

# SB0122S01 compared with SB0122

~~{Omitted text}~~ shows text that was in SB0122 but was omitted in SB0122S01

inserted text shows text that was not in SB0122 but was inserted into SB0122S01

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## Sales Tax on Food Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Nate Blouin

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### LONG TITLE

#### General Description:

This bill modifies the state sales and use tax ~~{on groceries}~~.

#### Highlighted Provisions:

This bill:

- removes the state sales and use tax imposed on amounts paid or charged for food and food ingredients; ~~{and}~~

- adjusts the general sales tax rate to generate revenue for the General Fund that offsets the loss of revenue from the removal of the state sales tax on food and food ingredients; and

- makes technical and conforming changes.

#### Money Appropriated in this Bill:

None

This bill provides a special effective date.

#### AMENDS:

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

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

21 **59-12-108** , as last amended by Laws of Utah 2023, Chapter 459 , as last amended by Laws of Utah 2023, Chapter 459

22 **63N-2-502** , as last amended by Laws of Utah 2023, Chapter 459 , as last amended by Laws of Utah 2023, Chapter 459

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

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

26 **59-12-102. Definitions.**

As used in this chapter:

26 (1) "800 service" means a telecommunications service that:

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

28 (b) is typically marketed:

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

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

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

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

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

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

36 (2)

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

37 (i) a subscriber purchases;

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

40 (A) prerecorded announcement; or

41 (B) live service; and

42 (iii) is typically marketed:

43 (A) under the name 900 service; or

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- (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.
- 46 (b) "900 service" does not include a charge for:
- 47 (i) a collection service a seller of a telecommunications service provides to a subscriber; or
- 49 (ii) the following a subscriber sells to the subscriber's customer:
- 50 (A) a product; or
- 51 (B) a service.
- 52 (3)
- . (a) "Admission or user fees" includes season passes.
- 53 (b) "Admission or user fees" does not include:
- 54 (i) annual membership dues to private organizations; or
- 55 (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).
- 57 (4) "Affiliate" or "affiliated person" means a person that, with respect to another person:
- 58 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or
- 60 (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.
- 63 (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.
- 66 (6) "Agreement combined tax rate" means the sum of the tax rates:
- 67 (a) listed under Subsection (7); and
- 68 (b) that are imposed within a local taxing jurisdiction.
- 69 (7) "Agreement sales and use tax" means a tax imposed under:
- 70 (a) Subsection 59-12-103(2)(a)(i)(A);
- 71 (b) Subsection 59-12-103(2)(b)(i);
- 72 [~~e~~] Subsection 59-12-103(2)(e)(i);]
- 73 [~~d~~] (c) Subsection 59-12-103(2)(d);
- 74 [~~e~~] (d) Subsection 59-12-103(2)(e)(i)(A)(I);
- 75 [~~f~~] (e) Section 59-12-204;

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- 76 [~~g~~] (f) Section 59-12-401;
- 77 [~~h~~] (g) Section 59-12-402;
- 78 [~~i~~] (h) Section 59-12-402.1;
- 79 [~~j~~] (i) Section 59-12-703;
- 80 [~~k~~] (j) Section 59-12-802;
- 81 [~~l~~] (k) Section 59-12-804;
- 82 [~~m~~] (l) Section 59-12-1102;
- 83 [~~n~~] (m) Section 59-12-1302;
- 84 [~~o~~] (n) Section 59-12-1402;
- 85 [~~p~~] (o) Section 59-12-1802;
- 86 [~~q~~] (p) Section 59-12-2003;
- 87 [~~r~~] (q) Section 59-12-2103;
- 88 [~~s~~] (r) Section 59-12-2213;
- 89 [~~t~~] (s) Section 59-12-2214;
- 90 [~~u~~] (t) Section 59-12-2215;
- 91 [~~v~~] (u) Section 59-12-2216;
- 92 [~~w~~] (v) Section 59-12-2217;
- 93 [~~x~~] (w) Section 59-12-2218;
- 94 [~~y~~] (x) Section 59-12-2219; or
- 95 [~~z~~] (y) Section 59-12-2220.
- 96 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 97 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 98 (a) except for:
- 99 (i) an airline as defined in Section 59-2-102; or
- 100 (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
- 103 (b) that has the workers, expertise, and facilities to perform the following, regardless of whether the  
business entity performs the following in this state:
- 105 (i) check, diagnose, overhaul, and repair:
- 106 (A) an onboard system of a fixed wing turbine powered aircraft; and

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- 107 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 109 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;
- 111 (iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:
- 113 (A) an inspection;
- 114 (B) a repair, including a structural repair or modification;
- 115 (C) changing landing gear; and
- 116 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 117 (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
- 119 (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.
- 122 (10) "Alcoholic beverage" means a beverage that:
- 123 (a) is suitable for human consumption; and
- 124 (b) contains .5% or more alcohol by volume.
- 125 (11) "Alternative energy" means:
- 126 (a) biomass energy;
- 127 (b) geothermal energy;
- 128 (c) hydroelectric energy;
- 129 (d) solar energy;
- 130 (e) wind energy; or
- 131 (f) energy that is derived from:
- 132 (i) coal-to-liquids;
- 133 (ii) nuclear fuel;
- 134 (iii) oil-impregnated diatomaceous earth;
- 135 (iv) oil sands;
- 136 (v) oil shale;
- 137 (vi) petroleum coke; or
- 138 (vii) waste heat from:
- 139 (A) an industrial facility; or
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(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

142 (12)

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

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

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

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

148 (i) connected to an electric grid; or

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

150 (13)

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

152 (b) "Ancillary service" includes:

153 (i) a conference bridging service;

154 (ii) a detailed communications billing service;

155 (iii) directory assistance;

156 (iv) a vertical service; or

157 (v) a voice mail service.

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

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

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

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

165 (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:

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

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

172 (17) "Authorized carrier" means:

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- (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;
- 176 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or
- 178 (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.
- 181 (18)
- . (a) "Biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:
- 183 (i) material from a plant or tree; or
- 184 (ii) other organic matter that is available on a renewable basis, including:
- 185 (A) slash and brush from forests and woodlands;
- 186 (B) animal waste;
- 187 (C) waste vegetable oil;
- 188 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;
- 191 (E) aquatic plants; and
- 192 (F) agricultural products.
- 193 (b) "Biomass energy" does not include:
- 194 (i) black liquor; or
- 195 (ii) treated woods.
- 196 (19)
- . (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:
- 199 (i) distinct and identifiable; and
- 200 (ii) sold for one nonitemized price.
- 201 (b) "Bundled transaction" does not include:
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- (i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;
- 205 (ii) the sale of real property;
- 206 (iii) the sale of services to real property;
- 207 (iv) the retail sale of tangible personal property and a service if:
  - 208 (A) the tangible personal property:
    - 209 (I) is essential to the use of the service; and
    - 210 (II) is provided exclusively in connection with the service; and
    - 211 (B) the service is the true object of the transaction;
  - 212 (v) the retail sale of two services if:
    - 213 (A) one service is provided that is essential to the use or receipt of a second service;
    - 215 (B) the first service is provided exclusively in connection with the second service; and
    - 217 (C) the second service is the true object of the transaction;
  - 218 (vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:
    - 221 (A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or
    - 223 (B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and
  - 225 (vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:
    - 228 (A) that retail sale includes:
      - 229 (I) food and food ingredients;
      - 230 (II) a drug;
      - 231 (III) durable medical equipment;
      - 232 (IV) mobility enhancing equipment;
      - 233 (V) an over-the-counter drug;
      - 234 (VI) a prosthetic device; or
      - 235 (VII) a medical supply; and
    - 236 (B) subject to Subsection (19)(f):



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- 237 (I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is  
50% or less of the seller's total purchase price of that retail sale; or
- 240 (II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50%  
or less of the seller's total sales price of that retail sale.
- 243 (c)
- . (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a service that is  
distinct and identifiable does not include:
- 245 (A) packaging that:
- 246 (I) accompanies the sale of the tangible personal property, product, or service; and
- 248 (II) is incidental or immaterial to the sale of the tangible personal property, product, or service;
- 250 (B) tangible personal property, a product, or a service provided free of charge with the purchase of  
another item of tangible personal property, a product, or a service; or
- 253 (C) an item of tangible personal property, a product, or a service included in the definition of  
"purchase price."
- 255 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a product, or a  
service is provided free of charge with the purchase of another item of tangible personal property, a  
product, or a service if the sales price of the purchased item of tangible personal property, product,  
or service does not vary depending on the inclusion of the tangible personal property, product, or  
service provided free of charge.
- 261 (d)
- . (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price does not include a  
price that is separately identified by tangible personal property, product, or service on the following,  
regardless of whether the following is in paper format or electronic format:
- 265 (A) a binding sales document; or
- 266 (B) another supporting sales-related document that is available to a purchaser.
- 267 (ii) For purposes of Subsection (19)(d)(i), a binding sales document or another supporting sales-related  
document that is available to a purchaser includes:
- 269 (A) a bill of sale;
- 270 (B) a contract;
- 271 (C) an invoice;
- 272 (D) a lease agreement;

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- 273 (E) a periodic notice of rates and services;
- 274 (F) a price list;
- 275 (G) a rate card;
- 276 (H) a receipt; or
- 277 (I) a service agreement.
- 278 (e)
- . (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:
- 280 (A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or
- 282 (B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.
- 284 (ii) For purposes of Subsection (19)(b)(vi), a seller:
- 285 (A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and
- 288 (B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.
- 291 (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.
- 294 (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.
- 298 (20) "Car sharing" means the same as that term is defined in Section 13-48a-101.
- 299 (21) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.
- 300 (22) "Certified automated system" means software certified by the governing board of the agreement that:
- 302 (a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:
- 303 (i) on a transaction; and

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- 304 (ii) in the states that are members of the agreement;
- 305 (b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and
- 307 (c) maintains a record of the transaction described in Subsection (22)(a)(i).
- 308 (23) "Certified service provider" means an agent certified:
- 309 (a) by the governing board of the agreement; and
- 310 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.
- 314 (24)
- . (a) Subject to Subsection (24)(b), "clothing" means all human wearing apparel suitable for general use.
- 316 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
- 318 (i) listing the items that constitute "clothing"; and
- 319 (ii) that are consistent with the list of items that constitute "clothing" under the agreement.
- 321 (25) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- 322 (26) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (60) or residential use under Subsection (115).
- 325 (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.
- 328 (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.
- 331 (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.
- 334 (c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.
- 336 (28) "Component part" includes:

