3869 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of

3870 this state if the vehicle is:

3871 (a) not registered in this state; and

3872 (b) (i) not used in this state; or

3873 (ii) used in this state:

3874 (A) if the vehicle is not used to conduct business, for a time period that does not
3875 exceed the longer of:

3876 (I) 30 days in any calendar year; or

3877 (II) the time period necessary to transport the vehicle to the borders of this state; or

3878 (B) if the vehicle is used to conduct business, for the time period necessary to transport
3879 the vehicle to the borders of this state;

3880 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

3881 (i) the item is intended for human use; and

3882 (ii) (A) a prescription was issued for the item; or

3883 (B) the item was purchased by a hospital or other medical facility; and

3884 (b) (i) Subsection (10)(a) applies to:

3885 (A) a drug;

3886 (B) a syringe; or

3887 (C) a stoma supply; and

3888 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3889 commission may by rule define the terms:

3890 (A) "syringe"; or

3891 (B) "stoma supply";

3892 (11) sales or use of property, materials, or services used in the construction of or
3893 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

3894 (12) (a) sales of an item described in Subsection (12)(c) served by:

3895 (i) the following if the item described in Subsection (12)(c) is not available to the
3896 general public:

3897 (A) a church; or

3898 (B) a charitable institution;

3899 (ii) an institution of higher education if:

3900 (A) the item described in Subsection (12)(c) is not available to the general public; or

3901 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
3902 offered by the institution of higher education; or

3903 (b) sales of an item described in Subsection (12)(c) provided for a patient by:

3904 (i) a medical facility; or

3905 (ii) a nursing facility; and

3906 (c) Subsections (12)(a) and (b) apply to:

3907 (i) food and food ingredients;

3908 (ii) prepared food; or

3909 (iii) alcoholic beverages;

3910 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
3911 or a product transferred electronically by a person:

3912 (i) regardless of the number of transactions involving the sale of that tangible personal
3913 property or product transferred electronically by that person; and

3914 (ii) not regularly engaged in the business of selling that type of tangible personal
3915 property or product transferred electronically;

3916 (b) this Subsection (13) does not apply if:

3917 (i) the sale is one of a series of sales of a character to indicate that the person is
3918 regularly engaged in the business of selling that type of tangible personal property or product
3919 transferred electronically;

3920 (ii) the person holds that person out as regularly engaged in the business of selling that
3921 type of tangible personal property or product transferred electronically;

3922 (iii) the person sells an item of tangible personal property or product transferred
3923 electronically that the person purchased as a sale that is exempt under Subsection (25); or

3924 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
3925 this state in which case the tax is based upon:

3926 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
3927 sold; or

3928 (B) in the absence of a bill of sale or other written evidence of value, the fair market
3929 value of the vehicle or vessel being sold at the time of the sale as determined by the
3930 commission; and

3931 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3932 commission shall make rules establishing the circumstances under which:

3933 (i) a person is regularly engaged in the business of selling a type of tangible personal
3934 property or product transferred electronically;

3935 (ii) a sale of tangible personal property or a product transferred electronically is one of
3936 a series of sales of a character to indicate that a person is regularly engaged in the business of
3937 selling that type of tangible personal property or product transferred electronically; or

3938 (iii) a person holds that person out as regularly engaged in the business of selling a type
3939 of tangible personal property or product transferred electronically;

3940 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
3941 July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration
3942 facility, of the following:

3943 (i) machinery and equipment that:

3944 (A) are used:

3945 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
3946 recycler described in Subsection 59-12-102(60)(b):

3947 (Aa) in the manufacturing process;

3948 (Bb) to manufacture an item sold as tangible personal property; and

3949 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
3950 (14)(a)(i)(A)(I) in the state; or

3951 (II) for a manufacturing facility that is a scrap recycler described in Subsection
3952 59-12-102(60)(b):

3953 (Aa) to process an item sold as tangible personal property; and

3954 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
3955 (14)(a)(i)(A)(II) in the state; and

3956 (B) have an economic life of three or more years; and

3957 (ii) normal operating repair or replacement parts that:

3958 (A) have an economic life of three or more years; and

3959 (B) are used:

3960 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
3961 recycler described in Subsection 59-12-102(60)(b):

3962 (Aa) in the manufacturing process; and

3963 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
3964 state; or
3965 (II) for a manufacturing facility that is a scrap recycler described in Subsection
3966 59-12-102(60)(b):
3967 (Aa) to process an item sold as tangible personal property; and
3968 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
3969 state;
3970 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
3971 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
3972 of the following:
3973 (i) machinery and equipment that:
3974 (A) are used:
3975 (I) in the manufacturing process;
3976 (II) to manufacture an item sold as tangible personal property; and
3977 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
3978 (14)(b) in the state; and
3979 (B) have an economic life of three or more years; and
3980 (ii) normal operating repair or replacement parts that:
3981 (A) are used:
3982 (I) in the manufacturing process; and
3983 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and
3984 (B) have an economic life of three or more years;
3985 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
3986 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
3987 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
3988 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
3989 of the 2002 North American Industry Classification System of the federal Executive Office of
3990 the President, Office of Management and Budget, of the following:
3991 (i) machinery and equipment that:
3992 (A) are used:
3993 (I) (Aa) in the production process, other than the production of real property; or

3994 (Bb) in research and development; and
3995 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)
3996 in the state; and
3997 (B) have an economic life of three or more years; and
3998 (ii) normal operating repair or replacement parts that:
3999 (A) have an economic life of three or more years; and
4000 (B) are used in:
4001 (I) (Aa) the production process, except for the production of real property; and
4002 (Bb) an establishment described in this Subsection (14)(c) in the state; or
4003 (II) (Aa) research and development; and
4004 (Bb) in an establishment described in this Subsection (14)(c) in the state;
4005 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,
4006 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web
4007 Search Portals, of the 2002 North American Industry Classification System of the federal
4008 Executive Office of the President, Office of Management and Budget, of the following:
4009 (A) machinery and equipment that:
4010 (I) are used in the operation of the web search portal;
4011 (II) have an economic life of three or more years; and
4012 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
4013 in the state; and
4014 (B) normal operating repair or replacement parts that:
4015 (I) are used in the operation of the web search portal;
4016 (II) have an economic life of three or more years; and
4017 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
4018 in the state; or
4019 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by
4020 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North
4021 American Industry Classification System of the federal Executive Office of the President,
4022 Office of Management and Budget, of the following:
4023 (A) machinery and equipment that:
4024 (I) are used in the operation of the web search portal; and

4025 (II) have an economic life of three or more years; and
4026 (B) normal operating repair or replacement parts that:
4027 (I) are used in the operation of the web search portal; and
4028 (II) have an economic life of three or more years;
4029 (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
4030 Utah Administrative Rulemaking Act, the commission:
4031 (i) shall by rule define the term "establishment"; and
4032 (ii) may by rule define what constitutes:
4033 (A) processing an item sold as tangible personal property;
4034 (B) the production process, except for the production of real property;
4035 (C) research and development; or
4036 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and
4037 (f) on or before October 1, 2011, and every five years after October 1, 2011, the
4038 commission shall:
4039 (i) review the exemptions described in this Subsection (14) and make
4040 recommendations to the Revenue and Taxation Interim Committee concerning whether the
4041 exemptions should be continued, modified, or repealed; and
4042 (ii) include in its report:
4043 (A) an estimate of the cost of the exemptions;
4044 (B) the purpose and effectiveness of the exemptions; and
4045 (C) the benefits of the exemptions to the state;
4046 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
4047 (i) tooling;
4048 (ii) special tooling;
4049 (iii) support equipment;
4050 (iv) special test equipment; or
4051 (v) parts used in the repairs or renovations of tooling or equipment described in
4052 Subsections (15)(a)(i) through (iv); and
4053 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
4054 (i) the tooling, equipment, or parts are used or consumed exclusively in the
4055 performance of any aerospace or electronics industry contract with the United States

4056 government or any subcontract under that contract; and
4057 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
4058 title to the tooling, equipment, or parts is vested in the United States government as evidenced
4059 by:
4060 (A) a government identification tag placed on the tooling, equipment, or parts; or
4061 (B) listing on a government-approved property record if placing a government
4062 identification tag on the tooling, equipment, or parts is impractical;
4063 (16) sales of newspapers or newspaper subscriptions;
4064 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
4065 product transferred electronically traded in as full or part payment of the purchase price, except
4066 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
4067 trade-ins are limited to other vehicles only, and the tax is based upon:
4068 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
4069 vehicle being traded in; or
4070 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
4071 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
4072 commission; and
4073 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
4074 following items of tangible personal property or products transferred electronically traded in as
4075 full or part payment of the purchase price:
4076 (i) money;
4077 (ii) electricity;
4078 (iii) water;
4079 (iv) gas; or
4080 (v) steam;
4081 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
4082 or a product transferred electronically used or consumed primarily and directly in farming
4083 operations, regardless of whether the tangible personal property or product transferred
4084 electronically:
4085 (A) becomes part of real estate; or
4086 (B) is installed by a:

