

Derrin R. Owens proposes the following substitute bill:

Local Option Sales Tax Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Derrin R. Owens

House Sponsor: Joseph Elison

LONG TITLE

General Description:

This bill modifies provisions related to local option sales and use taxes.

Highlighted Provisions:

This bill:

- defines terms;
- allows certain local governments to impose a sales and use tax for purposes of funding emergency services;
- establishes requirements for a local government to impose the tax, dependent on the rate imposed;
- addresses the administration, collection, and distribution of tax revenue;
- allows the State Tax Commission to retain an administrative charge from collected tax revenue;
- repeals provisions allowing certain counties to impose a rural county health care facilities tax to fund emergency medical services; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17D-1-103, as last amended by Laws of Utah 2024, Chapter 382

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

59-12-801, as last amended by Laws of Utah 2023, Chapters 92, 310 and 329

59-12-802, as last amended by Laws of Utah 2024, Chapter 333

ENACTS:

59-12-2401, Utah Code Annotated 1953

59-12-2402, Utah Code Annotated 1953

59-12-2403, Utah Code Annotated 1953

59-12-2404, Utah Code Annotated 1953

59-12-2405, Utah Code Annotated 1953

59-12-2406, Utah Code Annotated 1953

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

Section 1. Section **17D-1-103** is amended to read:

17D-1-103 . Special service district status, powers, and duties -- Registration as a limited purpose entity -- Limitation on districts providing jail service.

(1) A special service district:

(a) is:

(i) a body corporate and politic with perpetual succession, separate and distinct from the county or municipality that creates [it] the special service district;

(ii) a quasi-municipal corporation; and

(iii) a political subdivision of the state; and

(b) may sue and be sued.

(2) A special service district may:

(a) exercise the power of eminent domain possessed by the county or municipality that creates the special service district;

(b) enter into a contract that the governing authority considers desirable to carry out special service district functions, including a contract:

(i) with the United States or an agency of the United States, the state, an institution of higher education, a county, a municipality, a school district, a special district, another special service district, or any other political subdivision of the state; or

(ii) that includes provisions concerning the use, operation, and maintenance of special service district facilities and the collection of fees or charges with respect to commodities, services, or facilities that the district provides;

(c) acquire or construct facilities;

(d) acquire real or personal property, or an interest in real or personal property, including water and water rights, whether by purchase, lease, gift, devise, bequest, or otherwise, and whether the property is located inside or outside the special service

- 63 district, and own, hold, improve, use, finance, or otherwise deal in and with the
64 property or property right;
- 65 (e) sell, convey, lease, exchange, transfer, or otherwise dispose of all or any part of the
66 special service district's property or assets, including water and water rights;
- 67 (f) mortgage, pledge, or otherwise encumber all or any part of the special service
68 district's property or assets, including water and water rights;
- 69 (g) enter into a contract with respect to the use, operation, or maintenance of all or any
70 part of the special service district's property or assets, including water and water
71 rights;
- 72 (h) accept a government grant or loan and comply with the conditions of the grant or
73 loan;
- 74 (i) use an officer, employee, property, equipment, office, or facility of the county or
75 municipality that created the special service district, subject to reimbursement as
76 provided in Subsection (4);
- 77 (j) employ one or more officers, employees, or agents, including one or more engineers,
78 accountants, attorneys, or financial consultants, and establish their compensation;
- 79 (k) designate an assessment area and levy an assessment as provided in Title 11, Chapter
80 42, Assessment Area Act;
- 81 (l) contract with a franchised, certificated public utility for the construction and
82 operation of an electrical service distribution system within the special service
83 district;
- 84 (m) borrow money and incur indebtedness;
- 85 (n) as provided in Part 5, Special Service District Bonds, issue bonds for the purpose of
86 acquiring, constructing, and equipping any of the facilities required for the services
87 the special service district is authorized to provide, including:
- 88 (i) bonds payable in whole or in part from taxes levied on the taxable property in the
89 special service district;
- 90 (ii) bonds payable from revenues derived from the operation of revenue-producing
91 facilities of the special service district;
- 92 (iii) bonds payable from both taxes and revenues;
- 93 (iv) guaranteed bonds, payable in whole or in part from taxes levied on the taxable
94 property in the special service district;
- 95 (v) tax anticipation notes;
- 96 (vi) bond anticipation notes;

(vii) refunding bonds;
(viii) special assessment bonds; and
(ix) bonds payable in whole or in part from mineral lease payments as provided in
Section 11-14-308;

- (o) except as provided in Subsection (5), impose fees or charges or both for
commodities, services, or facilities that the special service district provides;
- (p) provide to an area outside the special service district's boundary, whether inside or
outside the state, a service that the special service district is authorized to provide
within its boundary, if the governing body makes a finding that there is a public
benefit to providing the service to the area outside the special service district's
boundary;
- (q) provide other services that the governing body determines will more effectively carry
out the purposes of the special service district;~~and~~
- (r) adopt an official seal for the special service district~~[-]~~ ; and
- (s) if authorized, impose an emergency services tax under Title 59, Chapter 12, Part 24,
Emergency Services Tax.

(3)(a) Each special service district shall register and maintain the special service
district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A special service district that fails to comply with Subsection (3)(a) or Section
67-1a-15 is subject to enforcement by the state auditor, in accordance with Section
67-3-1.

(4)(a) Each special service district that uses an officer, employee, property, equipment,
office, or facility of the county or municipality that created the special service district
shall reimburse the county or municipality a reasonable amount for what the special
service district uses.

(b) The amount invoiced for what the special service district uses under Subsection
(4)(a) may not exceed the actual documented cost incurred, without markup, by the
county or municipality.

(5)(a) A special service district that provides jail service as provided in Subsection
17D-1-201(10) may not impose a fee or charge for the service it provides.

(b) Subsection (5)(a) may not be construed to limit a special service district that provides
jail service from:

(i) entering into a contract with the federal government, the state, or a political
subdivision of the state to provide jail service for compensation; or

- (ii) receiving compensation for jail service it provides under a contract described in Subsection (5)(b)(i).

Section 2. Section **59-12-102** is amended to read:

59-12-102 . Definitions.

As used in this chapter:

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

- (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
- (b) is typically marketed:
 - (i) under the name 800 toll-free calling;
 - (ii) under the name 855 toll-free calling;
 - (iii) under the name 866 toll-free calling;
 - (iv) under the name 877 toll-free calling;
 - (v) under the name 888 toll-free calling; or
 - (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

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

- (i) a subscriber purchases;
- (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:
 - (A) prerecorded announcement; or
 - (B) live service; and
- (iii) is typically marketed:
 - (A) under the name 900 service; or
 - (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

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

- (i) a collection service a seller of a telecommunications service provides to a subscriber; or
- (ii) the following a subscriber sells to the subscriber's customer:
 - (A) a product; or
 - (B) a service.

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

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

- (i) annual membership dues to private organizations; or

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

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

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

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

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

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

(a) listed under Subsection (7); and

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

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

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

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

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

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

(e) Subsection 59-12-103(2)(e)(i)(A)(I);

(f) Section 59-12-204;

(g) Section 59-12-401;

(h) Section 59-12-402;

(i) Section 59-12-402.1;

(j) Section 59-12-703;

(k) Section 59-12-802;

(l) Section 59-12-804;

(m) Section 59-12-1102;

(n) Section 59-12-1302;

(o) Section 59-12-1402;

(p) Section 59-12-1802;

(q) Section 59-12-2003;

(r) Section 59-12-2103;

(s) Section 59-12-2213;

- (t) Section 59-12-2214;
- (u) Section 59-12-2215;
- (v) Section 59-12-2216;
- (w) Section 59-12-2217;
- (x) Section 59-12-2218;
- (y) Section 59-12-2219; [or]
- (z) Section 59-12-2220[.] ; or
- (aa) Section 59-12-2402.

(8) "Aircraft" means the same as that term is defined in Section 72-10-102.

(9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

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

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

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

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

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

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

(A) an inspection;

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

(C) changing landing gear; and

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

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

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

- 233 (10) "Alcoholic beverage" means a beverage that:
234 (a) is suitable for human consumption; and
235 (b) contains .5% or more alcohol by volume.
- 236 (11) "Alternative energy" means:
237 (a) biomass energy;
238 (b) geothermal energy;
239 (c) hydroelectric energy;
240 (d) solar energy;
241 (e) wind energy; or
242 (f) energy that is derived from:
243 (i) coal-to-liquids;
244 (ii) nuclear fuel;
245 (iii) oil-impregnated diatomaceous earth;
246 (iv) oil sands;
247 (v) oil shale;
248 (vi) petroleum coke; or
249 (vii) waste heat from:
250 (A) an industrial facility; or
251 (B) a power station in which an electric generator is driven through a process in
252 which water is heated, turns into steam, and spins a steam turbine.
- 253 (12)(a) Subject to Subsection (12)(b), "alternative energy electricity production facility"
254 means a facility that:
255 (i) uses alternative energy to produce electricity; and
256 (ii) has a production capacity of two megawatts or greater.
257 (b) A facility is an alternative energy electricity production facility regardless of whether
258 the facility is:
259 (i) connected to an electric grid; or
260 (ii) located on the premises of an electricity consumer.
- 261 (13)(a) "Ancillary service" means a service associated with, or incidental to, the
262 provision of telecommunications service.
263 (b) "Ancillary service" includes:
264 (i) a conference bridging service;
265 (ii) a detailed communications billing service;
266 (iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

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

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

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

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

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

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

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

(17) "Authorized carrier" means:

