

Local Sales Tax Modifications

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christine F. Watkins

Senate Sponsor:

LONG TITLE**General Description:**

This bill modifies local sales and use tax provisions.

Highlighted Provisions:

This bill:

- defines terms;
- allows certain municipalities to impose a local option sales and use tax for purposes of funding infrastructure improvements for the municipality's local law enforcement agency;
- requires a municipality's legislative body to hold a public hearing before approving the tax;
- requires a municipality to deposit tax revenue into a special revenue fund that is separate from the municipality's general fund;
- provides for the reauthorization of a tax at the end of the levy period;
- addresses the administration and collection of the tax;
- allows the State Tax Commission to retain an administrative charge from collected tax revenue; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-12-102 (Effective 05/06/26) (Superseded 07/01/26), as last amended by Laws of Utah 2025, First Special Session, Chapters 9, 12

59-12-102 (Effective 07/01/26), as last amended by Laws of Utah 2025, First Special Session, Chapters 9, 12

ENACTS:

59-12-2501 (Effective 05/06/26), Utah Code Annotated 1953

59-12-2502 (Effective 05/06/26), Utah Code Annotated 1953

59-12-2503 (Effective 05/06/26), Utah Code Annotated 1953

59-12-2504 (Effective 05/06/26), Utah Code Annotated 1953

59-12-2505 (Effective 05/06/26), Utah Code Annotated 1953

59-12-2506 (Effective 05/06/26), Utah Code Annotated 1953

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

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

59-12-102 (Effective 05/06/26) (Superseded 07/01/26). Definitions.

As used in this chapter:

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

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

(b) is typically marketed:

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

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

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

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

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

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

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

(i) a subscriber purchases;

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

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

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

(i) a collection service a seller of a telecommunications service provides to a

- 65 subscriber; or
- 66 (ii) the following a subscriber sells to the subscriber's customer:
- 67 (A) a product; or
- 68 (B) a service.
- 69 (3)(a) "Adaptive driving equipment" means mobility enhancing equipment:
- 70 (i) to be installed in a motor vehicle; and
- 71 (ii) regardless of who provides the equipment or parts.
- 72 (b) "Adaptive driving equipment" includes:
- 73 (i) a wheelchair or scooter lift;
- 74 (ii) equipment to secure a wheelchair;
- 75 (iii) a swivel seat;
- 76 (iv) a hand or foot control; and
- 77 (v) a steering aid.
- 78 (4)(a) "Admission or user fees" includes season passes.
- 79 (b) "Admission or user fees" does not include:
- 80 (i) annual membership dues to private organizations; or
- 81 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
- 82 facility listed in Subsection 59-12-103(1)(f).
- 83 (5) "Affiliate" or "affiliated person" means a person that, with respect to another person:
- 84 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
- 85 person; or
- 86 (b) is related to the other person because a third person, or a group of third persons who
- 87 are affiliated persons with respect to each other, holds an ownership interest of more
- 88 than 5%, whether direct or indirect, in the related persons.
- 89 (6) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 90 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 91 Agreement after November 12, 2002.
- 92 (7) "Agreement combined tax rate" means the sum of the tax rates:
- 93 (a) listed under Subsection (8); and
- 94 (b) that are imposed within a local taxing jurisdiction.
- 95 (8) "Agreement sales and use tax" means a tax imposed under:
- 96 (a) Subsection 59-12-103(2)(a)(i)(A);
- 97 (b) Subsection 59-12-103(2)(b)(i);
- 98 (c) Subsection 59-12-103(2)(c)(i);

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

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

(f) Section 59-12-204;

(g) Section 59-12-401;

(h) Section 59-12-402;

(i) Section 59-12-402.1;

(j) Section 59-12-703;

(k) Section 59-12-802;

(l) Section 59-12-804;

(m) Section 59-12-1102;

(n) Section 59-12-1302;

(o) Section 59-12-1402;

(p) Section 59-12-1802;

(q) Section 59-12-2003;

(r) Section 59-12-2103;

(s) Section 59-12-2213;

(t) Section 59-12-2214;

(u) Section 59-12-2215;

(v) Section 59-12-2216;

(w) Section 59-12-2217;

(x) Section 59-12-2218;

(y) Section 59-12-2219;

(z) Section 59-12-2220;[-or]

(aa) Section 59-12-2402[-] ; or

(bb) Section 59-12-2502.

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

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

(a) except for:

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

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

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

- 133 (i) check, diagnose, overhaul, and repair:
- 134 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 135 (B) the parts that comprise an onboard system of a fixed wing turbine powered
- 136 aircraft;
- 137 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered
- 138 aircraft engine;
- 139 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 140 aircraft:
- 141 (A) an inspection;
- 142 (B) a repair, including a structural repair or modification;
- 143 (C) changing landing gear; and
- 144 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 145 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft
- 146 and completely apply new paint to the fixed wing turbine powered aircraft; and
- 147 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 148 results in a change in the fixed wing turbine powered aircraft's certification
- 149 requirements by the authority that certifies the fixed wing turbine powered aircraft.
- 150 (11) "Alcoholic beverage" means a beverage that:
- 151 (a) is suitable for human consumption; and
- 152 (b) contains .5% or more alcohol by volume.
- 153 (12) "Alternative energy" means:
- 154 (a) biomass energy;
- 155 (b) geothermal energy;
- 156 (c) hydroelectric energy;
- 157 (d) solar energy;
- 158 (e) wind energy; or
- 159 (f) energy that is derived from:
- 160 (i) coal-to-liquids;
- 161 (ii) nuclear fuel;
- 162 (iii) oil-impregnated diatomaceous earth;
- 163 (iv) oil sands;
- 164 (v) oil shale;
- 165 (vi) petroleum coke; or
- 166 (vii) waste heat from:

- 167 (A) an industrial facility; or
- 168 (B) a power station in which an electric generator is driven through a process in
- 169 which water is heated, turns into steam, and spins a steam turbine.
- 170 (13)(a) Subject to Subsection (13)(b), "alternative energy electricity production facility"
- 171 means a facility that:
- 172 (i) uses alternative energy to produce electricity; and
- 173 (ii) has a production capacity of two megawatts or greater.
- 174 (b) A facility is an alternative energy electricity production facility regardless of whether
- 175 the facility is:
- 176 (i) connected to an electric grid; or
- 177 (ii) located on the premises of an electricity consumer.
- 178 (14)(a) "Ancillary service" means a service associated with, or incidental to, the
- 179 provision of telecommunications service.
- 180 (b) "Ancillary service" includes:
- 181 (i) a conference bridging service;
- 182 (ii) a detailed communications billing service;
- 183 (iii) directory assistance;
- 184 (iv) a vertical service; or
- 185 (v) a voice mail service.
- 186 (15) "Area agency on aging" means the same as that term is defined in Section 26B-6-101.
- 187 (16) "Assisted amusement device" means an amusement device, skill device, or ride device
- 188 that is started and stopped by an individual:
- 189 (a) who is not the purchaser or renter of the right to use or operate the amusement
- 190 device, skill device, or ride device; and
- 191 (b) at the direction of the seller of the right to use the amusement device, skill device, or
- 192 ride device.
- 193 (17) "Assisted cleaning or washing of tangible personal property" means cleaning or
- 194 washing of tangible personal property if the cleaning or washing labor is primarily
- 195 performed by an individual:
- 196 (a) who is not the purchaser of the cleaning or washing of the tangible personal property;
- 197 and
- 198 (b) at the direction of the seller of the cleaning or washing of the tangible personal
- 199 property.
- 200 (18) "Authorized carrier" means:

- 201 (a) in the case of vehicles operated over public highways, the holder of credentials
202 indicating that the vehicle is or will be operated pursuant to both the International
203 Registration Plan and the International Fuel Tax Agreement;
204 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
205 certificate or air carrier's operating certificate; or
206 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
207 stock, a person who uses locomotives, freight cars, railroad work equipment, or other
208 rolling stock in more than one state.

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

- 211 (i) material from a plant or tree; or
212 (ii) other organic matter that is available on a renewable basis, including:
213 (A) slash and brush from forests and woodlands;
214 (B) animal waste;
215 (C) waste vegetable oil;
216 (D) methane or synthetic gas produced at a landfill, as a byproduct of the
217 treatment of wastewater residuals, or through the conversion of a waste
218 material through a nonincineration, thermal conversion process;
219 (E) aquatic plants; and
220 (F) agricultural products.

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

- 222 (i) black liquor; or
223 (ii) treated woods.

224 (20)(a) "Bundled transaction" means the sale of two or more items of tangible personal
225 property, products, or services if the tangible personal property, products, or services
226 are:

- 227 (i) distinct and identifiable; and
228 (ii) sold for one nonitemized price.

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

- 230 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
231 the basis of the selection by the purchaser of the items of tangible personal
232 property included in the transaction;
233 (ii) the sale of real property;
234 (iii) the sale of services to real property;

- (iv) the retail sale of tangible personal property and a service if:
 - (A) the tangible personal property:
 - (I) is essential to the use of the service; and
 - (II) is provided exclusively in connection with the service; and
 - (B) the service is the true object of the transaction;
- (v) the retail sale of two services if:
 - (A) one service is provided that is essential to the use or receipt of a second service;
 - (B) the first service is provided exclusively in connection with the second service; and
 - (C) the second service is the true object of the transaction;
- (vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:
 - (A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or
 - (B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and
- (vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:
 - (A) that retail sale includes:
 - (I) food and food ingredients;
 - (II) a drug;
 - (III) durable medical equipment;
 - (IV) mobility enhancing equipment;
 - (V) an over-the-counter drug;
 - (VI) a prosthetic device; or
 - (VII) a medical supply; and
 - (B) subject to Subsection (20)(f):
 - (I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or
 - (II) the seller's sales price of the tangible personal property subject to taxation

269 under this chapter is 50% or less of the seller's total sales price of that retail
270 sale.

271 (c)(i) For purposes of Subsection (20)(a)(i), tangible personal property, a product, or
272 a service that is distinct and identifiable does not include:

273 (A) packaging that:

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

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

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

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

283 (ii) For purposes of Subsection (20)(c)(i)(B), an item of tangible personal property, a
284 product, or a service is provided free of charge with the purchase of another item
285 of tangible personal property, a product, or a service if the sales price of the
286 purchased item of tangible personal property, product, or service does not vary
287 depending on the inclusion of the tangible personal property, product, or service
288 provided free of charge.