- 4087 (I) farmer;
- 4088 (II) contractor; or
- 4089 (III) subcontractor; or
- 4090 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
- 4091 product transferred electronically if the tangible personal property or product transferred
- 4092 electronically is exempt under Subsection (18)(a)(i); and
- 4093 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are
- 4094 subject to the taxes imposed by this chapter:
- 4095 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
- 4096 incidental to farming:
- 4097 (I) machinery;
- 4098 (II) equipment;
- 4099 (III) materials; or
- 4100 (IV) supplies; and
- 4101 (B) tangible personal property that is considered to be used in a manner that is
- 4102 incidental to farming includes:
- 4103 (I) hand tools; or
- 4104 (II) maintenance and janitorial equipment and supplies;
- 4105 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
- 4106 transferred electronically if the tangible personal property or product transferred electronically
- 4107 is used in an activity other than farming; and
- 4108 (B) tangible personal property or a product transferred electronically that is considered
- 4109 to be used in an activity other than farming includes:
- 4110 (I) office equipment and supplies; or
- 4111 (II) equipment and supplies used in:
- 4112 (Aa) the sale or distribution of farm products;
- 4113 (Bb) research; or
- 4114 (Cc) transportation; or
- 4115 (iii) a vehicle required to be registered by the laws of this state during the period
- 4116 ending two years after the date of the vehicle's purchase;
- 4117 (19) sales of hay;

- 4118 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
4119 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
4120 garden, farm, or other agricultural produce is sold by:
- 4121 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
4122 agricultural produce;
- 4123 (b) an employee of the producer described in Subsection (20)(a); or
4124 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 4125 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
4126 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 4127 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
4128 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
4129 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
4130 manufacturer, processor, wholesaler, or retailer;
- 4131 (23) a product stored in the state for resale;
- 4132 (24) (a) purchases of a product if:
- 4133 (i) the product is:
- 4134 (A) purchased outside of this state;
- 4135 (B) brought into this state:
- 4136 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
4137 (II) by a nonresident person who is not living or working in this state at the time of the
4138 purchase;
- 4139 (C) used for the personal use or enjoyment of the nonresident person described in
4140 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- 4141 (D) not used in conducting business in this state; and
- 4142 (ii) for:
- 4143 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
4144 the product for a purpose for which the product is designed occurs outside of this state;
- 4145 (B) a boat, the boat is registered outside of this state; or
- 4146 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
4147 outside of this state;
- 4148 (b) the exemption provided for in Subsection (24)(a) does not apply to:

- 4149 (i) a lease or rental of a product; or
4150 (ii) a sale of a vehicle exempt under Subsection (33); and
4151 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
4152 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
4153 following:
- 4154 (i) conducting business in this state if that phrase has the same meaning in this
4155 Subsection (24) as in Subsection (63);
 - 4156 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
4157 as in Subsection (63); or
 - 4158 (iii) a purpose for which a product is designed if that phrase has the same meaning in
4159 this Subsection (24) as in Subsection (63);
- 4160 (25) a product purchased for resale in this state, in the regular course of business, either
4161 in its original form or as an ingredient or component part of a manufactured or compounded
4162 product;
- 4163 (26) a product upon which a sales or use tax was paid to some other state, or one of its
4164 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
4165 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
4166 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
4167 Act;
- 4168 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
4169 person for use in compounding a service taxable under the subsections;
- 4170 (28) purchases made in accordance with the special supplemental nutrition program for
4171 women, infants, and children established in 42 U.S.C. Sec. 1786;
- 4172 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
4173 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
4174 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
4175 Manual of the federal Executive Office of the President, Office of Management and Budget;
- 4176 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
4177 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
- 4178 (a) not registered in this state; and
 - 4179 (b) (i) not used in this state; or

- 4180 (ii) used in this state:
- 4181 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
- 4182 time period that does not exceed the longer of:
- 4183 (I) 30 days in any calendar year; or
- 4184 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 4185 the borders of this state; or
- 4186 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
- 4187 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
- 4188 state;
- 4189 (31) sales of aircraft manufactured in Utah;
- 4190 (32) amounts paid for the purchase of telecommunications service for purposes of
- 4191 providing telecommunications service;
- 4192 (33) sales, leases, or uses of the following:
- 4193 (a) a vehicle by an authorized carrier; or
- 4194 (b) tangible personal property that is installed on a vehicle:
- 4195 (i) sold or leased to or used by an authorized carrier; and
- 4196 (ii) before the vehicle is placed in service for the first time;
- 4197 (34) (a) 45% of the sales price of any new manufactured home; and
- 4198 (b) 100% of the sales price of any used manufactured home;
- 4199 (35) sales relating to schools and fundraising sales;
- 4200 (36) sales or rentals of durable medical equipment if:
- 4201 (a) a person presents a prescription for the durable medical equipment; and
- 4202 (b) the durable medical equipment is used for home use only;
- 4203 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 4204 Section 72-11-102; and
- 4205 (b) the commission shall by rule determine the method for calculating sales exempt
- 4206 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 4207 (38) sales to a ski resort of:
- 4208 (a) snowmaking equipment;
- 4209 (b) ski slope grooming equipment;
- 4210 (c) passenger ropeways as defined in Section 72-11-102; or

4211 (d) parts used in the repairs or renovations of equipment or passenger ropeways
4212 described in Subsections (38)(a) through (c);
4213 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
4214 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
4215 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
4216 59-12-102;
4217 (b) if a seller that sells or rents at the same business location the right to use or operate
4218 for amusement, entertainment, or recreation one or more unassisted amusement devices and
4219 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
4220 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
4221 amusement, entertainment, or recreation for the assisted amusement devices; and
4222 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
4223 Utah Administrative Rulemaking Act, the commission may make rules:
4224 (i) governing the circumstances under which sales are at the same business location;
4225 and
4226 (ii) establishing the procedures and requirements for a seller to separately account for
4227 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
4228 assisted amusement devices;
4229 (41) (a) sales of photocopies by:
4230 (i) a governmental entity; or
4231 (ii) an entity within the state system of public education, including:
4232 (A) a school; or
4233 (B) the State Board of Education; or
4234 (b) sales of publications by a governmental entity;
4235 (42) amounts paid for admission to an athletic event at an institution of higher
4236 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
4237 20 U.S.C. Sec. 1681 et seq.;
4238 (43) (a) sales made to or by:
4239 (i) an area agency on aging; or
4240 (ii) a senior citizen center owned by a county, city, or town; or
4241 (b) sales made by a senior citizen center that contracts with an area agency on aging;

4242 (44) sales or leases of semiconductor fabricating, processing, research, or development
4243 materials regardless of whether the semiconductor fabricating, processing, research, or
4244 development materials:

4245 (a) actually come into contact with a semiconductor; or

4246 (b) ultimately become incorporated into real property;

4247 (45) [~~an amount paid by or charged to a purchaser for accommodations and services~~
4248 ~~described in Subsection 59-12-103(1)(i) to the extent the amount is~~] short-term lodging exempt
4249 under Section 59-12-104.2;

4250 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
4251 sports event registration certificate in accordance with Section 41-3-306 for the event period
4252 specified on the temporary sports event registration certificate;

4253 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted
4254 by the Public Service Commission of Utah only for purchase of electricity produced from a
4255 new alternative energy source, as designated in the tariff by the Public Service Commission of
4256 Utah; and

4257 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a
4258 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under
4259 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

4260 (48) sales or rentals of mobility enhancing equipment if a person presents a
4261 prescription for the mobility enhancing equipment;

4262 (49) sales of water in a:

4263 (a) pipe;

4264 (b) conduit;

4265 (c) ditch; or

4266 (d) reservoir;

4267 (50) sales of currency or coins that constitute legal tender of a state, the United States,
4268 or a foreign nation;

4269 (51) (a) sales of an item described in Subsection (51)(b) if the item:

4270 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

4271 (ii) has a gold, silver, or platinum content of 50% or more; and

4272 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

- 4273 (i) ingot;
- 4274 (ii) bar;
- 4275 (iii) medallion; or
- 4276 (iv) decorative coin;
- 4277 (52) amounts paid on a sale-leaseback transaction;
- 4278 (53) sales of a prosthetic device:
 - 4279 (a) for use on or in a human; and
 - 4280 (b) (i) for which a prescription is required; or
 - 4281 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 4282 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 4283 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 4284 or equipment is primarily used in the production or postproduction of the following media for
- 4285 commercial distribution:
 - 4286 (i) a motion picture;
 - 4287 (ii) a television program;
 - 4288 (iii) a movie made for television;
 - 4289 (iv) a music video;
 - 4290 (v) a commercial;
 - 4291 (vi) a documentary; or
 - 4292 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
 - 4293 commission by administrative rule made in accordance with Subsection (54)(d); or
 - 4294 (b) notwithstanding Subsection (54)(a), purchases, leases, or rentals of machinery or
 - 4295 equipment by an establishment described in Subsection (54)(c) that is used for the production
 - 4296 or postproduction of the following are subject to the taxes imposed by this chapter:
 - 4297 (i) a live musical performance;
 - 4298 (ii) a live news program; or
 - 4299 (iii) a live sporting event;
 - 4300 (c) the following establishments listed in the 1997 North American Industry
 - 4301 Classification System of the federal Executive Office of the President, Office of Management
 - 4302 and Budget, apply to Subsections (54)(a) and (b):
 - 4303 (i) NAICS Code 512110; or