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- 337 (a) poultry, dairy, and other livestock feed, and their components;
- 338 (b) baling ties and twine used in the baling of hay and straw;
- 339 (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
- 342 (d) feed, seeds, and seedlings.
- 343 (29) "Computer" means an electronic device that accepts information:
- 344 (a)
- . (i) in digital form; or
- 345 (ii) in a form similar to digital form; and
- 346 (b) manipulates that information for a result based on a sequence of instructions.
- 347 (30) "Computer software" means a set of coded instructions designed to cause:
- 348 (a) a computer to perform a task; or
- 349 (b) automatic data processing equipment to perform a task.
- 350 (31) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:
- 352 (a) future updates or upgrades to computer software;
- 353 (b) support services with respect to computer software; or
- 354 (c) a combination of Subsections (31)(a) and (b).
- 355 (32)
- . (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.
- 357 (b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (32)(a).
- 359 (c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (32)(a).
- 361 (33) "Construction materials" means any tangible personal property that will be converted into real property.
- 363 (34) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.
- 365 (35)

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- . (a) "Delivery charge" means a charge:
- 366 (i) by a seller of:
- 367 (A) tangible personal property;
- 368 (B) a product transferred electronically; or
- 369 (C) a service; and
- 370 (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.
- 373 (b) "Delivery charge" includes a charge for the following:
- 374 (i) transportation;
- 375 (ii) shipping;
- 376 (iii) postage;
- 377 (iv) handling;
- 378 (v) crating; or
- 379 (vi) packing.
- 380 (36) "Detailed telecommunications billing service" means an ancillary service of separately stating  
information pertaining to individual calls on a customer's billing statement.
- 382 (37) "Dietary supplement" means a product, other than tobacco, that:
- 383 (a) is intended to supplement the diet;
- 384 (b) contains one or more of the following dietary ingredients:
- 385 (i) a vitamin;
- 386 (ii) a mineral;
- 387 (iii) an herb or other botanical;
- 388 (iv) an amino acid;
- 389 (v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake;  
or
- 391 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in  
Subsections (37)(b)(i) through (v);
- 393 (c)
- . (i) except as provided in Subsection (37)(c)(ii), is intended for ingestion in:
- 394 (A) tablet form;
- 395 (B) capsule form;

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- 396 (C) powder form;  
397 (D) softgel form;  
398 (E) gelcap form; or  
399 (F) liquid form; or  
400 (ii) if the product is not intended for ingestion in a form described in Subsections (37)(c)(i)(A) through  
(F), is not represented:  
402 (A) as conventional food; and  
403 (B) for use as a sole item of:  
404 (I) a meal; or  
405 (II) the diet; and  
406 (d) is required to be labeled as a dietary supplement:  
407 (i) identifiable by the "Supplemental Facts" box found on the label; and  
408 (ii) as required by 21 C.F.R. Sec. 101.36.  
409 (38)  
. (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or  
other sounds.  
411 (b) "Digital audio work" includes a ringtone.  
412 (39) "Digital audio-visual work" means a series of related images which, when shown in succession,  
imparts an impression of motion, together with accompanying sounds, if any.  
414 (40) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.  
416 (41)  
. (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery  
service:  
418 (i) to:  
419 (A) a mass audience; or  
420 (B) addressees on a mailing list provided:  
421 (I) by a purchaser of the mailing list; or  
422 (II) at the discretion of the purchaser of the mailing list; and  
423 (ii) if the cost of the printed material is not billed directly to the recipients.  
424 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a  
seller of direct mail for inclusion in a package containing the printed material.

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- 427 (c) "Direct mail" does not include multiple items of printed material delivered to a single address.
- 429 (42) "Directory assistance" means an ancillary service of providing:
- 430 (a) address information; or
- 431 (b) telephone number information.
- 432 (43)
- . (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:
- 434 (i) cannot withstand repeated use; and
- 435 (ii) are purchased by, for, or on behalf of a person other than:
- 436 (A) a health care facility as defined in Section 26B-2-201;
- 437 (B) a health care provider as defined in Section 78B-3-403;
- 438 (C) an office of a health care provider described in Subsection (43)(a)(ii)(B); or
- 439 (D) a person similar to a person described in Subsections (43)(a)(ii)(A) through (C).
- 441 (b) "Disposable home medical equipment or supplies" does not include:
- 442 (i) a drug;
- 443 (ii) durable medical equipment;
- 444 (iii) a hearing aid;
- 445 (iv) a hearing aid accessory;
- 446 (v) mobility enhancing equipment; or
- 447 (vi) tangible personal property used to correct impaired vision, including:
- 448 (A) eyeglasses; or
- 449 (B) contact lenses.
- 450 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission  
may by rule define what constitutes medical equipment or supplies.
- 452 (44) "Drilling equipment manufacturer" means a facility:
- 453 (a) located in the state;
- 454 (b) with respect to which 51% or more of the manufacturing activities of the facility consist of  
manufacturing component parts of drilling equipment;
- 456 (c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process;  
and
- 458 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.
- 460 (45)

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- . (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:
- 462 (i) recognized in:
- 463 (A) the official United States Pharmacopoeia;
- 464 (B) the official Homeopathic Pharmacopoeia of the United States;
- 465 (C) the official National Formulary; or
- 466 (D) a supplement to a publication listed in Subsections (45)(a)(i)(A) through (C);
- 467 (ii) intended for use in the:
- 468 (A) diagnosis of disease;
- 469 (B) cure of disease;
- 470 (C) mitigation of disease;
- 471 (D) treatment of disease; or
- 472 (E) prevention of disease; or
- 473 (iii) intended to affect:
- 474 (A) the structure of the body; or
- 475 (B) any function of the body.
- 476 (b) "Drug" does not include:
- 477 (i) food and food ingredients;
- 478 (ii) a dietary supplement;
- 479 (iii) an alcoholic beverage; or
- 480 (iv) a prosthetic device.
- 481 (46)
- . (a) "Durable medical equipment" means equipment that:
- 482 (i) can withstand repeated use;
- 483 (ii) is primarily and customarily used to serve a medical purpose;
- 484 (iii) generally is not useful to a person in the absence of illness or injury; and
- 485 (iv) is not worn in or on the body.
- 486 (b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (46)(a).
- 488 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 489 (47) "Electronic" means:



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- 490 (a) relating to technology; and  
491 (b) having:
- 492 (i) electrical capabilities;
  - 493 (ii) digital capabilities;
  - 494 (iii) magnetic capabilities;
  - 495 (iv) wireless capabilities;
  - 496 (v) optical capabilities;
  - 497 (vi) electromagnetic capabilities; or
  - 498 (vii) capabilities similar to Subsections (47)(b)(i) through (vi).
- 499 (48) "Electronic financial payment service" means an establishment:
- 500 (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
  - 504 (b) that performs electronic financial payment services.
- 505 (49) "Employee" means the same as that term is defined in Section 59-10-401.
- 506 (50) "Fixed guideway" means a public transit facility that uses and occupies:
- 507 (a) rail for the use of public transit; or
  - 508 (b) a separate right-of-way for the use of public transit.
- 509 (51) "Fixed wing turbine powered aircraft" means an aircraft that:
- 510 (a) is powered by turbine engines;
  - 511 (b) operates on jet fuel; and
  - 512 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 513 (52) "Fixed wireless service" means a telecommunications service that provides radio communication  
between fixed points.
- 515 (53)
- . (a) "Food and food ingredients" means substances:
    - 516 (i) regardless of whether the substances are in:
      - 517 (A) liquid form;
      - 518 (B) concentrated form;
      - 519 (C) solid form;
      - 520 (D) frozen form;

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- 521 (E) dried form; or  
522 (F) dehydrated form; and  
523 (ii) that are:  
524 (A) sold for:  
525 (I) ingestion by humans; or  
526 (II) chewing by humans; and  
527 (B) consumed for the substance's:  
528 (I) taste; or  
529 (II) nutritional value.  
530 (b) "Food and food ingredients" includes an item described in Subsection (99)(b)(iii).  
531 (c) "Food and food ingredients" does not include:  
532 (i) an alcoholic beverage;  
533 (ii) tobacco; or  
534 (iii) prepared food.  
535 (54)  
. (a) "Fundraising sales" means sales:  
536 (i)  
. (A) made by a school; or  
537 (B) made by a school student;  
538 (ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or  
provide transportation; and  
540 (iii) that are part of an officially sanctioned school activity.  
541 (b) For purposes of Subsection (54)(a)(iii), "officially sanctioned school activity" means a school  
activity:  
543 (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;  
546 (ii) that does not directly or indirectly compensate an individual teacher or other educational personnel  
by direct payment, commissions, or payment in kind; and  
548 (iii) the net or gross revenue from which is deposited in a dedicated account controlled by the school or  
school district.  
550

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(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.

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

554 (a) authorized to administer the agreement; and

555 (b) established in accordance with the agreement.