289 (d)(i) For purposes of Subsection (20)(a)(ii), property sold for one nonitemized price
290 does not include a price that is separately identified by tangible personal property,
291 product, or service on the following, regardless of whether the following is in
292 paper format or electronic format:

293 (A) a binding sales document; or

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

295 (ii) For purposes of Subsection (20)(d)(i), a binding sales document or another
296 supporting sales-related document that is available to a purchaser includes:

297 (A) a bill of sale;

298 (B) a contract;

299 (C) an invoice;

300 (D) a lease agreement;

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

302 (F) a price list;

- 303 (G) a rate card;
- 304 (H) a receipt; or
- 305 (I) a service agreement.
- 306 (e)(i) For purposes of Subsection (20)(b)(vi), the sales price of tangible personal
- 307 property or a product subject to taxation under this chapter is de minimis if:
- 308 (A) the seller's purchase price of the tangible personal property or product is 10%
- 309 or less of the seller's total purchase price of the bundled transaction; or
- 310 (B) the seller's sales price of the tangible personal property or product is 10% or
- 311 less of the seller's total sales price of the bundled transaction.
- 312 (ii) For purposes of Subsection (20)(b)(vi), a seller:
- 313 (A) shall use the seller's purchase price or the seller's sales price to determine if
- 314 the purchase price or sales price of the tangible personal property or product
- 315 subject to taxation under this chapter is de minimis; and
- 316 (B) may not use a combination of the seller's purchase price and the seller's sales
- 317 price to determine if the purchase price or sales price of the tangible personal
- 318 property or product subject to taxation under this chapter is de minimis.
- 319 (iii) For purposes of Subsection (20)(b)(vi), a seller shall use the full term of a service
- 320 contract to determine if the sales price of tangible personal property or a product is
- 321 de minimis.
- 322 (f) For purposes of Subsection (20)(b)(vii)(B), a seller may not use a combination of the
- 323 seller's purchase price and the seller's sales price to determine if tangible personal
- 324 property subject to taxation under this chapter is 50% or less of the seller's total
- 325 purchase price or sales price of that retail sale.
- 326 (21) "Car sharing" means the same as that term is defined in Section 13-48a-101.
- 327 (22) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.
- 328 (23) "Certified automated system" means software certified by the governing board of the
- 329 agreement that:
- 330 (a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:
- 331 (i) on a transaction; and
- 332 (ii) in the states that are members of the agreement;
- 333 (b) determines the amount of agreement sales and use tax to remit to a state that is a
- 334 member of the agreement; and
- 335 (c) maintains a record of the transaction described in Subsection (23)(a)(i).
- 336 (24) "Certified service provider" means an agent certified:

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

(25)(a) Subject to Subsection (25)(b), "clothing" means all human wearing apparel suitable for general use.

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

- (i) listing the items that constitute "clothing"; and
- (ii) that are consistent with the list of items that constitute "clothing" under the agreement.

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

(27) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (61) or residential use under Subsection (117).

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

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

(ii) For purposes of Subsection (28)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

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

(29) "Component part" includes:

- (a) poultry, dairy, and other livestock feed, and their components;
- (b) baling ties and twine used in the baling of hay and straw;
- (c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and
- (d) feed, seeds, and seedlings.

- (30) "Computer" means an electronic device that accepts information:
- (a)(i) in digital form; or
 - (ii) in a form similar to digital form; and
 - (b) manipulates that information for a result based on a sequence of instructions.
- (31) "Computer software" means a set of coded instructions designed to cause:
- (a) a computer to perform a task; or
 - (b) automatic data processing equipment to perform a task.
- (32) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:
- (a) future updates or upgrades to computer software;
 - (b) support services with respect to computer software; or
 - (c) a combination of Subsections (32)(a) and (b).
- (33)(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.
- (b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (33)(a).
- (c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (33)(a).
- (34) "Construction materials" means any tangible personal property that will be converted into real property.
- (35) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.
- (36)(a) "Delivery charge" means a charge:
- (i) by a seller of:
 - (A) tangible personal property;
 - (B) a product transferred electronically; or
 - (C) a service; and
 - (ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (36)(a)(i) to a location designated by the purchaser.
- (b) "Delivery charge" includes a charge for the following:
- (i) transportation;
 - (ii) shipping;
 - (iii) postage;

- 405 (iv) handling;
406 (v) crating; or
407 (vi) packing.
- 408 (37) "Detailed telecommunications billing service" means an ancillary service of separately
409 stating information pertaining to individual calls on a customer's billing statement.
- 410 (38) "Dietary supplement" means a product, other than tobacco, that:
- 411 (a) is intended to supplement the diet;
- 412 (b) contains one or more of the following dietary ingredients:
- 413 (i) a vitamin;
- 414 (ii) a mineral;
- 415 (iii) an herb or other botanical;
- 416 (iv) an amino acid;
- 417 (v) a dietary substance for use by humans to supplement the diet by increasing the
418 total dietary intake; or
- 419 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
420 described in Subsections (38)(b)(i) through (v);
- 421 (c)(i) except as provided in Subsection (38)(c)(ii), is intended for ingestion in:
- 422 (A) tablet form;
- 423 (B) capsule form;
- 424 (C) powder form;
- 425 (D) softgel form;
- 426 (E) gelcap form; or
- 427 (F) liquid form; or
- 428 (ii) if the product is not intended for ingestion in a form described in Subsections
429 (38)(c)(i)(A) through (F), is not represented:
- 430 (A) as conventional food; and
- 431 (B) for use as a sole item of:
- 432 (I) a meal; or
- 433 (II) the diet; and
- 434 (d) is required to be labeled as a dietary supplement:
- 435 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 436 (ii) as required by 21 C.F.R. Sec. 101.36.
- 437 (39)(a) "Digital audio work" means a work that results from the fixation of a series of
438 musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

(40) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(41) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

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

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

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

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

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

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

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

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

(a) address information; or

(b) telephone number information.

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

(i) cannot withstand repeated use; and

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

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

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

(C) an office of a health care provider described in Subsection (44)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (44)(a)(ii)(A) through

(C).

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

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

- (iv) a hearing aid accessory;
- (v) mobility enhancing equipment; or
- (vi) tangible personal property used to correct impaired vision, including:
 - (A) eyeglasses; or
 - (B) contact lenses.

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

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

- (a) located in the state;
- (b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;
- (c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and
- (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

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

- (i) recognized in:
 - (A) the official United States Pharmacopoeia;
 - (B) the official Homeopathic Pharmacopoeia of the United States;
 - (C) the official National Formulary; or
 - (D) a supplement to a publication listed in Subsections (46)(a)(i)(A) through (C);
- (ii) intended for use in the:
 - (A) diagnosis of disease;
 - (B) cure of disease;
 - (C) mitigation of disease;
 - (D) treatment of disease; or
 - (E) prevention of disease; or
- (iii) intended to affect:
 - (A) the structure of the body; or
 - (B) any function of the body.

(b) "Drug" does not include:

- (i) food and food ingredients;
- (ii) a dietary supplement;

- 507 (iii) an alcoholic beverage; or
508 (iv) a prosthetic device.
- 509 (47)(a) "Durable medical equipment" means equipment that:
510 (i) can withstand repeated use;
511 (ii) is primarily and customarily used to serve a medical purpose;
512 (iii) generally is not useful to a person in the absence of illness or injury; and
513 (iv) is not worn in or on the body.
- 514 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
515 equipment described in Subsection (47)(a).
- 516 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 517 (48) "Electronic" means:
518 (a) relating to technology; and
519 (b) having:
520 (i) electrical capabilities;
521 (ii) digital capabilities;
522 (iii) magnetic capabilities;
523 (iv) wireless capabilities;
524 (v) optical capabilities;
525 (vi) electromagnetic capabilities; or
526 (vii) capabilities similar to Subsections (48)(b)(i) through (vi).
- 527 (49) "Electronic financial payment service" means an establishment:
528 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
529 Clearinghouse Activities, of the 2012 North American Industry Classification System
530 of the federal Executive Office of the President, Office of Management and Budget;
531 and
532 (b) that performs electronic financial payment services.
- 533 (50) "Employee" means the same as that term is defined in Section 59-10-401.
- 534 (51) "Fixed guideway" means a public transit facility that uses and occupies:
535 (a) rail for the use of public transit; or
536 (b) a separate right-of-way for the use of public transit.
- 537 (52) "Fixed wing turbine powered aircraft" means an aircraft that:
538 (a) is powered by turbine engines;
539 (b) operates on jet fuel; and
540 (c) has wings that are permanently attached to the fuselage of the aircraft.

- 541 (53) "Fixed wireless service" means a telecommunications service that provides radio
542 communication between fixed points.
- 543 (54)(a) "Food and food ingredients" means substances:
- 544 (i) regardless of whether the substances are in:
- 545 (A) liquid form;
- 546 (B) concentrated form;
- 547 (C) solid form;
- 548 (D) frozen form;
- 549 (E) dried form; or
- 550 (F) dehydrated form; and
- 551 (ii) that are:
- 552 (A) sold for:
- 553 (I) ingestion by humans; or
- 554 (II) chewing by humans; and
- 555 (B) consumed for the substance's:
- 556 (I) taste; or
- 557 (II) nutritional value.
- 558 (b) "Food and food ingredients" includes an item described in Subsection (100)(b)(iii).
- 559 (c) "Food and food ingredients" does not include:
- 560 (i) an alcoholic beverage;
- 561 (ii) tobacco; or
- 562 (iii) prepared food.
- 563 (55)(a) "Fundraising sales" means sales:
- 564 (i)(A) made by a school; or
- 565 (B) made by a school student;
- 566 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 567 materials, or provide transportation; and
- 568 (iii) that are part of an officially sanctioned school activity.
- 569 (b) For purposes of Subsection (55)(a)(iii), "officially sanctioned school activity" means
- 570 a school activity:
- 571 (i) that is conducted in accordance with a formal policy adopted by the school or
- 572 school district governing the authorization and supervision of fundraising
- 573 activities;
- 574 (ii) that does not directly or indirectly compensate an individual teacher or other