- 4304 (ii) NAICS Code 51219; and
4305 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4306 commission may by rule:
4307 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
4308 or
4309 (ii) define:
4310 (A) "commercial distribution";
4311 (B) "live musical performance";
4312 (C) "live news program"; or
4313 (D) "live sporting event";
4314 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
4315 on or before June 30, 2027, of tangible personal property that:
4316 (i) is leased or purchased for or by a facility that:
4317 (A) is an alternative energy electricity production facility;
4318 (B) is located in the state; and
4319 (C) (I) becomes operational on or after July 1, 2004; or
4320 (II) has its generation capacity increased by one or more megawatts on or after July 1,
4321 2004, as a result of the use of the tangible personal property;
4322 (ii) has an economic life of five or more years; and
4323 (iii) is used to make the facility or the increase in capacity of the facility described in
4324 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
4325 transmission grid including:
4326 (A) a wind turbine;
4327 (B) generating equipment;
4328 (C) a control and monitoring system;
4329 (D) a power line;
4330 (E) substation equipment;
4331 (F) lighting;
4332 (G) fencing;
4333 (H) pipes; or
4334 (I) other equipment used for locating a power line or pole; and

- 4335 (b) this Subsection (55) does not apply to:
- 4336 (i) tangible personal property used in construction of:
- 4337 (A) a new alternative energy electricity production facility; or
- 4338 (B) the increase in the capacity of an alternative energy electricity production facility;
- 4339 (ii) contracted services required for construction and routine maintenance activities;
- 4340 and
- 4341 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 4342 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
- 4343 acquired after:
- 4344 (A) the alternative energy electricity production facility described in Subsection
- 4345 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
- 4346 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
- 4347 in Subsection (55)(a)(iii);
- 4348 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 4349 on or before June 30, 2027, of tangible personal property that:
- 4350 (i) is leased or purchased for or by a facility that:
- 4351 (A) is a waste energy production facility;
- 4352 (B) is located in the state; and
- 4353 (C) (I) becomes operational on or after July 1, 2004; or
- 4354 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 4355 2004, as a result of the use of the tangible personal property;
- 4356 (ii) has an economic life of five or more years; and
- 4357 (iii) is used to make the facility or the increase in capacity of the facility described in
- 4358 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
- 4359 transmission grid including:
- 4360 (A) generating equipment;
- 4361 (B) a control and monitoring system;
- 4362 (C) a power line;
- 4363 (D) substation equipment;
- 4364 (E) lighting;
- 4365 (F) fencing;

- 4366 (G) pipes; or
- 4367 (H) other equipment used for locating a power line or pole; and
- 4368 (b) this Subsection (56) does not apply to:
 - 4369 (i) tangible personal property used in construction of:
 - 4370 (A) a new waste energy facility; or
 - 4371 (B) the increase in the capacity of a waste energy facility;
 - 4372 (ii) contracted services required for construction and routine maintenance activities;
 - 4373 and
 - 4374 (iii) unless the tangible personal property is used or acquired for an increase in capacity
 - 4375 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
 - 4376 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
 - 4377 described in Subsection (56)(a)(iii); or
 - 4378 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
 - 4379 in Subsection (56)(a)(iii);
- 4380 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
- 4381 or before June 30, 2027, of tangible personal property that:
 - 4382 (i) is leased or purchased for or by a facility that:
 - 4383 (A) is located in the state;
 - 4384 (B) produces fuel from alternative energy, including:
 - 4385 (I) methanol; or
 - 4386 (II) ethanol; and
 - 4387 (C) (I) becomes operational on or after July 1, 2004; or
 - 4388 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
 - 4389 a result of the installation of the tangible personal property;
 - 4390 (ii) has an economic life of five or more years; and
 - 4391 (iii) is installed on the facility described in Subsection (57)(a)(i);
- 4392 (b) this Subsection (57) does not apply to:
 - 4393 (i) tangible personal property used in construction of:
 - 4394 (A) a new facility described in Subsection (57)(a)(i); or
 - 4395 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
 - 4396 (ii) contracted services required for construction and routine maintenance activities;

4397 and

4398 (iii) unless the tangible personal property is used or acquired for an increase in capacity
4399 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

4400 (A) the facility described in Subsection (57)(a)(i) is operational; or

4401 (B) the increased capacity described in Subsection (57)(a)(i) is operational;

4402 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
4403 product transferred electronically to a person within this state if that tangible personal property
4404 or product transferred electronically is subsequently shipped outside the state and incorporated
4405 pursuant to contract into and becomes a part of real property located outside of this state;

4406 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
4407 state or political entity to which the tangible personal property is shipped imposes a sales, use,
4408 gross receipts, or other similar transaction excise tax on the transaction against which the other
4409 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

4410 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
4411 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
4412 refund:

4413 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

4414 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
4415 which the sale is made;

4416 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
4417 sale prior to filing for the refund;

4418 (iv) for sales and use taxes paid under this chapter on the sale;

4419 (v) in accordance with Section 59-1-1410; and

4420 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
4421 the person files for the refund on or before June 30, 2011;

4422 (59) purchases:

4423 (a) of one or more of the following items in printed or electronic format:

4424 (i) a list containing information that includes one or more:

4425 (A) names; or

4426 (B) addresses; or

4427 (ii) a database containing information that includes one or more:

4428 (A) names; or
4429 (B) addresses; and
4430 (b) used to send direct mail;
4431 (60) redemptions or repurchases of a product by a person if that product was:
4432 (a) delivered to a pawnbroker as part of a pawn transaction; and
4433 (b) redeemed or repurchased within the time period established in a written agreement
4434 between the person and the pawnbroker for redeeming or repurchasing the product;
4435 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
4436 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
4437 and
4438 (ii) has a useful economic life of one or more years; and
4439 (b) the following apply to Subsection (61)(a):
4440 (i) telecommunications enabling or facilitating equipment, machinery, or software;
4441 (ii) telecommunications equipment, machinery, or software required for 911 service;
4442 (iii) telecommunications maintenance or repair equipment, machinery, or software;
4443 (iv) telecommunications switching or routing equipment, machinery, or software; or
4444 (v) telecommunications transmission equipment, machinery, or software;
4445 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
4446 personal property or a product transferred electronically that are used in the research and
4447 development of alternative energy technology; and
4448 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4449 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
4450 purchases of tangible personal property or a product transferred electronically that are used in
4451 the research and development of alternative energy technology;
4452 (63) (a) purchases of tangible personal property or a product transferred electronically
4453 if:
4454 (i) the tangible personal property or product transferred electronically is:
4455 (A) purchased outside of this state;
4456 (B) brought into this state at any time after the purchase described in Subsection
4457 (63)(a)(i)(A); and
4458 (C) used in conducting business in this state; and

4459 (ii) for:
4460 (A) tangible personal property or a product transferred electronically other than the
4461 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
4462 for a purpose for which the property is designed occurs outside of this state; or
4463 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
4464 outside of this state;
4465 (b) the exemption provided for in Subsection (63)(a) does not apply to:
4466 (i) a lease or rental of tangible personal property or a product transferred electronically;
4467 or
4468 (ii) a sale of a vehicle exempt under Subsection (33); and
4469 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
4470 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
4471 following:
4472 (i) conducting business in this state if that phrase has the same meaning in this
4473 Subsection (63) as in Subsection (24);
4474 (ii) the first use of tangible personal property or a product transferred electronically if
4475 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
4476 (iii) a purpose for which tangible personal property or a product transferred
4477 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
4478 Subsection (24);
4479 (64) sales of disposable home medical equipment or supplies if:
4480 (a) a person presents a prescription for the disposable home medical equipment or
4481 supplies;
4482 (b) the disposable home medical equipment or supplies are used exclusively by the
4483 person to whom the prescription described in Subsection (64)(a) is issued; and
4484 (c) the disposable home medical equipment and supplies are listed as eligible for
4485 payment under:
4486 (i) Title XVIII, federal Social Security Act; or
4487 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
4488 (65) sales:
4489 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

4490 District Act; or
4491 (b) of tangible personal property to a subcontractor of a public transit district, if the
4492 tangible personal property is:
4493 (i) clearly identified; and
4494 (ii) installed or converted to real property owned by the public transit district;
4495 (66) sales of construction materials:
4496 (a) purchased on or after July 1, 2010;
4497 (b) purchased by, on behalf of, or for the benefit of an international airport:
4498 (i) located within a county of the first class; and
4499 (ii) that has a United States customs office on its premises; and
4500 (c) if the construction materials are:
4501 (i) clearly identified;
4502 (ii) segregated; and
4503 (iii) installed or converted to real property:
4504 (A) owned or operated by the international airport described in Subsection (66)(b); and
4505 (B) located at the international airport described in Subsection (66)(b);
4506 (67) sales of construction materials:
4507 (a) purchased on or after July 1, 2008;
4508 (b) purchased by, on behalf of, or for the benefit of a new airport:
4509 (i) located within a county of the second class; and
4510 (ii) that is owned or operated by a city in which an airline as defined in Section
4511 59-2-102 is headquartered; and
4512 (c) if the construction materials are:
4513 (i) clearly identified;
4514 (ii) segregated; and
4515 (iii) installed or converted to real property:
4516 (A) owned or operated by the new airport described in Subsection (67)(b);
4517 (B) located at the new airport described in Subsection (67)(b); and
4518 (C) as part of the construction of the new airport described in Subsection (67)(b);
4519 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
4520 (69) purchases and sales described in Section 63H-4-111;

4521 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
4522 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
4523 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
4524 lists a state or country other than this state as the location of registry of the fixed wing turbine
4525 powered aircraft; or

4526 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
4527 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
4528 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
4529 lists a state or country other than this state as the location of registry of the fixed wing turbine
4530 powered aircraft;

4531 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

4532 (a) to a person admitted to an institution of higher education; and

4533 (b) by a seller, other than a bookstore owned by an institution of higher education, if
4534 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
4535 textbook for a higher education course;

4536 (72) a license fee or tax a municipality imposes in accordance with Subsection
4537 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
4538 level of municipal services;