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

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

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

(18)(a) "Biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

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

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

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

- 301 material through a nonincineration, thermal conversion process;
- 302 (E) aquatic plants; and
- 303 (F) agricultural products.
- 304 (b) "Biomass energy" does not include:
- 305 (i) black liquor; or
- 306 (ii) treated woods.
- 307 (19)(a) "Bundled transaction" means the sale of two or more items of tangible personal
- 308 property, products, or services if the tangible personal property, products, or services
- 309 are:
- 310 (i) distinct and identifiable; and
- 311 (ii) sold for one nonitemized price.
- 312 (b) "Bundled transaction" does not include:
- 313 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 314 the basis of the selection by the purchaser of the items of tangible personal
- 315 property included in the transaction;
- 316 (ii) the sale of real property;
- 317 (iii) the sale of services to real property;
- 318 (iv) the retail sale of tangible personal property and a service if:
- 319 (A) the tangible personal property:
- 320 (I) is essential to the use of the service; and
- 321 (II) is provided exclusively in connection with the service; and
- 322 (B) the service is the true object of the transaction;
- 323 (v) the retail sale of two services if:
- 324 (A) one service is provided that is essential to the use or receipt of a second
- 325 service;
- 326 (B) the first service is provided exclusively in connection with the second service;
- 327 and
- 328 (C) the second service is the true object of the transaction;
- 329 (vi) a transaction that includes tangible personal property or a product subject to
- 330 taxation under this chapter and tangible personal property or a product that is not
- 331 subject to taxation under this chapter if the:
- 332 (A) seller's purchase price of the tangible personal property or product subject to
- 333 taxation under this chapter is de minimis; or
- 334 (B) seller's sales price of the tangible personal property or product subject to

- 335 taxation under this chapter is de minimis; and
- 336 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 337 this chapter and tangible personal property that is subject to taxation under this
- 338 chapter if:
- 339 (A) that retail sale includes:
- 340 (I) food and food ingredients;
- 341 (II) a drug;
- 342 (III) durable medical equipment;
- 343 (IV) mobility enhancing equipment;
- 344 (V) an over-the-counter drug;
- 345 (VI) a prosthetic device; or
- 346 (VII) a medical supply; and
- 347 (B) subject to Subsection (19)(f):
- 348 (I) the seller's purchase price of the tangible personal property subject to
- 349 taxation under this chapter is 50% or less of the seller's total purchase price
- 350 of that retail sale; or
- 351 (II) the seller's sales price of the tangible personal property subject to taxation
- 352 under this chapter is 50% or less of the seller's total sales price of that retail
- 353 sale.
- 354 (c)(i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or
- 355 a service that is distinct and identifiable does not include:
- 356 (A) packaging that:
- 357 (I) accompanies the sale of the tangible personal property, product, or service;
- 358 and
- 359 (II) is incidental or immaterial to the sale of the tangible personal property,
- 360 product, or service;
- 361 (B) tangible personal property, a product, or a service provided free of charge with
- 362 the purchase of another item of tangible personal property, a product, or a
- 363 service; or
- 364 (C) an item of tangible personal property, a product, or a service included in the
- 365 definition of "purchase price."
- 366 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a
- 367 product, or a service is provided free of charge with the purchase of another item
- 368 of tangible personal property, a product, or a service if the sales price of the

369 purchased item of tangible personal property, product, or service does not vary
370 depending on the inclusion of the tangible personal property, product, or service
371 provided free of charge.

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

376 (A) a binding sales document; or

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

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

380 (A) a bill of sale;

381 (B) a contract;

382 (C) an invoice;

383 (D) a lease agreement;

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

385 (F) a price list;

386 (G) a rate card;

387 (H) a receipt; or

388 (I) a service agreement.

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

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

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

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

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

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

402 (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service

- 403 contract to determine if the sales price of tangible personal property or a product is
404 de minimis.
- 405 (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the
406 seller's purchase price and the seller's sales price to determine if tangible personal
407 property subject to taxation under this chapter is 50% or less of the seller's total
408 purchase price or sales price of that retail sale.
- 409 (20) "Car sharing" means the same as that term is defined in Section 13-48a-101.
- 410 (21) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.
- 411 (22) "Certified automated system" means software certified by the governing board of the
412 agreement that:
- 413 (a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:
414 (i) on a transaction; and
415 (ii) in the states that are members of the agreement;
- 416 (b) determines the amount of agreement sales and use tax to remit to a state that is a
417 member of the agreement; and
- 418 (c) maintains a record of the transaction described in Subsection (22)(a)(i).
- 419 (23) "Certified service provider" means an agent certified:
- 420 (a) by the governing board of the agreement; and
421 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as
422 outlined in the contract between the governing board of the agreement and the
423 certified service provider, other than the seller's obligation under Section 59-12-124
424 to remit a tax on the seller's own purchases.
- 425 (24)(a) Subject to Subsection (24)(b), "clothing" means all human wearing apparel
426 suitable for general use.
- 427 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
428 commission shall make rules:
- 429 (i) listing the items that constitute "clothing"; and
430 (ii) that are consistent with the list of items that constitute "clothing" under the
431 agreement.
- 432 (25) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- 433 (26) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels
434 that does not constitute industrial use under Subsection (60) or residential use under
435 Subsection (115).
- 436 (27)(a) "Common carrier" means a person engaged in or transacting the business of

transporting passengers, freight, merchandise, or other property for hire within this state.

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

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

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

(28) "Component part" includes:

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

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

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

(d) feed, seeds, and seedlings.

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

(a)(i) in digital form; or

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

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

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

(a) a computer to perform a task; or

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

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

(a) future updates or upgrades to computer software;

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

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

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

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

(c) "Conference bridging service" does not include a telecommunications service used to

reach the ancillary service described in Subsection (32)(a).

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

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

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

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

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

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

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

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

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

(a) is intended to supplement the diet;

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

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

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

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

(c)(i) except as provided in Subsection (37)(c)(ii), is intended for ingestion in:

- 505 (A) tablet form;
506 (B) capsule form;
507 (C) powder form;
508 (D) softgel form;
509 (E) gelcap form; or
510 (F) liquid form; or
511 (ii) if the product is not intended for ingestion in a form described in Subsections
512 (37)(c)(i)(A) through (F), is not represented:
513 (A) as conventional food; and
514 (B) for use as a sole item of:
515 (I) a meal; or
516 (II) the diet; and
517 (d) is required to be labeled as a dietary supplement:
518 (i) identifiable by the "Supplemental Facts" box found on the label; and
519 (ii) as required by 21 C.F.R. Sec. 101.36.
- 520 (38)(a) "Digital audio work" means a work that results from the fixation of a series of
521 musical, spoken, or other sounds.
522 (b) "Digital audio work" includes a ringtone.
- 523 (39) "Digital audio-visual work" means a series of related images which, when shown in
524 succession, imparts an impression of motion, together with accompanying sounds, if any.
- 525 (40) "Digital book" means a work that is generally recognized in the ordinary and usual
526 sense as a book.
- 527 (41)(a) "Direct mail" means printed material delivered or distributed by United States
528 mail or other delivery service:
529 (i) to:
530 (A) a mass audience; or
531 (B) addressees on a mailing list provided:
532 (I) by a purchaser of the mailing list; or
533 (II) at the discretion of the purchaser of the mailing list; and
534 (ii) if the cost of the printed material is not billed directly to the recipients.
- 535 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
536 purchaser to a seller of direct mail for inclusion in a package containing the printed
537 material.
- 538 (c) "Direct mail" does not include multiple items of printed material delivered to a single

address.

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

(a) address information; or

(b) telephone number information.

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

(i) cannot withstand repeated use; and

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

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

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

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

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

(C).

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

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

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

(A) eyeglasses; or

(B) contact lenses.

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

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

(a) located in the state;

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

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

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

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

(i) recognized in:

(A) the official United States Pharmacopoeia;

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

(C) the official National Formulary; or

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

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(46)(a) "Durable medical equipment" means equipment that:

(i) can withstand repeated use;

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

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

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

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

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

(47) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

- (v) optical capabilities;
- (vi) electromagnetic capabilities; or
- (vii) capabilities similar to Subsections (47)(b)(i) through (vi).

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

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

- (b) that performs electronic financial payment services.

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

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

- (a) rail for the use of public transit; or
- (b) a separate right-of-way for the use of public transit.

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

- (a) is powered by turbine engines;
- (b) operates on jet fuel; and
- (c) has wings that are permanently attached to the fuselage of the aircraft.

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

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

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

- (A) liquid form;
- (B) concentrated form;
- (C) solid form;
- (D) frozen form;
- (E) dried form; or
- (F) dehydrated form; and

- (ii) that are:

- (A) sold for:
 - (I) ingestion by humans; or
 - (II) chewing by humans; and
- (B) consumed for the substance's:
 - (I) taste; or
 - (II) nutritional value.

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

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

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

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

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

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

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

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

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

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

(iii) the net or gross revenue from which is deposited in a dedicated account controlled by the school or school district.

