

1 **Eyewear Sales Tax Amendments**

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: A. Cory Maloy

Senate Sponsor: Michael K. McKell

3 **LONG TITLE**

4 **General Description:**

5 This bill amends provisions related to the sales and use tax on corrective eyeglasses and
6 contact lenses.

7 **Highlighted Provisions:**

8 This bill:

9 ▶ amends definitions to include corrective eyeglasses and contact lenses within the
10 definition of "prosthetic device," which has the effect of exempting these items from
11 sales and use tax.

12 **Money Appropriated in this Bill:**

13 None

14 **Other Special Clauses:**

15 This bill provides a special effective date.

16 **Utah Code Sections Affected:**

17 AMENDS:

18 **59-12-102**, as last amended by Laws of Utah 2024, Chapter 274

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

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

22 **59-12-102 . Definitions.**

23 As used in this chapter:

24 (1) "800 service" means a telecommunications service that:

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

26 (b) is typically marketed:

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

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

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

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

- 31 (v) under the name 888 toll-free calling; or
32 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
33 Federal Communications Commission.
- 34 (2)(a) "900 service" means an inbound toll telecommunications service that:
35 (i) a subscriber purchases;
36 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
37 the subscriber's:
38 (A) prerecorded announcement; or
39 (B) live service; and
40 (iii) is typically marketed:
41 (A) under the name 900 service; or
42 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
43 Communications Commission.
- 44 (b) "900 service" does not include a charge for:
45 (i) a collection service a seller of a telecommunications service provides to a
46 subscriber; or
47 (ii) the following a subscriber sells to the subscriber's customer:
48 (A) a product; or
49 (B) a service.
- 50 (3)(a) "Admission or user fees" includes season passes.
51 (b) "Admission or user fees" does not include:
52 (i) annual membership dues to private organizations; or
53 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
54 facility listed in Subsection 59-12-103(1)(f).
- 55 (4) "Affiliate" or "affiliated person" means a person that, with respect to another person:
56 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
57 person; or
58 (b) is related to the other person because a third person, or a group of third persons who
59 are affiliated persons with respect to each other, holds an ownership interest of more
60 than 5%, whether direct or indirect, in the related persons.
- 61 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
62 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
63 Agreement after November 12, 2002.
- 64 (6) "Agreement combined tax rate" means the sum of the tax rates:

- 65 (a) listed under Subsection (7); and
- 66 (b) that are imposed within a local taxing jurisdiction.
- 67 (7) "Agreement sales and use tax" means a tax imposed under:
- 68 (a) Subsection 59-12-103(2)(a)(i)(A);
- 69 (b) Subsection 59-12-103(2)(b)(i);
- 70 (c) Subsection 59-12-103(2)(c)(i);
- 71 (d) Subsection 59-12-103(2)(d);
- 72 (e) Subsection 59-12-103(2)(e)(i)(A)(I);
- 73 (f) Section 59-12-204;
- 74 (g) Section 59-12-401;
- 75 (h) Section 59-12-402;
- 76 (i) Section 59-12-402.1;
- 77 (j) Section 59-12-703;
- 78 (k) Section 59-12-802;
- 79 (l) Section 59-12-804;
- 80 (m) Section 59-12-1102;
- 81 (n) Section 59-12-1302;
- 82 (o) Section 59-12-1402;
- 83 (p) Section 59-12-1802;
- 84 (q) Section 59-12-2003;
- 85 (r) Section 59-12-2103;
- 86 (s) Section 59-12-2213;
- 87 (t) Section 59-12-2214;
- 88 (u) Section 59-12-2215;
- 89 (v) Section 59-12-2216;
- 90 (w) Section 59-12-2217;
- 91 (x) Section 59-12-2218;
- 92 (y) Section 59-12-2219; or
- 93 (z) Section 59-12-2220.
- 94 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 95 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 96 (a) except for:
- 97 (i) an airline as defined in Section 59-2-102; or
- 98 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"

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

- 133 (iv) oil sands;
- 134 (v) oil shale;
- 135 (vi) petroleum coke; or
- 136 (vii) waste heat from:
- 137 (A) an industrial facility; or
- 138 (B) a power station in which an electric generator is driven through a process in
- 139 which water is heated, turns into steam, and spins a steam turbine.
- 140 (12)(a) Subject to Subsection (12)(b), "alternative energy electricity production facility"
- 141 means a facility that:
- 142 (i) uses alternative energy to produce electricity; and
- 143 (ii) has a production capacity of two megawatts or greater.
- 144 (b) A facility is an alternative energy electricity production facility regardless of whether
- 145 the facility is:
- 146 (i) connected to an electric grid; or
- 147 (ii) located on the premises of an electricity consumer.
- 148 (13)(a) "Ancillary service" means a service associated with, or incidental to, the
- 149 provision of telecommunications service.
- 150 (b) "Ancillary service" includes:
- 151 (i) a conference bridging service;
- 152 (ii) a detailed communications billing service;
- 153 (iii) directory assistance;
- 154 (iv) a vertical service; or
- 155 (v) a voice mail service.
- 156 (14) "Area agency on aging" means the same as that term is defined in Section 26B-6-101.
- 157 (15) "Assisted amusement device" means an amusement device, skill device, or ride device
- 158 that is started and stopped by an individual:
- 159 (a) who is not the purchaser or renter of the right to use or operate the amusement
- 160 device, skill device, or ride device; and
- 161 (b) at the direction of the seller of the right to use the amusement device, skill device, or
- 162 ride device.
- 163 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or
- 164 washing of tangible personal property if the cleaning or washing labor is primarily
- 165 performed by an individual:
- 166 (a) who is not the purchaser of the cleaning or washing of the tangible personal property;