4539 (73) amounts paid or charged for construction materials used in the construction of a
4540 new or expanding life science research and development facility in the state, if the construction
4541 materials are:

4542 (a) clearly identified;

4543 (b) segregated; and

4544 (c) installed or converted to real property; and

4545 (74) amounts paid or charged for:

4546 (a) a purchase or lease of machinery and equipment that:

4547 (i) are used in performing qualified research:

4548 (A) as defined in Section 59-7-612;

4549 (B) in the state; and

4550 (C) with respect to which the purchaser pays or incurs a qualified research expense as
4551 defined in Section 59-7-612; and

- 4552 (ii) have an economic life of three or more years; and
4553 (b) normal operating repair or replacement parts:
4554 (i) for the machinery and equipment described in Subsection (74)(a); and
4555 (ii) that have an economic life of three or more years.
4556 Section 6. Section **59-12-104.2** is amended to read:
4557 **59-12-104.2. Exemption for accommodations and services taxed by the Navajo**
4558 **Nation.**
4559 (1) As used in this section "tribal taxing area" means the geographical area that:
4560 (a) is subject to the taxing authority of the Navajo Nation; and
4561 (b) consists of:
4562 (i) notwithstanding the issuance of a patent, all land:
4563 (A) within the limits of an Indian reservation under the jurisdiction of the federal
4564 government; and
4565 (B) including any rights-of-way running through the reservation; and
4566 (ii) all Indian allotments the Indian titles to which have not been extinguished,
4567 including any rights-of-way running through an Indian allotment.
4568 (2) (a) Beginning July 1, 2001, amounts [~~paid by or charged to a purchaser for~~
4569 ~~accommodations and services described in~~] subject to taxation as short-term lodging under
4570 Subsection 59-12-103(1)(i) are exempt from the tax imposed by Subsection
4571 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I) to the extent permitted under Subsection (2)(b) if:
4572 (i) the [~~accommodations and services described in Subsection 59-12-103(1)(i) are~~]
4573 short-term lodging is provided within:
4574 (A) the state; and
4575 (B) a tribal taxing area;
4576 (ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to
4577 the purchaser for the [~~accommodations and services described in Subsection 59-12-103(1)(i)]
4578 short-term lodging;
4579 (iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without
4580 regard to whether or not the purchaser that pays or is charged for the [~~accommodations and~~
4581 ~~services~~] short-term lodging is an enrolled member of the Navajo Nation; and
4582 (iv) the requirements of Subsection (4) are met.~~

4583 (b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for
4584 [~~accommodations and services~~] short-term lodging described in Subsection (2)(a) are subject to
4585 a tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I):

4586 (i) the seller shall collect and pay to the state the difference described in Subsection (3)
4587 if that difference is greater than \$0; and

4588 (ii) a person may not require the state to provide a refund, a credit, or similar tax relief
4589 if the difference described in Subsection (3) is equal to or less than \$0.

4590 (3) The difference described in Subsection (2)(b) is equal to the difference between:

4591 (a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I)
4592 on the amounts [~~paid by or charged to a purchaser for accommodations and services described~~
4593 ~~in~~] subject to taxation as short-term lodging under Subsection 59-12-103(1)(i); [~~less~~] and

4594 (b) the tax imposed and collected by the Navajo Nation on the amounts paid by or
4595 charged to a purchaser for the [~~accommodations and services described in Subsection~~
4596 ~~59-12-103(1)(i)~~] short-term lodging.

4597 (4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax
4598 imposed on amounts paid by or charged to a purchaser for [~~accommodations and services~~
4599 ~~described in Subsection 59-12-103(1)(i)~~] short-term lodging, any change in the amount of the
4600 exemption under Subsection (2) as a result of the change in the tax rate is not effective until the
4601 first day of the calendar quarter after a 90-day period beginning on the date the commission
4602 receives notice meeting the requirements of Subsection (4)(b) from the Navajo Nation.

4603 (b) The notice described in Subsection (4)(a) shall state:

4604 (i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
4605 amounts paid by or charged to a purchaser for [~~accommodations and services described in~~
4606 ~~Subsection 59-12-103(1)(i)~~] short-term lodging;

4607 (ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i);
4608 and

4609 (iii) the new rate of the tax described in Subsection (4)(b)(i).

4610 (5) Beginning with the 2006 interim, the Revenue and Taxation Interim Committee:

4611 (a) shall review the exemption provided for in this section one or more times every five
4612 years;

4613 (b) shall determine on or before the November interim meeting of the year in which the

4614 Revenue and Taxation Interim Committee reviews the exemption provided for in this section
4615 whether the exemption should be:

4616 (i) continued;

4617 (ii) modified; or

4618 (iii) repealed; and

4619 (c) may review any other issue related to the exemption provided for in this section as
4620 determined by the Revenue and Taxation Interim Committee.

4621 Section 7. Section **59-12-104.6** is amended to read:

4622 **59-12-104.6. Procedure for claiming a sales and use tax exemption for certain**
4623 **lodging related purchases -- Rulemaking authority -- Applicability of section.**

4624 (1) As used in this section:

4625 (a) "Designated establishment within the lodging industry" means an establishment
4626 described in NAICS Code 721110 or 721191 of the 2007 North American Industry
4627 Classification System of the federal Executive Office of the President, Office of Management
4628 and Budget.

4629 (b) "Exempt purchaser" means a person that:

4630 (i) makes a lodging related purchase; and

4631 (ii) may claim an exemption from a tax under this chapter for the purchase.

4632 (c) "Lodging related purchase" means the purchase of the following from a seller that is
4633 a designated establishment within the lodging industry:

4634 (i) [~~accommodations and services described in Subsection 59-12-103(1)(i)~~] short-term
4635 lodging; or

4636 (ii) any other tangible personal property, product, or service that is:

4637 (A) purchased as part of a transaction that includes the purchase of [~~accommodations~~
4638 ~~and services described in Subsection (1)(c)(i)~~] short-term lodging; and

4639 (B) included on the invoice, bill of sale, or similar document provided to the purchaser
4640 of the [~~accommodations and services described in Subsection (1)(c)(i)~~] short-term lodging.

4641 (2) Except as provided in Subsection (3), an exempt purchaser that makes a lodging
4642 related purchase:

4643 (a) shall pay a tax that would otherwise be imposed under this chapter on the lodging
4644 related purchase but for the purchaser being allowed to claim an exemption from a tax under

4645 this chapter for the purchase; and

4646 (b) may apply to the commission for a refund of the tax described in Subsection (2)(a)
4647 that the purchaser pays.

4648 (3) An exempt purchaser that makes a lodging related purchase may claim an
4649 exemption from a tax under this chapter at the point of sale if the exempt purchaser:

4650 (a) is an agency or instrumentality of the United States;

4651 (b) is exempt from a tax under this chapter on a lodging related purchase as authorized
4652 by a diplomatic tax exemption card issued by the United States; or

4653 (c) may claim the exemption at the point of sale in accordance with Section
4654 59-12-104.1.

4655 (4) An exempt purchaser that applies to the commission for a refund may not make an
4656 application to the commission for a refund more frequently than monthly.

4657 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4658 commission may make rules providing:

4659 (a) procedures for applying for a refund under this section;

4660 (b) standards for determining and verifying the amount of a lodging related purchase by
4661 an exempt purchaser; and

4662 (c) procedures for claiming a refund on a monthly basis.

4663 (6) This section does not apply to amounts taxed by the Navajo Nation that are exempt
4664 from sales and use taxes in accordance with Section 59-12-104.2.

4665 Section 8. Section **59-12-107** is amended to read:

4666 **59-12-107. Definitions -- Collection, remittance, and payment of tax by sellers or**
4667 **other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other**
4668 **liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt --**
4669 **Penalties and interest.**

4670 (1) As used in this section:

4671 (a) "Ownership" means direct ownership or indirect ownership through a parent,
4672 subsidiary, or affiliate.

4673 (b) "Related seller" means a seller that:

4674 (i) meets one or more of the criteria described in Subsection (2)(a)(i); and

4675 (ii) delivers tangible personal property, a service, or a product transferred electronically

4676 that is sold:

4677 (A) by a seller that does not meet one or more of the criteria described in Subsection

4678 (2)(a)(i); and

4679 (B) to a purchaser in the state.

4680 (c) "Substantial ownership interest" means an ownership interest in a business entity if

4681 that ownership interest is greater than the degree of ownership of equity interest specified in 15

4682 U.S.C. Sec. 78p, with respect to a person other than a director or an officer.

4683 (2) (a) Except as provided in Subsection (2)(e), Section 59-12-107.1, or Section

4684 59-12-123, and subject to Subsection (2)(f), each seller shall pay or collect and remit the sales

4685 and use taxes imposed by this chapter if within this state the seller:

4686 (i) has or utilizes:

4687 (A) an office;

4688 (B) a distribution house;

4689 (C) a sales house;

4690 (D) a warehouse;

4691 (E) a service enterprise; or

4692 (F) a place of business similar to Subsections (2)(a)(i)(A) through (E);

4693 (ii) maintains a stock of goods;

4694 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the

4695 state, unless the seller's only activity in the state is:

4696 (A) advertising; or

4697 (B) solicitation by:

4698 (I) direct mail;

4699 (II) electronic mail;

4700 (III) the Internet;

4701 (IV) telecommunications service; or

4702 (V) a means similar to Subsection (2)(a)(iii)(A) or (B);

4703 (iv) regularly engages in the delivery of property in the state other than by:

4704 (A) common carrier; or

4705 (B) United States mail; or

4706 (v) regularly engages in an activity directly related to the leasing or servicing of

4707 property located within the state.