556 (57)

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

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

559 (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;

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

566 (iv) the National Guard;

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

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

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

571 (i) a school;

572 (ii) the State Board of Education;

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

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

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

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

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

581 (a) in mining or extraction of minerals;

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

584 (i) commercial greenhouses;

585 (ii) irrigation pumps;

586 (iii) farm machinery;

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- 587 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41,  
Chapter 1a, Part 2, Registration; and
- 589 (v) other farming activities;
- 590 (c) in manufacturing tangible personal property at an establishment described in:
- 591 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal  
Executive Office of the President, Office of Management and Budget; or
- 594 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry  
Classification System of the federal Executive Office of the President, Office of Management and  
Budget;
- 597 (d) by a scrap recycler if:
- 598 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of  
the following items into prepared grades of processed materials for use in new products:
- 601 (A) iron;
- 602 (B) steel;
- 603 (C) nonferrous metal;
- 604 (D) paper;
- 605 (E) glass;
- 606 (F) plastic;
- 607 (G) textile; or
- 608 (H) rubber; and
- 609 (ii) the new products under Subsection (60)(d)(i) would otherwise be made with nonrecycled materials;  
or
- 611 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration  
facility as defined in Section 54-2-1.
- 613 (61)
- . (a) "Installation charge" means a charge for installing:
- 614 (i) tangible personal property; or
- 615 (ii) a product transferred electronically.
- 616 (b) "Installation charge" does not include a charge for:
- 617 (i) repairs or renovations of:
- 618 (A) tangible personal property; or

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- 619 (B) a product transferred electronically; or  
620 (ii) attaching tangible personal property or a product transferred electronically:  
621 (A) to other tangible personal property; and  
622 (B) as part of a manufacturing or fabrication process.
- 623 (62) "Institution of higher education" means an institution of higher education listed in Section  
53B-2-101.
- 625 (63)
- . (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a  
product transferred electronically for:
- 627 (i)
- . (A) a fixed term; or  
628 (B) an indeterminate term; and  
629 (ii) consideration.
- 630 (b) "Lease" or "rental" includes:
- 631 (i) an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or  
decreased by reference to the amount realized upon sale or disposition of the property as defined in  
Section 7701(h)(1), Internal Revenue Code; and  
635 (ii) car sharing.
- 636 (c) "Lease" or "rental" does not include:
- 637 (i) a transfer of possession or control of property under a security agreement or deferred payment plan  
that requires the transfer of title upon completion of the required payments;  
640 (ii) a transfer of possession or control of property under an agreement that requires the transfer of title:  
642 (A) upon completion of required payments; and  
643 (B) if the payment of an option price does not exceed the greater of:  
644 (I) \$100; or  
645 (II) 1% of the total required payments; or  
646 (iii) providing tangible personal property along with an operator for a fixed period of time or an  
indeterminate period of time if the operator is necessary for equipment to perform as designed.
- 649 (d) For purposes of Subsection (63)(c)(iii), an operator is necessary for equipment to perform as  
designed if the operator's duties exceed the:
- 651 (i) set-up of tangible personal property;

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- 652 (ii) maintenance of tangible personal property; or  
653 (iii) inspection of tangible personal property.
- 654 (64) "Lesson" means a fixed period of time for the duration of which a trained instructor:  
655 (a) is present with a student in person or by video; and  
656 (b) actively instructs the student, including by providing observation or feedback.
- 657 (65) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:  
661 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;  
662 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or  
664 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 665 (66) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.
- 668 (67) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.
- 670 (68) "Local taxing jurisdiction" means a:  
671 (a) county that is authorized to impose an agreement sales and use tax;  
672 (b) city that is authorized to impose an agreement sales and use tax; or  
673 (c) town that is authorized to impose an agreement sales and use tax.
- 674 (69) "Manufactured home" means the same as that term is defined in Section 15A-1-302.
- 675 (70) "Manufacturing facility" means:  
676 (a) an establishment described in:  
677 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or  
680 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;  
683 (b) a scrap recycler if:  
684 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

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- 687 (A) iron;
- 688 (B) steel;
- 689 (C) nonferrous metal;
- 690 (D) paper;
- 691 (E) glass;
- 692 (F) plastic;
- 693 (G) textile; or
- 694 (H) rubber; and
- 695 (ii) the new products under Subsection (70)(b)(i) would otherwise be made with nonrecycled materials;  
or
- 697 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service  
on or after May 1, 2006.
- 699 (71)
- . (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal  
property, a product transferred electronically, or a service is offered for sale.
- 702 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software  
application.
- 704 (72)
- . (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a  
contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's  
product through a marketplace that the person owns, operates, or controls and that directly or  
indirectly:
- 708 (i) does any of the following:
- 709 (A) lists, makes available, or advertises tangible personal property, a product transferred electronically,  
or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or  
controls;
- 712 (B) facilitates the sale of a marketplace seller's tangible personal property, product transferred  
electronically, or service by transmitting or otherwise communicating an offer or acceptance of a  
retail sale between the marketplace seller and a purchaser using the marketplace;
- 716 (C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any  
property, process, method, copyright, trademark, or patent that connects a marketplace seller to a

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purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

- 721 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;
- 726 (E) provides software development or research and development activities related to any activity described in this Subsection (72)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;
- 730 (F) provides or offers fulfillment or storage services for a marketplace seller;
- 731 (G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;
- 733 (H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or
- 737 (I) brands or otherwise identifies sales as those of the person; and
- 738 (ii) does any of the following:
- 739 (A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;
- 741 (B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;
- 743 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;
- 750 (D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of



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whether the third person receives compensation or other consideration in exchange for the service;  
or

- 756 (E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.
- 758 (b) "Marketplace facilitator" does not include:
- 759 (i) a person that only provides payment processing services; or
- 760 (ii) a person described in Subsection (72)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.
- 762 (73) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.
- 765 (74) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:
- 767 (a) child or stepchild, regardless of whether the child or stepchild is:
- 768 (i) an adopted child or adopted stepchild; or
- 769 (ii) a foster child or foster stepchild;
- 770 (b) grandchild or stepgrandchild;
- 771 (c) grandparent or stepgrandparent;
- 772 (d) nephew or stepnephew;
- 773 (e) niece or stepniece;
- 774 (f) parent or stepparent;
- 775 (g) sibling or stepsibling;
- 776 (h) spouse;
- 777 (i) person who is the spouse of a person described in Subsections (74)(a) through (g); or
- 778 (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.
- 781 (75) "Mobile home" means the same as that term is defined in Section 15A-1-302.
- 782 (76) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 784 (77)

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- . (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:
- 786 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 787 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 788 (iii) the origination point described in Subsection (77)(a)(i) and the termination point described in Subsection (77)(a)(ii) are not fixed.
- 790 (b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.
- 792 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."
- 794 (78)
- . (a) "Mobility enhancing equipment" means equipment that is:
- 795 (i) primarily and customarily used to provide or increase the ability to move from one place to another;
- 797 (ii) appropriate for use in a:
- 798 (A) home; or
- 799 (B) motor vehicle; and
- 800 (iii) not generally used by persons with normal mobility.
- 801 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (78)(a).
- 803 (c) "Mobility enhancing equipment" does not include:
- 804 (i) a motor vehicle;
- 805 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;
- 807 (iii) durable medical equipment; or
- 808 (iv) a prosthetic device.
- 809 (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.

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- 814 (80) "Model 2 seller" means a seller registered under the agreement that:  
815 (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  
817 (b) retains responsibility for remitting all of the sales tax:  
818 (i) collected by the seller; and  
819 (ii) to the appropriate local taxing jurisdiction.  
820 (81)  
. (a) Subject to Subsection (81)(b), "model 3 seller" means a seller registered under the agreement that  
has:  
822 (i) sales in at least five states that are members of the agreement;  
823 (ii) total annual sales revenue of at least \$500,000,000;  
824 (iii) a proprietary system that calculates the amount of tax:  
825 (A) for an agreement sales and use tax; and  
826 (B) due to each local taxing jurisdiction; and  
827 (iv) entered into a performance agreement with the governing board of the agreement.  
828 (b) For purposes of Subsection (81)(a), "model 3 seller" includes an affiliated group of sellers using the  
same proprietary system.  
830 (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.  
832 (83) "Modular home" means a modular unit as defined in Section 15A-1-302.  
833 (84) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.  
834 (85) "Oil sands" means impregnated bituminous sands that:  
835 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with other  
hydrocarbons, or otherwise treated;  
837 (b) yield mixtures of liquid hydrocarbon; and  
838 (c) require further processing other than mechanical blending before becoming finished petroleum  
products.  
840 (86) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that  
yields petroleum upon heating and distillation.

842

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(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.

845 (88)

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

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

848 (89)

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

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

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

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

854 (92)

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

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

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

858 (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

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

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

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

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

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

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

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

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

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- 873 (iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (92)(c)  
874 (iii) or (iv).
- 875 (c) "Permanently attached to real property" does not include:
- 876 (i) the attachment of portable or movable tangible personal property to real property if that portable or  
877 movable tangible personal property is attached to real property only for:
- 878 (A) convenience;
- 879 (B) stability; or
- 880 (C) for an obvious temporary purpose;
- 881 (ii) the detachment of tangible personal property from real property except for the detachment described  
882 in Subsection (92)(b)(ii);
- 883 (iii) an attachment of the following tangible personal property to real property if the attachment to real  
884 property is only through a line that supplies water, electricity, gas, telecommunications, cable, or  
885 supplies a similar item as determined by the commission by rule made in accordance with Title 63G,  
886 Chapter 3, Utah Administrative Rulemaking Act:
- 887 (A) a computer;
- 888 (B) a telephone;
- 889 (C) a television; or
- 890 (D) tangible personal property similar to Subsections (92)(c)(iii)(A) through (C) as determined by  
891 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
892 Rulemaking Act; or
- 893 (iv) an item listed in Subsection (137)(c).
- 894 (93) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate,  
895 trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other  
896 local governmental entity of the state, or any group or combination acting as a unit.
- 897 (94) "Place of primary use":
- 898 (a) for telecommunications service other than mobile telecommunications service, means the street  
899 address representative of where the customer's use of the telecommunications service primarily  
900 occurs, which shall be:
- 901 (i) the residential street address of the customer; or
- 902 (ii) the primary business street address of the customer; or
- 903
- 904
- 905
- 906

## SB0122 compared with SB0122S01

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

908 (95)

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

910 (i) through the use of a:

911 (A) bank card;

912 (B) credit card;

913 (C) debit card; or

914 (D) travel card; or

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

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

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

922 (97) "Prepaid calling service" means a telecommunications service:

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

925 (b) that:

926 (i) is paid for in advance; and

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

928 (A) access number; or

929 (B) authorization code;

930 (c) that is dialed:

931 (i) manually; or

932 (ii) electronically; and

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

934 (i) by a known amount; and

935 (ii) with use.