- 167 and
- 168 (b) at the direction of the seller of the cleaning or washing of the tangible personal
- 169 property.
- 170 (17) "Authorized carrier" means:
- 171 (a) in the case of vehicles operated over public highways, the holder of credentials
- 172 indicating that the vehicle is or will be operated pursuant to both the International
- 173 Registration Plan and the International Fuel Tax Agreement;
- 174 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
- 175 certificate or air carrier's operating certificate; or
- 176 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
- 177 stock, a person who uses locomotives, freight cars, railroad work equipment, or other
- 178 rolling stock in more than one state.
- 179 (18)(a) "Biomass energy" means any of the following that is used as the primary source
- 180 of energy to produce fuel or electricity:
- 181 (i) material from a plant or tree; or
- 182 (ii) other organic matter that is available on a renewable basis, including:
- 183 (A) slash and brush from forests and woodlands;
- 184 (B) animal waste;
- 185 (C) waste vegetable oil;
- 186 (D) methane or synthetic gas produced at a landfill, as a byproduct of the
- 187 treatment of wastewater residuals, or through the conversion of a waste
- 188 material through a nonincineration, thermal conversion process;
- 189 (E) aquatic plants; and
- 190 (F) agricultural products.
- 191 (b) "Biomass energy" does not include:
- 192 (i) black liquor; or
- 193 (ii) treated woods.
- 194 (19)(a) "Bundled transaction" means the sale of two or more items of tangible personal
- 195 property, products, or services if the tangible personal property, products, or services
- 196 are:
- 197 (i) distinct and identifiable; and
- 198 (ii) sold for one nonitemized price.
- 199 (b) "Bundled transaction" does not include:
- 200 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on

- 201 the basis of the selection by the purchaser of the items of tangible personal
202 property included in the transaction;
- 203 (ii) the sale of real property;
- 204 (iii) the sale of services to real property;
- 205 (iv) the retail sale of tangible personal property and a service if:
- 206 (A) the tangible personal property:
- 207 (I) is essential to the use of the service; and
- 208 (II) is provided exclusively in connection with the service; and
- 209 (B) the service is the true object of the transaction;
- 210 (v) the retail sale of two services if:
- 211 (A) one service is provided that is essential to the use or receipt of a second
212 service;
- 213 (B) the first service is provided exclusively in connection with the second service;
214 and
- 215 (C) the second service is the true object of the transaction;
- 216 (vi) a transaction that includes tangible personal property or a product subject to
217 taxation under this chapter and tangible personal property or a product that is not
218 subject to taxation under this chapter if the:
- 219 (A) seller's purchase price of the tangible personal property or product subject to
220 taxation under this chapter is de minimis; or
- 221 (B) seller's sales price of the tangible personal property or product subject to
222 taxation under this chapter is de minimis; and
- 223 (vii) the retail sale of tangible personal property that is not subject to taxation under
224 this chapter and tangible personal property that is subject to taxation under this
225 chapter if:
- 226 (A) that retail sale includes:
- 227 (I) food and food ingredients;
- 228 (II) a drug;
- 229 (III) durable medical equipment;
- 230 (IV) mobility enhancing equipment;
- 231 (V) an over-the-counter drug;
- 232 (VI) a prosthetic device; or
- 233 (VII) a medical supply; and
- 234 (B) subject to Subsection (19)(f):

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

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

- 303 (b) determines the amount of agreement sales and use tax to remit to a state that is a
304 member of the agreement; and
- 305 (c) maintains a record of the transaction described in Subsection (22)(a)(i).
- 306 (23) "Certified service provider" means an agent certified:
- 307 (a) by the governing board of the agreement; and
- 308 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as
309 outlined in the contract between the governing board of the agreement and the
310 certified service provider, other than the seller's obligation under Section 59-12-124
311 to remit a tax on the seller's own purchases.
- 312 (24)(a) Subject to Subsection (24)(b), "clothing" means all human wearing apparel
313 suitable for general use.
- 314 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
315 commission shall make rules:
- 316 (i) listing the items that constitute "clothing"; and
- 317 (ii) that are consistent with the list of items that constitute "clothing" under the
318 agreement.
- 319 (25) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- 320 (26) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels
321 that does not constitute industrial use under Subsection (60) or residential use under
322 Subsection (115).
- 323 (27)(a) "Common carrier" means a person engaged in or transacting the business of
324 transporting passengers, freight, merchandise, or other property for hire within this
325 state.
- 326 (b)(i) "Common carrier" does not include a person that, at the time the person is
327 traveling to or from that person's place of employment, transports a passenger to
328 or from the passenger's place of employment.
- 329 (ii) For purposes of Subsection (27)(b)(i), in accordance with Title 63G, Chapter 3,
330 Utah Administrative Rulemaking Act, the commission may make rules defining
331 what constitutes a person's place of employment.
- 332 (c) "Common carrier" does not include a person that provides transportation network
333 services, as defined in Section 13-51-102.
- 334 (28) "Component part" includes:
- 335 (a) poultry, dairy, and other livestock feed, and their components;
- 336 (b) baling ties and twine used in the baling of hay and straw;

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

340 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

364 (i) by a seller of:

365 (A) tangible personal property;