4708 (b) A seller is considered to be engaged in the business of selling tangible personal
4709 property, a service, or a product transferred electronically for use in the state, and shall pay or
4710 collect and remit the sales and use taxes imposed by this chapter if:

4711 (i) the seller holds a substantial ownership interest in, or is owned in whole or in
4712 substantial part by, a related seller; and

4713 (ii) (A) the seller sells the same or a substantially similar line of products as the related
4714 seller and does so under the same or a substantially similar business name; or

4715 (B) the place of business described in Subsection (2)(a)(i) of the related seller or an in
4716 state employee of the related seller is used to advertise, promote, or facilitate sales by the seller
4717 to a purchaser.

4718 (c) A seller that does not meet one or more of the criteria provided for in Subsection
4719 (2)(a) or is not a seller required to pay or collect and remit sales and use taxes under Subsection
4720 (2)(b):

4721 (i) except as provided in Subsection (2)(c)(ii), may voluntarily:

4722 (A) collect a tax on a transaction described in Subsection 59-12-103(1); and

4723 (B) remit the tax to the commission as provided in this part; or

4724 (ii) notwithstanding Subsection (2)(c)(i), shall collect a tax on a transaction described
4725 in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.

4726 (d) The collection and remittance of a tax under this chapter by a seller that is
4727 registered under the agreement may not be used as a factor in determining whether that seller is
4728 required by Subsection (2) to:

4729 (i) pay a tax, fee, or charge under:

4730 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

4731 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

4732 (C) Section 19-6-714;

4733 (D) Section 19-6-805;

4734 (E) Section 69-2-5;

4735 (F) Section 69-2-5.5;

4736 (G) Section 69-2-5.6; or

4737 (H) this title; or

- 4738 (ii) collect and remit a tax, fee, or charge under:
- 4739 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 4740 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 4741 (C) Section 19-6-714;
- 4742 (D) Section 19-6-805;
- 4743 (E) Section 69-2-5;
- 4744 (F) Section 69-2-5.5;
- 4745 (G) Section 69-2-5.6; or
- 4746 (H) this title.
- 4747 (e) A person shall pay a use tax imposed by this chapter on a transaction described in
- 4748 Subsection 59-12-103(1) if:
- 4749 (i) the seller did not collect a tax imposed by this chapter on the transaction; and
- 4750 (ii) the person:
- 4751 (A) stores the tangible personal property or product transferred electronically in the
- 4752 state;
- 4753 (B) uses the tangible personal property or product transferred electronically in the state;
- 4754 or
- 4755 (C) consumes the tangible personal property or product transferred electronically in the
- 4756 state.
- 4757 (f) The ownership of property that is located at the premises of a printer's facility with
- 4758 which the retailer has contracted for printing and that consists of the final printed product,
- 4759 property that becomes a part of the final printed product, or copy from which the printed
- 4760 product is produced, shall not result in the retailer being considered to have or maintain an
- 4761 office, distribution house, sales house, warehouse, service enterprise, or other place of
- 4762 business, or to maintain a stock of goods, within this state.
- 4763 (3) (a) Except as provided in Section 59-12-107.1, a tax under this chapter shall be
- 4764 collected from a purchaser.
- 4765 (b) A seller may not collect as tax an amount, without regard to fractional parts of one
- 4766 cent, in excess of the tax computed at the rates prescribed by this chapter.
- 4767 (c) (i) Each seller shall:
- 4768 (A) give the purchaser a receipt for the tax collected; or

4769 (B) bill the tax as a separate item and declare the name of this state and the seller's
4770 sales and use tax license number on the invoice for the sale.

4771 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax
4772 and relieves the purchaser of the liability for reporting the tax to the commission as a
4773 consumer.

4774 (d) A seller is not required to maintain a separate account for the tax collected, but is
4775 considered to be a person charged with receipt, safekeeping, and transfer of public money.

4776 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the
4777 benefit of the state and for payment to the commission in the manner and at the time provided
4778 for in this chapter.

4779 (f) If any seller, during any reporting period, collects as a tax an amount in excess of
4780 the lawful state and local percentage of total taxable sales allowed under this chapter, the seller
4781 shall remit to the commission the full amount of the tax imposed under this chapter, plus any
4782 excess.

4783 (g) If the accounting methods regularly employed by the seller in the transaction of the
4784 seller's business are such that reports of sales made during a calendar month or quarterly period
4785 will impose unnecessary hardships, the commission may accept reports at intervals that will, in
4786 the commission's opinion, better suit the convenience of the taxpayer or seller and will not
4787 jeopardize collection of the tax.

4788 (h) (i) For a purchase paid with specie legal tender as defined in Section 59-1-1501.1,
4789 and until such time as the commission accepts specie legal tender for the payment of a tax
4790 under this chapter, if the commission requires a seller to remit a tax under this chapter in legal
4791 tender other than specie legal tender, the seller shall state on the seller's books and records and
4792 on an invoice, bill of sale, or similar document provided to the purchaser:

4793 (A) the purchase price in specie legal tender and in the legal tender the seller is
4794 required to remit to the commission;

4795 (B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie
4796 legal tender and in the legal tender the seller is required to remit to the commission;

4797 (C) the tax rate under this chapter applicable to the purchase; and

4798 (D) the date of the purchase.

4799 (ii) (A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the amount of

4800 tax due under Subsection (3)(h)(i), a seller shall use the most recent London fixing price for the
4801 specie legal tender the purchaser paid.

4802 (B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4803 commission may make rules for determining the amount of tax due under Subsection (3)(h)(i)
4804 if the London fixing price is not available for a particular day.

4805 (i) For purposes of a transaction described in Subsection 59-12-103(1)(i):

4806 (i) if an additional amount described in Subsection 59-12-102(115)(c) is not charged as
4807 part of a purchase of short-term lodging, the short-term lodging operator shall remit the tax on
4808 amounts paid or charged as a room cost for the short-term lodging;

4809 (ii) if an additional amount described in Subsection 59-12-102(115)(c) is charged as
4810 part of a purchase of short-term lodging and, at the time a purchaser receives a reservation
4811 confirmation for the purchase of the short-term lodging, the seller separately states each
4812 short-term lodging transaction component on the invoice, bill of sale, or similar document
4813 provided to the purchaser, the short-term lodging operator shall remit the tax on amounts paid
4814 or charged as a room cost for short-term lodging; or

4815 (iii) if an additional amount described in Subsection 59-12-102(115)(c) is charged as
4816 part of a purchase of short-term lodging and, at the time a purchaser receives a reservation
4817 confirmation for the purchase of the short-term lodging, the seller does not separately state
4818 each short-term lodging transaction component on the invoice, bill of sale, or similar document
4819 provided to the purchaser:

4820 (A) the short-term lodging operator shall remit the tax on amounts paid or charged as a
4821 room cost for the short-term lodging; and

4822 (B) the seller who charges the additional amount described in Subsection
4823 59-12-102(115)(c) shall remit the tax on that additional amount.

4824 (4) (a) Except as provided in Subsections (5) through (7) and Section 59-12-108, the
4825 sales or use tax imposed by this chapter is due and payable to the commission quarterly on or
4826 before the last day of the month next succeeding each calendar quarterly period.

4827 (b) (i) Each seller shall, on or before the last day of the month next succeeding each
4828 calendar quarterly period, file with the commission a return for the preceding quarterly period.

4829 (ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the
4830 tax required under this chapter to be collected or paid for the period covered by the return.

4831 (c) Except as provided in Subsection (5)(c), a return shall contain information and be in
4832 a form the commission prescribes by rule.

4833 (d) (i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be
4834 based on the total nonexempt sales made during the period for which the return is filed,
4835 including both cash and charge sales.

4836 (ii) For a sale that includes the delivery or installation of tangible personal property at a
4837 location other than a seller's place of business described in Subsection (2)(a)(i), if the delivery
4838 or installation is separately stated on an invoice or receipt, a seller may compute the tax due on
4839 the sale for purposes of Subsection (4)(d)(i) based on the amount the seller receives for that
4840 sale during each period for which the seller receives payment for the sale.

4841 (e) (i) The use tax as computed in the return shall be based on the total amount of
4842 purchases for storage, use, or other consumption in this state made during the period for which
4843 the return is filed, including both cash and charge purchases.

4844 (ii) (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser
4845 who is required to remit taxes under this chapter, but is not required to remit taxes monthly in
4846 accordance with Section 59-12-108, and who converts tangible personal property into real
4847 property.

4848 (B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit the
4849 taxes due under this chapter on tangible personal property for which the qualifying purchaser
4850 claims an exemption as allowed under Subsection 59-12-104(23) or (25) based on the period in
4851 which the qualifying purchaser receives payment, in accordance with Subsection (4)(e)(ii)(C),
4852 for the conversion of the tangible personal property into real property.

4853 (C) A qualifying purchaser remitting taxes due under this chapter in accordance with
4854 Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of tax due on the
4855 qualifying purchaser's purchase of the tangible personal property that was converted into real
4856 property multiplied by a fraction, the numerator of which is the payment received in the period
4857 for the qualifying purchaser's sale of the tangible personal property that was converted into real
4858 property and the denominator of which is the entire sales price for the qualifying purchaser's
4859 sale of the tangible personal property that was converted into real property.