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

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

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

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

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

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

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and

- 675 General Counsel, the Office of the Legislative Auditor General, and the Office of
676 the Legislative Fiscal Analyst;
- 677 (iv) the National Guard;
- 678 (v) an independent entity as defined in Section 63E-1-102; or
- 679 (vi) a political subdivision as defined in Section 17B-1-102.
- 680 (b) "Governmental entity" does not include the state systems of public and higher
681 education, including:
- 682 (i) a school;
- 683 (ii) the State Board of Education;
- 684 (iii) the Utah Board of Higher Education; or
- 685 (iv) an institution of higher education described in Section 53B-1-102.
- 686 (58) "Hydroelectric energy" means water used as the sole source of energy to produce
687 electricity.
- 688 (59) "Individual-owned shared vehicle" means the same as that term is defined in Section
689 13-48a-101.
- 690 (60) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other
691 fuels:
- 692 (a) in mining or extraction of minerals;
- 693 (b) in agricultural operations to produce an agricultural product up to the time of harvest
694 or placing the agricultural product into a storage facility, including:
- 695 (i) commercial greenhouses;
- 696 (ii) irrigation pumps;
- 697 (iii) farm machinery;
- 698 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
699 under Title 41, Chapter 1a, Part 2, Registration; and
- 700 (v) other farming activities;
- 701 (c) in manufacturing tangible personal property at an establishment described in:
- 702 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
703 the federal Executive Office of the President, Office of Management and Budget;
704 or
- 705 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
706 American Industry Classification System of the federal Executive Office of the
707 President, Office of Management and Budget;
- 708 (d) by a scrap recycler if:

- 709 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to
710 process one or more of the following items into prepared grades of processed
711 materials for use in new products:
- 712 (A) iron;
713 (B) steel;
714 (C) nonferrous metal;
715 (D) paper;
716 (E) glass;
717 (F) plastic;
718 (G) textile; or
719 (H) rubber; and
- 720 (ii) the new products under Subsection (60)(d)(i) would otherwise be made with
721 nonrecycled materials; or
- 722 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
723 cogeneration facility as defined in Section 54-2-1.
- 724 (61)(a) "Installation charge" means a charge for installing:
- 725 (i) tangible personal property; or
726 (ii) a product transferred electronically.
- 727 (b) "Installation charge" does not include a charge for:
- 728 (i) repairs or renovations of:
- 729 (A) tangible personal property; or
730 (B) a product transferred electronically; or
- 731 (ii) attaching tangible personal property or a product transferred electronically:
- 732 (A) to other tangible personal property; and
733 (B) as part of a manufacturing or fabrication process.
- 734 (62) "Institution of higher education" means an institution of higher education listed in
735 Section 53B-2-101.
- 736 (63)(a) "Lease" or "rental" means a transfer of possession or control of tangible personal
737 property or a product transferred electronically for:
- 738 (i)(A) a fixed term; or
739 (B) an indeterminate term; and
- 740 (ii) consideration.
- 741 (b) "Lease" or "rental" includes:
- 742 (i) an agreement covering a motor vehicle and trailer if the amount of consideration

- 743 may be increased or decreased by reference to the amount realized upon sale or
744 disposition of the property as defined in Section 7701(h)(1), Internal Revenue
745 Code; and
- 746 (ii) car sharing.
- 747 (c) "Lease" or "rental" does not include:
- 748 (i) a transfer of possession or control of property under a security agreement or
749 deferred payment plan that requires the transfer of title upon completion of the
750 required payments;
- 751 (ii) a transfer of possession or control of property under an agreement that requires
752 the transfer of title:
- 753 (A) upon completion of required payments; and
- 754 (B) if the payment of an option price does not exceed the greater of:
- 755 (I) \$100; or
- 756 (II) 1% of the total required payments; or
- 757 (iii) providing tangible personal property along with an operator for a fixed period of
758 time or an indeterminate period of time if the operator is necessary for equipment
759 to perform as designed.
- 760 (d) For purposes of Subsection (63)(c)(iii), an operator is necessary for equipment to
761 perform as designed if the operator's duties exceed the:
- 762 (i) set-up of tangible personal property;
- 763 (ii) maintenance of tangible personal property; or
- 764 (iii) inspection of tangible personal property.
- 765 (64) "Lesson" means a fixed period of time for the duration of which a trained instructor:
- 766 (a) is present with a student in person or by video; and
- 767 (b) actively instructs the student, including by providing observation or feedback.
- 768 (65) "Life science establishment" means an establishment in this state that is classified
769 under the following NAICS codes of the 2007 North American Industry Classification
770 System of the federal Executive Office of the President, Office of Management and
771 Budget:
- 772 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 773 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
774 Manufacturing; or
- 775 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 776 (66) "Life science research and development facility" means a facility owned, leased, or

777 rented by a life science establishment if research and development is performed in 51%
778 or more of the total area of the facility.

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

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

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

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

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

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

786 (70) "Manufacturing facility" means:

787 (a) an establishment described in:

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

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

794 (b) a scrap recycler if:

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

798 (A) iron;

799 (B) steel;

800 (C) nonferrous metal;

801 (D) paper;

802 (E) glass;

803 (F) plastic;

804 (G) textile; or

805 (H) rubber; and

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

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

810 (71)(a) "Marketplace" means a physical or electronic place, platform, or forum where

811 tangible personal property, a product transferred electronically, or a service is offered
812 for sale.

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

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

819 (i) does any of the following:

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

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

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

832 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of
833 tangible personal property, a product transferred electronically, or a service,
834 regardless of ownership or control of the tangible personal property, the
835 product transferred electronically, or the service that is the subject of the retail
836 sale;

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

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

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

844 (H) provides or offers customer service to a marketplace seller or a marketplace

- 845 seller's purchaser or accepts or assists with taking orders, returns, or exchanges
846 of tangible personal property, a product transferred electronically, or a service
847 sold by a marketplace seller on the person's marketplace; or
- 848 (I) brands or otherwise identifies sales as those of the person; and
- 849 (ii) does any of the following:
- 850 (A) collects the sales price or purchase price of a retail sale of tangible personal
851 property, a product transferred electronically, or a service;
- 852 (B) provides payment processing services for a retail sale of tangible personal
853 property, a product transferred electronically, or a service;
- 854 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee,
855 closing fee, a fee for inserting or making available tangible personal property, a
856 product transferred electronically, or a service on the person's marketplace, or
857 other consideration for the facilitation of a retail sale of tangible personal
858 property, a product transferred electronically, or a service, regardless of
859 ownership or control of the tangible personal property, the product transferred
860 electronically, or the service that is the subject of the retail sale;
- 861 (D) through terms and conditions, an agreement, or another arrangement with a
862 third person, collects payment from a purchase for a retail sale of tangible
863 personal property, a product transferred electronically, or a service and
864 transmits that payment to the marketplace seller, regardless of whether the
865 third person receives compensation or other consideration in exchange for the
866 service; or
- 867 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
868 property, a product transferred electronically, or service offered for sale.
- 869 (b) "Marketplace facilitator" does not include:
- 870 (i) a person that only provides payment processing services; or
- 871 (ii) a person described in Subsection (72)(a) to the extent the person is facilitating a
872 sale for a seller that is a restaurant as defined in Section 59-12-602.
- 873 (73) "Marketplace seller" means a seller that makes one or more retail sales through a
874 marketplace that a marketplace facilitator owns, operates, or controls, regardless of
875 whether the seller is required to be registered to collect and remit the tax under this part.
- 876 (74) "Member of the immediate family of the producer" means a person who is related to a
877 producer described in Subsection 59-12-104(20)(a) as a:
- 878 (a) child or stepchild, regardless of whether the child or stepchild is:

- (i) an adopted child or adopted stepchild; or
- (ii) a foster child or foster stepchild;
- (b) grandchild or stepgrandchild;
- (c) grandparent or stepgrandparent;
- (d) nephew or stepnephew;
- (e) niece or stepniece;
- (f) parent or stepparent;
- (g) sibling or stepsibling;
- (h) spouse;
- (i) person who is the spouse of a person described in Subsections (74)(a) through (g); or
- (j) person similar to a person described in Subsections (74)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

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

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

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

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

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

(78)(a) "Mobility enhancing equipment" means equipment that is:

- (i) primarily and customarily used to provide or increase the ability to move from one place to another;
- (ii) appropriate for use in a:
 - (A) home; or
 - (B) motor vehicle; and
- (iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of

the equipment described in Subsection (78)(a).

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

(i) a motor vehicle;

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

(iii) durable medical equipment; or

(iv) a prosthetic device.

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

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

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

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

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

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

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

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

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

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

(B) due to each local taxing jurisdiction; and

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

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

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

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

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

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

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

- other hydrocarbons, or otherwise treated;
- (b) yield mixtures of liquid hydrocarbon; and
- (c) require further processing other than mechanical blending before becoming finished petroleum products.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 981 (ii) a temporary detachment of tangible personal property from real property for a
982 repair or renovation if the repair or renovation is performed where the tangible
983 personal property and real property are located; or
984 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
985 Subsection (92)(c)(iii) or (iv).

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

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

990 (A) convenience;

991 (B) stability; or

992 (C) for an obvious temporary purpose;

- 993 (ii) the detachment of tangible personal property from real property except for the
994 detachment described in Subsection (92)(b)(ii);

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

1000 (A) a computer;

1001 (B) a telephone;

1002 (C) a television; or

1003 (D) tangible personal property similar to Subsections (92)(c)(iii)(A) through (C)
1004 as determined by the commission by rule made in accordance with Title 63G,
1005 Chapter 3, Utah Administrative Rulemaking Act; or

- 1006 (iv) an item listed in Subsection (137)(c).

1007 (93) "Person" includes any individual, firm, partnership, joint venture, association,
1008 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
1009 municipality, district, or other local governmental entity of the state, or any group or
1010 combination acting as a unit.