366 (B) a product transferred electronically; or

367 (C) a service; and

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

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

- 405 (i) identifiable by the "Supplemental Facts" box found on the label; and
406 (ii) as required by 21 C.F.R. Sec. 101.36.
- 407 (38)(a) "Digital audio work" means a work that results from the fixation of a series of
408 musical, spoken, or other sounds.
- 409 (b) "Digital audio work" includes a ringtone.
- 410 (39) "Digital audio-visual work" means a series of related images which, when shown in
411 succession, imparts an impression of motion, together with accompanying sounds, if any.
- 412 (40) "Digital book" means a work that is generally recognized in the ordinary and usual
413 sense as a book.
- 414 (41)(a) "Direct mail" means printed material delivered or distributed by United States
415 mail or other delivery service:
- 416 (i) to:
- 417 (A) a mass audience; or
418 (B) addressees on a mailing list provided:
419 (I) by a purchaser of the mailing list; or
420 (II) at the discretion of the purchaser of the mailing list; and
421 (ii) if the cost of the printed material is not billed directly to the recipients.
- 422 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
423 purchaser to a seller of direct mail for inclusion in a package containing the printed
424 material.
- 425 (c) "Direct mail" does not include multiple items of printed material delivered to a single
426 address.
- 427 (42) "Directory assistance" means an ancillary service of providing:
- 428 (a) address information; or
429 (b) telephone number information.
- 430 (43)(a) "Disposable home medical equipment or supplies" means medical equipment or
431 supplies that:
- 432 (i) cannot withstand repeated use; and
433 (ii) are purchased by, for, or on behalf of a person other than:
434 (A) a health care facility as defined in Section 26B-2-201;
435 (B) a health care provider as defined in Section 78B-3-403;
436 (C) an office of a health care provider described in Subsection (43)(a)(ii)(B); or
437 (D) a person similar to a person described in Subsections (43)(a)(ii)(A) through
438 (C).

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

- 473 (B) any function of the body.
- 474 (b) "Drug" does not include:
- 475 (i) food and food ingredients;
- 476 (ii) a dietary supplement;
- 477 (iii) an alcoholic beverage; or
- 478 (iv) a prosthetic device.
- 479 (46)(a) "Durable medical equipment" means equipment that:
- 480 (i) can withstand repeated use;
- 481 (ii) is primarily and customarily used to serve a medical purpose;
- 482 (iii) generally is not useful to a person in the absence of illness or injury; and
- 483 (iv) is not worn in or on the body.
- 484 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 485 equipment described in Subsection (46)(a).
- 486 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 487 (47) "Electronic" means:
- 488 (a) relating to technology; and
- 489 (b) having:
- 490 (i) electrical capabilities;
- 491 (ii) digital capabilities;
- 492 (iii) magnetic capabilities;
- 493 (iv) wireless capabilities;
- 494 (v) optical capabilities;
- 495 (vi) electromagnetic capabilities; or
- 496 (vii) capabilities similar to Subsections (47)(b)(i) through (vi).
- 497 (48) "Electronic financial payment service" means an establishment:
- 498 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 499 Clearinghouse Activities, of the 2012 North American Industry Classification System
- 500 of the federal Executive Office of the President, Office of Management and Budget;
- 501 and
- 502 (b) that performs electronic financial payment services.
- 503 (49) "Employee" means the same as that term is defined in Section 59-10-401.
- 504 (50) "Fixed guideway" means a public transit facility that uses and occupies:
- 505 (a) rail for the use of public transit; or
- 506 (b) a separate right-of-way for the use of public transit.

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

- 541 (i) that is conducted in accordance with a formal policy adopted by the school or
542 school district governing the authorization and supervision of fundraising
543 activities;
- 544 (ii) that does not directly or indirectly compensate an individual teacher or other
545 educational personnel by direct payment, commissions, or payment in kind; and
- 546 (iii) the net or gross revenue from which is deposited in a dedicated account
547 controlled by the school or school district.
- 548 (55) "Geothermal energy" means energy contained in heat that continuously flows outward
549 from the earth that is used as the sole source of energy to produce electricity.
- 550 (56) "Governing board of the agreement" means the governing board of the agreement that
551 is:
- 552 (a) authorized to administer the agreement; and
553 (b) established in accordance with the agreement.
- 554 (57)(a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
- 555 (i) the executive branch of the state, including all departments, institutions, boards,
556 divisions, bureaus, offices, commissions, and committees;
- 557 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
558 Administrative Office of the Courts, and similar administrative units in the
559 judicial branch;
- 560 (iii) the legislative branch of the state, including the House of Representatives, the
561 Senate, the Legislative Printing Office, the Office of Legislative Research and
562 General Counsel, the Office of the Legislative Auditor General, and the Office of
563 the Legislative Fiscal Analyst;
- 564 (iv) the National Guard;
- 565 (v) an independent entity as defined in Section 63E-1-102; or
566 (vi) a political subdivision as defined in Section 17B-1-102.
- 567 (b) "Governmental entity" does not include the state systems of public and higher
568 education, including:
- 569 (i) a school;
- 570 (ii) the State Board of Education;
- 571 (iii) the Utah Board of Higher Education; or
572 (iv) an institution of higher education described in Section 53B-1-102.
- 573 (58) "Hydroelectric energy" means water used as the sole source of energy to produce
574 electricity.

- 575 (59) "Individual-owned shared vehicle" means the same as that term is defined in Section
576 13-48a-101.
- 577 (60) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other
578 fuels:
- 579 (a) in mining or extraction of minerals;
- 580 (b) in agricultural operations to produce an agricultural product up to the time of harvest
581 or placing the agricultural product into a storage facility, including:
- 582 (i) commercial greenhouses;
- 583 (ii) irrigation pumps;
- 584 (iii) farm machinery;
- 585 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
586 under Title 41, Chapter 1a, Part 2, Registration; and
- 587 (v) other farming activities;
- 588 (c) in manufacturing tangible personal property at an establishment described in:
- 589 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
590 the federal Executive Office of the President, Office of Management and Budget;
591 or
- 592 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
593 American Industry Classification System of the federal Executive Office of the
594 President, Office of Management and Budget;
- 595 (d) by a scrap recycler if:
- 596 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to
597 process one or more of the following items into prepared grades of processed
598 materials for use in new products:
- 599 (A) iron;
- 600 (B) steel;
- 601 (C) nonferrous metal;
- 602 (D) paper;
- 603 (E) glass;
- 604 (F) plastic;
- 605 (G) textile; or
- 606 (H) rubber; and
- 607 (ii) the new products under Subsection (60)(d)(i) would otherwise be made with
608 nonrecycled materials; or