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- 936 (98) "Prepaid wireless calling service" means a telecommunications service:  
937 (a) that provides the right to utilize:  
938 (i) mobile wireless service; and  
939 (ii) other service that is not a telecommunications service, including:  
940 (A) the download of a product transferred electronically;  
941 (B) a content service; or  
942 (C) an ancillary service;  
943 (b) that:  
944 (i) is paid for in advance; and  
945 (ii) enables the origination of a call using an:  
946 (A) access number; or  
947 (B) authorization code;  
948 (c) that is dialed:  
949 (i) manually; or  
950 (ii) electronically; and  
951 (d) sold in predetermined units or dollars that decline:  
952 (i) by a known amount; and  
953 (ii) with use.  
954 (99)  
. (a) "Prepared food" means:  
955 (i) food:  
956 (A) sold in a heated state; or  
957 (B) heated by a seller;  
958 (ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or  
960 (iii) except as provided in Subsection (99)(c), food sold with an eating utensil provided by the  
seller, including a:  
962 (A) plate;  
963 (B) knife;  
964 (C) fork;  
965 (D) spoon;  
966 (E) glass;

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- 967 (F) cup;
- 968 (G) napkin; or
- 969 (H) straw.
- 970 (b) "Prepared food" does not include:
- 971 (i) food that a seller only:
- 972 (A) cuts;
- 973 (B) repackages; or
- 974 (C) pasteurizes;
- 975 (ii)
- . (A) the following:
- 976 (I) raw egg;
- 977 (II) raw fish;
- 978 (III) raw meat;
- 979 (IV) raw poultry; or
- 980 (V) a food containing an item described in Subsections (99)(b)(ii)(A)(I) through (IV); and
- 982 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (99)(b)(ii)(A) to prevent food borne illness; or
- 985 (iii) the following if sold without eating utensils provided by the seller:
- 986 (A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;
- 991 (B) food and food ingredients sold in an unheated state:
- 992 (I) by weight or volume; and
- 993 (II) as a single item; or
- 994 (C) a bakery item, including:
- 995 (I) a bagel;
- 996 (II) a bar;
- 997 (III) a biscuit;
- 998 (IV) bread;



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- 999 (V) a bun;
- 1000 (VI) a cake;
- 1001 (VII) a cookie;
- 1002 (VIII) a croissant;
- 1003 (IX) a danish;
- 1004 (X) a donut;
- 1005 (XI) a muffin;
- 1006 (XII) a pastry;
- 1007 (XIII) a pie;
- 1008 (XIV) a roll;
- 1009 (XV) a tart;
- 1010 (XVI) a torte; or
- 1011 (XVII) a tortilla.
- 1012 (c) An eating utensil provided by the seller does not include the following used to transport the food:
- 1014 (i) a container; or
- 1015 (ii) packaging.
- 1016 (100) "Prescription" means an order, formula, or recipe that is issued:
- 1017 (a)
- . (i) orally;
- 1018 (ii) in writing;
- 1019 (iii) electronically; or
- 1020 (iv) by any other manner of transmission; and
- 1021 (b) by a licensed practitioner authorized by the laws of a state.
- 1022 (101)
- . (a) "Prewritten computer software" means computer software that is not designed and developed:
- 1024 (i) by the author or other creator of the computer software; and
- 1025 (ii) to the specifications of a specific purchaser.
- 1026 (b) "Prewritten computer software" includes:
- 1027 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:
- 1029 (A) by the author or other creator of the computer software; and

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- 1030 (B) to the specifications of a specific purchaser;
- 1031 (ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or
- 1034 (iii) except as provided in Subsection (101)(c), prewritten computer software or a prewritten portion of prewritten computer software:
- 1036 (A) that is modified or enhanced to any degree; and
- 1037 (B) if the modification or enhancement described in Subsection (101)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.
- 1039 (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:
- 1042 (i) reasonable; and
- 1043 (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:
- 1046 (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;
- 1049 (B) a preponderance of the facts and circumstances at the time of the transaction; and
- 1051 (C) the understanding of all of the parties to the transaction.
- 1052 (102)
- . (a) "Private communications service" means a telecommunications service:
- 1053 (i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and
- 1055 (ii) regardless of the manner in which the one or more communications channels are connected.
- 1057 (b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:
- 1059 (i) an extension line;
- 1060 (ii) a station;
- 1061 (iii) switching capacity; or
- 1062 (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.

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1064 (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.

1067 (b) "Product transferred electronically" does not include:

1068 (i) an ancillary service;

1069 (ii) computer software; or

1070 (iii) a telecommunications service.

1071 (104)

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

1072 (i) artificially replace a missing portion of the body;

1073 (ii) prevent or correct a physical deformity or physical malfunction; or

1074 (iii) support a weak or deformed portion of the body.

1075 (b) "Prosthetic device" includes:

1076 (i) parts used in the repairs or renovation of a prosthetic device;

1077 (ii) replacement parts for a prosthetic device;

1078 (iii) a dental prosthesis; or

1079 (iv) a hearing aid.

1080 (c) "Prosthetic device" does not include:

1081 (i) corrective eyeglasses; or

1082 (ii) contact lenses.

1083 (105)

. (a) "Protective equipment" means an item:

1084 (i) for human wear; and

1085 (ii) that is:

1086 (A) designed as protection:

1087 (I) to the wearer against injury or disease; or

1088 (II) against damage or injury of other persons or property; and

1089 (B) not suitable for general use.

1090 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

1092 (i) listing the items that constitute "protective equipment"; and

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- 1093 (ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.  
1095 (106)
- . (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:
- 1097 (i) regardless of:
- 1098 (A) characteristics;
- 1099 (B) copyright;
- 1100 (C) form;
- 1101 (D) format;
- 1102 (E) method of reproduction; or
- 1103 (F) source; and
- 1104 (ii) made available in printed or electronic format.
- 1105 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."
- 1107 (107)
- . (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 1108 (i) valued in money; and
- 1109 (ii) for which tangible personal property, a product transferred electronically, or services are:
- 1111 (A) sold;
- 1112 (B) leased; or
- 1113 (C) rented.
- 1114 (b) "Purchase price" and "sales price" include:
- 1115 (i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;
- 1117 (ii) expenses of the seller, including:
- 1118 (A) the cost of materials used;
- 1119 (B) a labor cost;
- 1120 (C) a service cost;
- 1121 (D) interest;
- 1122 (E) a loss;
- 1123 (F) the cost of transportation to the seller; or

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- 1124 (G) a tax imposed on the seller;
- 1125 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1126 (iv) consideration a seller receives from a person other than the purchaser if:
- 1127 (A)
- . (I) the seller actually receives consideration from a person other than the purchaser; and
- 1129 (II) the consideration described in Subsection (107)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;
- 1131 (B) the seller has an obligation to pass the price reduction or discount through to the purchaser;
- 1133 (C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and
- 1135 (D)
- . (I)
- . (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and
- 1137 (Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 1141 (II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or
- 1146 (III) the price reduction or discount is identified as a third party price reduction or discount on the:
- 1148 (Aa) invoice the purchaser receives; or
- 1149 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1150 (c) "Purchase price" and "sales price" do not include:
- 1151 (i) a discount:
- 1152 (A) in a form including:
- 1153 (I) cash;
- 1154 (II) term; or
- 1155 (III) coupon;
- 1156 (B) that is allowed by a seller;

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- 1157 (C) taken by a purchaser on a sale; and
- 1158 (D) that is not reimbursed by a third party; or
- 1159 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by 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, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:
- 1167 (A) the following from credit extended on the sale of tangible personal property or services:
- 1169 (I) a carrying charge;
- 1170 (II) a financing charge; or
- 1171 (III) an interest charge;
- 1172 (B) a delivery charge;
- 1173 (C) an installation charge;
- 1174 (D) a manufacturer rebate on a motor vehicle; or
- 1175 (E) a tax or fee legally imposed directly on the consumer.
- 1176 (108) "Purchaser" means a person to whom:
- 1177 (a) a sale of tangible personal property is made;
- 1178 (b) a product is transferred electronically; or
- 1179 (c) a service is furnished.
- 1180 (109) "Qualifying data center" means a data center facility that:
- 1181 (a) houses a group of networked server computers in one physical location in order to disseminate, manage, and store data and information;
- 1183 (b) is located in the state;
- 1184 (c) is a new operation constructed on or after July 1, 2016;
- 1185 (d) consists of one or more buildings that total 150,000 or more square feet;
- 1186 (e) is owned or leased by:
- 1187 (i) the operator of the data center facility; or
- 1188 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and
- 1190 (f) is located on one or more parcels of land that are owned or leased by:

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- 1191 (i) the operator of the data center facility; or
- 1192 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility.
- 1194 (110) "Regularly rented" means:
- 1195 (a) rented to a guest for value three or more times during a calendar year; or
- 1196 (b) advertised or held out to the public as a place that is regularly rented to guests for value.
- 1198 (111) "Rental" means the same as that term is defined in Subsection (63).
- 1199 (112)
- . (a) "Repairs or renovations of tangible personal property" means:
- 1200 (i) a repair or renovation of tangible personal property that is not permanently attached to real property; or
- 1202 (ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:
- 1205 (A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and
- 1209 (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.
- 1214 (b) "Repairs or renovations of tangible personal property" does not include:
- 1215 (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
- 1218 (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.
- 1221 (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.

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- 1224 (114)
- . (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:
- 1226 (i) at a residential address; or
- 1227 (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.
- 1230 (b) For purposes of Subsection (114)(a)(i), a residential address includes an:
- 1231 (i) apartment; or
- 1232 (ii) other individual dwelling unit.
- 1233 (115) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.
- 1235 (116) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:
- 1236 (a) resale;
- 1237 (b) sublease; or
- 1238 (c) subrent.
- 1239 (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.
- 1243 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.
- 1245 (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.
- 1248 (b) "Sale" includes:
- 1249 (i) installment and credit sales;
- 1250 (ii) any closed transaction constituting a sale;
- 1251 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;



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- 1253 (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
- 1255 (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.
- 1258 (119) "Sale at retail" means the same as that term is defined in Subsection (116).
- 1259 (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:
- 1262 (a) by a purchaser-lessee;
- 1263 (b) to a lessor;
- 1264 (c) for consideration; and
- 1265 (d) if:
- 1266 (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;
- 1268 (ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:
- 1270 (A) for the tangible personal property or product transferred electronically; and
- 1271 (B) to the purchaser-lessee; and
- 1272 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:
- 1274 (A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and
- 1276 (B) account for the lease payments as payments made under a financing arrangement.
- 1278 (121) "Sales price" means the same as that term is defined in Subsection (107).
- 1279 (122)
- . (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:
- 1281 (i) sales that are directly related to the school's educational functions or activities including:
- 1283 (A) the sale of:
- 1284 (I) textbooks;
- 1285 (II) textbook fees;
- 1286 (III) laboratory fees;

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- 1287 (IV) laboratory supplies; or
- 1288 (V) safety equipment;
- 1289 (B) the sale of a uniform, protective equipment, or sports or recreational equipment that:
- 1291 (I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and
- 1293 (II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;
- 1295 (C) sales of the following if the net or gross revenue generated by the sales is deposited into a school district fund or school fund dedicated to school meals:
- 1297 (I) food and food ingredients; or
- 1298 (II) prepared food; or
- 1299 (D) transportation charges for official school activities; or
- 1300 (ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.
- 1302 (b) "Sales relating to schools" does not include:
- 1303 (i) bookstore sales of items that are not educational materials or supplies;
- 1304 (ii) except as provided in Subsection (122)(a)(i)(B):
- 1305 (A) clothing;
- 1306 (B) clothing accessories or equipment;
- 1307 (C) protective equipment; or
- 1308 (D) sports or recreational equipment; or
- 1309 (iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:
- 1312 (A) other than a:
- 1313 (I) school;
- 1314 (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
- 1317 (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
- 1320 (B) that is required to collect sales and use taxes under this chapter.
- 1321

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

1323 (123) For purposes of this section and Section 59-12-104, "school" means:

1324 (a) an elementary school or a secondary school that:

1325 (i) is a:

1326 (A) public school; or

1327 (B) private school; and

1328 (ii) provides instruction for one or more grades kindergarten through 12; or

1329 (b) a public school district.