1011 (94) "Place of primary use":

- 1012 (a) for telecommunications service other than mobile telecommunications service,
1013 means the street address representative of where the customer's use of the
1014 telecommunications service primarily occurs, which shall be:

- 1015 (i) the residential street address of the customer; or
1016 (ii) the primary business street address of the customer; or
1017 (b) for mobile telecommunications service, means the same as that term is defined in the
1018 Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 1019 (95)(a) "Postpaid calling service" means a telecommunications service a person obtains
1020 by making a payment on a call-by-call basis:
1021 (i) through the use of a:
1022 (A) bank card;
1023 (B) credit card;
1024 (C) debit card; or
1025 (D) travel card; or
1026 (ii) by a charge made to a telephone number that is not associated with the origination
1027 or termination of the telecommunications service.
- 1028 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
1029 service, that would be a prepaid wireless calling service if the service were
1030 exclusively a telecommunications service.
- 1031 (96) "Postproduction" means an activity related to the finishing or duplication of a medium
1032 described in Subsection 59-12-104(54)(a).
- 1033 (97) "Prepaid calling service" means a telecommunications service:
1034 (a) that allows a purchaser access to telecommunications service that is exclusively
1035 telecommunications service;
1036 (b) that:
1037 (i) is paid for in advance; and
1038 (ii) enables the origination of a call using an:
1039 (A) access number; or
1040 (B) authorization code;
1041 (c) that is dialed:
1042 (i) manually; or
1043 (ii) electronically; and
1044 (d) sold in predetermined units or dollars that decline:
1045 (i) by a known amount; and
1046 (ii) with use.
- 1047 (98) "Prepaid wireless calling service" means a telecommunications service:
1048 (a) that provides the right to utilize:

- 1049 (i) mobile wireless service; and
1050 (ii) other service that is not a telecommunications service, including:
1051 (A) the download of a product transferred electronically;
1052 (B) a content service; or
1053 (C) an ancillary service;
- 1054 (b) that:
1055 (i) is paid for in advance; and
1056 (ii) enables the origination of a call using an:
1057 (A) access number; or
1058 (B) authorization code;
- 1059 (c) that is dialed:
1060 (i) manually; or
1061 (ii) electronically; and
- 1062 (d) sold in predetermined units or dollars that decline:
1063 (i) by a known amount; and
1064 (ii) with use.
- 1065 (99)(a) "Prepared food" means:
1066 (i) food:
1067 (A) sold in a heated state; or
1068 (B) heated by a seller;
1069 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
1070 item; or
1071 (iii) except as provided in Subsection (99)(c), food sold with an eating utensil
1072 provided by the seller, including a:
1073 (A) plate;
1074 (B) knife;
1075 (C) fork;
1076 (D) spoon;
1077 (E) glass;
1078 (F) cup;
1079 (G) napkin; or
1080 (H) straw.
- 1081 (b) "Prepared food" does not include:
1082 (i) food that a seller only:

- 1083 (A) cuts;
- 1084 (B) repackages; or
- 1085 (C) pasteurizes;
- 1086 (ii)(A) the following:
 - 1087 (I) raw egg;
 - 1088 (II) raw fish;
 - 1089 (III) raw meat;
 - 1090 (IV) raw poultry; or
 - 1091 (V) a food containing an item described in Subsections (99)(b)(ii)(A)(I)
 - 1092 through (IV); and
- 1093 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of
- 1094 the Food and Drug Administration's Food Code that a consumer cook the items
- 1095 described in Subsection (99)(b)(ii)(A) to prevent food borne illness; or
- 1096 (iii) the following if sold without eating utensils provided by the seller:
 - 1097 (A) food and food ingredients sold by a seller if the seller's proper primary
 - 1098 classification under the 2002 North American Industry Classification System
 - 1099 of the federal Executive Office of the President, Office of Management and
 - 1100 Budget, is manufacturing in Sector 311, Food Manufacturing, except for
 - 1101 Subsector 3118, Bakeries and Tortilla Manufacturing;
 - 1102 (B) food and food ingredients sold in an unheated state:
 - 1103 (I) by weight or volume; and
 - 1104 (II) as a single item; or
 - 1105 (C) a bakery item, including:
 - 1106 (I) a bagel;
 - 1107 (II) a bar;
 - 1108 (III) a biscuit;
 - 1109 (IV) bread;
 - 1110 (V) a bun;
 - 1111 (VI) a cake;
 - 1112 (VII) a cookie;
 - 1113 (VIII) a croissant;
 - 1114 (IX) a danish;
 - 1115 (X) a donut;
 - 1116 (XI) a muffin;

1117 (XII) a pastry;

1118 (XIII) a pie;

1119 (XIV) a roll;

1120 (XV) a tart;

1121 (XVI) a torte; or

1122 (XVII) a tortilla.

1123 (c) An eating utensil provided by the seller does not include the following used to
1124 transport the food:

1125 (i) a container; or

1126 (ii) packaging.

1127 (100) "Prescription" means an order, formula, or recipe that is issued:

1128 (a)(i) orally;

1129 (ii) in writing;

1130 (iii) electronically; or

1131 (iv) by any other manner of transmission; and

1132 (b) by a licensed practitioner authorized by the laws of a state.

1133 (101)(a) "Prewritten computer software" means computer software that is not designed
1134 and developed:

1135 (i) by the author or other creator of the computer software; and

1136 (ii) to the specifications of a specific purchaser.

1137 (b) "Prewritten computer software" includes:

1138 (i) a prewritten upgrade to computer software if the prewritten upgrade to the
1139 computer software is not designed and developed:

1140 (A) by the author or other creator of the computer software; and

1141 (B) to the specifications of a specific purchaser;

1142 (ii) computer software designed and developed by the author or other creator of the
1143 computer software to the specifications of a specific purchaser if the computer
1144 software is sold to a person other than the purchaser; or

1145 (iii) except as provided in Subsection (101)(c), prewritten computer software or a
1146 prewritten portion of prewritten computer software:

1147 (A) that is modified or enhanced to any degree; and

1148 (B) if the modification or enhancement described in Subsection (101)(b)(iii)(A) is
1149 designed and developed to the specifications of a specific purchaser.

1150 (c) "Prewritten computer software" does not include a modification or enhancement

described in Subsection (101)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

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

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

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

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

(102)(a) "Private communications service" means a telecommunications service:

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

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

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

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

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

(103)(a) "Product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

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

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

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

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

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

- 1185 (iii) support a weak or deformed portion of the body.
- 1186 (b) "Prosthetic device" includes:
- 1187 (i) parts used in the repairs or renovation of a prosthetic device;
- 1188 (ii) replacement parts for a prosthetic device;
- 1189 (iii) a dental prosthesis; or
- 1190 (iv) a hearing aid.
- 1191 (c) "Prosthetic device" does not include:
- 1192 (i) corrective eyeglasses; or
- 1193 (ii) contact lenses.
- 1194 (105)(a) "Protective equipment" means an item:
- 1195 (i) for human wear; and
- 1196 (ii) that is:
- 1197 (A) designed as protection:
- 1198 (I) to the wearer against injury or disease; or
- 1199 (II) against damage or injury of other persons or property; and
- 1200 (B) not suitable for general use.
- 1201 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1202 commission shall make rules:
- 1203 (i) listing the items that constitute "protective equipment"; and
- 1204 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1205 under the agreement.
- 1206 (106)(a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 1207 printed matter, other than a photocopy:
- 1208 (i) regardless of:
- 1209 (A) characteristics;
- 1210 (B) copyright;
- 1211 (C) form;
- 1212 (D) format;
- 1213 (E) method of reproduction; or
- 1214 (F) source; and
- 1215 (ii) made available in printed or electronic format.
- 1216 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1217 commission may by rule define the term "photocopy."
- 1218 (107)(a) "Purchase price" and "sales price" mean the total amount of consideration:

- 1219 (i) valued in money; and
- 1220 (ii) for which tangible personal property, a product transferred electronically, or
- 1221 services are:
- 1222 (A) sold;
- 1223 (B) leased; or
- 1224 (C) rented.
- 1225 (b) "Purchase price" and "sales price" include:
- 1226 (i) the seller's cost of the tangible personal property, a product transferred
- 1227 electronically, or services sold;
- 1228 (ii) expenses of the seller, including:
- 1229 (A) the cost of materials used;
- 1230 (B) a labor cost;
- 1231 (C) a service cost;
- 1232 (D) interest;
- 1233 (E) a loss;
- 1234 (F) the cost of transportation to the seller; or
- 1235 (G) a tax imposed on the seller;
- 1236 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1237 (iv) consideration a seller receives from a person other than the purchaser if:
- 1238 (A)(I) the seller actually receives consideration from a person other than the
- 1239 purchaser; and
- 1240 (II) the consideration described in Subsection (107)(b)(iv)(A)(I) is directly
- 1241 related to a price reduction or discount on the sale;
- 1242 (B) the seller has an obligation to pass the price reduction or discount through to
- 1243 the purchaser;
- 1244 (C) the amount of the consideration attributable to the sale is fixed and
- 1245 determinable by the seller at the time of the sale to the purchaser; and
- 1246 (D)(I)(Aa) the purchaser presents a certificate, coupon, or other
- 1247 documentation to the seller to claim a price reduction or discount; and
- 1248 (Bb) a person other than the seller authorizes, distributes, or grants the
- 1249 certificate, coupon, or other documentation with the understanding that
- 1250 the person other than the seller will reimburse any seller to whom the
- 1251 certificate, coupon, or other documentation is presented;
- 1252 (II) the purchaser identifies that purchaser to the seller as a member of a group

1253 or organization allowed a price reduction or discount, except that a
1254 preferred customer card that is available to any patron of a seller does not
1255 constitute membership in a group or organization allowed a price reduction
1256 or discount; or
1257 (III) the price reduction or discount is identified as a third party price reduction
1258 or discount on the:
1259 (Aa) invoice the purchaser receives; or
1260 (Bb) certificate, coupon, or other documentation the purchaser presents.
1261 (c) "Purchase price" and "sales price" do not include:
1262 (i) a discount:
1263 (A) in a form including:
1264 (I) cash;
1265 (II) term; or
1266 (III) coupon;
1267 (B) that is allowed by a seller;
1268 (C) taken by a purchaser on a sale; and
1269 (D) that is not reimbursed by a third party; or
1270 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if
1271 separately stated on an invoice, bill of sale, or similar document provided to the
1272 purchaser at the time of sale or later, as demonstrated by the books and records the
1273 seller keeps at the time of the transaction in the regular course of business,
1274 including books and records the seller keeps at the time of the transaction in the
1275 regular course of business for nontax purposes, by a preponderance of the facts
1276 and circumstances at the time of the transaction, and by the understanding of all of
1277 the parties to the transaction:
1278 (A) the following from credit extended on the sale of tangible personal property or
1279 services:
1280 (I) a carrying charge;
1281 (II) a financing charge; or
1282 (III) an interest charge;
1283 (B) a delivery charge;
1284 (C) an installation charge;
1285 (D) a manufacturer rebate on a motor vehicle; or
1286 (E) a tax or fee legally imposed directly on the consumer.

1287 (108) "Purchaser" means a person to whom:

- 1288 (a) a sale of tangible personal property is made;
- 1289 (b) a product is transferred electronically; or
- 1290 (c) a service is furnished.