- 609 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
610 cogeneration facility as defined in Section 54-2-1.
- 611 (61)(a) "Installation charge" means a charge for installing:
612 (i) tangible personal property; or
613 (ii) a product transferred electronically.
- 614 (b) "Installation charge" does not include a charge for:
615 (i) repairs or renovations of:
616 (A) tangible personal property; or
617 (B) a product transferred electronically; or
618 (ii) attaching tangible personal property or a product transferred electronically:
619 (A) to other tangible personal property; and
620 (B) as part of a manufacturing or fabrication process.
- 621 (62) "Institution of higher education" means an institution of higher education listed in
622 Section 53B-2-101.
- 623 (63)(a) "Lease" or "rental" means a transfer of possession or control of tangible personal
624 property or a product transferred electronically for:
625 (i)(A) a fixed term; or
626 (B) an indeterminate term; and
627 (ii) consideration.
- 628 (b) "Lease" or "rental" includes:
629 (i) an agreement covering a motor vehicle and trailer if the amount of consideration
630 may be increased or decreased by reference to the amount realized upon sale or
631 disposition of the property as defined in Section 7701(h)(1), Internal Revenue
632 Code; and
633 (ii) car sharing.
- 634 (c) "Lease" or "rental" does not include:
635 (i) a transfer of possession or control of property under a security agreement or
636 deferred payment plan that requires the transfer of title upon completion of the
637 required payments;
638 (ii) a transfer of possession or control of property under an agreement that requires
639 the transfer of title:
640 (A) upon completion of required payments; and
641 (B) if the payment of an option price does not exceed the greater of:
642 (I) \$100; or

- 643 (II) 1% of the total required payments; or
- 644 (iii) providing tangible personal property along with an operator for a fixed period of
- 645 time or an indeterminate period of time if the operator is necessary for equipment
- 646 to perform as designed.
- 647 (d) For purposes of Subsection (63)(c)(iii), an operator is necessary for equipment to
- 648 perform as designed if the operator's duties exceed the:
- 649 (i) set-up of tangible personal property;
- 650 (ii) maintenance of tangible personal property; or
- 651 (iii) inspection of tangible personal property.
- 652 (64) "Lesson" means a fixed period of time for the duration of which a trained instructor:
- 653 (a) is present with a student in person or by video; and
- 654 (b) actively instructs the student, including by providing observation or feedback.
- 655 (65) "Life science establishment" means an establishment in this state that is classified
- 656 under the following NAICS codes of the 2007 North American Industry Classification
- 657 System of the federal Executive Office of the President, Office of Management and
- 658 Budget:
- 659 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 660 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
- 661 Manufacturing; or
- 662 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 663 (66) "Life science research and development facility" means a facility owned, leased, or
- 664 rented by a life science establishment if research and development is performed in 51%
- 665 or more of the total area of the facility.
- 666 (67) "Load and leave" means delivery to a purchaser by use of a tangible storage media if
- 667 the tangible storage media is not physically transferred to the purchaser.
- 668 (68) "Local taxing jurisdiction" means a:
- 669 (a) county that is authorized to impose an agreement sales and use tax;
- 670 (b) city that is authorized to impose an agreement sales and use tax; or
- 671 (c) town that is authorized to impose an agreement sales and use tax.
- 672 (69) "Manufactured home" means the same as that term is defined in Section 15A-1-302.
- 673 (70) "Manufacturing facility" means:
- 674 (a) an establishment described in:
- 675 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 676 the federal Executive Office of the President, Office of Management and Budget;

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

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

- 745 property, a product transferred electronically, or a service, regardless of
746 ownership or control of the tangible personal property, the product transferred
747 electronically, or the service that is the subject of the retail sale;
- 748 (D) through terms and conditions, an agreement, or another arrangement with a
749 third person, collects payment from a purchase for a retail sale of tangible
750 personal property, a product transferred electronically, or a service and
751 transmits that payment to the marketplace seller, regardless of whether the
752 third person receives compensation or other consideration in exchange for the
753 service; or
- 754 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
755 property, a product transferred electronically, or service offered for sale.
- 756 (b) "Marketplace facilitator" does not include:
- 757 (i) a person that only provides payment processing services; or
758 (ii) a person described in Subsection (72)(a) to the extent the person is facilitating a
759 sale for a seller that is a restaurant as defined in Section 59-12-602.
- 760 (73) "Marketplace seller" means a seller that makes one or more retail sales through a
761 marketplace that a marketplace facilitator owns, operates, or controls, regardless of
762 whether the seller is required to be registered to collect and remit the tax under this part.
- 763 (74) "Member of the immediate family of the producer" means a person who is related to a
764 producer described in Subsection 59-12-104(20)(a) as a:
- 765 (a) child or stepchild, regardless of whether the child or stepchild is:
- 766 (i) an adopted child or adopted stepchild; or
767 (ii) a foster child or foster stepchild;
- 768 (b) grandchild or stepgrandchild;
- 769 (c) grandparent or stepgrandparent;
- 770 (d) nephew or stepnephew;
- 771 (e) niece or stepniece;
- 772 (f) parent or stepparent;
- 773 (g) sibling or stepsibling;
- 774 (h) spouse;
- 775 (i) person who is the spouse of a person described in Subsections (74)(a) through (g); or
776 (j) person similar to a person described in Subsections (74)(a) through (i) as determined
777 by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
778 Administrative Rulemaking Act.