- 575 educational personnel by direct payment, commissions, or payment in kind; and
576 (iii) the net or gross revenue from which is deposited in a dedicated account
577 controlled by the school or school district.
- 578 (56) "Geothermal energy" means energy contained in heat that continuously flows outward
579 from the earth that is used as the sole source of energy to produce electricity.
- 580 (57) "Governing board of the agreement" means the governing board of the agreement that
581 is:
582 (a) authorized to administer the agreement; and
583 (b) established in accordance with the agreement.
- 584 (58)(a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
585 (i) the executive branch of the state, including all departments, institutions, boards,
586 divisions, bureaus, offices, commissions, and committees;
587 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
588 Administrative Office of the Courts, and similar administrative units in the
589 judicial branch;
590 (iii) the legislative branch of the state, including the House of Representatives, the
591 Senate, Legislative Services, the Office of Legislative Research and General
592 Counsel, the Office of the Legislative Auditor General, and the Office of the
593 Legislative Fiscal Analyst;
594 (iv) the National Guard;
595 (v) an independent entity as defined in Section 63E-1-102; or
596 (vi) a political subdivision as defined in Section 17B-1-102.
- 597 (b) "Governmental entity" does not include the state systems of public and higher
598 education, including:
599 (i) a school;
600 (ii) the State Board of Education;
601 (iii) the Utah Board of Higher Education; or
602 (iv) an institution of higher education listed in Section 53H-1-102.
- 603 (59) "Hydroelectric energy" means water used as the sole source of energy to produce
604 electricity.
- 605 (60) "Individual-owned shared vehicle" means the same as that term is defined in Section
606 13-48a-101.
- 607 (61) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other
608 fuels:

- 609 (a) in mining or extraction of minerals;
- 610 (b) in agricultural operations to produce an agricultural product up to the time of harvest
- 611 or placing the agricultural product into a storage facility, including:
- 612 (i) commercial greenhouses;
- 613 (ii) irrigation pumps;
- 614 (iii) farm machinery;
- 615 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
- 616 under Title 41, Chapter 1a, Part 2, Registration; and
- 617 (v) other farming activities;
- 618 (c) in manufacturing tangible personal property at an establishment described in:
- 619 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 620 the federal Executive Office of the President, Office of Management and Budget;
- 621 or
- 622 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 623 American Industry Classification System of the federal Executive Office of the
- 624 President, Office of Management and Budget;
- 625 (d) by a scrap recycler if:
- 626 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to
- 627 process one or more of the following items into prepared grades of processed
- 628 materials for use in new products:
- 629 (A) iron;
- 630 (B) steel;
- 631 (C) nonferrous metal;
- 632 (D) paper;
- 633 (E) glass;
- 634 (F) plastic;
- 635 (G) textile; or
- 636 (H) rubber; and
- 637 (ii) the new products under Subsection (61)(d)(i) would otherwise be made with
- 638 nonrecycled materials; or
- 639 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 640 cogeneration facility as defined in Section 54-2-1.
- 641 (62)(a) "Installation charge" means a charge for installing:
- 642 (i) tangible personal property; or

- 643 (ii) a product transferred electronically.
- 644 (b) "Installation charge" does not include a charge for:
- 645 (i) repairs or renovations of:
- 646 (A) tangible personal property; or
- 647 (B) a product transferred electronically; or
- 648 (ii) attaching tangible personal property or a product transferred electronically:
- 649 (A) to other tangible personal property; and
- 650 (B) as part of a manufacturing or fabrication process.
- 651 (63) "Institution of higher education" means an institution of higher education listed in
- 652 Section 53H-1-102.
- 653 (64)(a) "Lease" or "rental" means a transfer of possession or control of tangible personal
- 654 property or a product transferred electronically for:
- 655 (i)(A) a fixed term; or
- 656 (B) an indeterminate term; and
- 657 (ii) consideration.
- 658 (b) "Lease" or "rental" includes:
- 659 (i) an agreement covering a motor vehicle and trailer if the amount of consideration
- 660 may be increased or decreased by reference to the amount realized upon sale or
- 661 disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 662 Code; and
- 663 (ii) car sharing.
- 664 (c) "Lease" or "rental" does not include:
- 665 (i) a transfer of possession or control of property under a security agreement or
- 666 deferred payment plan that requires the transfer of title upon completion of the
- 667 required payments;
- 668 (ii) a transfer of possession or control of property under an agreement that requires
- 669 the transfer of title:
- 670 (A) upon completion of required payments; and
- 671 (B) if the payment of an option price does not exceed the greater of:
- 672 (I) \$100; or
- 673 (II) 1% of the total required payments; or
- 674 (iii) providing tangible personal property along with an operator for a fixed period of
- 675 time or an indeterminate period of time if the operator is necessary for equipment
- 676 to perform as designed.

(d) For purposes of Subsection (64)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

- (i) set-up of tangible personal property;
- (ii) maintenance of tangible personal property; or
- (iii) inspection of tangible personal property.

(65) "Lesson" means a fixed period of time for the duration of which a trained instructor:

- (a) is present with a student in person or by video; and
- (b) actively instructs the student, including by providing observation or feedback.

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

- (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or
- (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(67) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

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

(69) "Local taxing jurisdiction" means a:

- (a) county that is authorized to impose an agreement sales and use tax;
- (b) city that is authorized to impose an agreement sales and use tax; or
- (c) town that is authorized to impose an agreement sales and use tax.

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

(71) "Manufacturing facility" means:

- (a) an establishment described in:
 - (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or
 - (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

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

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (71)(b)(i) would otherwise be made with nonrecycled materials; or

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

(72)(a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

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

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

(i) does any of the following:

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

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

(C) owns, rents, licenses, makes available, or operates any electronic or physical

- 745 infrastructure or any property, process, method, copyright, trademark, or patent
746 that connects a marketplace seller to a purchaser for the purpose of making a
747 retail sale of tangible personal property, a product transferred electronically, or
748 a service;
- 749 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of
750 tangible personal property, a product transferred electronically, or a service,
751 regardless of ownership or control of the tangible personal property, the
752 product transferred electronically, or the service that is the subject of the retail
753 sale;
- 754 (E) provides software development or research and development activities related
755 to any activity described in this Subsection (73)(a)(i), if the software
756 development or research and development activity is directly related to the
757 person's marketplace;
- 758 (F) provides or offers fulfillment or storage services for a marketplace seller;
- 759 (G) sets prices for the sale of tangible personal property, a product transferred
760 electronically, or a service by a marketplace seller;
- 761 (H) provides or offers customer service to a marketplace seller or a marketplace
762 seller's purchaser or accepts or assists with taking orders, returns, or exchanges
763 of tangible personal property, a product transferred electronically, or a service
764 sold by a marketplace seller on the person's marketplace; or
- 765 (I) brands or otherwise identifies sales as those of the person; and
- 766 (ii) does any of the following:
- 767 (A) collects the sales price or purchase price of a retail sale of tangible personal
768 property, a product transferred electronically, or a service;
- 769 (B) provides payment processing services for a retail sale of tangible personal
770 property, a product transferred electronically, or a service;
- 771 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee,
772 closing fee, a fee for inserting or making available tangible personal property, a
773 product transferred electronically, or a service on the person's marketplace, or
774 other consideration for the facilitation of a retail sale of tangible personal
775 property, a product transferred electronically, or a service, regardless of
776 ownership or control of the tangible personal property, the product transferred
777 electronically, or the service that is the subject of the retail sale;
- 778 (D) through terms and conditions, an agreement, or another arrangement with a

- 779 third person, collects payment from a purchase for a retail sale of tangible
780 personal property, a product transferred electronically, or a service and
781 transmits that payment to the marketplace seller, regardless of whether the
782 third person receives compensation or other consideration in exchange for the
783 service; or
- 784 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
785 property, a product transferred electronically, or service offered for sale.
- 786 (b) "Marketplace facilitator" does not include:
- 787 (i) a person that only provides payment processing services; or
- 788 (ii) a person described in Subsection (73)(a) to the extent the person is facilitating a
789 sale for a seller that is a restaurant as defined in Section 59-12-602.
- 790 (74) "Marketplace seller" means a seller that makes one or more retail sales through a
791 marketplace that a marketplace facilitator owns, operates, or controls, regardless of
792 whether the seller is required to be registered to collect and remit the tax under this part.
- 793 (75) "Member of the immediate family of the producer" means a person who is related to a
794 producer described in Subsection 59-12-104(20)(a) as a:
- 795 (a) child or stepchild, regardless of whether the child or stepchild is:
- 796 (i) an adopted child or adopted stepchild; or
- 797 (ii) a foster child or foster stepchild;
- 798 (b) grandchild or stepgrandchild;
- 799 (c) grandparent or stepgrandparent;
- 800 (d) nephew or stepnephew;
- 801 (e) niece or stepniece;
- 802 (f) parent or stepparent;
- 803 (g) sibling or stepsibling;
- 804 (h) spouse;
- 805 (i) person who is the spouse of a person described in Subsections (75)(a) through (g); or
- 806 (j) person similar to a person described in Subsections (75)(a) through (i) as determined
807 by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
808 Administrative Rulemaking Act.
- 809 (76) "Mobile home" means the same as that term is defined in Section 15A-1-302.
- 810 (77) "Mobile telecommunications service" means the same as that term is defined in the
811 Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 812 (78)(a) "Mobile wireless service" means a telecommunications service, regardless of the

technology used, if:

- (i) the origination point of the conveyance, routing, or transmission is not fixed;
- (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- (iii) the origination point described in Subsection (78)(a)(i) and the termination point described in Subsection (78)(a)(ii) are not fixed.

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

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

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

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

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (79)(a).

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

- (i) a motor vehicle;
- (ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;
- (iii) durable medical equipment; or
- (iv) a prosthetic device.

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

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

- (a) except as provided in Subsection (81)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and
- (b) retains responsibility for remitting all of the sales tax:
 - (i) collected by the seller; and

- 847 (ii) to the appropriate local taxing jurisdiction.
- 848 (82)(a) Subject to Subsection (82)(b), "model 3 seller" means a seller registered under
849 the agreement that has:
- 850 (i) sales in at least five states that are members of the agreement;
- 851 (ii) total annual sales revenue of at least \$500,000,000;
- 852 (iii) a proprietary system that calculates the amount of tax:
- 853 (A) for an agreement sales and use tax; and
- 854 (B) due to each local taxing jurisdiction; and
- 855 (iv) entered into a performance agreement with the governing board of the agreement.
- 856 (b) For purposes of Subsection (82)(a), "model 3 seller" includes an affiliated group of
857 sellers using the same proprietary system.
- 858 (83) "Model 4 seller" means a seller that is registered under the agreement and is not a
859 model 1 seller, model 2 seller, or model 3 seller.
- 860 (84) "Modular home" means a modular unit as defined in Section 15A-1-302.
- 861 (85) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.
- 862 (86) "Oil sands" means impregnated bituminous sands that:
- 863 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
864 other hydrocarbons, or otherwise treated;
- 865 (b) yield mixtures of liquid hydrocarbon; and
- 866 (c) require further processing other than mechanical blending before becoming finished
867 petroleum products.
- 868 (87) "Oil shale" means a group of fine black to dark brown shales containing kerogen
869 material that yields petroleum upon heating and distillation.
- 870 (88) "Optional computer software maintenance contract" means a computer software
871 maintenance contract that a customer is not obligated to purchase as a condition to the
872 retail sale of computer software.
- 873 (89)(a) "Other fuels" means products that burn independently to produce heat or energy.
- 874 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
875 personal property.
- 876 (90)(a) "Paging service" means a telecommunications service that provides transmission
877 of a coded radio signal for the purpose of activating a specific pager.
- 878 (b) For purposes of Subsection (90)(a), the transmission of a coded radio signal includes
879 a transmission by message or sound.
- 880 (91) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (93)(c)(iii) or (iv).