1291 (109) "Qualifying data center" means a data center facility that:

- 1292 (a) houses a group of networked server computers in one physical location in order to
- 1293 disseminate, manage, and store data and information;
- 1294 (b) is located in the state;
- 1295 (c) is a new operation constructed on or after July 1, 2016;
- 1296 (d) consists of one or more buildings that total 150,000 or more square feet;
- 1297 (e) is owned or leased by:
 - 1298 (i) the operator of the data center facility; or
 - 1299 (ii) a person under common ownership, as defined in Section 59-7-101, of the
 - 1300 operator of the data center facility; and
- 1301 (f) is located on one or more parcels of land that are owned or leased by:
 - 1302 (i) the operator of the data center facility; or
 - 1303 (ii) a person under common ownership, as defined in Section 59-7-101, of the
 - 1304 operator of the data center facility.

1305 (110) "Regularly rented" means:

- 1306 (a) rented to a guest for value three or more times during a calendar year; or
- 1307 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1308 value.

1309 (111) "Rental" means the same as that term is defined in Subsection (63).

1310 (112)(a) "Repairs or renovations of tangible personal property" means:

- 1311 (i) a repair or renovation of tangible personal property that is not permanently
- 1312 attached to real property; or
- 1313 (ii) attaching tangible personal property or a product transferred electronically to
- 1314 other tangible personal property or detaching tangible personal property or a
- 1315 product transferred electronically from other tangible personal property if:
 - 1316 (A) the other tangible personal property to which the tangible personal property or
 - 1317 product transferred electronically is attached or from which the tangible
 - 1318 personal property or product transferred electronically is detached is not
 - 1319 permanently attached to real property; and
 - 1320 (B) the attachment of tangible personal property or a product transferred

electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

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

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

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

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

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

(i) at a residential address; or

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

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

(i) apartment; or

(ii) other individual dwelling unit.

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

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

(a) resale;

(b) sublease; or

(c) subrent.

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

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly

engaged in the business of selling to users or consumers within the state.

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

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

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

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

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

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

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

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

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

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

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

(B) to the purchaser-lessee; and

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

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

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

- 1389 (121) "Sales price" means the same as that term is defined in Subsection (107).
- 1390 (122)(a) "Sales relating to schools" means the following sales by, amounts paid to, or
- 1391 amounts charged by a school:
- 1392 (i) sales that are directly related to the school's educational functions or activities
- 1393 including:
- 1394 (A) the sale of:
- 1395 (I) textbooks;
- 1396 (II) textbook fees;
- 1397 (III) laboratory fees;
- 1398 (IV) laboratory supplies; or
- 1399 (V) safety equipment;
- 1400 (B) the sale of a uniform, protective equipment, or sports or recreational
- 1401 equipment that:
- 1402 (I) a student is specifically required to wear as a condition of participation in a
- 1403 school-related event or school-related activity; and
- 1404 (II) is not readily adaptable to general or continued usage to the extent that it
- 1405 takes the place of ordinary clothing;
- 1406 (C) sales of the following if the net or gross revenue generated by the sales is
- 1407 deposited into a school district fund or school fund dedicated to school meals:
- 1408 (I) food and food ingredients; or
- 1409 (II) prepared food; or
- 1410 (D) transportation charges for official school activities; or
- 1411 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1412 event or school-related activity.
- 1413 (b) "Sales relating to schools" does not include:
- 1414 (i) bookstore sales of items that are not educational materials or supplies;
- 1415 (ii) except as provided in Subsection (122)(a)(i)(B):
- 1416 (A) clothing;
- 1417 (B) clothing accessories or equipment;
- 1418 (C) protective equipment; or
- 1419 (D) sports or recreational equipment; or
- 1420 (iii) amounts paid to or amounts charged by a school for admission to a
- 1421 school-related event or school-related activity if the amounts paid or charged are
- 1422 passed through to a person:

(A) other than a:

(I) school;

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

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

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

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

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

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

(i) is a:

(A) public school; or

(B) private school; and

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

(b) a public school district.

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

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

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

(i) used primarily in the process of:

(A)(I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

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

(ii) consumed primarily in the process of:

- 1457 (A)(I) manufacturing a semiconductor;
1458 (II) fabricating a semiconductor; or
1459 (III) research or development of a:
1460 (Aa) semiconductor; or
1461 (Bb) semiconductor manufacturing process; or
1462 (B) maintaining an environment suitable for a semiconductor.
- 1463 (b) "Semiconductor fabricating, processing, research, or development materials"
1464 includes:
1465 (i) parts used in the repairs or renovations of tangible personal property or a product
1466 transferred electronically described in Subsection (125)(a); or
1467 (ii) a chemical, catalyst, or other material used to:
1468 (A) produce or induce in a semiconductor a:
1469 (I) chemical change; or
1470 (II) physical change;
1471 (B) remove impurities from a semiconductor; or
1472 (C) improve the marketable condition of a semiconductor.
- 1473 (126) "Senior citizen center" means a facility having the primary purpose of providing
1474 services to the aged as defined in Section 26B-6-101.
- 1475 (127) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.
- 1476 (128) "Shared vehicle driver" means the same as that term is defined in Section 13-48a-101.
- 1477 (129) "Shared vehicle owner" means the same as that term is defined in Section 13-48a-101.
- 1478 (130)(a) Subject to Subsections (130)(b) and (c), "short-term lodging consumable"
1479 means tangible personal property that:
1480 (i) a business that provides accommodations and services described in Subsection
1481 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations
1482 and services to a purchaser;
1483 (ii) is intended to be consumed by the purchaser; and
1484 (iii) is:
1485 (A) included in the purchase price of the accommodations and services; and
1486 (B) not separately stated on an invoice, bill of sale, or other similar document
1487 provided to the purchaser.
- 1488 (b) "Short-term lodging consumable" includes:
1489 (i) a beverage;
1490 (ii) a brush or comb;

- 1491 (iii) a cosmetic;
1492 (iv) a hair care product;
1493 (v) lotion;
1494 (vi) a magazine;
1495 (vii) makeup;
1496 (viii) a meal;
1497 (ix) mouthwash;
1498 (x) nail polish remover;
1499 (xi) a newspaper;
1500 (xii) a notepad;
1501 (xiii) a pen;
1502 (xiv) a pencil;
1503 (xv) a razor;
1504 (xvi) saline solution;
1505 (xvii) a sewing kit;
1506 (xviii) shaving cream;
1507 (xix) a shoe shine kit;
1508 (xx) a shower cap;
1509 (xxi) a snack item;
1510 (xxii) soap;
1511 (xxiii) toilet paper;
1512 (xxiv) a toothbrush;
1513 (xxv) toothpaste; or
1514 (xxvi) an item similar to Subsections (130)(b)(i) through (xxv) as the commission
1515 may provide by rule made in accordance with Title 63G, Chapter 3, Utah
1516 Administrative Rulemaking Act.
- 1517 (c) "Short-term lodging consumable" does not include:
1518 (i) tangible personal property that is cleaned or washed to allow the tangible personal
1519 property to be reused; or
1520 (ii) a product transferred electronically.
- 1521 (131)(a) "Short-term rental" means a lease or rental for less than 30 consecutive days.
1522 (b) "Short-term rental" does not include car sharing.
- 1523 (132) "Simplified electronic return" means the electronic return:
1524 (a) described in Section 318(C) of the agreement; and

- 1525 (b) approved by the governing board of the agreement.
- 1526 (133) "Solar energy" means the sun used as the sole source of energy for producing
- 1527 electricity.
- 1528 (134)(a) "Sports or recreational equipment" means an item:
- 1529 (i) designed for human use; and
- 1530 (ii) that is:
- 1531 (A) worn in conjunction with:
- 1532 (I) an athletic activity; or
- 1533 (II) a recreational activity; and
- 1534 (B) not suitable for general use.
- 1535 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1536 commission shall make rules:
- 1537 (i) listing the items that constitute "sports or recreational equipment"; and
- 1538 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1539 equipment" under the agreement.
- 1540 (135) "State" means the state of Utah, its departments, and agencies.
- 1541 (136) "Storage" means any keeping or retention of tangible personal property or any other
- 1542 taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
- 1543 sale in the regular course of business.
- 1544 (137)(a) "Tangible personal property" means personal property that:
- 1545 (i) may be:
- 1546 (A) seen;
- 1547 (B) weighed;
- 1548 (C) measured;
- 1549 (D) felt; or
- 1550 (E) touched; or
- 1551 (ii) is in any manner perceptible to the senses.
- 1552 (b) "Tangible personal property" includes:
- 1553 (i) electricity;
- 1554 (ii) water;
- 1555 (iii) gas;
- 1556 (iv) steam; or
- 1557 (v) prewritten computer software, regardless of the manner in which the prewritten
- 1558 computer software is transferred.