- 779 (75) "Mobile home" means the same as that term is defined in Section 15A-1-302.
- 780 (76) "Mobile telecommunications service" means the same as that term is defined in the
781 Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 782 (77)(a) "Mobile wireless service" means a telecommunications service, regardless of the
783 technology used, if:
- 784 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 785 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 786 (iii) the origination point described in Subsection (77)(a)(i) and the termination point
787 described in Subsection (77)(a)(ii) are not fixed.
- 788 (b) "Mobile wireless service" includes a telecommunications service that is provided by
789 a commercial mobile radio service provider.
- 790 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
791 commission may by rule define "commercial mobile radio service provider."
- 792 (78)(a) "Mobility enhancing equipment" means equipment that is:
- 793 (i) primarily and customarily used to provide or increase the ability to move from one
794 place to another;
- 795 (ii) appropriate for use in a:
- 796 (A) home; or
- 797 (B) motor vehicle; and
- 798 (iii) not generally used by persons with normal mobility.
- 799 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
800 the equipment described in Subsection (78)(a).
- 801 (c) "Mobility enhancing equipment" does not include:
- 802 (i) a motor vehicle;
- 803 (ii) equipment on a motor vehicle if that equipment is normally provided by the
804 motor vehicle manufacturer;
- 805 (iii) durable medical equipment; or
- 806 (iv) a prosthetic device.
- 807 (79) "Model 1 seller" means a seller registered under the agreement that has selected a
808 certified service provider as the seller's agent to perform the seller's sales and use tax
809 functions for agreement sales and use taxes, as outlined in the contract between the
810 governing board of the agreement and the certified service provider, other than the
811 seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.
- 812 (80) "Model 2 seller" means a seller registered under the agreement that:

- 813 (a) except as provided in Subsection (80)(b), has selected a certified automated system
814 to perform the seller's sales tax functions for agreement sales and use taxes; and
815 (b) retains responsibility for remitting all of the sales tax:
816 (i) collected by the seller; and
817 (ii) to the appropriate local taxing jurisdiction.
- 818 (81)(a) Subject to Subsection (81)(b), "model 3 seller" means a seller registered under
819 the agreement that has:
820 (i) sales in at least five states that are members of the agreement;
821 (ii) total annual sales revenue of at least \$500,000,000;
822 (iii) a proprietary system that calculates the amount of tax:
823 (A) for an agreement sales and use tax; and
824 (B) due to each local taxing jurisdiction; and
825 (iv) entered into a performance agreement with the governing board of the agreement.
- 826 (b) For purposes of Subsection (81)(a), "model 3 seller" includes an affiliated group of
827 sellers using the same proprietary system.
- 828 (82) "Model 4 seller" means a seller that is registered under the agreement and is not a
829 model 1 seller, model 2 seller, or model 3 seller.
- 830 (83) "Modular home" means a modular unit as defined in Section 15A-1-302.
- 831 (84) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.
- 832 (85) "Oil sands" means impregnated bituminous sands that:
833 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
834 other hydrocarbons, or otherwise treated;
835 (b) yield mixtures of liquid hydrocarbon; and
836 (c) require further processing other than mechanical blending before becoming finished
837 petroleum products.
- 838 (86) "Oil shale" means a group of fine black to dark brown shales containing kerogen
839 material that yields petroleum upon heating and distillation.
- 840 (87) "Optional computer software maintenance contract" means a computer software
841 maintenance contract that a customer is not obligated to purchase as a condition to the
842 retail sale of computer software.
- 843 (88)(a) "Other fuels" means products that burn independently to produce heat or energy.
844 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
845 personal property.
- 846 (89)(a) "Paging service" means a telecommunications service that provides transmission

- 847 of a coded radio signal for the purpose of activating a specific pager.
- 848 (b) For purposes of Subsection (89)(a), the transmission of a coded radio signal includes
849 a transmission by message or sound.
- 850 (90) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.
- 851 (91) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.
- 852 (92)(a) "Permanently attached to real property" means that for tangible personal property
853 attached to real property:
- 854 (i) the attachment of the tangible personal property to the real property:
- 855 (A) is essential to the use of the tangible personal property; and
- 856 (B) suggests that the tangible personal property will remain attached to the real
857 property in the same place over the useful life of the tangible personal
858 property; or
- 859 (ii) if the tangible personal property is detached from the real property, the
860 detachment would:
- 861 (A) cause substantial damage to the tangible personal property; or
- 862 (B) require substantial alteration or repair of the real property to which the
863 tangible personal property is attached.
- 864 (b) "Permanently attached to real property" includes:
- 865 (i) the attachment of an accessory to the tangible personal property if the accessory is:
866 (A) essential to the operation of the tangible personal property; and
867 (B) attached only to facilitate the operation of the tangible personal property;
- 868 (ii) a temporary detachment of tangible personal property from real property for a
869 repair or renovation if the repair or renovation is performed where the tangible
870 personal property and real property are located; or
- 871 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
872 Subsection (92)(c)(iii) or (iv).
- 873 (c) "Permanently attached to real property" does not include:
- 874 (i) the attachment of portable or movable tangible personal property to real property
875 if that portable or movable tangible personal property is attached to real property
876 only for:
- 877 (A) convenience;
- 878 (B) stability; or
- 879 (C) for an obvious temporary purpose;
- 880 (ii) the detachment of tangible personal property from real property except for the