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

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

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (93)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the

- 915 commission by rule made in accordance with Title 63G, Chapter 3, Utah
916 Administrative Rulemaking Act:
- 917 (A) a computer;
918 (B) a telephone;
919 (C) a television; or
920 (D) tangible personal property similar to Subsections (93)(c)(iii)(A) through (C)
921 as determined by the commission by rule made in accordance with Title 63G,
922 Chapter 3, Utah Administrative Rulemaking Act; or
923 (iv) an item listed in Subsection (139)(c).
- 924 (94) "Person" includes any individual, firm, partnership, joint venture, association,
925 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
926 municipality, district, or other local governmental entity of the state, or any group or
927 combination acting as a unit.
- 928 (95) "Place of primary use":
929 (a) for telecommunications service other than mobile telecommunications service,
930 means the street address representative of where the customer's use of the
931 telecommunications service primarily occurs, which shall be:
932 (i) the residential street address of the customer; or
933 (ii) the primary business street address of the customer; or
934 (b) for mobile telecommunications service, means the same as that term is defined in the
935 Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 936 (96)(a) "Postpaid calling service" means a telecommunications service a person obtains
937 by making a payment on a call-by-call basis:
938 (i) through the use of a:
939 (A) bank card;
940 (B) credit card;
941 (C) debit card; or
942 (D) travel card; or
943 (ii) by a charge made to a telephone number that is not associated with the origination
944 or termination of the telecommunications service.
- 945 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
946 service, that would be a prepaid wireless calling service if the service were
947 exclusively a telecommunications service.
- 948 (97) "Postproduction" means an activity related to the finishing or duplication of a medium

949 described in Subsection 59-12-104(54)(a).

950 (98) "Prepaid calling service" means a telecommunications service:

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

953 (b) that:

954 (i) is paid for in advance; and

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

956 (A) access number; or

957 (B) authorization code;

958 (c) that is dialed:

959 (i) manually; or

960 (ii) electronically; and

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

962 (i) by a known amount; and

963 (ii) with use.

964 (99) "Prepaid wireless calling service" means a telecommunications service:

965 (a) that provides the right to utilize:

966 (i) mobile wireless service; and

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

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

969 (B) a content service; or

970 (C) an ancillary service;

971 (b) that:

972 (i) is paid for in advance; and

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

974 (A) access number; or

975 (B) authorization code;

976 (c) that is dialed:

977 (i) manually; or

978 (ii) electronically; and

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

980 (i) by a known amount; and

981 (ii) with use.

982 (100)(a) "Prepared food" means:

- 983 (i) food:
- 984 (A) sold in a heated state; or
- 985 (B) heated by a seller;
- 986 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 987 item; or
- 988 (iii) except as provided in Subsection (100)(c), food sold with an eating utensil
- 989 provided by the seller, including a:
- 990 (A) plate;
- 991 (B) knife;
- 992 (C) fork;
- 993 (D) spoon;
- 994 (E) glass;
- 995 (F) cup;
- 996 (G) napkin; or
- 997 (H) straw.
- 998 (b) "Prepared food" does not include:
- 999 (i) food that a seller only:
- 1000 (A) cuts;
- 1001 (B) repackages; or
- 1002 (C) pasteurizes;
- 1003 (ii)(A) the following:
- 1004 (I) raw egg;
- 1005 (II) raw fish;
- 1006 (III) raw meat;
- 1007 (IV) raw poultry; or
- 1008 (V) a food containing an item described in Subsections (100)(b)(ii)(A)(I)
- 1009 through (IV); and
- 1010 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of
- 1011 the Food and Drug Administration's Food Code that a consumer cook the items
- 1012 described in Subsection (100)(b)(ii)(A) to prevent food borne illness; or
- 1013 (iii) the following if sold without eating utensils provided by the seller:
- 1014 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1015 classification under the 2002 North American Industry Classification System
- 1016 of the federal Executive Office of the President, Office of Management and

Budget, is manufacturing in Sector 311, Food Manufacturing, except for
Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

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

(i) a container; or

(ii) packaging.

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

(a)(i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

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

(102)(a) "Prewritten computer software" means computer software that is not designed

and developed:

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

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

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

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

(B) to the specifications of a specific purchaser;

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

(iii) except as provided in Subsection (102)(c), prewritten computer software or a prewritten portion of prewritten computer software:

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

(B) if the modification or enhancement described in Subsection (102)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (102)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

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

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

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

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

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

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

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

- 1085 (b) "Private communications service" includes the following provided in connection
1086 with the use of one or more communications channels:
- 1087 (i) an extension line;
 - 1088 (ii) a station;
 - 1089 (iii) switching capacity; or
 - 1090 (iv) another associated service that is provided in connection with the use of one or
1091 more communications channels as defined in Section 59-12-215.
- 1092 (104)(a) "Product transferred electronically" means a product transferred electronically
1093 that would be subject to a tax under this chapter if that product was transferred in a
1094 manner other than electronically.
- 1095 (b) "Product transferred electronically" does not include:
- 1096 (i) an ancillary service;
 - 1097 (ii) computer software; or
 - 1098 (iii) a telecommunications service.
- 1099 (105)(a) "Prosthetic device" means a device that is worn on or in the body to:
- 1100 (i) artificially replace a missing portion of the body;
 - 1101 (ii) prevent or correct a physical deformity or physical malfunction; or
 - 1102 (iii) support a weak or deformed portion of the body.
- 1103 (b) "Prosthetic device" includes:
- 1104 (i) parts used in the repairs or renovation of a prosthetic device;
 - 1105 (ii) replacement parts for a prosthetic device;
 - 1106 (iii) a dental prosthesis; or
 - 1107 (iv) a hearing aid.
- 1108 (c) "Prosthetic device" does not include:
- 1109 (i) corrective eyeglasses; or
 - 1110 (ii) contact lenses.
- 1111 (106)(a) "Protective equipment" means an item:
- 1112 (i) for human wear; and
 - 1113 (ii) that is:
 - 1114 (A) designed as protection:
 - 1115 (I) to the wearer against injury or disease; or
 - 1116 (II) against damage or injury of other persons or property; and
 - 1117 (B) not suitable for general use.
- 1118 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1119 commission shall make rules:

1120 (i) listing the items that constitute "protective equipment"; and

1121 (ii) that are consistent with the list of items that constitute "protective equipment"
1122 under the agreement.

1123 (107)(a) For purposes of Subsection 59-12-104(41), "publication" means any written or
1124 printed matter, other than a photocopy:

1125 (i) regardless of:

1126 (A) characteristics;

1127 (B) copyright;

1128 (C) form;

1129 (D) format;

1130 (E) method of reproduction; or

1131 (F) source; and

1132 (ii) made available in printed or electronic format.

1133 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1134 commission may by rule define the term "photocopy."

1135 (108)(a) "Purchase price" and "sales price" mean the total amount of consideration:

1136 (i) valued in money; and

1137 (ii) for which tangible personal property, a product transferred electronically, or
1138 services are:

1139 (A) sold;

1140 (B) leased; or

1141 (C) rented.

1142 (b) "Purchase price" and "sales price" include:

1143 (i) the seller's cost of the tangible personal property, a product transferred
1144 electronically, or services sold;

1145 (ii) expenses of the seller, including:

1146 (A) the cost of materials used;

1147 (B) a labor cost;

1148 (C) a service cost;

1149 (D) interest;

1150 (E) a loss;

1151 (F) the cost of transportation to the seller; or

1152 (G) a tax imposed on the seller;

- 1153 (iii) a charge by the seller for any service necessary to complete the sale; or
1154 (iv) consideration a seller receives from a person other than the purchaser if:
1155 (A)(I) the seller actually receives consideration from a person other than the
1156 purchaser; and
1157 (II) the consideration described in Subsection (108)(b)(iv)(A)(I) is directly
1158 related to a price reduction or discount on the sale;
1159 (B) the seller has an obligation to pass the price reduction or discount through to
1160 the purchaser;
1161 (C) the amount of the consideration attributable to the sale is fixed and
1162 determinable by the seller at the time of the sale to the purchaser; and
1163 (D)(I)(Aa) the purchaser presents a certificate, coupon, or other
1164 documentation to the seller to claim a price reduction or discount; and
1165 (Bb) a person other than the seller authorizes, distributes, or grants the
1166 certificate, coupon, or other documentation with the understanding that
1167 the person other than the seller will reimburse any seller to whom the
1168 certificate, coupon, or other documentation is presented;
1169 (II) the purchaser identifies that purchaser to the seller as a member of a group
1170 or organization allowed a price reduction or discount, except that a
1171 preferred customer card that is available to any patron of a seller does not
1172 constitute membership in a group or organization allowed a price reduction
1173 or discount; or
1174 (III) the price reduction or discount is identified as a third party price reduction
1175 or discount on the:
1176 (Aa) invoice the purchaser receives; or
1177 (Bb) certificate, coupon, or other documentation the purchaser presents.
1178 (c) "Purchase price" and "sales price" do not include:
1179 (i) a discount:
1180 (A) in a form including:
1181 (I) cash;
1182 (II) term; or
1183 (III) coupon;
1184 (B) that is allowed by a seller;
1185 (C) taken by a purchaser on a sale; and
1186 (D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

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

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

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

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

(109) "Purchaser" means a person to whom:

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

(b) a product is transferred electronically; or

(c) a service is furnished.

(110) "Qualifying data center" means a data center facility that:

(a) houses a group of networked server computers in one physical location in order to disseminate, manage, and store data and information;

(b) is located in the state;

(c) is a new operation constructed on or after July 1, 2016;

(d) consists of one or more buildings that total 150,000 or more square feet;

(e) is owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and

(f) is located on one or more parcels of land that are owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the

operator of the data center facility.

(111) "Qualifying energy storage manufacturing facility" means a facility that manufactures, in the state, equipment or devices that store and discharge energy for the purpose of providing electrical power.