1330 (124)

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

1331 (i) tangible personal property;

1332 (ii) a product transferred electronically; or

1333 (iii) a service.

1334 (b) "Seller" includes a marketplace facilitator.

1335 (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:

1338 (i) used primarily in the process of:

1339 (A)

. (I) manufacturing a semiconductor;

1340 (II) fabricating a semiconductor; or

1341 (III) research or development of a:

1342 (Aa) semiconductor; or

1343 (Bb) semiconductor manufacturing process; or

1344 (B) maintaining an environment suitable for a semiconductor; or

1345 (ii) consumed primarily in the process of:

1346 (A)

. (I) manufacturing a semiconductor;

1347 (II) fabricating a semiconductor; or

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- 1348 (III) research or development of a:
- 1349 (Aa) semiconductor; or
- 1350 (Bb) semiconductor manufacturing process; or
- 1351 (B) maintaining an environment suitable for a semiconductor.
- 1352 (b) "Semiconductor fabricating, processing, research, or development materials" includes:
- 1354 (i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (125)(a); or
- 1356 (ii) a chemical, catalyst, or other material used to:
- 1357 (A) produce or induce in a semiconductor a:
- 1358 (I) chemical change; or
- 1359 (II) physical change;
- 1360 (B) remove impurities from a semiconductor; or
- 1361 (C) improve the marketable condition of a semiconductor.
- 1362 (126) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 26B-6-101.
- 1364 (127) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.
- 1365 (128) "Shared vehicle driver" means the same as that term is defined in Section 13-48a-101.
- 1366 (129) "Shared vehicle owner" means the same as that term is defined in Section 13-48a-101.
- 1367 (130)
- . (a) Subject to Subsections (130)(b) and (c), "short-term lodging consumable" means tangible personal property that:
- 1369 (i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;
- 1372 (ii) is intended to be consumed by the purchaser; and
- 1373 (iii) is:
- 1374 (A) included in the purchase price of the accommodations and services; and
- 1375 (B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.
- 1377 (b) "Short-term lodging consumable" includes:
- 1378 (i) a beverage;
- 1379 (ii) a brush or comb;
- 1380 (iii) a cosmetic;

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- 1381 (iv) a hair care product;
- 1382 (v) lotion;
- 1383 (vi) a magazine;
- 1384 (vii) makeup;
- 1385 (viii) a meal;
- 1386 (ix) mouthwash;
- 1387 (x) nail polish remover;
- 1388 (xi) a newspaper;
- 1389 (xii) a notepad;
- 1390 (xiii) a pen;
- 1391 (xiv) a pencil;
- 1392 (xv) a razor;
- 1393 (xvi) saline solution;
- 1394 (xvii) a sewing kit;
- 1395 (xviii) shaving cream;
- 1396 (xix) a shoe shine kit;
- 1397 (xx) a shower cap;
- 1398 (xxi) a snack item;
- 1399 (xxii) soap;
- 1400 (xxiii) toilet paper;
- 1401 (xxiv) a toothbrush;
- 1402 (xxv) toothpaste; or
- 1403 (xxvi) an item similar to Subsections (130)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1406 (c) "Short-term lodging consumable" does not include:
- 1407 (i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or
- 1409 (ii) a product transferred electronically.
- 1410 (131)
- . (a) "Short-term rental" means a lease or rental for less than 30 consecutive days.
- 1411 (b) "Short-term rental" does not include car sharing.

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- 1412 (132) "Simplified electronic return" means the electronic return:  
1413 (a) described in Section 318(C) of the agreement; and  
1414 (b) approved by the governing board of the agreement.
- 1415 (133) "Solar energy" means the sun used as the sole source of energy for producing electricity.  
1417 (134)
- . (a) "Sports or recreational equipment" means an item:  
1418 (i) designed for human use; and  
1419 (ii) that is:  
1420 (A) worn in conjunction with:  
1421 (I) an athletic activity; or  
1422 (II) a recreational activity; and  
1423 (B) not suitable for general use.
- 1424 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:  
1426 (i) listing the items that constitute "sports or recreational equipment"; and  
1427 (ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.
- 1429 (135) "State" means the state of Utah, its departments, and agencies.
- 1430 (136) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.
- 1433 (137)
- . (a) "Tangible personal property" means personal property that:  
1434 (i) may be:  
1435 (A) seen;  
1436 (B) weighed;  
1437 (C) measured;  
1438 (D) felt; or  
1439 (E) touched; or  
1440 (ii) is in any manner perceptible to the senses.
- 1441 (b) "Tangible personal property" includes:

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- 1442 (i) electricity;
- 1443 (ii) water;
- 1444 (iii) gas;
- 1445 (iv) steam; or
- 1446 (v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.
- 1448 (c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:
- 1450 (i) a dishwasher;
- 1451 (ii) a dryer;
- 1452 (iii) a freezer;
- 1453 (iv) a microwave;
- 1454 (v) a refrigerator;
- 1455 (vi) a stove;
- 1456 (vii) a washer; or
- 1457 (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.
- 1460 (d) "Tangible personal property" does not include a product that is transferred electronically.
- 1462 (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:
- 1467 (i) a hot water heater;
- 1468 (ii) a water filtration system; or
- 1469 (iii) a water softener system.
- 1470 (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:
- 1473 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1474 (ii) telecommunications transmission equipment, machinery, or software.

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- 1475 (b) The following apply to Subsection (138)(a):
- 1476 (i) a pole;
- 1477 (ii) software;
- 1478 (iii) a supplementary power supply;
- 1479 (iv) temperature or environmental equipment or machinery;
- 1480 (v) test equipment;
- 1481 (vi) a tower; or
- 1482 (vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (138)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (138)(c).
- 1485 (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 (138)(b)(i) through (vi).
- 1488 (139) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.
- 1491 (140) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:
- 1496 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1497 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1498 (c) telecommunications transmission equipment, machinery, or software.
- 1499 (141)
- . (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.
- 1502 (b) "Telecommunications service" includes:
- 1503 (i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:
- 1505 (A) on the code, form, or protocol of the content;
- 1506 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 1507 (C) regardless of whether the service:



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- 1508 (I) is referred to as voice over Internet protocol service; or
- 1509 (II) is classified by the Federal Communications Commission as enhanced or value added;
- 1511 (ii) an 800 service;
- 1512 (iii) a 900 service;
- 1513 (iv) a fixed wireless service;
- 1514 (v) a mobile wireless service;
- 1515 (vi) a postpaid calling service;
- 1516 (vii) a prepaid calling service;
- 1517 (viii) a prepaid wireless calling service; or
- 1518 (ix) a private communications service.
- 1519 (c) "Telecommunications service" does not include:
- 1520 (i) advertising, including directory advertising;
- 1521 (ii) an ancillary service;
- 1522 (iii) a billing and collection service provided to a third party;
- 1523 (iv) a data processing and information service if:
- 1524 (A) the data processing and information service allows data to be:
- 1525 (I)
- . (Aa) acquired;
- 1526 (Bb) generated;
- 1527 (Cc) processed;
- 1528 (Dd) retrieved; or
- 1529 (Ee) stored; and
- 1530 (II) delivered by an electronic transmission to a purchaser; and
- 1531 (B) the purchaser's primary purpose for the underlying transaction is the processed data or information;
- 1533 (v) installation or maintenance of the following on a customer's premises:
- 1534 (A) equipment; or
- 1535 (B) wiring;
- 1536 (vi) Internet access service;
- 1537 (vii) a paging service;
- 1538 (viii) a product transferred electronically, including:
- 1539 (A) music;

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- 1540 (B) reading material;
- 1541 (C) a ring tone;
- 1542 (D) software; or
- 1543 (E) video;
- 1544 (ix) a radio and television audio and video programming service:
- 1545 (A) regardless of the medium; and
- 1546 (B) including:
- 1547 (I) furnishing conveyance, routing, or transmission of a television audio and video programming service  
by a programming service provider;
- 1549 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1550 (III) audio and video programming services delivered by a commercial mobile radio service provider as  
defined in 47 C.F.R. Sec. 20.3;
- 1552 (x) a value-added nonvoice data service; or
- 1553 (xi) tangible personal property.
- 1554 (142)
- . (a) "Telecommunications service provider" means a person that:
- 1555 (i) owns, controls, operates, or manages a telecommunications service; and
- 1556 (ii) engages in an activity described in Subsection (142)(a)(i) for the shared use with or resale to  
any person of the telecommunications service.
- 1558 (b) A person described in Subsection (142)(a) is a telecommunications service provider whether or not  
the Public Service Commission of Utah regulates:
- 1560 (i) that person; or
- 1561 (ii) the telecommunications service that the person owns, controls, operates, or manages.
- 1563 (143)
- . (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed  
in Subsection (143)(b) if that item is purchased or leased primarily for switching or routing:
- 1566 (i) an ancillary service;
- 1567 (ii) data communications;
- 1568 (iii) voice communications; or
- 1569 (iv) telecommunications service.
- 1570 (b) The following apply to Subsection (143)(a):