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

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

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

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

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

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

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

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

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

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

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

- 1593 (vii) equipment, machinery, or software that functions similarly to an item listed in
1594 Subsections (138)(b)(i) through (vi) as determined by the commission by rule
1595 made in accordance with Subsection (138)(c).
- 1596 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1597 commission may by rule define what constitutes equipment, machinery, or software
1598 that functions similarly to an item listed in Subsections (138)(b)(i) through (vi).
- 1599 (139) "Telecommunications equipment, machinery, or software required for 911 service"
1600 means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec.
1601 20.18.
- 1602 (140) "Telecommunications maintenance or repair equipment, machinery, or software"
1603 means equipment, machinery, or software purchased or leased primarily to maintain or
1604 repair one or more of the following, regardless of whether the equipment, machinery, or
1605 software is purchased or leased as a spare part or as an upgrade or modification to one or
1606 more of the following:
- 1607 (a) telecommunications enabling or facilitating equipment, machinery, or software;
1608 (b) telecommunications switching or routing equipment, machinery, or software; or
1609 (c) telecommunications transmission equipment, machinery, or software.
- 1610 (141)(a) "Telecommunications service" means the electronic conveyance, routing, or
1611 transmission of audio, data, video, voice, or any other information or signal to a
1612 point, or among or between points.
- 1613 (b) "Telecommunications service" includes:
- 1614 (i) an electronic conveyance, routing, or transmission with respect to which a
1615 computer processing application is used to act:
- 1616 (A) on the code, form, or protocol of the content;
1617 (B) for the purpose of electronic conveyance, routing, or transmission; and
1618 (C) regardless of whether the service:
- 1619 (I) is referred to as voice over Internet protocol service; or
1620 (II) is classified by the Federal Communications Commission as enhanced or
1621 value added;
- 1622 (ii) an 800 service;
1623 (iii) a 900 service;
1624 (iv) a fixed wireless service;
1625 (v) a mobile wireless service;
1626 (vi) a postpaid calling service;

- 1627 (vii) a prepaid calling service;
- 1628 (viii) a prepaid wireless calling service; or
- 1629 (ix) a private communications service.
- 1630 (c) "Telecommunications service" does not include:
- 1631 (i) advertising, including directory advertising;
- 1632 (ii) an ancillary service;
- 1633 (iii) a billing and collection service provided to a third party;
- 1634 (iv) a data processing and information service if:
- 1635 (A) the data processing and information service allows data to be:
- 1636 (I)(Aa) acquired;
- 1637 (Bb) generated;
- 1638 (Cc) processed;
- 1639 (Dd) retrieved; or
- 1640 (Ee) stored; and
- 1641 (II) delivered by an electronic transmission to a purchaser; and
- 1642 (B) the purchaser's primary purpose for the underlying transaction is the processed
- 1643 data or information;
- 1644 (v) installation or maintenance of the following on a customer's premises:
- 1645 (A) equipment; or
- 1646 (B) wiring;
- 1647 (vi) Internet access service;
- 1648 (vii) a paging service;
- 1649 (viii) a product transferred electronically, including:
- 1650 (A) music;
- 1651 (B) reading material;
- 1652 (C) a ring tone;
- 1653 (D) software; or
- 1654 (E) video;
- 1655 (ix) a radio and television audio and video programming service:
- 1656 (A) regardless of the medium; and
- 1657 (B) including:
- 1658 (I) furnishing conveyance, routing, or transmission of a television audio and
- 1659 video programming service by a programming service provider;
- 1660 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or

- 1661 (III) audio and video programming services delivered by a commercial mobile
1662 radio service provider as defined in 47 C.F.R. Sec. 20.3;
- 1663 (x) a value-added nonvoice data service; or
1664 (xi) tangible personal property.
- 1665 (142)(a) "Telecommunications service provider" means a person that:
1666 (i) owns, controls, operates, or manages a telecommunications service; and
1667 (ii) engages in an activity described in Subsection (142)(a)(i) for the shared use with
1668 or resale to any person of the telecommunications service.
- 1669 (b) A person described in Subsection (142)(a) is a telecommunications service provider
1670 whether or not the Public Service Commission of Utah regulates:
1671 (i) that person; or
1672 (ii) the telecommunications service that the person owns, controls, operates, or
1673 manages.
- 1674 (143)(a) "Telecommunications switching or routing equipment, machinery, or software"
1675 means an item listed in Subsection (143)(b) if that item is purchased or leased
1676 primarily for switching or routing:
1677 (i) an ancillary service;
1678 (ii) data communications;
1679 (iii) voice communications; or
1680 (iv) telecommunications service.
- 1681 (b) The following apply to Subsection (143)(a):
1682 (i) a bridge;
1683 (ii) a computer;
1684 (iii) a cross connect;
1685 (iv) a modem;
1686 (v) a multiplexer;
1687 (vi) plug in circuitry;
1688 (vii) a router;
1689 (viii) software;
1690 (ix) a switch; or
1691 (x) equipment, machinery, or software that functions similarly to an item listed in
1692 Subsections (143)(b)(i) through (ix) as determined by the commission by rule
1693 made in accordance with Subsection (143)(c).
- 1694 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1695 commission may by rule define what constitutes equipment, machinery, or software
1696 that functions similarly to an item listed in Subsections (143)(b)(i) through (ix).
1697 (144)(a) "Telecommunications transmission equipment, machinery, or software" means
1698 an item listed in Subsection (144)(b) if that item is purchased or leased primarily for
1699 sending, receiving, or transporting:
1700 (i) an ancillary service;
1701 (ii) data communications;
1702 (iii) voice communications; or
1703 (iv) telecommunications service.
1704 (b) The following apply to Subsection (144)(a):
1705 (i) an amplifier;
1706 (ii) a cable;
1707 (iii) a closure;
1708 (iv) a conduit;
1709 (v) a controller;
1710 (vi) a duplexer;
1711 (vii) a filter;
1712 (viii) an input device;
1713 (ix) an input/output device;
1714 (x) an insulator;
1715 (xi) microwave machinery or equipment;
1716 (xii) an oscillator;
1717 (xiii) an output device;
1718 (xiv) a pedestal;
1719 (xv) a power converter;
1720 (xvi) a power supply;
1721 (xvii) a radio channel;
1722 (xviii) a radio receiver;
1723 (xix) a radio transmitter;
1724 (xx) a repeater;
1725 (xxi) software;
1726 (xxii) a terminal;
1727 (xxiii) a timing unit;
1728 (xxiv) a transformer;

(xxv) a wire; or

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

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

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

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

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

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

(146) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

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

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

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

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

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

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

- 1763 (i) code;
1764 (ii) content;
1765 (iii) form; or
1766 (iv) protocol.
- 1767 (150)(a) Subject to Subsection (150)(b), "vehicle" means the following that are required
1768 to be titled, registered, or titled and registered:
1769 (i) an aircraft as defined in Section 72-10-102;
1770 (ii) a vehicle as defined in Section 41-1a-102;
1771 (iii) an off-highway vehicle as defined in Section 41-22-2; or
1772 (iv) a vessel as defined in Section 41-1a-102.
- 1773 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
1774 (i) a vehicle described in Subsection (150)(a); or
1775 (ii)(A) a locomotive;
1776 (B) a freight car;
1777 (C) railroad work equipment; or
1778 (D) other railroad rolling stock.
- 1779 (151) "Vehicle dealer" means a person engaged in the business of buying, selling, or
1780 exchanging a vehicle as defined in Subsection (150).
- 1781 (152)(a) "Vertical service" means an ancillary service that:
1782 (i) is offered in connection with one or more telecommunications services; and
1783 (ii) offers an advanced calling feature that allows a customer to:
1784 (A) identify a caller; and
1785 (B) manage multiple calls and call connections.
- 1786 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1787 conference bridging service.
- 1788 (153)(a) "Voice mail service" means an ancillary service that enables a customer to
1789 receive, send, or store a recorded message.
- 1790 (b) "Voice mail service" does not include a vertical service that a customer is required to
1791 have in order to utilize a voice mail service.
- 1792 (154)(a) "Waste energy facility" means a facility that generates electricity:
1793 (i) using as the primary source of energy waste materials that would be placed in a
1794 landfill or refuse pit if it were not used to generate electricity, including:
1795 (A) tires;
1796 (B) waste coal;

- 1797 (C) oil shale; or
1798 (D) municipal solid waste; and
1799 (ii) in amounts greater than actually required for the operation of the facility.
1800 (b) "Waste energy facility" does not include a facility that incinerates:
1801 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
1802 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
1803 (155) "Watercraft" means a vessel as defined in Section 73-18-2.
1804 (156) "Wind energy" means wind used as the sole source of energy to produce electricity.
1805 (157) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
1806 location by the United States Postal Service.
1807 Section 3. Section **59-12-801** is amended to read:
1808 **59-12-801 . Definitions.**
1809 As used in this part:
1810 [~~(1) "Affected area" means the portion of a county in which a tax is imposed under~~
1811 ~~Subsection 59-12-802(4).]~~
1812 [(2)] (1) "Emergency medical services" means the same as that term is defined in Section
1813 53-2d-101.
1814 [(3)] (2) "Federally qualified health center" means the same as that term is defined in 42
1815 U.S.C. Sec. 1395x.
1816 [(4)] (3) "Freestanding urgent care center" means a facility that provides outpatient health
1817 care service:
1818 (a) on an as-needed basis, without an appointment;
1819 (b) to the public;
1820 (c) for the diagnosis and treatment of a medical condition if that medical condition does
1821 not require hospitalization or emergency intervention for a life threatening or
1822 potentially permanently disabling condition; and
1823 (d) including one or more of the following services:
1824 (i) a medical history physical examination;
1825 (ii) an assessment of health status; or
1826 (iii) treatment:
1827 (A) for a variety of medical conditions; and
1828 (B) that is commonly offered in a physician's office.
1829 [(5) "Municipality" means a city or town.]
1830 [(6)] (4) "Nursing care facility" means the same as that term is defined in Section 26B-2-201.

1831 [~~(7)~~ "Political subdivision" means a county, municipality, local district, or special service
 1832 district.]

1833 [~~(8)~~] (5) "Rural city hospital" means a hospital owned by a city that is located within a third,
 1834 fourth, fifth, or sixth class county.

1835 [~~(9)~~] (6) "Rural county health care facility" means a:

1836 (a) rural county hospital; or

1837 (b) rural county nursing care facility.

1838 [~~(10)~~] (7) "Rural county hospital" means a hospital owned by a county that is:

1839 (a) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and

1840 (b) located outside of a standard metropolitan statistical area, as designated by the
 1841 United States Bureau of the Census.

1842 [~~(11)~~] (8) "Rural county nursing care facility" means a nursing care facility owned by:

1843 (a) a county that is:

1844 (i) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and

1845 (ii) located outside of a standard metropolitan statistical area, as designated by the
 1846 United States Census Bureau; or

1847 (b) a special service district if the special service district is:

1848 (i) created for the purpose of operating the nursing care facility; and

1849 (ii) within a county that is:

1850 (A) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and

1851 (B) located outside of a standard metropolitan statistical area, as designated by the
 1852 United States Census Bureau.