(112) "Regularly rented" means:

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

(113) "Rental" means the same as that term is defined in Subsection (64).

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

- (i) a repair or renovation of tangible personal property that is not permanently attached to real property; or
- (ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:
 - (A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and
 - (B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

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

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

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

- 1255 (116)(a) "Residential telecommunications services" means a telecommunications service
1256 or an ancillary service that is provided to an individual for personal use:
- 1257 (i) at a residential address; or
1258 (ii) at an institution, including a nursing home or a school, if the telecommunications
1259 service or ancillary service is provided to and paid for by the individual residing at
1260 the institution rather than the institution.
- 1261 (b) For purposes of Subsection (116)(a)(i), a residential address includes an:
- 1262 (i) apartment; or
1263 (ii) other individual dwelling unit.
- 1264 (117) "Residential use" means the use in or around a home, apartment building, sleeping
1265 quarters, and similar facilities or accommodations.
- 1266 (118) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:
- 1267 (a) resale;
1268 (b) sublease; or
1269 (c) subrent.
- 1270 (119)(a) "Retailer" means any person, unless prohibited by the Constitution of the
1271 United States or federal law, that is engaged in a regularly organized business in
1272 tangible personal property or any other taxable transaction under Subsection
1273 59-12-103(1), and who is selling to the user or consumer and not for resale.
- 1274 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1275 engaged in the business of selling to users or consumers within the state.
- 1276 (120)(a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise,
1277 in any manner, of tangible personal property or any other taxable transaction under
1278 Subsection 59-12-103(1), for consideration.
- 1279 (b) "Sale" includes:
- 1280 (i) installment and credit sales;
1281 (ii) any closed transaction constituting a sale;
1282 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1283 chapter;
1284 (iv) any transaction if the possession of property is transferred but the seller retains
1285 the title as security for the payment of the price; and
1286 (v) any transaction under which right to possession, operation, or use of any article of
1287 tangible personal property is granted under a lease or contract and the transfer of
1288 possession would be taxable if an outright sale were made.

1289 (121) "Sale at retail" means the same as that term is defined in Subsection (118).

1290 (122) "Sale-leaseback transaction" means a transaction by which title to tangible personal
1291 property or a product transferred electronically that is subject to a tax under this chapter
1292 is transferred:

1293 (a) by a purchaser-lessee;

1294 (b) to a lessor;

1295 (c) for consideration; and

1296 (d) if:

1297 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial
1298 purchase of the tangible personal property or product transferred electronically;

1299 (ii) the sale of the tangible personal property or product transferred electronically to
1300 the lessor is intended as a form of financing:

1301 (A) for the tangible personal property or product transferred electronically; and

1302 (B) to the purchaser-lessee; and

1303 (iii) in accordance with generally accepted accounting principles, the
1304 purchaser-lessee is required to:

1305 (A) capitalize the tangible personal property or product transferred electronically
1306 for financial reporting purposes; and

1307 (B) account for the lease payments as payments made under a financing
1308 arrangement.

1309 (123) "Sales price" means the same as that term is defined in Subsection (108).

1310 (124)(a) "Sales relating to schools" means the following sales by, amounts paid to, or
1311 amounts charged by a school:

1312 (i) sales that are directly related to the school's educational functions or activities
1313 including:

1314 (A) the sale of:

1315 (I) textbooks;

1316 (II) textbook fees;

1317 (III) laboratory fees;

1318 (IV) laboratory supplies; or

1319 (V) safety equipment;

1320 (B) the sale of a uniform, protective equipment, or sports or recreational
1321 equipment that:

1322 (I) a student is specifically required to wear as a condition of participation in a

- 1323 school-related event or school-related activity; and
- 1324 (II) is not readily adaptable to general or continued usage to the extent that it
- 1325 takes the place of ordinary clothing;
- 1326 (C) sales of the following if the net or gross revenue generated by the sales is
- 1327 deposited into a school district fund or school fund dedicated to school meals:
- 1328 (I) food and food ingredients; or
- 1329 (II) prepared food; or
- 1330 (D) transportation charges for official school activities; or
- 1331 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1332 event or school-related activity.
- 1333 (b) "Sales relating to schools" does not include:
- 1334 (i) bookstore sales of items that are not educational materials or supplies;
- 1335 (ii) except as provided in Subsection (124)(a)(i)(B):
- 1336 (A) clothing;
- 1337 (B) clothing accessories or equipment;
- 1338 (C) protective equipment; or
- 1339 (D) sports or recreational equipment; or
- 1340 (iii) amounts paid to or amounts charged by a school for admission to a
- 1341 school-related event or school-related activity if the amounts paid or charged are
- 1342 passed through to a person:
- 1343 (A) other than a:
- 1344 (I) school;
- 1345 (II) nonprofit organization authorized by a school board or a governing body of
- 1346 a private school to organize and direct a competitive secondary school
- 1347 activity; or
- 1348 (III) nonprofit association authorized by a school board or a governing body of
- 1349 a private school to organize and direct a competitive secondary school
- 1350 activity; and
- 1351 (B) that is required to collect sales and use taxes under this chapter.
- 1352 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1353 commission may make rules defining the term "passed through."
- 1354 (125) For purposes of this section and Section 59-12-104, "school" means:
- 1355 (a) an elementary school or a secondary school that:
- 1356 (i) is a:

- 1357 (A) public school; or
1358 (B) private school; and
1359 (ii) provides instruction for one or more grades kindergarten through 12; or
1360 (b) a public school district.
- 1361 (126)(a) "Seller" means a person that makes a sale, lease, or rental of:
1362 (i) tangible personal property;
1363 (ii) a product transferred electronically; or
1364 (iii) a service.
- 1365 (b) "Seller" includes a marketplace facilitator.
- 1366 (127)(a) "Semiconductor fabricating, processing, research, or development materials"
1367 means tangible personal property or a product transferred electronically if the
1368 tangible personal property or product transferred electronically is:
1369 (i) used primarily in the process of:
1370 (A)(I) manufacturing a semiconductor;
1371 (II) fabricating a semiconductor; or
1372 (III) research or development of a:
1373 (Aa) semiconductor; or
1374 (Bb) semiconductor manufacturing process; or
1375 (B) maintaining an environment suitable for a semiconductor; or
1376 (ii) consumed primarily in the process of:
1377 (A)(I) manufacturing a semiconductor;
1378 (II) fabricating a semiconductor; or
1379 (III) research or development of a:
1380 (Aa) semiconductor; or
1381 (Bb) semiconductor manufacturing process; or
1382 (B) maintaining an environment suitable for a semiconductor.
- 1383 (b) "Semiconductor fabricating, processing, research, or development materials"
1384 includes:
1385 (i) parts used in the repairs or renovations of tangible personal property or a product
1386 transferred electronically described in Subsection (127)(a); or
1387 (ii) a chemical, catalyst, or other material used to:
1388 (A) produce or induce in a semiconductor a:
1389 (I) chemical change; or
1390 (II) physical change;

1391 (B) remove impurities from a semiconductor; or

1392 (C) improve the marketable condition of a semiconductor.

1393 (128) "Senior citizen center" means a facility having the primary purpose of providing
1394 services to the aged as defined in Section 26B-6-101.

1395 (129) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.

1396 (130) "Shared vehicle driver" means the same as that term is defined in Section 13-48a-101.

1397 (131) "Shared vehicle owner" means the same as that term is defined in Section 13-48a-101.

1398 (132)(a) Subject to Subsections (132)(b) and (c), "short-term lodging consumable"

1399 means tangible personal property that:

1400 (i) a business that provides accommodations and services described in Subsection
1401 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations
1402 and services to a purchaser;

1403 (ii) is intended to be consumed by the purchaser; and

1404 (iii) is:

1405 (A) included in the purchase price of the accommodations and services; and

1406 (B) not separately stated on an invoice, bill of sale, or other similar document
1407 provided to the purchaser.

1408 (b) "Short-term lodging consumable" includes:

1409 (i) a beverage;

1410 (ii) a brush or comb;

1411 (iii) a cosmetic;

1412 (iv) a hair care product;

1413 (v) lotion;

1414 (vi) a magazine;

1415 (vii) makeup;

1416 (viii) a meal;

1417 (ix) mouthwash;

1418 (x) nail polish remover;

1419 (xi) a newspaper;

1420 (xii) a notepad;

1421 (xiii) a pen;

1422 (xiv) a pencil;

1423 (xv) a razor;

1424 (xvi) saline solution;

- 1425 (xvii) a sewing kit;
1426 (xviii) shaving cream;
1427 (xix) a shoe shine kit;
1428 (xx) a shower cap;
1429 (xxi) a snack item;
1430 (xxii) soap;
1431 (xxiii) toilet paper;
1432 (xxiv) a toothbrush;
1433 (xxv) toothpaste; or
1434 (xxvi) an item similar to Subsections (132)(b)(i) through (xxv) as the commission
1435 may provide by rule made in accordance with Title 63G, Chapter 3, Utah
1436 Administrative Rulemaking Act.
- 1437 (c) "Short-term lodging consumable" does not include:
1438 (i) tangible personal property that is cleaned or washed to allow the tangible personal
1439 property to be reused; or
1440 (ii) a product transferred electronically.
- 1441 (133)(a) "Short-term rental" means a lease or rental for less than 30 consecutive days.
1442 (b) "Short-term rental" does not include car sharing.
- 1443 (134) "Simplified electronic return" means the electronic return:
1444 (a) described in Section 318(C) of the agreement; and
1445 (b) approved by the governing board of the agreement.
- 1446 (135) "Solar energy" means the sun used as the sole source of energy for producing
1447 electricity.
- 1448 (136)(a) "Sports or recreational equipment" means an item:
1449 (i) designed for human use; and
1450 (ii) that is:
1451 (A) worn in conjunction with:
1452 (I) an athletic activity; or
1453 (II) a recreational activity; and
1454 (B) not suitable for general use.
- 1455 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1456 commission shall make rules:
1457 (i) listing the items that constitute "sports or recreational equipment"; and
1458 (ii) that are consistent with the list of items that constitute "sports or recreational

- 1459 equipment" under the agreement.
- 1460 (137) "State" means the state of Utah, its departments, and agencies.
- 1461 (138) "Storage" means any keeping or retention of tangible personal property or any other
1462 taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
1463 sale in the regular course of business.
- 1464 (139)(a) "Tangible personal property" means personal property that:
- 1465 (i) may be:
- 1466 (A) seen;
- 1467 (B) weighed;
- 1468 (C) measured;
- 1469 (D) felt; or
- 1470 (E) touched; or
- 1471 (ii) is in any manner perceptible to the senses.
- 1472 (b) "Tangible personal property" includes:
- 1473 (i) electricity;
- 1474 (ii) water;
- 1475 (iii) gas;
- 1476 (iv) steam; or
- 1477 (v) prewritten computer software, regardless of the manner in which the prewritten
1478 computer software is transferred.
- 1479 (c) "Tangible personal property" includes the following regardless of whether the item is
1480 attached to real property:
- 1481 (i) a dishwasher;
- 1482 (ii) a dryer;
- 1483 (iii) a freezer;
- 1484 (iv) a microwave;
- 1485 (v) a refrigerator;
- 1486 (vi) a stove;
- 1487 (vii) a washer; or
- 1488 (viii) an item similar to Subsections (139)(c)(i) through (vii) as determined by the
1489 commission by rule made in accordance with Title 63G, Chapter 3, Utah
1490 Administrative Rulemaking Act.
- 1491 (d) "Tangible personal property" does not include a product that is transferred
1492 electronically.