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- 1571 (i) a bridge;
- 1572 (ii) a computer;
- 1573 (iii) a cross connect;
- 1574 (iv) a modem;
- 1575 (v) a multiplexer;
- 1576 (vi) plug in circuitry;
- 1577 (vii) a router;
- 1578 (viii) software;
- 1579 (ix) a switch; or
- 1580 (x) equipment, machinery, or software that functions similarly to an item listed in Subsections (143)(b) (i) through (ix) as determined by the commission by rule made in accordance with Subsection (143) (c).
- 1583 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (143)(b)(i) through (ix).
- 1586 (144)
- . (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (144)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:
- 1589 (i) an ancillary service;
- 1590 (ii) data communications;
- 1591 (iii) voice communications; or
- 1592 (iv) telecommunications service.
- 1593 (b) The following apply to Subsection (144)(a):
- 1594 (i) an amplifier;
- 1595 (ii) a cable;
- 1596 (iii) a closure;
- 1597 (iv) a conduit;
- 1598 (v) a controller;
- 1599 (vi) a duplexer;
- 1600 (vii) a filter;

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- 1601 (viii) an input device;
- 1602 (ix) an input/output device;
- 1603 (x) an insulator;
- 1604 (xi) microwave machinery or equipment;
- 1605 (xii) an oscillator;
- 1606 (xiii) an output device;
- 1607 (xiv) a pedestal;
- 1608 (xv) a power converter;
- 1609 (xvi) a power supply;
- 1610 (xvii) a radio channel;
- 1611 (xviii) a radio receiver;
- 1612 (xix) a radio transmitter;
- 1613 (xx) a repeater;
- 1614 (xxi) software;
- 1615 (xxii) a terminal;
- 1616 (xxiii) a timing unit;
- 1617 (xxiv) a transformer;
- 1618 (xxv) a wire; or
- 1619 (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).
- 1622 (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).
- 1625 (145)
- . (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:
- 1627 (i) offered by an institution of higher education; and
- 1628 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1629 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 1630 (146) "Tobacco" means:

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- 1631 (a) a cigarette;
- 1632 (b) a cigar;
- 1633 (c) chewing tobacco;
- 1634 (d) pipe tobacco; or
- 1635 (e) any other item that contains tobacco.
- 1636 (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.
- 1639 (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.
- 1643 (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.
- 1646 (149) "Value-added nonvoice data service" means a service:
- 1647 (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
- 1650 (b) with respect to which a computer processing application is used to act on data or information:
- 1652 (i) code;
- 1653 (ii) content;
- 1654 (iii) form; or
- 1655 (iv) protocol.
- 1656 (150)
- . (a) Subject to Subsection (150)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:
- 1658 (i) an aircraft as defined in Section 72-10-102;
- 1659 (ii) a vehicle as defined in Section 41-1a-102;
- 1660 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1661 (iv) a vessel as defined in Section 41-1a-102.
- 1662 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

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- 1663 (i) a vehicle described in Subsection (150)(a); or  
1664 (ii)  
. (A) a locomotive;  
1665 (B) a freight car;  
1666 (C) railroad work equipment; or  
1667 (D) other railroad rolling stock.
- 1668 (151) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a  
vehicle as defined in Subsection (150).
- 1670 (152)  
. (a) "Vertical service" means an ancillary service that:  
1671 (i) is offered in connection with one or more telecommunications services; and  
1672 (ii) offers an advanced calling feature that allows a customer to:  
1673 (A) identify a caller; and  
1674 (B) manage multiple calls and call connections.
- 1675 (b) "Vertical service" includes an ancillary service that allows a customer to manage a conference  
bridging service.
- 1677 (153)  
. (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a  
recorded message.
- 1679 (b) "Voice mail service" does not include a vertical service that a customer is required to have in order  
to utilize a voice mail service.
- 1681 (154)  
. (a) "Waste energy facility" means a facility that generates electricity:  
1682 (i) using as the primary source of energy waste materials that would be placed in a landfill or refuse  
pit if it were not used to generate electricity, including:  
1684 (A) tires;  
1685 (B) waste coal;  
1686 (C) oil shale; or  
1687 (D) municipal solid waste; and  
1688 (ii) in amounts greater than actually required for the operation of the facility.
- 1689 (b) "Waste energy facility" does not include a facility that incinerates:

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- 1690 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1691 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1692 (155) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1693 (156) "Wind energy" means wind used as the sole source of energy to produce electricity.
- 1694 (157) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the  
United States Postal Service.
- 1698 Section 2. Section **59-12-103** is amended to read:
- 1699 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax  
revenue.**
- 1699 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for  
amounts paid or charged for the following transactions:
- 1701 (a) retail sales of tangible personal property made within the state;
- 1702 (b) amounts paid for:
- 1703 (i) telecommunications service, other than mobile telecommunications service, that originates and  
terminates within the boundaries of this state;
- 1705 (ii) mobile telecommunications service that originates and terminates within the boundaries of one state  
only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et  
seq.; or
- 1708 (iii) an ancillary service associated with a:
- 1709 (A) telecommunications service described in Subsection (1)(b)(i); or
- 1710 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 1711 (c) sales of the following for commercial use:
- 1712 (i) gas;
- 1713 (ii) electricity;
- 1714 (iii) heat;
- 1715 (iv) coal;
- 1716 (v) fuel oil; or
- 1717 (vi) other fuels;
- 1718 (d) sales of the following for residential use:
- 1719 (i) gas;
- 1720 (ii) electricity;

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- 1721 (iii) heat;
- 1722 (iv) coal;
- 1723 (v) fuel oil; or
- 1724 (vi) other fuels;
- 1725 (e) sales of prepared food;
- 1726 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;
- 1736 (g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
  - 1739 (i) the tangible personal property; and
  - 1740 (ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:
    - 1742 (A) any parts are actually used in the repairs or renovations of that tangible personal property; or
    - 1744 (B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;
- 1746 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;
- 1748 (i) amounts paid or charged for short-term rentals of tourist home, hotel, motel, or trailer court accommodations and services;
- 1750 (j) amounts paid or charged for laundry or dry cleaning services;
- 1751 (k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:
  - 1753 (i) stored;
  - 1754 (ii) used; or
  - 1755 (iii) otherwise consumed;



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- 1756 (l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:
- 1758 (i) stored;
- 1759 (ii) used; or
- 1760 (iii) consumed;
- 1761 (m) amounts paid or charged for a sale:
- 1762 (i)
- . (A) of a product transferred electronically; or
- 1763 (B) of a repair or renovation of a product transferred electronically; and
- 1764 (ii) regardless of whether the sale provides:
- 1765 (A) a right of permanent use of the product; or
- 1766 (B) a right to use the product that is less than a permanent use, including a right:
- 1767 (I) for a definite or specified length of time; and
- 1768 (II) that terminates upon the occurrence of a condition; and
- 1769 (n) sales of leased tangible personal property from the lessor to the lessee made in the state.
- 1771 (2)
- . (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:
- 1773 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
- 1774 (A) ~~4.70%~~ 4.933% plus the rate specified in Subsection (11)(a); and
- 1775 (B)
- . (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and
- 1780 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
- 1785 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

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- 1787 (b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:
- 1790 (i) a state tax imposed on the transaction at a tax rate of 2%; and
- 1791 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.
- 1793 (c)
- . (i) Except as provided in Subsection (2)(e) or (f), a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of the tax rates a county, city, or town imposes under this chapter on the amounts paid or charged for food or food ingredients.
- 1797 (ii) There is no state tax imposed on amounts paid or charged for food and food ingredients.
- 1799 [~~(e) Except as provided in Subsection (2)(f) or (g), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:]~~
- 1802 [~~(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and]~~
- 1804 [~~(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.]~~
- 1807 (d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.
- 1810 (e)
- . (i)
- . (A) If a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle owner.
- 1815 (B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is required once during the time that the shared vehicle owner owns the shared vehicle.
- 1818 (C) The commission shall verify that a shared vehicle is an individual-owned shared vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the purchase of the shared vehicle.
- 1821

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- (D) The exception under Subsection (2)(e)(i)(A) applies to a certified individual-owned shared vehicle shared through a car-sharing program even if non-certified shared vehicles are also available to be shared through the same car-sharing program.
- 1825 (ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.
- 1826 (iii)
- . (A) A car-sharing program may rely in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i).
- 1829 (B) If a car-sharing program relies in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any tax, penalty, fee, or other sanction imposed on the shared vehicle owner.
- 1834 (iv) If all shared vehicles shared through a car-sharing program are certified as described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.
- 1838 (v) A car-sharing program is not required to list or otherwise identify an individual-owned shared vehicle on a return or an attachment to a return.
- 1840 (vi) A car-sharing program shall:
- 1841 (A) retain tax information for each car-sharing program transaction; and
- 1842 (B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at the commission's request.
- 1844 (f)
- . (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:
- 1847 (A) a state tax imposed on the entire bundled transaction equal to the sum of:
- 1848 (I) the tax rate described in Subsection (2)(a)(i)(A); and
- 1849 (II)
- . (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in

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a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

- 1854 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
- 1859 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).
- 1861 (ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.
- 1866 (iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(f)(i) or (ii):
- 1868 (A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:
- 1873 (I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or
- 1877 (II) state or federal law provides otherwise; or
- 1878 (B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:
- 1882 (I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or
- 1886 (II) state or federal law provides otherwise.
- 1887

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(iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

1890 (g)

(i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

1897 (A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

1900 (B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

1903 (ii) A purchaser and a seller may correct the taxability of a transaction if:

1904 (A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

1908 (B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

1911 (iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

1914 (h)

(i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

1918

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- (A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or
- 1921 (B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.
- 1925 (ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.
- 1928 (i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:
- 1930 (i) Subsection (2)(a)(i)(A);
- 1931 (ii) Subsection (2)(b)(i); or
- 1932 [~~(iii) Subsection (2)(c)(i); or~~]
- 1933 [~~(iv)~~] (iii) Subsection (2)(f)(i)(A)(I).
- 1934 (j)
- . (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:
- 1938 (A) Subsection (2)(a)(i)(A);
- 1939 (B) Subsection (2)(b)(i); or
- 1940 [~~(C) Subsection (2)(c)(i); or~~]
- 1941 [~~(D)~~] (C) Subsection (2)(f)(i)(A)(I).
- 1942 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:
- 1945 (A) Subsection (2)(a)(i)(A);
- 1946 (B) Subsection (2)(b)(i); or
- 1947 [~~(C) Subsection (2)(c)(i); or~~]
- 1948 [~~(D)~~] (C) Subsection (2)(f)(i)(A)(I).
- 1949 (k)
- .