1853 [~~(12)~~] (9) "Rural emergency medical services" means emergency medical services that are
 1854 provided by a county that is:

1855 (a) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and

1856 (b) located outside of a standard metropolitan statistical area, as designated by the
 1857 United States Census Bureau.

1858 [~~(13)~~] (10) "Rural health clinic" means the same as that term is defined in 42 U.S.C. Sec.
 1859 1395x.

1860 Section 4. Section **59-12-802** is amended to read:

1861 **59-12-802 . Imposition of rural county health care tax -- Expenditure of tax**
 1862 **revenue -- Base -- Rate -- Administration, collection, and enforcement of tax --**
 1863 **Administrative charge.**

1864 (1)(a) A county legislative body of [~~the following counties~~] a county of the third, fourth,

1865 ~~fifth, or sixth class~~ may impose a sales and use tax of up to 1% on the transactions
1866 described in Subsection 59-12-103(1) located within the county[.].

1867 [~~(i) a county of the third, fourth, fifth, or sixth class; or~~]

1868 [~~(ii) a county of the second class that has:~~]

1869 [~~(A) a national park within or partially within the county's boundaries; and~~]

1870 [~~(B) two or more state parks within or partially within the county's boundaries.~~]

1871 (b) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax
1872 under this section on:

1873 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
1874 are exempt from taxation under Section 59-12-104;

1875 (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction
1876 in a city that imposes a tax under Section 59-12-804; and

1877 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
1878 food ingredients.

1879 (c) For purposes of this Subsection (1), the location of a transaction is determined in
1880 accordance with Sections 59-12-211 through 59-12-215.

1881 (d) A county legislative body imposing a tax under this section shall impose the tax on
1882 the purchase price or sales price for amounts paid or charged for food and food
1883 ingredients if the food and food ingredients are sold as part of a bundled transaction
1884 attributable to food and food ingredients and tangible personal property other than
1885 food and food ingredients.

1886 (2)(a) [~~Except as provided in Subsection (5)(b), before~~] Before imposing a tax under
1887 Subsection (1), a county legislative body shall obtain approval to impose the tax from
1888 a majority of the:

1889 (i) members of the county's legislative body; and

1890 (ii) county's registered voters voting on the imposition of the tax.

1891 (b) The county legislative body shall conduct the election according to the procedures
1892 and requirements of Title 11, Chapter 14, Local Government Bonding Act.

1893 (3) Subject to Subsection (4), a county legislative body may use money collected from a tax
1894 imposed under Subsection (1) to fund:

1895 [~~(a) for a county described in Subsection (1)(a)(i):~~]

1896 [~~(i)~~] (a) the following costs associated with a federally qualified health center within the
1897 county, a freestanding urgent care center within the county, a rural county health care
1898 facility within the county, or a rural health clinic within the county:

1899 ~~[(A)]~~ (i) ongoing operating expenses of the center, clinic, or facility;
 1900 ~~[(B)]~~ (ii) the acquisition of land for the center, clinic, or facility; or
 1901 ~~[(C)]~~ (iii) the design, construction, equipping, or furnishing of the center, clinic, or
 1902 facility;
 1903 ~~[(ii)]~~ (b) rural emergency medical services within the county; or
 1904 ~~[(iii)]~~ (c) a combination of the activities described in this Subsection ~~[(3)(a); and]~~ (3).
 1905 ~~[(b) for a county described in Subsection (1)(a)(ii), emergency medical services that are~~
 1906 ~~provided by a political subdivision within that county, subject to Subsection (5)(c).]~~
 1907 (4)(a) For a tax enacted on or after July 1, 2024,~~[by a county described in Subsection~~
 1908 ~~(1)(a)(i),]~~ a county legislative body may use money collected from a tax imposed
 1909 under Subsection (1) to fund:
 1910 (i) the costs described in Subsection ~~[(3)(a)(i)]~~ (3)(a);
 1911 (ii) the following activities to mitigate the impacts of visitors within the county:
 1912 (A) emergency medical services;
 1913 (B) solid waste disposal;
 1914 (C) search and rescue activities;
 1915 (D) law enforcement activities; or
 1916 (E) fire protection services;
 1917 (iii) avalanche forecasting within the county; or
 1918 (iv) a combination of the activities described in this Subsection (4)(a).
 1919 (b) For a tax increased on or after July 1, 2024,~~[by a county described in Subsection~~
 1920 ~~(1)(a)(i),]~~ a county legislative body may use the money collected from the increased
 1921 tax rate to fund the activities described in Subsections (4)(a)(i) through (iv).
 1922 ~~[(5)(a) A county described in Subsection (1)(a)(ii) may impose a tax under this section~~
 1923 ~~within a portion of the county if the affected area includes:]~~
 1924 ~~[(i) the entire unincorporated area of the county; and]~~
 1925 ~~[(ii) the entire boundaries of any municipality located within the affected area.]~~
 1926 ~~[(b) Before a county described in Subsection (1)(a)(ii) may impose a tax under this~~
 1927 ~~section within a portion of the county, the county legislative body shall obtain~~
 1928 ~~approval to impose the tax from a majority of:]~~
 1929 ~~[(i) the members of the county's legislative body;]~~
 1930 ~~[(ii) the county's registered voters within the affected area voting on the imposition~~
 1931 ~~of the tax, in an election conducted according to the procedures and requirements~~
 1932 ~~of Title 11, Chapter 14, Local Government Bonding Act; and]~~

- 1933 ~~[(iii)(A) the members of the legislative body of each municipality located within~~
 1934 ~~the affected area; or]~~
 1935 ~~[(B) the members of the governing body of a special service district established~~
 1936 ~~under Title 17D, Chapter 1, Special Service District Act, to provide emergency~~
 1937 ~~medical services within the affected area.]~~
 1938 ~~[(e) A county described in Subsection (1)(a)(ii) that imposes a tax under this section~~
 1939 ~~within a portion of the county in accordance with this Subsection (5) may use the~~
 1940 ~~money collected from the tax to fund emergency medical services that are provided~~
 1941 ~~by a political subdivision within the affected area.]~~
 1942 ~~[(6)]~~ (5)(a) A tax under this section shall be:
 1943 (i) except as provided in Subsection ~~[(6)(b)]~~ (5)(b), administered, collected, and
 1944 enforced in accordance with:
 1945 (A) the same procedures used to administer, collect, and enforce the tax under:
 1946 (I) Part 1, Tax Collection; or
 1947 (II) Part 2, Local Sales and Use Tax Act; and
 1948 (B) Chapter 1, General Taxation Policies; and
 1949 (ii) levied for a period of 10 years and may be reauthorized at the end of the 10-year
 1950 period by the county legislative body as provided in Subsection (1).
 1951 (b) A tax under this section is not subject to Subsections 59-12-205(2) through (5).
 1952 (c) A county legislative body shall distribute money collected from a tax under this
 1953 section quarterly.
 1954 ~~[(7)]~~ (6) The commission shall retain and deposit an administrative charge in accordance
 1955 with Section 59-1-306 from the revenue the commission collects from a tax under this
 1956 section.

1957 Section 5. Section **59-12-2401** is enacted to read:

1958 **Part 24. Emergency Services Tax**

1959 **59-12-2401 . Definitions.**

1960 As used in this part:

- 1961 ~~{(c)}~~ (1) "Emergency services" means:
 1962 (a) emergency medical services as defined in Section 53-2d-101;
 1963 (b) fire protection services; or
 1964 (c) a combination of emergency medical services, as defined in Section 53-2d-101, and
 1965 fire protection services.
 1966 (2) "Emergency services tax" means the sales and use tax authorized under Section

59-12-2402.

(3) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town; or

(b) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been created under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been created under Section 17D-1-301.

(4) "Qualifying political subdivision" means:

(a) a specified county;

(b) a special service district established under Title 17D, Chapter 1, Special Service District Act, to provide emergency services within a specified county; or

(c) a city or town that:

(i) is located:

(A) within a specified county; and

(B) outside the boundaries of a special service district described in Subsection (4)

(b); and

(ii) provides, or contracts with a special service district described in Subsection (4)(b) to receive, emergency services within the city or town.

(5) "Specified county" means a county of the second ~~hat~~ [class that contains a national park and] ~~hat~~

~~hat~~ [two or more state parks within or partially within the county's boundaries.] or third class, as classified in Section 17-50-501, that:

(a) contains a national park and two or more state parks within or partially within the county's boundaries; and

(b) has a municipality with a population of 100,000 or more. ~~hat~~

Section 6. Section **59-12-2402** is enacted to read:

**59-12-2402 . Imposition of emergency services tax -- Permitted rates --
Expenditure and distribution of tax revenue -- Administration, collection, and
enforcement of tax -- Administrative charge.**

(1)(a) Beginning July 1, 2025, the governing body of a qualifying political subdivision may, subject to Subsection (1)(b), impose a sales and use tax on the transactions described in Subsection 59-12-103(1) in the following amount:

- 1996 (i) an amount of up to .33% if the governing body:
- 1997 (A) first holds a public hearing at which the tax is discussed, subject to Subsection
- 1998 (2); and
- 1999 (B) after the public hearing is held, passes an ordinance or resolution approving
- 2000 the tax; or
- 2001 (ii) an amount of up to 1% if the governing body obtains approval to impose the tax
- 2002 from a majority of:
- 2003 (A) the members of the governing body; and
- 2004 (B) voters within the qualifying political subdivision voting in an election held for
- 2005 that purpose in accordance with Title 11, Chapter 14, Local Government
- 2006 Bonding Act.
- 2007 (b)(i) A tax imposed by a county under Subsection (1)(a) shall be imposed within all
- 2008 unincorporated areas of the county.
- 2009 (ii) A tax imposed by a special service district under Subsection (1)(a) shall be
- 2010 imposed within the boundaries of each city and town located within the area of the
- 2011 special service district.
- 2012 (iii) A tax may not be imposed under this section within:
- 2013 (A) a portion of a city, town, or the unincorporated area of a county; or
- 2014 (B) an area in which a tax under this section has already been imposed.
- 2015 (c) Notwithstanding Subsection (1)(a), a qualifying political subdivision may not impose
- 2016 a tax under this section on:
- 2017 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
- 2018 are exempt from taxation under Section 59-12-104; and
- 2019 (ii) except as provided in Subsection (1)(e), amounts paid or charged for food and
- 2020 food ingredients.
- 2021 (d) For purposes of this Subsection (1), the location of a transaction is determined in
- 2022 accordance with Sections 59-12-211 through 59-12-215.
- 2023 (e) A qualifying political subdivision that imposes a tax under this section shall impose
- 2024 the tax on the purchase price or sales price for amounts paid or charged for food and
- 2025 food ingredients if the food and food ingredients are sold as part of a bundled
- 2026 transaction attributable to food and food ingredients and tangible personal property
- 2027 other than food and food ingredients.
- 2028 (2)(a) The governing body of a qualifying political subdivision proposing a tax rate
- 2029 described in Subsection (1)(a)(i) shall, as a class A notice under Section 63G-30-102,

publish notice of the public hearing required by Subsection (1)(a)(i)(A) for at least 14 days before the day of the public hearing.