4860 (D) A qualifying purchaser may remit taxes due under this chapter in accordance with
4861 this Subsection (4)(e)(ii) only if the books and records that the qualifying purchaser keeps in

4862 the qualifying purchaser's regular course of business identify by reasonable and verifiable
4863 standards that the tangible personal property was converted into real property.

4864 (f) (i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3,
4865 Utah Administrative Rulemaking Act, the commission may by rule extend the time for making
4866 returns and paying the taxes.

4867 (ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

4868 (g) The commission may require returns and payment of the tax to be made for other
4869 than quarterly periods if the commission considers it necessary in order to ensure the payment
4870 of the tax imposed by this chapter.

4871 (h) (i) The commission may require a seller that files a simplified electronic return with
4872 the commission to file an additional electronic report with the commission.

4873 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4874 commission may make rules providing:

4875 (A) the information required to be included in the additional electronic report described
4876 in Subsection (4)(h)(i); and

4877 (B) one or more due dates for filing the additional electronic report described in
4878 Subsection (4)(h)(i).

4879 (5) (a) As used in this Subsection (5) and Subsection (6)(b), "remote seller" means a
4880 seller that is:

4881 (i) registered under the agreement;

4882 (ii) described in Subsection (2)(c); and

4883 (iii) not a:

4884 (A) model 1 seller;

4885 (B) model 2 seller; or

4886 (C) model 3 seller.

4887 (b) (i) Except as provided in Subsection (5)(b)(ii), a tax a remote seller collects in
4888 accordance with Subsection (2)(c) is due and payable:

4889 (A) to the commission;

4890 (B) annually; and

4891 (C) on or before the last day of the month immediately following the last day of each
4892 calendar year.

4893 (ii) The commission may require that a tax a remote seller collects in accordance with
4894 Subsection (2)(c) be due and payable:

4895 (A) to the commission; and

4896 (B) on the last day of the month immediately following any month in which the seller
4897 accumulates a total of at least \$1,000 in agreement sales and use tax.

4898 (c) (i) If a remote seller remits a tax to the commission in accordance with Subsection
4899 (5)(b), the remote seller shall file a return:

4900 (A) with the commission;

4901 (B) with respect to the tax;

4902 (C) containing information prescribed by the commission; and

4903 (D) on a form prescribed by the commission.

4904 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4905 commission shall make rules prescribing:

4906 (A) the information required to be contained in a return described in Subsection
4907 (5)(c)(i); and

4908 (B) the form described in Subsection (5)(c)(i)(D).

4909 (d) A tax a remote seller collects in accordance with this Subsection (5) shall be
4910 calculated on the basis of the total amount of taxable transactions under Subsection
4911 59-12-103(1) the remote seller completes, including:

4912 (i) a cash transaction; and

4913 (ii) a charge transaction.

4914 (6) (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified
4915 electronic return collects in accordance with this chapter is due and payable:

4916 (i) monthly on or before the last day of the month immediately following the month for
4917 which the seller collects a tax under this chapter; and

4918 (ii) for the month for which the seller collects a tax under this chapter.

4919 (b) A tax a remote seller that files a simplified electronic return collects in accordance
4920 with this chapter is due and payable as provided in Subsection (5).

4921 (7) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the
4922 purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to
4923 titling or registration under the laws of this state.

4924 (b) The commission shall collect the tax described in Subsection (7)(a) when the
4925 vehicle is titled or registered.

4926 (8) If any sale of tangible personal property or any other taxable transaction under
4927 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not
4928 responsible for the collection or payment of the tax imposed on the sale and the retailer is
4929 responsible for the collection or payment of the tax imposed on the sale if:

4930 (a) the retailer represents that the personal property is purchased by the retailer for
4931 resale; and

4932 (b) the personal property is not subsequently resold.

4933 (9) If any sale of property or service subject to the tax is made to a person prepaying
4934 sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a
4935 contractor or subcontractor of that person, the person to whom such payment or consideration
4936 is payable is not responsible for the collection or payment of the sales or use tax and the person
4937 prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax
4938 if the person prepaying the sales or use tax represents that the amount prepaid as sales or use
4939 tax has not been fully credited against sales or use tax due and payable under the rules
4940 promulgated by the commission.

4941 (10) (a) For purposes of this Subsection (10):

4942 (i) Except as provided in Subsection (10)(a)(ii), "bad debt" is as defined in Section
4943 166, Internal Revenue Code.

4944 (ii) Notwithstanding Subsection (10)(a)(i), "bad debt" does not include:

4945 (A) an amount included in the purchase price of tangible personal property, a product
4946 transferred electronically, or a service that is:

4947 (I) not a transaction described in Subsection 59-12-103(1); or

4948 (II) exempt under Section 59-12-104;

4949 (B) a financing charge;

4950 (C) interest;

4951 (D) a tax imposed under this chapter on the purchase price of tangible personal
4952 property, a product transferred electronically, or a service;

4953 (E) an uncollectible amount on tangible personal property or a product transferred
4954 electronically that:

- 4955 (I) is subject to a tax under this chapter; and
- 4956 (II) remains in the possession of a seller until the full purchase price is paid;
- 4957 (F) an expense incurred in attempting to collect any debt; or
- 4958 (G) an amount that a seller does not collect on repossessed property.
- 4959 (b) (i) To the extent an amount remitted in accordance with Subsection (4)(d) later
- 4960 becomes bad debt, a seller may deduct the bad debt from the total amount from which a tax
- 4961 under this chapter is calculated on a return.
- 4962 (ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the
- 4963 total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on
- 4964 the qualifying purchaser's purchase of tangible personal property converted into real property to
- 4965 the extent that:
 - 4966 (A) tax was remitted in accordance with Subsection (4)(e) on that tangible personal
 - 4967 property converted into real property;
 - 4968 (B) the qualifying purchaser's sale of that tangible personal property converted into real
 - 4969 property later becomes bad debt; and
 - 4970 (C) the books and records that the qualifying purchaser keeps in the qualifying
 - 4971 purchaser's regular course of business identify by reasonable and verifiable standards that the
 - 4972 tangible personal property was converted into real property.
- 4973 (c) A seller may file a refund claim with the commission if:
 - 4974 (i) the amount of bad debt for the time period described in Subsection (10)(e) exceeds
 - 4975 the amount of the seller's sales that are subject to a tax under this chapter for that same time
 - 4976 period; and
 - 4977 (ii) as provided in Section 59-1-1410.
- 4978 (d) A bad debt deduction under this section may not include interest.
- 4979 (e) A bad debt may be deducted under this Subsection (10) on a return for the time
- 4980 period during which the bad debt:
 - 4981 (i) is written off as uncollectible in the seller's books and records; and
 - 4982 (ii) would be eligible for a bad debt deduction:
 - 4983 (A) for federal income tax purposes; and
 - 4984 (B) if the seller were required to file a federal income tax return.
 - 4985 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or

4986 claims a refund under this Subsection (10), the seller shall report and remit a tax under this
4987 chapter:

4988 (i) on the portion of the bad debt the seller recovers; and

4989 (ii) on a return filed for the time period for which the portion of the bad debt is
4990 recovered.

4991 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection
4992 (10)(f), a seller shall apply amounts received on the bad debt in the following order:

4993 (i) in a proportional amount:

4994 (A) to the purchase price of the tangible personal property, product transferred
4995 electronically, or service; and

4996 (B) to the tax due under this chapter on the tangible personal property, product
4997 transferred electronically, or service; and

4998 (ii) to:

4999 (A) interest charges;

5000 (B) service charges; and

5001 (C) other charges.

5002 (h) A seller's certified service provider may make a deduction or claim a refund for bad
5003 debt on behalf of the seller:

5004 (i) in accordance with this Subsection (10); and

5005 (ii) if the certified service provider credits or refunds the entire amount of the bad debt
5006 deduction or refund to the seller.

5007 (i) A seller may allocate bad debt among the states that are members of the agreement
5008 if the seller's books and records support that allocation.

5009 (11) (a) A seller may not, with intent to evade any tax, fail to timely remit the full
5010 amount of tax required by this chapter.

5011 (b) A violation of this section is punishable as provided in Section 59-1-401.

5012 (c) Each person who fails to pay any tax to the state or any amount of tax required to be
5013 paid to the state, except amounts determined to be due by the commission under Chapter 1,
5014 Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time
5015 required by this chapter, or who fails to file any return as required by this chapter, shall pay, in
5016 addition to the tax, penalties and interest as provided in Sections 59-1-401 and 59-1-402.

5017 (d) For purposes of prosecution under this section, each quarterly tax period in which a
5018 seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the
5019 tax required to be remitted, constitutes a separate offense.

5020 Section 9. Section **59-12-107.1** is amended to read:

5021 **59-12-107.1. Direct payment permit.**

5022 (1) The commission may issue a direct payment permit to a seller that:

5023 (a) obtains a license under Section 59-12-106;

5024 (b) makes aggregate purchases of at least \$1,500,000 for each of the three years prior to
5025 the year in which the commission issues the direct payment permit to the seller;

5026 (c) has a record of timely payment of taxes under this chapter as determined by the
5027 commission; and

5028 (d) demonstrates to the commission that the seller has the ability to determine the
5029 appropriate location of a transaction:

5030 (i) under:

5031 (A) Section 59-12-211;

5032 (B) Section 59-12-212; or

5033 (C) Section 59-12-213; and

5034 (ii) for each transaction for which the seller makes a purchase using the direct payment
5035 permit.

5036 (2) The commission shall within 120 days after the date a seller applies for a direct
5037 payment permit notify the seller of the commission's decision to issue or deny the issuance of
5038 the direct payment permit.