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- (i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:
- 1952 (A) on the first day of a calendar quarter; and
- 1953 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 1955 (ii) Subsection (2)(k)(i) applies to the tax rates described in the following:
- 1956 (A) Subsection (2)(a)(i)(A);
- 1957 (B) Subsection (2)(b)(i); or
- 1958 [~~(C) Subsection (2)(e)(i); or~~]
- 1959 [~~(D)~~] (C) Subsection (2)(f)(i)(A)(I).
- 1960 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
- 1962 (l)
- . (i) For a location described in Subsection (2)(l)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.
- 1966 (ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:
- 1969 (A) a commercial use;
- 1970 (B) an industrial use; or
- 1971 (C) a residential use.
- 1972 (3)
- . (a) The Division of Finance shall deposit the following state taxes [~~shall be deposited~~] into the General Fund:
- 1974 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 1975 (ii) the tax imposed by Subsection (2)(b)(i);
- 1976 (iii) the tax imposed by Subsection (2)(d); and
- 1977 [~~(iii) the tax imposed by Subsection (2)(e)(i); and~~]
- 1978 (iv) the tax imposed by Subsection (2)(f)(i)(A)(I).
- 1979 (b) The commission shall distribute the following local taxes [~~shall be distributed~~] to a county, city, or town as provided in this chapter:

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- 1981 (i) the tax imposed by Subsection (2)(a)(ii);
- 1982 (ii) the tax imposed by Subsection (2)(b)(ii);
- 1983 (iii) the tax imposed by Subsection [~~(2)(e)(ii)~~] (2)(c); and
- 1984 (iv) the tax imposed by Subsection (2)(f)(i)(B).
- 1985 [~~(e) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.~~]
- 1987 (4)
- . (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):
- 1990 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 1991 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 1992 (B) for the fiscal year; or
- 1993 (ii) \$17,500,000.
- 1994 (b)
- . (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4) (a) shall be transferred each year as designated sales and use tax revenue to the Division of Wildlife Resources to:
- 1997 (A) implement the measures described in Subsections 23A-3-214(3)(a) through (d) to protect sensitive plant and animal species; or
- 1999 (B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 23A-3-214(3)(a) through (d) to protect sensitive plant and animal species.
- 2003 (ii) Money transferred to the Division of Wildlife Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
- 2008 (iii) At the end of each fiscal year:
- 2009 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;
- 2012 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and
- 2014



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- (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.
- 2016 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4) (a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.
- 2019 (d)
- . (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4) (a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.
- 2023 (ii) At the end of each fiscal year:
- 2024 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;
- 2027 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and
- 2029 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.
- 2031 (e)
- . (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4) (a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.
- 2035 (ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:
- 2038 (A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;
- 2044 (B) fund state required dam safety improvements; and
- 2045 (C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

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- 2047 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection  
(4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section  
73-10c-5 for use by the Water Quality Board to fund wastewater projects.
- 2051 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection  
(4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section  
73-10c-5 for use by the Division of Drinking Water to:
- 2054 (i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for  
any public water system, as defined in Section 19-4-102;
- 2056 (ii) develop underground sources of water, including springs and wells; and
- 2057 (iii) develop surface water sources.
- 2058 (5)
- . (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the  
difference between the following amounts shall be expended as provided in this Subsection (5), if  
that difference is greater than \$1:
- 2061 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year  
by a 1/16% tax rate on the transactions described in Subsection (1); and
- 2064 (ii) \$17,500,000.
- 2065 (b)
- . (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:
- 2066 (A) transferred each fiscal year to the Department of Natural Resources as designated sales and use  
tax revenue; and
- 2068 (B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.
- 2070 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue  
described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development  
Fund created in Section 73-10-24.
- 2073 (c)
- . (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference  
described in Subsection (5)(a) shall be:
- 2075 (A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax  
revenue; and
- 2077

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- (B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.
- 2079 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.
- 2082 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:
- 2086 (i) preconstruction costs:
- 2087 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and
- 2089 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;
- 2091 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;
- 2093 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and
- 2096 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).
- 2099 (e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.
- 2102 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year.
- 2106 (7)
- . (a) Notwithstanding Subsection (3)(a) and subject to Subsections (7)(b), (c), and (d), for a fiscal year beginning on or after July 1, 2023, the commission shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 17% of the revenue collected from the following sales and use taxes:

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- 2111 (i) the tax imposed by Subsection (2)(a)(i)(A) at a ~~4.7%~~ 4.933% rate;
- 2112 (ii) the tax imposed by Subsection (2)(b)(i); and
- 2113 [~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]
- 2114 [~~(iv)~~] (iii) the tax imposed by Subsection (2)(f)(i)(A)(I).
- 2115 (b)
- . (i) For a fiscal year beginning on or after July 1, 2024, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to .44% of the revenue collected from the following sales and use taxes:
- 2119 (A) the tax imposed by Subsection (2)(a)(i)(A) at a ~~4.7%~~ 4.933% rate;
- 2120 (B) the tax imposed by Subsection (2)(b)(i); and
- 2121 [~~(C) the tax imposed by Subsection (2)(c)(i); and~~]
- 2122 [~~(D)~~] (C) the tax imposed by Subsection (2)(f)(i)(A)(I).
- 2123 (ii) The commission shall annually deposit the amount described in Subsection (7)(b)(i) into the Cottonwood Canyons Transportation Investment Fund created in Section 72-2-124.
- 2126 (c)
- . (i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1, 2023, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:
- 2130 (A) the amount of revenue generated in the current fiscal year by the portion of taxes listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv);
- 2133 (B) the amount of revenue generated in the current fiscal year by registration fees designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund of 2005; and
- 2136 (C) revenue transferred by the Division of Finance to the Transportation Investment Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.
- 2139 (ii) The amount described in Subsection (7)(c)(i) may not exceed \$45,000,000 in a given fiscal year.
- 2141 (iii) The commission shall annually deposit the amount described in Subsection (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).
- 2144 (d)
- .

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- (i) For a fiscal year beginning on or after July 1, 2024, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under this Subsection (7) by an amount that is equal to 1% of the revenue collected from the following sales and use taxes:
- 2148 (A) the tax imposed by Subsection (2)(a)(i)(A) at a ~~4.7%~~ 4.933% rate;
- 2149 (B) the tax imposed by Subsection (2)(b)(i); and
- 2150 [~~(C) the tax imposed by Subsection (2)(c)(i); and~~]
- 2151 [~~(D)~~] (C) the tax imposed by Subsection (2)(f)(i)(A)(I).
- 2152 (ii) The commission shall annually deposit the amount described in Subsection (7)(d)(i) into the Commuter Rail Subaccount created in Section 72-2-124.
- 2154 (8)
- . (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7), and subject to Subsections (8)(b) and (d)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenue collected from the following taxes:
- 2160 (i) the tax imposed by Subsection (2)(a)(i)(A) at a ~~4.7%~~ 4.933% rate;
- 2161 (ii) the tax imposed by Subsection (2)(b)(i); and
- 2162 [~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]
- 2163 [~~(iv)~~] (iii) the tax imposed by Subsection (2)(f)(i)(A)(I).
- 2164 (b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.
- 2169 (c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.
- 2171 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.
- 2174 (10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the commission receives notice under Section 63N-2-510 that construction on a qualified

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hotel, as defined in Section 63N-2-502, has begun, the commission shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3) (a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

2180 (11)

. (a) The rate specified in this subsection is 0.15%.

2181 (b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid ACA Fund created in Section 26B-1-315.

2186 (12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the commission shall deposit \$200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

2190 (13)

. (a) For each fiscal year beginning with fiscal year 2020-21, the commission shall annually transfer \$1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.

2193 (b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) is less than \$1,813,400 for a fiscal year, the commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) during the fiscal year to the General Fund.

2197 (14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

2203 (15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenue collected from the following sales and use taxes:

2207 (a) the tax imposed by Subsection (2)(a)(i)(A) at a ~~4.7%~~ 4.933% rate;

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

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- 2243 (ii) The commission shall discontinue distributions of sales and use tax revenue under Subsection  
2244 (17)(b) at the beginning of the calendar quarter that begins at least 90 days after the date that the  
2245 commission receives the written notice under Subsection (17)(e)(i).
- 2246 Section 3. Section **59-12-108** is amended to read:
- 2247 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty -- Certain**  
2248 **amounts allocated to local taxing jurisdictions.**
- 2249 (1)
- 2250 (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this chapter of \$50,000 or  
2251 more for the previous calendar year shall:
- 2252 (i) file a return with the commission:
- 2253 (A) monthly on or before the last day of the month immediately following the month for which the  
2254 seller collects a tax under this chapter; and
- 2255 (B) for the month for which the seller collects a tax under this chapter; and
- 2256 (ii) except as provided in Subsection (1)(b), remit with the return required by Subsection (1)(a)  
2257 (i) the amount the person is required to remit to the commission for each tax, fee, or charge  
2258 described in Subsection (1)(c):
- 2259 (A) if that seller's tax liability under this chapter for the previous calendar year is less than \$96,000, by  
2260 any method permitted by the commission; or
- 2261 (B) if that seller's tax liability under this chapter for the previous calendar year is \$96,000 or more, by  
2262 electronic funds transfer.
- 2263 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i) the amount the  
2264 seller is required to remit to the commission for each tax, fee, or charge described in Subsection (1)  
2265 (c) if that seller:
- 2266 (i) is required by Section 59-12-107 to file the return electronically; or
- 2267 (ii)
- 2268 (A) is required to collect and remit a tax under Section 59-12-107; and
- 2269 (B) files a simplified electronic return.
- 2270 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:
- 2271 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 2272 (ii) a fee under Section 19-6-714;
- 2273 (iii) a fee under Section 19-6-805;