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

- (i) a hot water heater;
- (ii) a water filtration system; or
- (iii) a water softener system.

(140)(a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (140)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

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

(b) The following apply to Subsection (140)(a):

- (i) a pole;
- (ii) software;
- (iii) a supplementary power supply;
- (iv) temperature or environmental equipment or machinery;
- (v) test equipment;
- (vi) a tower; or
- (vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (140)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (140)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (140)(b)(i) through (vi).

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

(142) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

- 1527 (a) telecommunications enabling or facilitating equipment, machinery, or software;
1528 (b) telecommunications switching or routing equipment, machinery, or software; or
1529 (c) telecommunications transmission equipment, machinery, or software.
- 1530 (143)(a) "Telecommunications service" means the electronic conveyance, routing, or
1531 transmission of audio, data, video, voice, or any other information or signal to a
1532 point, or among or between points.
- 1533 (b) "Telecommunications service" includes:
- 1534 (i) an electronic conveyance, routing, or transmission with respect to which a
1535 computer processing application is used to act:
- 1536 (A) on the code, form, or protocol of the content;
1537 (B) for the purpose of electronic conveyance, routing, or transmission; and
1538 (C) regardless of whether the service:
- 1539 (I) is referred to as voice over Internet protocol service; or
1540 (II) is classified by the Federal Communications Commission as enhanced or
1541 value added;
- 1542 (ii) an 800 service;
1543 (iii) a 900 service;
1544 (iv) a fixed wireless service;
1545 (v) a mobile wireless service;
1546 (vi) a postpaid calling service;
1547 (vii) a prepaid calling service;
1548 (viii) a prepaid wireless calling service; or
1549 (ix) a private communications service.
- 1550 (c) "Telecommunications service" does not include:
- 1551 (i) advertising, including directory advertising;
1552 (ii) an ancillary service;
1553 (iii) a billing and collection service provided to a third party;
1554 (iv) a data processing and information service if:
- 1555 (A) the data processing and information service allows data to be:
- 1556 (I)(Aa) acquired;
1557 (Bb) generated;
1558 (Cc) processed;
1559 (Dd) retrieved; or
1560 (Ee) stored; and

- 1561 (II) delivered by an electronic transmission to a purchaser; and
1562 (B) the purchaser's primary purpose for the underlying transaction is the processed
1563 data or information;
- 1564 (v) installation or maintenance of the following on a customer's premises:
1565 (A) equipment; or
1566 (B) wiring;
- 1567 (vi) Internet access service;
- 1568 (vii) a paging service;
- 1569 (viii) a product transferred electronically, including:
1570 (A) music;
1571 (B) reading material;
1572 (C) a ring tone;
1573 (D) software; or
1574 (E) video;
- 1575 (ix) a radio and television audio and video programming service:
1576 (A) regardless of the medium; and
1577 (B) including:
1578 (I) furnishing conveyance, routing, or transmission of a television audio and
1579 video programming service by a programming service provider;
1580 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
1581 (III) audio and video programming services delivered by a commercial mobile
1582 radio service provider as defined in 47 C.F.R. Sec. 20.3;
- 1583 (x) a value-added nonvoice data service; or
1584 (xi) tangible personal property.
- 1585 (144)(a) "Telecommunications service provider" means a person that:
1586 (i) owns, controls, operates, or manages a telecommunications service; and
1587 (ii) engages in an activity described in Subsection (144)(a)(i) for the shared use with
1588 or resale to any person of the telecommunications service.
- 1589 (b) A person described in Subsection (144)(a) is a telecommunications service provider
1590 whether or not the Public Service Commission of Utah regulates:
1591 (i) that person; or
1592 (ii) the telecommunications service that the person owns, controls, operates, or
1593 manages.
- 1594 (145)(a) "Telecommunications switching or routing equipment, machinery, or software"

means an item listed in Subsection (145)(b) if that item is purchased or leased primarily for switching or routing:

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

(b) The following apply to Subsection (145)(a):

- (i) a bridge;
- (ii) a computer;
- (iii) a cross connect;
- (iv) a modem;
- (v) a multiplexer;
- (vi) plug in circuitry;
- (vii) a router;
- (viii) software;
- (ix) a switch; or
- (x) equipment, machinery, or software that functions similarly to an item listed in Subsections (145)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (145)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (145)(b)(i) through (ix).

(146)(a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (146)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

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

(b) The following apply to Subsection (146)(a):

- (i) an amplifier;
- (ii) a cable;
- (iii) a closure;
- (iv) a conduit;

- 1629 (v) a controller;
- 1630 (vi) a duplexer;
- 1631 (vii) a filter;
- 1632 (viii) an input device;
- 1633 (ix) an input/output device;
- 1634 (x) an insulator;
- 1635 (xi) microwave machinery or equipment;
- 1636 (xii) an oscillator;
- 1637 (xiii) an output device;
- 1638 (xiv) a pedestal;
- 1639 (xv) a power converter;
- 1640 (xvi) a power supply;
- 1641 (xvii) a radio channel;
- 1642 (xviii) a radio receiver;
- 1643 (xix) a radio transmitter;
- 1644 (xx) a repeater;
- 1645 (xxi) software;
- 1646 (xxii) a terminal;
- 1647 (xxiii) a timing unit;
- 1648 (xxiv) a transformer;
- 1649 (xxv) a wire; or
- 1650 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1651 Subsections (146)(b)(i) through (xxv) as the commission determines by rule made
- 1652 in accordance with Subsection (146)(c).
- 1653 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1654 commission may by rule define what constitutes equipment, machinery, or software
- 1655 that functions similarly to an item listed in Subsections (146)(b)(i) through (xxv).
- 1656 (147)(a) "Textbook for a higher education course" means a textbook or other printed
- 1657 material that is required for a course:
- 1658 (i) offered by an institution of higher education; and
- 1659 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1660 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 1661 (148) "Tobacco" means:
- 1662 (a) a cigarette;

- (b) a cigar;
- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

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

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

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

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

- (a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and
- (b) with respect to which a computer processing application is used to act on data or information:
 - (i) code;
 - (ii) content;
 - (iii) form; or
 - (iv) protocol.

(152)(a) Subject to Subsection (152)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

- (i) an aircraft as defined in Section 72-10-102;
- (ii) a vehicle as defined in Section 41-1a-102;
- (iii) an off-highway vehicle as defined in Section 41-22-2; or
- (iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- (i) a vehicle described in Subsection (152)(a); or
- (ii)(A) a locomotive;
- (B) a freight car;

- 1697 (C) railroad work equipment; or
1698 (D) other railroad rolling stock.
- 1699 (153) "Vehicle dealer" means a person engaged in the business of buying, selling, or
1700 exchanging a vehicle as defined in Subsection (152).
- 1701 (154)(a) "Vertical service" means an ancillary service that:
1702 (i) is offered in connection with one or more telecommunications services; and
1703 (ii) offers an advanced calling feature that allows a customer to:
1704 (A) identify a caller; and
1705 (B) manage multiple calls and call connections.
- 1706 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1707 conference bridging service.
- 1708 (155)(a) "Voice mail service" means an ancillary service that enables a customer to
1709 receive, send, or store a recorded message.
- 1710 (b) "Voice mail service" does not include a vertical service that a customer is required to
1711 have in order to utilize a voice mail service.
- 1712 (156)(a) "Waste energy facility" means a facility that generates electricity:
1713 (i) using as the primary source of energy waste materials that would be placed in a
1714 landfill or refuse pit if it were not used to generate electricity, including:
1715 (A) tires;
1716 (B) waste coal;
1717 (C) oil shale; or
1718 (D) municipal solid waste; and
1719 (ii) in amounts greater than actually required for the operation of the facility.
- 1720 (b) "Waste energy facility" does not include a facility that incinerates:
1721 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
1722 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1723 (157) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1724 (158) "Wind energy" means wind used as the sole source of energy to produce electricity.
- 1725 (159) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
1726 location by the United States Postal Service.
- 1727 Section 2. Section **59-12-102** is amended to read:
1728 **59-12-102 (Effective 07/01/26). Definitions.**
1729 As used in this chapter:
1730 (1) "800 service" means a telecommunications service that:

1731 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

1732 (b) is typically marketed:

1733 (i) under the name 800 toll-free calling;

1734 (ii) under the name 855 toll-free calling;

1735 (iii) under the name 866 toll-free calling;

1736 (iv) under the name 877 toll-free calling;

1737 (v) under the name 888 toll-free calling; or

1738 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
1739 Federal Communications Commission.

1740 (2)(a) "900 service" means an inbound toll telecommunications service that:

1741 (i) a subscriber purchases;

1742 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
1743 the subscriber's:

1744 (A) prerecorded announcement; or

1745 (B) live service; and

1746 (iii) is typically marketed:

1747 (A) under the name 900 service; or

1748 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
1749 Communications Commission.

1750 (b) "900 service" does not include a charge for:

1751 (i) a collection service a seller of a telecommunications service provides to a
1752 subscriber; or

1753 (ii) the following a subscriber sells to the subscriber's customer:

1754 (A) a product; or

1755 (B) a service.

1756 (3)(a) "Adaptive driving equipment" means mobility enhancing equipment:

1757 (i) to be installed in a motor vehicle; and

1758 (ii) regardless of who provides the equipment or parts.

1759 (b) "Adaptive driving equipment" includes:

1760 (i) a wheelchair or scooter lift;

1761 (ii) equipment to secure a wheelchair;

1762 (iii) a swivel seat;

1763 (iv) a hand or foot control; and

1764 (v) a steering aid.