5039 (3) A direct payment permit may not be used in connection with the following
5040 transactions:

5041 (a) a purchase of the following purchased in the same transaction:

5042 (i) prepared food; and

5043 (ii) food and food ingredients;

5044 (b) amounts paid or charged for [~~accommodations and services described in Subsection~~
5045 ~~59-12-103(1)(i)~~ short-term lodging];

5046 (c) amounts paid or charged for admission or user fees under Subsection
5047 59-12-103(1)(f);

- 5048 (d) a purchase of:
- 5049 (i) a motor vehicle;
- 5050 (ii) an aircraft;
- 5051 (iii) a watercraft;
- 5052 (iv) a modular home;
- 5053 (v) a manufactured home; or
- 5054 (vi) a mobile home;
- 5055 (e) amounts paid under Subsection 59-12-103(1)(b); or
- 5056 (f) sales under Subsection 59-12-103(1)(c).
- 5057 (4) The holder of a direct payment permit shall:
- 5058 (a) present evidence of the direct payment permit to a seller at the time the holder of
- 5059 the direct payment permit makes a purchase using the direct payment permit;
- 5060 (b) determine the appropriate location of a transaction under:
- 5061 (i) (A) Section 59-12-211;
- 5062 (B) Section 59-12-212; or
- 5063 (C) Section 59-12-213; and
- 5064 (ii) for each transaction for which the holder of the direct payment permit makes a
- 5065 purchase using the direct payment permit;
- 5066 (c) notwithstanding Section 59-12-107, determine the amount of any sales and use tax
- 5067 due on each transaction for which the holder of the direct payment permit uses the direct
- 5068 payment permit;
- 5069 (d) report and remit to the commission the sales and use tax described in Subsection
- 5070 (4)(c) at the same time and in the same manner as the holder of the direct payment permit
- 5071 reports and remits a tax under this chapter; and
- 5072 (e) maintain records:
- 5073 (i) that indicate the appropriate location of a transaction under:
- 5074 (A) (I) Section 59-12-211;
- 5075 (II) Section 59-12-212; or
- 5076 (III) Section 59-12-213; and
- 5077 (B) for each transaction for which a purchase is made using the direct payment permit;
- 5078 and

5079 (ii) necessary to determine the amount described in Subsection (4)(c) for each
5080 transaction for which the holder of the direct payment permit uses the direct payment permit.

5081 (5) A seller that is presented evidence of a direct payment permit at the time of a
5082 transaction:

5083 (a) notwithstanding Section 59-12-107, may not collect sales and use tax on the
5084 transaction;

5085 (b) shall, for a period of three years from the date the seller files a return with the
5086 commission reporting the transaction, retain records to verify that the transaction was made
5087 using a direct payment permit; and

5088 (c) notwithstanding Section 59-12-107, is not liable for sales and use tax on the
5089 transaction.

5090 (6) The holder of a direct payment permit may calculate the amount the holder of the
5091 direct payment permit may retain under Section 59-12-108 on the amount described in
5092 Subsection (4)(c):

5093 (a) for each transaction for which the holder of the direct payment permit uses the
5094 direct payment permit; and

5095 (b) that the holder of the direct payment permit remits to the commission under this
5096 section.

5097 (7) The commission may revoke a direct payment permit issued under this section at
5098 any time if the holder of the direct payment permit fails to comply with any provision of this
5099 chapter.

5100 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5101 commission may make rules to administer this section.

5102 Section 10. Section **59-12-301** is amended to read:

5103 **59-12-301. Transient room tax -- Rate -- Expenditure of revenues -- Enactment or**
5104 **repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**

5105 (1) (a) A county legislative body may impose a tax on ~~charges for the~~
5106 ~~accommodations and services described in~~ amounts subject to taxation as short-term lodging
5107 under Subsection 59-12-103(1)(i) at a rate of not to exceed 4.25% beginning on or after
5108 October 1, 2006.

5109 (b) Subject to Subsection (2), the revenues raised from the tax imposed under

5110 Subsection (1)(a) shall be used for the purposes listed in Section 17-31-2.

5111 (c) The tax imposed under Subsection (1)(a) shall be in addition to the tax imposed
5112 under Part 6, Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax.

5113 (2) If a county legislative body of a county of the first class imposes a tax under this
5114 section, beginning on July 1, 2007, and ending on June 30, 2027, each year the first 15% of the
5115 revenues collected from the tax authorized by Subsection (1)(a) within that county shall be:

5116 (a) deposited into the Transient Room Tax Fund created by Section 63M-1-2203; and

5117 (b) expended as provided in Section 63M-1-2203.

5118 (3) Subject to Subsection (4), a county legislative body:

5119 (a) may increase or decrease the tax authorized under this part; and

5120 (b) shall regulate the tax authorized under this part by ordinance.

5121 (4) (a) For purposes of this Subsection (4):

5122 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County
5123 Consolidations and Annexations.

5124 (ii) "Annexing area" means an area that is annexed into a county.

5125 (b) (i) Except as provided in Subsection (4)(c), if, on or after July 1, 2004, a county
5126 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
5127 change shall take effect:

5128 (A) on the first day of a calendar quarter; and

5129 (B) after a 90-day period beginning on the date the commission receives notice meeting
5130 the requirements of Subsection (4)(b)(ii) from the county.

5131 (ii) The notice described in Subsection (4)(b)(i)(B) shall state:

5132 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

5133 (B) the statutory authority for the tax described in Subsection (4)(b)(ii)(A);

5134 (C) the effective date of the tax described in Subsection (4)(b)(ii)(A); and

5135 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
5136 (4)(b)(ii)(A), the rate of the tax.

5137 (c) (i) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection
5138 (4)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
5139 first billing period:

5140 (A) that begins after the effective date of the enactment of the tax or the tax rate

5141 increase; and

5142 (B) if the billing period for the transaction begins before the effective date of the
5143 enactment of the tax or the tax rate increase imposed under this section.

5144 (ii) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection
5145 (4)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
5146 billing period:

5147 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
5148 and

5149 (B) if the billing period for the transaction begins before the effective date of the repeal
5150 of the tax or the tax rate decrease imposed under this section.

5151 (iii) Subsections (4)(c)(i) and (ii) apply to transactions subject to a tax under
5152 Subsection 59-12-103(1)(i).

5153 (d) (i) Except as provided in Subsection (4)(e), if, for an annexation that occurs on or
5154 after July 1, 2004, the annexation will result in the enactment, repeal, or a change in the rate of
5155 a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

5156 (A) on the first day of a calendar quarter; and

5157 (B) after a 90-day period beginning on the date the commission receives notice meeting
5158 the requirements of Subsection (4)(d)(ii) from the county that annexes the annexing area.

5159 (ii) The notice described in Subsection (4)(d)(i)(B) shall state:

5160 (A) that the annexation described in Subsection (4)(d)(i) will result in an enactment,
5161 repeal, or change in the rate of a tax under this part for the annexing area;

5162 (B) the statutory authority for the tax described in Subsection (4)(d)(ii)(A);

5163 (C) the effective date of the tax described in Subsection (4)(d)(ii)(A); and

5164 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
5165 (4)(d)(ii)(A), the rate of the tax.

5166 (e) (i) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection
5167 (4)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
5168 first billing period:

5169 (A) that begins after the effective date of the enactment of the tax or the tax rate
5170 increase; and

5171 (B) if the billing period for the transaction begins before the effective date of the

5172 enactment of the tax or the tax rate increase imposed under this section.

5173 (ii) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection
5174 (4)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
5175 billing period:

5176 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
5177 and

5178 (B) if the billing period for the transaction begins before the effective date of the repeal
5179 of the tax or the tax rate decrease imposed under this section.

5180 (iii) Subsections (4)(e)(i) and (ii) apply to transactions subject to a tax under
5181 Subsection 59-12-103(1)(i).

5182 Section 11. Section **59-12-352** is amended to read:

5183 **59-12-352. Transient room tax authority for municipalities and military**
5184 **installation development authority -- Purposes for which revenues may be used.**

5185 (1) (a) Except as provided in Subsection (5), the governing body of a municipality may
5186 impose a tax of not to exceed 1% on [~~charges for the accommodations and services described~~
5187 ~~in~~] amounts subject to taxation as short-term lodging under Subsection 59-12-103(1)(i).

5188 (b) Subject to Section 63H-1-203, the military installation development authority
5189 created in Section 63H-1-201 may impose a tax under this section [~~for accommodations and~~
5190 ~~services described in~~] on amounts subject to taxation as short-term lodging under Subsection
5191 59-12-103(1)(i) within a project area described in a project area plan adopted by the authority
5192 under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the
5193 authority were a municipality.

5194 (2) Subject to the limitations of Subsection (1), a governing body of a municipality
5195 may, by ordinance, increase or decrease the tax under this part.

5196 (3) A governing body of a municipality shall regulate the tax under this part by
5197 ordinance.

5198 (4) A municipality may use revenues generated by the tax under this part for general
5199 fund purposes.

5200 (5) (a) A municipality may not impose a tax under this section [~~for accommodations~~
5201 ~~and services described in Subsection 59-12-103(1)(i)] on short-term lodging within a project
5202 area described in a project area plan adopted by the authority under Title 63H, Chapter 1,~~

5203 Military Installation Development Authority Act.

5204 (b) Subsection (5)(a) does not apply to the military installation development authority's
5205 imposition of a tax under this section.