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- 2273 (iv) a charge under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges;  
or
- 2275 (v) a tax under this chapter.
- 2276 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3, Utah  
Administrative Rulemaking Act, the commission shall make rules providing for a method for  
making same-day payments other than by electronic funds transfer if making payments by electronic  
funds transfer fails.
- 2280 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission  
shall establish by rule procedures and requirements for determining the amount a seller is required  
to remit to the commission under this Subsection (1).
- 2283 (2)
- . (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a seller described in  
Subsection (4) may retain each month the amount allowed by this Subsection (2).
- 2286 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month  
1.31% of any amounts the seller is required to remit to the commission:
- 2288 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax and a local tax  
imposed in accordance with the following, for the month for which the seller is filing a return in  
accordance with Subsection (1):
- 2291 (A) Subsection 59-12-103(2)(a);
- 2292 (B) Subsection 59-12-103(2)(b); and
- 2293 (C) Subsection 59-12-103(2)(d); and
- 2294 (ii) for an agreement sales and use tax.
- 2295 (c)
- . (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month  
the amount calculated under Subsection (2)(c)(ii) for a transaction described in Subsection  
59-12-103(1) that is subject to the ~~[state tax and the local]~~tax imposed in accordance with  
Subsection 59-12-103(2)(c).
- 2299 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount equal to the sum  
of:
- 2301 (A) 1.31% of any amounts the seller is required to remit to the commission for:
- 2302 (I) the ~~[state tax and the local]~~tax imposed in accordance with Subsection 59-12-103(2)(c);

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- 2304 (II) the month for which the seller is filing a return in accordance with Subsection (1); and  
2306 (III) an agreement sales and use tax; and  
2307 (B) 1.31% of the difference between:  
2308 (I) the amounts the seller would have been required to remit to the commission:  
2309 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject to the state tax  
and the local tax imposed in accordance with Subsection 59-12-103(2)(a);  
2312 (Bb) for the month for which the seller is filing a return in accordance with Subsection (1); and  
2314 (Cc) for an agreement sales and use tax; and  
2315 (II) the amounts the seller is required to remit to the commission for:  
2316 (Aa) the ~~[state tax and the local]~~ tax imposed in accordance with Subsection 59-12-103(2)(c);  
2318 (Bb) the month for which the seller is filing a return in accordance with Subsection (1); and  
2320 (Cc) an agreement sales and use tax.  
2321 (d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month 1%  
of any amounts the seller is required to remit to the commission:  
2323 (i) for the month for which the seller is filing a return in accordance with Subsection (1); and  
2325 (ii) under:  
2326 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;  
2327 (B) Subsection 59-12-603(1)(a)(i)(A);  
2328 (C) Subsection 59-12-603(1)(a)(i)(B); or  
2329 (D) Subsection 59-12-603(1)(a)(ii).  
2330 (3) A state government entity that is required to remit taxes monthly in accordance with Subsection (1)  
may not retain any amount under Subsection (2).  
2332 (4) A seller that has a tax liability under this chapter for the previous calendar year of less than \$50,000  
may:  
2334 (a) voluntarily meet the requirements of Subsection (1); and  
2335 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the amounts allowed by  
Subsection (2).  
2337 (5) ~~[Penalties for late payment shall be as provided in Section 59-1-401.]~~ Section 59-1-401 provides the  
penalties for late payment.  
2339 (6)

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- (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted to the commission under this part, the commission shall each month calculate an amount equal to the difference between:
- 2342 (i) the total amount retained for that month by all sellers had the percentages listed under  
Subsections (2)(b) and (2)(c)(ii) been 1.5%; and
- 2344 (ii) the total amount retained for that month by all sellers at the percentages listed under  
Subsections (2)(b) and (2)(c)(ii).
- 2346 (b) The commission shall each month allocate the amount calculated under Subsection (6)(a) to  
each county, city, and town on the basis of the proportion of agreement sales and use tax that  
the commission distributes to each county, city, and town for that month compared to the total  
agreement sales and use tax that the commission distributes for that month to all counties, cities, and  
towns.
- 2351 (c) The amount the commission calculates under Subsection (6)(a) may not include an amount collected  
from a tax that:
- 2353 (i) the state imposes within a county, city, or town, including the unincorporated area of a county; and
- 2355 (ii) is not imposed within the entire state.
- 2356 Section 4. Section **63N-2-502** is amended to read:
- 2357 **63N-2-502. Definitions.**
- As used in this part:
- 2359 (1) "Agreement" means an agreement described in Section 63N-2-503.
- 2360 (2) "Base taxable value" means the value of hotel property before the construction on a qualified hotel  
begins, as that value is established by the county in which the hotel property is located, using  
a reasonable valuation method that may include the value of the hotel property on the county  
assessment rolls the year before the year during which construction on the qualified hotel begins.
- 2365 (3) "Certified claim" means a claim that the office has approved and certified as provided in Section  
63N-2-505.
- 2367 (4) "Claim" means a written document submitted by a qualified hotel owner or host local government to  
request a convention incentive.
- 2369 (5) "Claimant" means the qualified hotel owner or host local government that submits a claim under  
Subsection 63N-2-505(1)(a) for a convention incentive.
- 2371 (6) "Commission" means the Utah State Tax Commission.

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- 2372 (7) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.
- 2374 (8) "Construction revenue" means revenue generated from state taxes and local taxes imposed on transactions occurring during the eligibility period as a result of the construction of the hotel property, including purchases made by a qualified hotel owner and its subcontractors.
- 2378 (9) "Convention incentive" means an incentive for the development of a qualified hotel, in the form of payment from the incentive fund as provided in this part, as authorized in an agreement.
- 2381 (10) "Eligibility period" means:
- 2382 (a) the period that:
- 2383 (i) begins the date construction of a qualified hotel begins; and
- 2384 (ii) ends:
- 2385 (A) for purposes of the state portion, 20 years after the date of initial occupancy of that qualified hotel; or
- 2387 (B) for purposes of the local portion and incremental property tax revenue, 25 years after the date of initial occupancy of that hotel; or
- 2389 (b) as provided in an agreement between the office and a qualified hotel owner or host local government, a period that:
- 2391 (i) begins no earlier than the date construction of a qualified hotel begins; and
- 2392 (ii) is shorter than the period described in Subsection (10)(a).
- 2393 (11) "Endorsement letter" means a letter:
- 2394 (a) from the county in which a qualified hotel is located or is proposed to be located;
- 2395 (b) signed by the county executive; and
- 2396 (c) expressing the county's endorsement of a developer of a qualified hotel as meeting all the county's criteria for receiving the county's endorsement.
- 2398 (12) "Host agency" means the community reinvestment agency of the host local government.
- 2400 (13) "Host local government" means:
- 2401 (a) a county that enters into an agreement with the office for the construction of a qualified hotel within the unincorporated area of the county; or
- 2403 (b) a city or town that enters into an agreement with the office for the construction of a qualified hotel within the boundary of the city or town.
- 2405

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- (14) "Hotel property" means a qualified hotel and any property that is included in the same development as the qualified hotel, including convention, exhibit, and meeting space, retail shops, restaurants, parking, and other ancillary facilities and amenities.
- 2408 (15) "Incentive fund" means the Convention Incentive Fund created in Section 63N-2-503.5.
- 2409 (16) "Incremental property tax revenue" means the amount of property tax revenue generated from hotel property that equals the difference between:
- 2411 (a) the amount of property tax revenue generated in any tax year by all taxing entities from hotel property, using the current assessed value of the hotel property; and
- 2413 (b) the amount of property tax revenue that would be generated that tax year by all taxing entities from hotel property, using the hotel property's base taxable value.
- 2415 (17) "Local portion" means the portion of new tax revenue that is generated by local taxes.
- 2416 (18) "Local taxes" means a tax imposed under:
- 2417 (a) Section 59-12-204;
- 2418 (b) Section 59-12-301;
- 2419 (c) Sections 59-12-352 and 59-12-353;
- 2420 (d) Subsection 59-12-603(1)(a); or
- 2421 (e) Section 59-12-1102.
- 2422 (19) "New tax revenue" means construction revenue, offsite revenue, and onsite revenue.
- 2423 (20) "Offsite revenue" means revenue generated from state taxes and local taxes imposed on transactions by a third-party seller occurring other than on hotel property during the eligibility period, if:
- 2426 (a) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act; and
- 2428 (b) the third-party seller voluntarily consents to the disclosure of information to the office, as provided in Subsection 63N-2-505(2)(b)(i)(E).
- 2430 (21) "Onsite revenue" means revenue generated from state taxes and local taxes imposed on transactions occurring on hotel property during the eligibility period.
- 2432 (22) "Public infrastructure" means:
- 2433 (a) water, sewer, storm drainage, electrical, telecommunications, and other similar systems and lines;
- 2435 (b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public transportation facilities; and
- 2437 (c) other buildings, facilities, infrastructure, and improvements that benefit the public.

## SB0122 compared with SB0122S01

- 2438 (23) "Qualified hotel" means a full-service hotel development constructed in the state on or after July 1,  
2014 that:
- 2440 (a) requires a significant capital investment;
- 2441 (b) includes at least 85 square feet of convention, exhibit, and meeting space per guest room; and
- 2443 (c) is located within 1,000 feet of a convention center that contains at least 500,000 square feet of  
convention, exhibit, and meeting space.
- 2445 (24) "Qualified hotel owner" means a person [~~who~~] that owns a qualified hotel.
- 2446 (25) "Review committee" means the independent review committee established under Section  
63N-2-504.
- 2448 (26) "Significant capital investment" means an amount of at least \$200,000,000.
- 2449 (27) "State portion" means the portion of new tax revenue that is generated by state taxes.
- 2450 (28) "State taxes" means a tax imposed under Subsection 59-12-103(2)(a)(i), (2)(b)(i), [~~(2)(e)(i)~~], or (2)  
(e)(i)(A).
- 2452 (29) "Third-party seller" means a person [~~who~~] that is a seller in a transaction:
- 2453 (a) occurring other than on hotel property;
- 2454 (b) that is:
- 2455 (i) the sale, rental, or lease of a room or of convention or exhibit space or other facilities on hotel  
property; or
- 2457 (ii) the sale of tangible personal property or a service that is part of a bundled transaction, as defined in  
Section 59-12-102, with a sale, rental, or lease described in Subsection (29)(b)(i); and
- 2460 (c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.

2461 **Section 5. Effective date.**

This bill takes effect on ~~July~~ January 1, ~~2025~~ 2026.

1-21-25 4:30 PM