- 881 detachment described in Subsection (92)(b)(ii);
- 882 (iii) an attachment of the following tangible personal property to real property if the
883 attachment to real property is only through a line that supplies water, electricity,
884 gas, telecommunications, cable, or supplies a similar item as determined by the
885 commission by rule made in accordance with Title 63G, Chapter 3, Utah
886 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)
891 as determined by the commission by rule made in accordance with Title 63G,
892 Chapter 3, Utah Administrative Rulemaking Act; or
- 893 (iv) an item listed in Subsection (137)(c).
- 894 (93) "Person" includes any individual, firm, partnership, joint venture, association,
895 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
896 municipality, district, or other local governmental entity of the state, or any group or
897 combination acting as a unit.
- 898 (94) "Place of primary use":
- 899 (a) for telecommunications service other than mobile telecommunications service,
900 means the street address representative of where the customer's use of the
901 telecommunications service primarily occurs, which shall be:
- 902 (i) the residential street address of the customer; or
- 903 (ii) the primary business street address of the customer; or
- 904 (b) for mobile telecommunications service, means the same as that term is defined in the
905 Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 906 (95)(a) "Postpaid calling service" means a telecommunications service a person obtains
907 by making a payment on a call-by-call basis:
- 908 (i) through the use of a:
- 909 (A) bank card;
- 910 (B) credit card;
- 911 (C) debit card; or
- 912 (D) travel card; or
- 913 (ii) by a charge made to a telephone number that is not associated with the origination
914 or termination of the telecommunications service.

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

- 949 (d) sold in predetermined units or dollars that decline:
- 950 (i) by a known amount; and
- 951 (ii) with use.
- 952 (99)(a) "Prepared food" means:
- 953 (i) food:
- 954 (A) sold in a heated state; or
- 955 (B) heated by a seller;
- 956 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 957 item; or
- 958 (iii) except as provided in Subsection (99)(c), food sold with an eating utensil
- 959 provided by the seller, including a:
- 960 (A) plate;
- 961 (B) knife;
- 962 (C) fork;
- 963 (D) spoon;
- 964 (E) glass;
- 965 (F) cup;
- 966 (G) napkin; or
- 967 (H) straw.
- 968 (b) "Prepared food" does not include:
- 969 (i) food that a seller only:
- 970 (A) cuts;
- 971 (B) repackages; or
- 972 (C) pasteurizes;
- 973 (ii)(A) the following:
- 974 (I) raw egg;
- 975 (II) raw fish;
- 976 (III) raw meat;
- 977 (IV) raw poultry; or
- 978 (V) a food containing an item described in Subsections (99)(b)(ii)(A)(I)
- 979 through (IV); and
- 980 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of
- 981 the Food and Drug Administration's Food Code that a consumer cook the items
- 982 described in Subsection (99)(b)(ii)(A) to prevent food borne illness; or

- 983 (iii) the following if sold without eating utensils provided by the seller:
- 984 (A) food and food ingredients sold by a seller if the seller's proper primary
- 985 classification under the 2002 North American Industry Classification System
- 986 of the federal Executive Office of the President, Office of Management and
- 987 Budget, is manufacturing in Sector 311, Food Manufacturing, except for
- 988 Subsector 3118, Bakeries and Tortilla Manufacturing;
- 989 (B) food and food ingredients sold in an unheated state:
- 990 (I) by weight or volume; and
- 991 (II) as a single item; or
- 992 (C) a bakery item, including:
- 993 (I) a bagel;
- 994 (II) a bar;
- 995 (III) a biscuit;
- 996 (IV) bread;
- 997 (V) a bun;
- 998 (VI) a cake;
- 999 (VII) a cookie;
- 1000 (VIII) a croissant;
- 1001 (IX) a danish;
- 1002 (X) a donut;
- 1003 (XI) a muffin;
- 1004 (XII) a pastry;
- 1005 (XIII) a pie;
- 1006 (XIV) a roll;
- 1007 (XV) a tart;
- 1008 (XVI) a torte; or
- 1009 (XVII) a tortilla.
- 1010 (c) An eating utensil provided by the seller does not include the following used to
- 1011 transport the food:
- 1012 (i) a container; or
- 1013 (ii) packaging.
- 1014 (100) "Prescription" means an order, formula, or recipe that is issued:
- 1015 (a)(i) orally;
- 1016 (ii) in writing;

- 1017 (iii) electronically; or
- 1018 (iv) by any other manner of transmission; and
- 1019 (b) by a licensed practitioner authorized by the laws of a state.
- 1020 (101)(a) "Prewritten computer software" means computer software that is not designed
- 1021 and developed:
- 1022 (i) by the author or other creator of the computer software; and
- 1023 (ii) to the specifications of a specific purchaser.
- 1024 (b) "Prewritten computer software" includes:
- 1025 (i) a prewritten upgrade to computer software if the prewritten upgrade to the
- 1026 computer software is not designed and developed:
- 1027 (A) by the author or other creator of the computer software; and
- 1028 (B) to the specifications of a specific purchaser;
- 1029 (ii) computer software designed and developed by the author or other creator of the
- 1030 computer software to the specifications of a specific purchaser if the computer
- 1031 software is sold to a person other than the purchaser; or
- 1032 (iii) except as provided in Subsection (101)(c), prewritten computer software or a
- 1033 prewritten portion of prewritten computer software:
- 1034 (A) that is modified or enhanced to any degree; and
- 1035 (B) if the modification or enhancement described in Subsection (101)(b)(iii)(A) is
- 1036 designed and developed to the specifications of a specific purchaser.
- 1037 (c) "Prewritten computer software" does not include a modification or enhancement
- 1038 described in Subsection (101)(b)(iii) if the charges for the modification or
- 1039 enhancement are:
- 1040 (i) reasonable; and
- 1041 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the
- 1042 invoice or other statement of price provided to the purchaser at the time of sale or
- 1043 later, as demonstrated by:
- 1044 (A) the books and records the seller keeps at the time of the transaction in the
- 1045 regular course of business, including books and records the seller keeps at the
- 1046 time of the transaction in the regular course of business for nontax purposes;
- 1047 (B) a preponderance of the facts and circumstances at the time of the transaction;
- 1048 and
- 1049 (C) the understanding of all of the parties to the transaction.
- 1050 (102)(a) "Private communications service" means a telecommunications service:

- 1051 (i) that entitles a customer to exclusive or priority use of one or more
 1052 communications channels between or among termination points; and
 1053 (ii) regardless of the manner in which the one or more communications channels are
 1054 connected.
- 1055 (b) "Private communications service" includes the following provided in connection
 1056 with the use of one or more communications channels:
 1057 (i) an extension line;
 1058 (ii) a station;
 1059 (iii) switching capacity; or
 1060 (iv) another associated service that is provided in connection with the use of one or
 1061 more communications channels as defined in Section 59-12-215.
- 1062 (103)(a) "Product transferred electronically" means a product transferred electronically
 1063 that would be subject to a tax under this chapter if that product was transferred in a
 1064 manner other than electronically.
- 1065 (b) "Product transferred electronically" does not include:
 1066 (i) an ancillary service;
 1067 (ii) computer software; or
 1068 (iii) a telecommunications service.
- 1069 (104)(a) "Prosthetic device" means a device that is worn on or in the body to:
 1070 (i) artificially replace a missing portion of the body;
 1071 (ii) prevent or correct a physical deformity or physical malfunction; or
 1072 (iii) support a weak or deformed portion of the body.
- 1073 (b) "Prosthetic device" includes:
 1074 (i) parts used in the repairs or renovation of a prosthetic device;
 1075 (ii) replacement parts for a prosthetic device;
 1076 (iii) a dental prosthesis; ~~or~~
 1077 (iv) a hearing aid[-] ;
 1078 (v) corrective eyeglasses; or
 1079 (vi) contact lenses.
- 1080 ~~[(e) "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
- 1091 commission shall make rules:
- 1092 (i) listing the items that constitute "protective equipment"; and
- 1093 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1094 under the agreement.
- 1095 (106)(a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 1096 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
- 1106 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
- 1110 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
- 1116 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
- 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
- 1128 purchaser; and
- 1129 (II) the consideration described in Subsection (107)(b)(iv)(A)(I) is directly
- 1130 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
- 1132 the purchaser;
- 1133 (C) the amount of the consideration attributable to the sale is fixed and
- 1134 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
- 1136 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
- 1138 certificate, coupon, or other documentation with the understanding that
- 1139 the person other than the seller will reimburse any seller to whom the
- 1140 certificate, coupon, or other documentation is presented;
- 1141 (II) the purchaser identifies that purchaser to the seller as a member of a group
- 1142 or organization allowed a price reduction or discount, except that a
- 1143 preferred customer card that is available to any patron of a seller does not
- 1144 constitute membership in a group or organization allowed a price reduction
- 1145 or discount; or
- 1146 (III) the price reduction or discount is identified as a third party price reduction
- 1147 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;
- 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
- 1160 separately stated on an invoice, bill of sale, or similar document provided to the
- 1161 purchaser at the time of sale or later, as demonstrated by the books and records the
- 1162 seller keeps at the time of the transaction in the regular course of business,
- 1163 including books and records the seller keeps at the time of the transaction in the
- 1164 regular course of business for nontax purposes, by a preponderance of the facts
- 1165 and circumstances at the time of the transaction, and by the understanding of all of
- 1166 the parties to the transaction:
- 1167 (A) the following from credit extended on the sale of tangible personal property or
- 1168 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
- 1182 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
1189 operator of the data center facility; and
- 1190 (f) is located on one or more parcels of land that are owned or leased by:
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
1193 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
1197 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
1201 attached to real property; or
1202 (ii) attaching tangible personal property or a product transferred electronically to
1203 other tangible personal property or detaching tangible personal property or a
1204 product transferred electronically from other tangible personal property if:
1205 (A) the other tangible personal property to which the tangible personal property or
1206 product transferred electronically is attached or from which the tangible
1207 personal property or product transferred electronically is detached is not
1208 permanently attached to real property; and
1209 (B) the attachment of tangible personal property or a product transferred
1210 electronically to other tangible personal property or detachment of tangible
1211 personal property or a product transferred electronically from other tangible
1212 personal property is made in conjunction with a repair or replacement of
1213 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
1216 other tangible personal property to which the prewritten computer software is
1217 attached is not permanently attached to real property; or
1218 (ii) detaching prewritten computer software from other tangible personal property if
1219 the other tangible personal property from which the prewritten computer software
1220 is detached is not permanently attached to real property.

- 1221 (113) "Research and development" means the process of inquiry or experimentation aimed
1222 at the discovery of facts, devices, technologies, or applications and the process of
1223 preparing those devices, technologies, or applications for marketing.
- 1224 (114)(a) "Residential telecommunications services" means a telecommunications service
1225 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
1228 service or ancillary service is provided to and paid for by the individual residing at
1229 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
1234 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
1240 United States or federal law, that is engaged in a regularly organized business in
1241 tangible personal property or any other taxable transaction under Subsection
1242 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
1244 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,
1246 in any manner, of tangible personal property or any other taxable transaction under
1247 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
1252 chapter;
1253 (iv) any transaction if the possession of property is transferred but the seller retains
1254 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
1256 tangible personal property is granted under a lease or contract and the transfer of
1257 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
1260 property or a product transferred electronically that is subject to a tax under this chapter
1261 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
1267 purchase of the tangible personal property or product transferred electronically;

1268 (ii) the sale of the tangible personal property or product transferred electronically to
1269 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
1273 purchaser-lessee is required to:

1274 (A) capitalize the tangible personal property or product transferred electronically
1275 for financial reporting purposes; and

1276 (B) account for the lease payments as payments made under a financing
1277 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
1280 amounts charged by a school:

1281 (i) sales that are directly related to the school's educational functions or activities
1282 including:

1283 (A) the sale of:

1284 (I) textbooks;

1285 (II) textbook fees;

1286 (III) laboratory fees;

1287 (IV) laboratory supplies; or

1288 (V) safety equipment;

- 1289 (B) the sale of a uniform, protective equipment, or sports or recreational
 1290 equipment that:
- 1291 (I) a student is specifically required to wear as a condition of participation in a
 1292 school-related event or school-related activity; and
- 1293 (II) is not readily adaptable to general or continued usage to the extent that it
 1294 takes the place of ordinary clothing;
- 1295 (C) sales of the following if the net or gross revenue generated by the sales is
 1296 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
 1301 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
 1310 school-related event or school-related activity if the amounts paid or charged are
 1311 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
 1315 a private school to organize and direct a competitive secondary school
 1316 activity; or
- 1317 (III) nonprofit association authorized by a school board or a governing body of
 1318 a private school to organize and direct a competitive secondary school
 1319 activity; and
- 1320 (B) that is required to collect sales and use taxes under this chapter.
- 1321 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 1322 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"
- 1336 means tangible personal property or a product transferred electronically if the
- 1337 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
- 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"
- 1353 includes:
- 1354 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1355 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
- 1363 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"
- 1368 means tangible personal property that:
- 1369 (i) a business that provides accommodations and services described in Subsection
- 1370 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations
- 1371 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
- 1376 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;
- 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
1404 may provide by rule made in accordance with Title 63G, Chapter 3, Utah
1405 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
1408 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.
- 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
1416 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

- 1425 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
- 1428 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
- 1431 taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
- 1432 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:
- 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
- 1447 computer software is transferred.
- 1448 (c) "Tangible personal property" includes the following regardless of whether the item is
- 1449 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
- 1458 commission by rule made in accordance with Title 63G, Chapter 3, Utah

- 1459 Administrative Rulemaking Act.
- 1460 (d) "Tangible personal property" does not include a product that is transferred
1461 electronically.
- 1462 (e) "Tangible personal property" does not include the following if attached to real
1463 property, regardless of whether the attachment to real property is only through a line
1464 that supplies water, electricity, gas, telephone, cable, or supplies a similar item as
1465 determined by the commission by rule made in accordance with Title 63G, Chapter 3,
1466 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
1471 software" means an item listed in Subsection (138)(b) if that item is purchased or
1472 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.
- 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
1483 Subsections (138)(b)(i) through (vi) as determined by the commission by rule
1484 made in accordance with Subsection (138)(c).
- 1485 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1486 commission may by rule define what constitutes equipment, machinery, or software
1487 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"
1489 means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec.
1490 20.18.
- 1491 (140) "Telecommunications maintenance or repair equipment, machinery, or software"
1492 means equipment, machinery, or software purchased or leased primarily to maintain or

1493 repair one or more of the following, regardless of whether the equipment, machinery, or
1494 software is purchased or leased as a spare part or as an upgrade or modification to one or
1495 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
1500 transmission of audio, data, video, voice, or any other information or signal to a
1501 point, or among or between points.

1502 (b) "Telecommunications service" includes:

1503 (i) an electronic conveyance, routing, or transmission with respect to which a
1504 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:

1508 (I) is referred to as voice over Internet protocol service; or

1509 (II) is classified by the Federal Communications Commission as enhanced or
1510 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
- 1532 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;
- 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
- 1548 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
- 1551 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
- 1557 or resale to any person of the telecommunications service.
- 1558 (b) A person described in Subsection (142)(a) is a telecommunications service provider
- 1559 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
1562 manages.
- 1563 (143)(a) "Telecommunications switching or routing equipment, machinery, or software"
1564 means an item listed in Subsection (143)(b) if that item is purchased or leased
1565 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):
- 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
1581 Subsections (143)(b)(i) through (ix) as determined by the commission by rule
1582 made in accordance with Subsection (143)(c).
- 1583 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1584 commission may by rule define what constitutes equipment, machinery, or software
1585 that functions similarly to an item listed in Subsections (143)(b)(i) through (ix).
- 1586 (144)(a) "Telecommunications transmission equipment, machinery, or software" means
1587 an item listed in Subsection (144)(b) if that item is purchased or leased primarily for
1588 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;
- 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
- 1620 Subsections (144)(b)(i) through (xxv) as determined by the commission by rule
- 1621 made in accordance with Subsection (144)(c).
- 1622 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1623 commission may by rule define what constitutes equipment, machinery, or software
- 1624 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
- 1626 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:
- 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
- 1637 device that is started and stopped by the purchaser or renter of the right to use or operate
- 1638 the amusement device, skill device, or ride device.
- 1639 (148)(a) "Use" means the exercise of any right or power over tangible personal property,
- 1640 a product transferred electronically, or a service under Subsection 59-12-103(1),
- 1641 incident to the ownership or the leasing of that tangible personal property, product
- 1642 transferred electronically, or service.
- 1643 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
- 1644 property, a product transferred electronically, or a service in the regular course of
- 1645 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
- 1648 computer processing application is used to act primarily for a purpose other than
- 1649 conveyance, routing, or transmission; and
- 1650 (b) with respect to which a computer processing application is used to act on data or
- 1651 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
- 1657 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:

- 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
1669 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
1676 conference bridging service.
- 1677 (153)(a) "Voice mail service" means an ancillary service that enables a customer to
1678 receive, send, or store a recorded message.
- 1679 (b) "Voice mail service" does not include a vertical service that a customer is required to
1680 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
1683 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:
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
1695 location by the United States Postal Service.

1696 Section 2. **Effective Date.**

1697 This bill takes effect on July 1, 2025.