5206 Section 12. Section **59-12-353** is amended to read:

5207 **59-12-353. Additional municipal transient room tax to repay bonded or other**
5208 **indebtedness.**

5209 (1) Subject to the limitations of Subsection (2), the governing body of a municipality
5210 may, in addition to the tax authorized under Section 59-12-352, impose a tax of not to exceed
5211 .5% on [~~charges for the accommodations and services described in~~] amounts subject to taxation
5212 as short-term lodging under Subsection 59-12-103(1)(i) if the governing body of the
5213 municipality:

5214 (a) before January 1, 1996, levied and collected a license fee or tax under Section
5215 10-1-203; and

5216 (b) before January 1, 1997, took official action to obligate the municipality in reliance
5217 on the license fees or taxes under Subsection (1)(a)(i) to the payment of debt service on bonds
5218 or other indebtedness, including lease payments under a lease purchase agreement.

5219 (2) The governing body of a municipality may impose the tax under this section until
5220 the sooner of:

5221 (a) the day on which the following have been paid in full:

5222 (i) the debt service on bonds or other indebtedness, including lease payments under a
5223 lease purchase agreement described in Subsection (1) (b); and

5224 (ii) refunding obligations that the municipality incurred as a result of the debt service
5225 on bonds or other indebtedness, including lease payments under a lease purchase agreement
5226 described in Subsection (1) (b); or

5227 (b) 25 years from the day on which the municipality levied the tax under this section.

5228 Section 13. Section **59-12-603** is amended to read:

5229 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Adoption of**
5230 **ordinance required -- Advisory board -- Administration -- Collection -- Administrative**
5231 **charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date --**
5232 **Notice requirements.**

5233 (1) (a) In addition to any other taxes, a county legislative body may, as provided in this

5234 part, impose a tax as follows:

5235 (i) (A) a county legislative body of any county may impose a tax of not to exceed 3%
5236 on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases
5237 and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor
5238 vehicle that is being repaired pursuant to a repair or an insurance agreement; and

5239 (B) beginning on or after January 1, 1999, a county legislative body of any county
5240 imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under
5241 Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals
5242 of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made
5243 for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant
5244 to a repair or an insurance agreement;

5245 (ii) a county legislative body of any county may impose a tax of not to exceed 1% of all
5246 sales of the following that are sold by a restaurant:

5247 (A) alcoholic beverages;

5248 (B) food and food ingredients; or

5249 (C) prepared food; and

5250 (iii) a county legislative body of a county of the first class may impose a tax of not to
5251 exceed .5% on [~~charges for the accommodations and services described in~~] amounts subject to
5252 taxation as short-term lodging under Subsection 59-12-103(1)(i).

5253 (b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section
5254 17-31-5.5.

5255 (2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided
5256 for in Subsections (1)(a)(i) through (iii) may be used for:

5257 (i) financing tourism promotion; and

5258 (ii) the development, operation, and maintenance of:

5259 (A) an airport facility;

5260 (B) a convention facility;

5261 (C) a cultural facility;

5262 (D) a recreation facility; or

5263 (E) a tourist facility.

5264 (b) A county of the first class shall expend at least \$450,000 each year of the revenues

5265 from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a
5266 marketing and ticketing system designed to:

5267 (i) promote tourism in ski areas within the county by persons that do not reside within
5268 the state; and

5269 (ii) combine the sale of:

5270 (A) ski lift tickets; and

5271 (B) [~~accommodations and services described in Subsection 59-12-103(1)(i)~~] short-term
5272 lodging.

5273 (3) A tax imposed under this part may be pledged as security for bonds, notes, or other
5274 evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local
5275 Government Bonding Act, or a community development and renewal agency under Title 17C,
5276 Chapter 1, Part 5, Agency Bonds, to finance:

5277 (a) an airport facility;

5278 (b) a convention facility;

5279 (c) a cultural facility;

5280 (d) a recreation facility; or

5281 (e) a tourist facility.

5282 (4) (a) In order to impose the tax under Subsection (1), each county legislative body
5283 shall adopt an ordinance imposing the tax.

5284 (b) The ordinance under Subsection (4)(a) shall include provisions substantially the
5285 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on
5286 those items and sales described in Subsection (1).

5287 (c) The name of the county as the taxing agency shall be substituted for that of the state
5288 where necessary, and an additional license is not required if one has been or is issued under
5289 Section 59-12-106.

5290 (5) In order to maintain in effect its tax ordinance adopted under this part, each county
5291 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,
5292 Tax Collection, adopt amendments to its tax ordinance to conform with the applicable
5293 amendments to Part 1, Tax Collection.

5294 (6) (a) Regardless of whether a county of the first class creates a tourism tax advisory
5295 board in accordance with Section 17-31-8, the county legislative body of the county of the first

5296 class shall create a tax advisory board in accordance with this Subsection (6).
5297 (b) The tax advisory board shall be composed of nine members appointed as follows:
5298 (i) four members shall be appointed by the county legislative body of the county of the
5299 first class as follows:
5300 (A) one member shall be a resident of the unincorporated area of the county;
5301 (B) two members shall be residents of the incorporated area of the county; and
5302 (C) one member shall be a resident of the unincorporated or incorporated area of the
5303 county; and
5304 (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or
5305 towns within the county of the first class appointed by an organization representing all mayors
5306 of cities and towns within the county of the first class.
5307 (c) Five members of the tax advisory board constitute a quorum.
5308 (d) The county legislative body of the county of the first class shall determine:
5309 (i) terms of the members of the tax advisory board;
5310 (ii) procedures and requirements for removing a member of the tax advisory board;
5311 (iii) voting requirements, except that action of the tax advisory board shall be by at
5312 least a majority vote of a quorum of the tax advisory board;
5313 (iv) chairs or other officers of the tax advisory board;
5314 (v) how meetings are to be called and the frequency of meetings; and
5315 (vi) the compensation, if any, of members of the tax advisory board.
5316 (e) The tax advisory board under this Subsection (6) shall advise the county legislative
5317 body of the county of the first class on the expenditure of revenues collected within the county
5318 of the first class from the taxes described in Subsection (1)(a).
5319 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part
5320 shall be administered, collected, and enforced in accordance with:
5321 (A) the same procedures used to administer, collect, and enforce the tax under:
5322 (I) Part 1, Tax Collection; or
5323 (II) Part 2, Local Sales and Use Tax Act; and
5324 (B) Chapter 1, General Taxation Policies.
5325 (ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or
5326 Subsections 59-12-205(2) through (6).

- 5327 (b) Except as provided in Subsection (7)(c):
- 5328 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the
- 5329 commission shall distribute the revenues to the county imposing the tax; and
- 5330 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues
- 5331 according to the distribution formula provided in Subsection (8).
- 5332 (c) The commission shall retain and deposit an administrative charge in accordance
- 5333 with Section 59-1-306 from the revenues the commission collects from a tax under this part.
- 5334 (8) The commission shall distribute the revenues generated by the tax under Subsection
- 5335 (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the
- 5336 following formula:
- 5337 (a) the commission shall distribute 70% of the revenues based on the percentages
- 5338 generated by dividing the revenues collected by each county under Subsection (1)(a)(i)(B) by
- 5339 the total revenues collected by all counties under Subsection (1)(a)(i)(B); and
- 5340 (b) the commission shall distribute 30% of the revenues based on the percentages
- 5341 generated by dividing the population of each county collecting a tax under Subsection
- 5342 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).
- 5343 (9) (a) For purposes of this Subsection (9):
- 5344 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2,
- 5345 County Annexation.
- 5346 (ii) "Annexing area" means an area that is annexed into a county.
- 5347 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county
- 5348 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
- 5349 change shall take effect:
- 5350 (A) on the first day of a calendar quarter; and
- 5351 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 5352 the requirements of Subsection (9)(b)(ii) from the county.
- 5353 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:
- 5354 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;
- 5355 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);
- 5356 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and
- 5357 (D) if the county enacts the tax or changes the rate of the tax described in Subsection

5358 (9)(b)(ii)(A), the rate of the tax.

5359 (c) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of
5360 the first billing period:

5361 (A) that begins after the effective date of the enactment of the tax or the tax rate
5362 increase; and

5363 (B) if the billing period for the transaction begins before the effective date of the
5364 enactment of the tax or the tax rate increase imposed under Subsection (1).

5365 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
5366 billing period:

5367 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
5368 and

5369 (B) if the billing period for the transaction begins before the effective date of the repeal
5370 of the tax or the tax rate decrease imposed under Subsection (1).

5371 (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or
5372 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a
5373 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

5374 (A) on the first day of a calendar quarter; and

5375 (B) after a 90-day period beginning on the date the commission receives notice meeting
5376 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

5377 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

5378 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,
5379 repeal, or change in the rate of a tax under this part for the annexing area;

5380 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

5381 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

5382 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
5383 (9)(d)(ii)(A), the rate of the tax.

5384 (e) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of
5385 the first billing period:

5386 (A) that begins after the effective date of the enactment of the tax or the tax rate
5387 increase; and

5388 (B) if the billing period for the transaction begins before the effective date of the

5389 enactment of the tax or the tax rate increase imposed under Subsection (1).

5390 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
5391 billing period:

5392 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
5393 and

5394 (B) if the billing period for the transaction begins before the effective date of the repeal
5395 of the tax or the tax rate decrease imposed under Subsection (1).

5396 Section 14. **Effective date.**

5397 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2013.

5398 (2) The actions affecting Sections 59-12-102 (Effective 07/01/14) and 59-12-103
5399 (Effective 07/01/14) take effect on July 1, 2014.