- 1765 (4)(a) "Admission or user fees" includes season passes.
- 1766 (b) "Admission or user fees" does not include:
- 1767 (i) annual membership dues to private organizations; or
- 1768 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
- 1769 facility listed in Subsection 59-12-103(1)(f).
- 1770 (5) "Affiliate" or "affiliated person" means a person that, with respect to another person:
- 1771 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
- 1772 person; or
- 1773 (b) is related to the other person because a third person, or a group of third persons who
- 1774 are affiliated persons with respect to each other, holds an ownership interest of more
- 1775 than 5%, whether direct or indirect, in the related persons.
- 1776 (6) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 1777 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 1778 Agreement after November 12, 2002.
- 1779 (7) "Agreement combined tax rate" means the sum of the tax rates:
- 1780 (a) listed under Subsection (8); and
- 1781 (b) that are imposed within a local taxing jurisdiction.
- 1782 (8) "Agreement sales and use tax" means a tax imposed under:
- 1783 (a) Subsection 59-12-103(2)(a)(i)(A);
- 1784 (b) Subsection 59-12-103(2)(a)(i)(B);
- 1785 (c) Subsection 59-12-103(2)(b)(i);
- 1786 (d) Subsection 59-12-103(2)(c)(i);
- 1787 (e) Subsection 59-12-103(2)(d);
- 1788 (f) Subsection 59-12-103(2)(e)(i)(A);
- 1789 (g) Section 59-12-204;
- 1790 (h) Section 59-12-401;
- 1791 (i) Section 59-12-402;
- 1792 (j) Section 59-12-402.1;
- 1793 (k) Section 59-12-703;
- 1794 (l) Section 59-12-802;
- 1795 (m) Section 59-12-804;
- 1796 (n) Section 59-12-1102;
- 1797 (o) Section 59-12-1302;
- 1798 (p) Section 59-12-1402;

- 1799 (q) Section 59-12-1802;
1800 (r) Section 59-12-2003;
1801 (s) Section 59-12-2103;
1802 (t) Section 59-12-2213;
1803 (u) Section 59-12-2214;
1804 (v) Section 59-12-2215;
1805 (w) Section 59-12-2216;
1806 (x) Section 59-12-2217;
1807 (y) Section 59-12-2218;
1808 (z) Section 59-12-2219;
1809 (aa) Section 59-12-2220;~~[-or]~~
1810 (bb) Section 59-12-2402~~[-]~~ ; or
1811 (cc) Section 59-12-2502.
- 1812 (9) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 1813 (10) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 1814 (a) except for:
- 1815 (i) an airline as defined in Section 59-2-102; or
- 1816 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 1817 includes a corporation that is qualified to do business but is not otherwise doing
- 1818 business in the state, of an airline; and
- 1819 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 1820 whether the business entity performs the following in this state:
- 1821 (i) check, diagnose, overhaul, and repair:
- 1822 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 1823 (B) the parts that comprise an onboard system of a fixed wing turbine powered
- 1824 aircraft;
- 1825 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered
- 1826 aircraft engine;
- 1827 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 1828 aircraft:
- 1829 (A) an inspection;
- 1830 (B) a repair, including a structural repair or modification;
- 1831 (C) changing landing gear; and
- 1832 (D) addressing issues related to an aging fixed wing turbine powered aircraft;

- 1833 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft
1834 and completely apply new paint to the fixed wing turbine powered aircraft; and
1835 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
1836 results in a change in the fixed wing turbine powered aircraft's certification
1837 requirements by the authority that certifies the fixed wing turbine powered aircraft.

1838 (11) "Alcoholic beverage" means a beverage that:

- 1839 (a) is suitable for human consumption; and
1840 (b) contains .5% or more alcohol by volume.

1841 (12) "Alternative energy" means:

- 1842 (a) biomass energy;
1843 (b) geothermal energy;
1844 (c) hydroelectric energy;
1845 (d) solar energy;
1846 (e) wind energy; or
1847 (f) energy that is derived from:
1848 (i) coal-to-liquids;
1849 (ii) nuclear fuel;
1850 (iii) oil-impregnated diatomaceous earth;
1851 (iv) oil sands;
1852 (v) oil shale;
1853 (vi) petroleum coke; or
1854 (vii) waste heat from:
1855 (A) an industrial facility; or
1856 (B) a power station in which an electric generator is driven through a process in
1857 which water is heated, turns into steam, and spins a steam turbine.

1858 (13)(a) Subject to Subsection (13)(b), "alternative energy electricity production facility"
1859 means a facility that:

- 1860 (i) uses alternative energy to produce electricity; and
1861 (ii) has a production capacity of two megawatts or greater.
1862 (b) A facility is an alternative energy electricity production facility regardless of whether
1863 the facility is:
1864 (i) connected to an electric grid; or
1865 (ii) located on the premises of an electricity consumer.

1866 (14)(a) "Ancillary service" means a service associated with, or incidental to, the

1867 provision of telecommunications service.

1868 (b) "Ancillary service" includes:

- 1869 (i) a conference bridging service;
- 1870 (ii) a detailed communications billing service;
- 1871 (iii) directory assistance;
- 1872 (iv) a vertical service; or
- 1873 (v) a voice mail service.

1874 (15) "Area agency on aging" means the same as that term is defined in Section 26B-6-101.

1875 (16) "Assisted amusement device" means an amusement device, skill device, or ride device
1876 that is started and stopped by an individual:

- 1877 (a) who is not the purchaser or renter of the right to use or operate the amusement
1878 device, skill device, or ride device; and
- 1879 (b) at the direction of the seller of the right to use the amusement device, skill device, or
1880 ride device.

1881 (17) "Assisted cleaning or washing of tangible personal property" means cleaning or
1882 washing of tangible personal property if the cleaning or washing labor is primarily
1883 performed by an individual:

- 1884 (a) who is not the purchaser of the cleaning or washing of the tangible personal property;
1885 and
- 1886 (b) at the direction of the seller of the cleaning or washing of the tangible personal
1887 property.

1888 (18) "Authorized carrier" means:

- 1889 (a) in the case of vehicles operated over public highways, the holder of credentials
1890 indicating that the vehicle is or will be operated pursuant to both the International
1891 Registration Plan and the International Fuel Tax Agreement;
- 1892 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
1893 certificate or air carrier's operating certificate; or
- 1894 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
1895 stock, a person who uses locomotives, freight cars, railroad work equipment, or other
1896 rolling stock in more than one state.

1897 (19)(a) "Biomass energy" means any of the following that is used as the primary source
1898 of energy to produce fuel or electricity:

- 1899 (i) material from a plant or tree; or
- 1900 (ii) other organic matter that is available on a renewable basis, including:

- 1901 (A) slash and brush from forests and woodlands;
1902 (B) animal waste;
1903 (C) waste vegetable oil;
1904 (D) methane or synthetic gas produced at a landfill, as a byproduct of the
1905 treatment of wastewater residuals, or through the conversion of a waste
1906 material through a nonincineration, thermal conversion process;
1907 (E) aquatic plants; and
1908 (F) agricultural products.
- 1909 (b) "Biomass energy" does not include:
1910 (i) black liquor; or
1911 (ii) treated woods.
- 1912 (20)(a) "Bundled transaction" means the sale of two or more items of tangible personal
1913 property, products, or services if the tangible personal property, products, or services
1914 are:
1915 (i) distinct and identifiable; and
1916 (ii) sold for one nonitemized price.
- 1917 (b) "Bundled transaction" does not include:
1918 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
1919 the basis of the selection by the purchaser of the items of tangible personal
1920 property included in the transaction;
1921 (ii) the sale of real property;
1922 (iii) the sale of services to real property;
1923 (iv) the retail sale of tangible personal property and a service if:
1924 (A) the tangible personal property:
1925 (I) is essential to the use of the service; and
1926 (II) is provided exclusively in connection with the service; and
1927 (B) the service is the true object of the transaction;
1928 (v) the retail sale of two services if:
1929 (A) one service is provided that is essential to the use or receipt of a second
1930 service;
1931 (B) the first service is provided exclusively in connection with the second service;
1932 and
1933 (C) the second service is the true object of the transaction;
1934 (vi) a transaction that includes tangible personal property or a product subject to

1935 taxation under this chapter and tangible personal property or a product that is not
1936 subject to taxation under this chapter if the:

1937 (A) seller's purchase price of the tangible personal property or product subject to
1938 taxation under this chapter is de minimis; or

1939 (B) seller's sales price of the tangible personal property or product subject to
1940 taxation under this chapter is de minimis; and

1941 (vii) the retail sale of tangible personal property that is not subject to taxation under
1942 this chapter and tangible personal property that is subject to taxation under this
1943 chapter if:

1944 (A) that retail sale includes:

1945 (I) food and food ingredients;

1946 (II) a drug;

1947 (III) durable medical equipment;

1948 (IV) mobility enhancing equipment;

1949 (V) an over-the-counter drug;

1950 (VI) a prosthetic device; or

1951 (VII) a medical supply; and

1952 (B) subject to Subsection (20)(f):

1953 (I) the seller's purchase price of the tangible personal property subject to
1954 taxation under this chapter is 50% or less of the seller's total purchase price
1955 of that retail sale; or

1956 (II) the seller's sales price of the tangible personal property subject to taxation
1957 under this chapter is 50% or less of the seller's total sales price of that retail
1958 sale.