(b) The notice described in Subsection (2)(a) shall:

(i) state the governing body's intent to adopt a tax under this section;

(ii) describe the proposed tax rate;

(iii) describe the cities, towns, and unincorporated areas within which the proposed tax is to be imposed;

(iv) specify the date, time, and location of the public hearing; and

(v) state that the purpose of the public hearing is to obtain public comments regarding the proposed tax.

(3) For a county proposing a tax rate described in Subsection (1)(a)(ii), the voter approval requirement in Subsection (1)(a)(ii)(B) applies only to voters residing within the unincorporated areas of the county.

(4)(a) Subject to Subsection (4)(b), a qualifying political subdivision may use money collected from a tax imposed under this section to fund emergency services provided by, or on behalf of, a qualifying political subdivision.

(b) A qualifying political subdivision that imposes a tax under this section may:

(i) use money collected from the tax to fund emergency services within an area in which the tax is not imposed; and

(ii) enter into an agreement authorized by Title 11, Chapter 13, Interlocal Cooperation Act, allowing for another qualifying political subdivision to use money collected from the tax to fund emergency services.

(5)(a) Except as provided in Subsection (5)(b), a tax under this section shall be administered, collected, and enforced in accordance with the same procedures used to administer, collect, and enforce the tax under:

(i)(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this section is not subject to Subsections 59-12-205(2) through (5).

(c) A tax under this section shall be levied for a period of 10 years and may be reauthorized at the end of the 10-year period by the governing body that imposed the tax in accordance with the requirements of Subsections (1) through (3).

(d) Except as provided in Subsection (5)(e), the commission shall distribute the revenue the commission collects from a tax imposed under this section directly to the

qualifying political subdivision imposing the tax.

- (e) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.

Section 7. Section **59-12-2403** is enacted to read:

59-12-2403 . Enactment, repeal, or change in the rate of an emergency services tax -- Annexation -- Notice.

- (1)(a) Except as provided in Subsection (2), if a qualifying political subdivision enacts or repeals an emergency services tax or changes the rate of an emergency services tax, the enactment, repeal, or change shall take effect:

- (i) on the first day of a calendar quarter; and
- (ii) after a 90-day period beginning on the date the commission receives notice that meets the requirements of Subsection (1)(b) from the qualifying political subdivision.

- (b) The notice described in Subsection (1)(a)(ii) shall state:

- (i) that the qualifying political subdivision will enact, repeal, or change the rate of an emergency services tax;
- (ii) the statutory authority for the emergency services tax;
- (iii) the effective date of the enactment, repeal, or change in the rate of the emergency services tax; and
- (iv) if the county enacts or changes the rate of the emergency services tax:
 - (A) the rate of the emergency services tax; and
 - (B) the cities, towns, and unincorporated areas within which the emergency services tax is imposed.

- (2)(a) If the billing period for a transaction begins before the effective date of the enactment of an emergency services tax or the increase in the rate of an emergency services tax, the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

- (b) If the billing period for a transaction begins before the effective date of the repeal of an emergency services tax or the decrease in the rate of an emergency services tax, the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(c) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (1)(a) shall take effect:

(i) on the first day of a calendar quarter; and

(ii) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (1)(a).

(3)(a) Except as provided in Subsection (4), if an annexation will result in the enactment, repeal, or change in the rate of an emergency services tax for an annexing area, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the political subdivision that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in the enactment, repeal, or change in the rate of an emergency services tax for the annexing area;

(ii) the statutory authority for the emergency services tax;

(iii) the effective date of the enactment, repeal, or change in the rate of the emergency services tax; and

(iv) if the annexation results in the enactment or change in the rate of an emergency services tax for the annexing area, the rate of the emergency services tax.

(4)(a) If the billing period for a transaction begins before the effective date of the enactment of an emergency services tax or the increase in the rate of an emergency services tax, the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(b) If the billing period for a transaction begins before the effective date of the repeal of an emergency services tax or the decrease in the rate of an emergency services tax, the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(c) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) shall take effect:

- 2132 (i) on the first day of a calendar quarter; and
2133 (ii) beginning 60 days after the effective date of the enactment, repeal, or change in
2134 the rate of the tax under Subsection (3)(a).

2135 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for
2136 purposes of Subsections (2)(c) and (4)(c), the commission may by rule define the term
2137 "catalogue sale."

2138 Section 8. Section **59-12-2404** is enacted to read:

2139 **59-12-2404 . Seller or certified service provider reliance on commission**
2140 **information.**

2141 A seller or certified service provider is not liable for failing to collect an emergency
2142 services tax if the seller's or certified service provider's failure to collect the emergency
2143 services tax is as a result of the seller's or certified service provider's reliance on incorrect data
2144 provided by the commission in a database created by the commission:

- 2145 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
2146 (2) indicating the taxability of tangible personal property, a product transferred
2147 electronically, or a service.

2148 Section 9. Section **59-12-2405** is enacted to read:

2149 **59-12-2405 . Certified service provider or model 2 seller reliance on commission**
2150 **certified software.**

2151 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service
2152 provider or model 2 seller is not liable for failing to collect an emergency services tax if:

2153 (a) the certified service provider or model 2 seller relies on software the commission
2154 certifies; and

2155 (b) the certified service provider's or model 2 seller's failure to collect an emergency
2156 services tax is a result of the seller's or certified service provider's reliance on
2157 incorrect data:

2158 (i) provided by the commission; or

2159 (ii) in the software the commission certifies.

2160 (2) The relief from liability described in Subsection (1) does not apply if a certified service
2161 provider or model 2 seller incorrectly classifies an item or transaction into a product
2162 category the commission certifies.

2163 (3) If the taxability of a product category is incorrectly classified in software the
2164 commission certifies, the commission shall:

2165 (a) notify a certified service provider or model 2 seller of the incorrect classification of

the taxability of a product category in software the commission certifies; and
 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
 model 2 seller is liable for failing to collect the correct amount of tax under this part
 on the incorrectly classified product category if the certified service provider or
 model 2 seller fails to correct the taxability of the item or transaction within 10 days
 after the day on which the certified service provider or model 2 seller receives the
 notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item
 or transaction within 10 days after the day on which the certified service provider or
 model 2 seller receives the notice described in Subsection (3), the certified service
 provider or model 2 seller is liable for failing to collect the correct amount of tax under
 this part on the item or transaction.

Section 10. Section **59-12-2406** is enacted to read:

59-12-2406 . Purchaser relief from liability.

(1)(a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
 under Section 59-1-401 for failure to pay an emergency services tax or an
 underpayment of the emergency services tax if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided
 by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the
 agreement; or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit
 in accordance with Section 59-12-107.1, relies on incorrect data provided by the
 commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the
 agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if

2200 the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's
2201 reliance on incorrect data provided by the commission is a result of conduct that is:

- 2202 (i) fraudulent;
2203 (ii) intentional; or
2204 (iii) willful.

2205 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not
2206 liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this
2207 part or an underpayment if:

2208 (a) the purchaser's seller or certified service provider relies on:

2209 (i) incorrect data provided by the commission:

2210 (A) on a tax rate;

2211 (B) on a boundary; or

2212 (C) on a taxing jurisdiction; or

2213 (ii) an erroneous classification by the commission:

2214 (A) in the taxability matrix the commission provides in accordance with the
2215 agreement; and

2216 (B) with respect to a term that is in the library of definitions and that is listed as
2217 taxable or exempt, included in or excluded from "sales price," or included in or
2218 excluded from a definition; or

2219 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
2220 accordance with Section 59-12-107.1, relies on:

2221 (i) incorrect data provided by the commission:

2222 (A) on a tax rate;

2223 (B) on a boundary; or

2224 (C) on a taxing jurisdiction; or

2225 (ii) an erroneous classification by the commission:

2226 (A) in the taxability matrix the commission provides in accordance with the
2227 agreement; and

2228 (B) with respect to a term that is in the library of definitions and that is listed as
2229 taxable or exempt, included in or excluded from "sales price," or included in or
2230 excluded from a definition.

2231 **Section 11. Effective Date.**

2232 This bill takes effect:

2233 (1) except as provided in Subsection (2), May 7, 2025; or

- 2234 (2) if approved by two-thirds of all members elected to each house:
- 2235 (a) upon approval by the governor;
- 2236 (b) without the governor's signature, the day following the constitutional time limit of
- 2237 Utah Constitution, Article VII, Section 8; or
- 2238 (c) in the case of a veto, the date of veto override.