1959 (c)(i) For purposes of Subsection (20)(a)(i), tangible personal property, a product, or
1960 a service that is distinct and identifiable does not include:

1961 (A) packaging that:

1962 (I) accompanies the sale of the tangible personal property, product, or service;
1963 and

1964 (II) is incidental or immaterial to the sale of the tangible personal property,
1965 product, or service;

1966 (B) tangible personal property, a product, or a service provided free of charge with
1967 the purchase of another item of tangible personal property, a product, or a
1968 service; or

- 1969 (C) an item of tangible personal property, a product, or a service included in the
1970 definition of "purchase price."
- 1971 (ii) For purposes of Subsection (20)(c)(i)(B), an item of tangible personal property, a
1972 product, or a service is provided free of charge with the purchase of another item
1973 of tangible personal property, a product, or a service if the sales price of the
1974 purchased item of tangible personal property, product, or service does not vary
1975 depending on the inclusion of the tangible personal property, product, or service
1976 provided free of charge.
- 1977 (d)(i) For purposes of Subsection (20)(a)(ii), property sold for one nonitemized price
1978 does not include a price that is separately identified by tangible personal property,
1979 product, or service on the following, regardless of whether the following is in
1980 paper format or electronic format:
- 1981 (A) a binding sales document; or
1982 (B) another supporting sales-related document that is available to a purchaser.
- 1983 (ii) For purposes of Subsection (20)(d)(i), a binding sales document or another
1984 supporting sales-related document that is available to a purchaser includes:
- 1985 (A) a bill of sale;
1986 (B) a contract;
1987 (C) an invoice;
1988 (D) a lease agreement;
1989 (E) a periodic notice of rates and services;
1990 (F) a price list;
1991 (G) a rate card;
1992 (H) a receipt; or
1993 (I) a service agreement.
- 1994 (e)(i) For purposes of Subsection (20)(b)(vi), the sales price of tangible personal
1995 property or a product subject to taxation under this chapter is de minimis if:
- 1996 (A) the seller's purchase price of the tangible personal property or product is 10%
1997 or less of the seller's total purchase price of the bundled transaction; or
1998 (B) the seller's sales price of the tangible personal property or product is 10% or
1999 less of the seller's total sales price of the bundled transaction.
- 2000 (ii) For purposes of Subsection (20)(b)(vi), a seller:
- 2001 (A) shall use the seller's purchase price or the seller's sales price to determine if
2002 the purchase price or sales price of the tangible personal property or product

- 2003 subject to taxation under this chapter is de minimis; and
- 2004 (B) may not use a combination of the seller's purchase price and the seller's sales
- 2005 price to determine if the purchase price or sales price of the tangible personal
- 2006 property or product subject to taxation under this chapter is de minimis.
- 2007 (iii) For purposes of Subsection (20)(b)(vi), a seller shall use the full term of a service
- 2008 contract to determine if the sales price of tangible personal property or a product is
- 2009 de minimis.
- 2010 (f) For purposes of Subsection (20)(b)(vii)(B), a seller may not use a combination of the
- 2011 seller's purchase price and the seller's sales price to determine if tangible personal
- 2012 property subject to taxation under this chapter is 50% or less of the seller's total
- 2013 purchase price or sales price of that retail sale.
- 2014 (21) "Car sharing" means the same as that term is defined in Section 13-48a-101.
- 2015 (22) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.
- 2016 (23) "Certified automated system" means software certified by the governing board of the
- 2017 agreement that:
- 2018 (a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:
- 2019 (i) on a transaction; and
- 2020 (ii) in the states that are members of the agreement;
- 2021 (b) determines the amount of agreement sales and use tax to remit to a state that is a
- 2022 member of the agreement; and
- 2023 (c) maintains a record of the transaction described in Subsection (23)(a)(i).
- 2024 (24) "Certified service provider" means an agent certified:
- 2025 (a) by the governing board of the agreement; and
- 2026 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as
- 2027 outlined in the contract between the governing board of the agreement and the
- 2028 certified service provider, other than the seller's obligation under Section 59-12-124
- 2029 to remit a tax on the seller's own purchases.
- 2030 (25)(a) Subject to Subsection (25)(b), "clothing" means all human wearing apparel
- 2031 suitable for general use.
- 2032 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2033 commission shall make rules:
- 2034 (i) listing the items that constitute "clothing"; and
- 2035 (ii) that are consistent with the list of items that constitute "clothing" under the
- 2036 agreement.

- (26) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- (27) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (61) or residential use under Subsection (117).
- (28)(a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.
- (b)(i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.
- (ii) For purposes of Subsection (28)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.
- (c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.
- (29) "Component part" includes:
- (a) poultry, dairy, and other livestock feed, and their components;
 - (b) baling ties and twine used in the baling of hay and straw;
 - (c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and
 - (d) feed, seeds, and seedlings.
- (30) "Computer" means an electronic device that accepts information:
- (a)(i) in digital form; or
 - (ii) in a form similar to digital form; and
 - (b) manipulates that information for a result based on a sequence of instructions.
- (31) "Computer software" means a set of coded instructions designed to cause:
- (a) a computer to perform a task; or
 - (b) automatic data processing equipment to perform a task.
- (32) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:
- (a) future updates or upgrades to computer software;
 - (b) support services with respect to computer software; or
 - (c) a combination of Subsections (32)(a) and (b).

- (33)(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.
- (b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (33)(a).
- (c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (33)(a).
- (34) "Construction materials" means any tangible personal property that will be converted into real property.
- (35) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.
- (36)(a) "Delivery charge" means a charge:
- (i) by a seller of:
 - (A) tangible personal property;
 - (B) a product transferred electronically; or
 - (C) a service; and
 - (ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (36)(a)(i) to a location designated by the purchaser.
- (b) "Delivery charge" includes a charge for the following:
- (i) transportation;
 - (ii) shipping;
 - (iii) postage;
 - (iv) handling;
 - (v) crating; or
 - (vi) packing.
- (37) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.
- (38) "Dietary supplement" means a product, other than tobacco, that:
- (a) is intended to supplement the diet;
 - (b) contains one or more of the following dietary ingredients:
 - (i) a vitamin;
 - (ii) a mineral;
 - (iii) an herb or other botanical;
 - (iv) an amino acid;

- 2105 (v) a dietary substance for use by humans to supplement the diet by increasing the
2106 total dietary intake; or
- 2107 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
2108 described in Subsections (38)(b)(i) through (v);
- 2109 (c)(i) except as provided in Subsection (38)(c)(ii), is intended for ingestion in:
- 2110 (A) tablet form;
- 2111 (B) capsule form;
- 2112 (C) powder form;
- 2113 (D) softgel form;
- 2114 (E) gelcap form; or
- 2115 (F) liquid form; or
- 2116 (ii) if the product is not intended for ingestion in a form described in Subsections
2117 (38)(c)(i)(A) through (F), is not represented:
- 2118 (A) as conventional food; and
- 2119 (B) for use as a sole item of:
- 2120 (I) a meal; or
- 2121 (II) the diet; and
- 2122 (d) is required to be labeled as a dietary supplement:
- 2123 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 2124 (ii) as required by 21 C.F.R. Sec. 101.36.
- 2125 (39)(a) "Digital audio work" means a work that results from the fixation of a series of
2126 musical, spoken, or other sounds.
- 2127 (b) "Digital audio work" includes a ringtone.
- 2128 (40) "Digital audio-visual work" means a series of related images which, when shown in
2129 succession, imparts an impression of motion, together with accompanying sounds, if any.
- 2130 (41) "Digital book" means a work that is generally recognized in the ordinary and usual
2131 sense as a book.
- 2132 (42)(a) "Direct mail" means printed material delivered or distributed by United States
2133 mail or other delivery service:
- 2134 (i) to:
- 2135 (A) a mass audience; or
- 2136 (B) addressees on a mailing list provided:
- 2137 (I) by a purchaser of the mailing list; or
- 2138 (II) at the discretion of the purchaser of the mailing list; and

- 2139 (ii) if the cost of the printed material is not billed directly to the recipients.
- 2140 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 2141 purchaser to a seller of direct mail for inclusion in a package containing the printed
- 2142 material.
- 2143 (c) "Direct mail" does not include multiple items of printed material delivered to a single
- 2144 address.
- 2145 (43) "Directory assistance" means an ancillary service of providing:
- 2146 (a) address information; or
- 2147 (b) telephone number information.
- 2148 (44)(a) "Disposable home medical equipment or supplies" means medical equipment or
- 2149 supplies that:
- 2150 (i) cannot withstand repeated use; and
- 2151 (ii) are purchased by, for, or on behalf of a person other than:
- 2152 (A) a health care facility as defined in Section 26B-2-201;
- 2153 (B) a health care provider as defined in Section 78B-3-403;
- 2154 (C) an office of a health care provider described in Subsection (44)(a)(ii)(B); or
- 2155 (D) a person similar to a person described in Subsections (44)(a)(ii)(A) through
- 2156 (C).
- 2157 (b) "Disposable home medical equipment or supplies" does not include:
- 2158 (i) a drug;
- 2159 (ii) durable medical equipment;
- 2160 (iii) a hearing aid;
- 2161 (iv) a hearing aid accessory;
- 2162 (v) mobility enhancing equipment; or
- 2163 (vi) tangible personal property used to correct impaired vision, including:
- 2164 (A) eyeglasses; or
- 2165 (B) contact lenses.
- 2166 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2167 commission may by rule define what constitutes medical equipment or supplies.
- 2168 (45) "Drilling equipment manufacturer" means a facility:
- 2169 (a) located in the state;
- 2170 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 2171 consist of manufacturing component parts of drilling equipment;
- 2172 (c) that uses pressure of 800,000 or more pounds per square inch as part of the

- 2173 manufacturing process; and
- 2174 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 2175 manufacturing process.
- 2176 (46)(a) "Drug" means a compound, substance, or preparation, or a component of a
- 2177 compound, substance, or preparation that is:
- 2178 (i) recognized in:
- 2179 (A) the official United States Pharmacopoeia;
- 2180 (B) the official Homeopathic Pharmacopoeia of the United States;
- 2181 (C) the official National Formulary; or
- 2182 (D) a supplement to a publication listed in Subsections (46)(a)(i)(A) through (C);
- 2183 (ii) intended for use in the:
- 2184 (A) diagnosis of disease;
- 2185 (B) cure of disease;
- 2186 (C) mitigation of disease;
- 2187 (D) treatment of disease; or
- 2188 (E) prevention of disease; or
- 2189 (iii) intended to affect:
- 2190 (A) the structure of the body; or
- 2191 (B) any function of the body.
- 2192 (b) "Drug" does not include:
- 2193 (i) food and food ingredients;
- 2194 (ii) a dietary supplement;
- 2195 (iii) an alcoholic beverage; or
- 2196 (iv) a prosthetic device.
- 2197 (47)(a) "Durable medical equipment" means equipment that:
- 2198 (i) can withstand repeated use;
- 2199 (ii) is primarily and customarily used to serve a medical purpose;
- 2200 (iii) generally is not useful to a person in the absence of illness or injury; and
- 2201 (iv) is not worn in or on the body.
- 2202 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 2203 equipment described in Subsection (47)(a).
- 2204 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 2205 (48) "Electronic" means:
- 2206 (a) relating to technology; and

- 2207 (b) having:
- 2208 (i) electrical capabilities;
- 2209 (ii) digital capabilities;
- 2210 (iii) magnetic capabilities;
- 2211 (iv) wireless capabilities;
- 2212 (v) optical capabilities;
- 2213 (vi) electromagnetic capabilities; or
- 2214 (vii) capabilities similar to Subsections (48)(b)(i) through (vi).
- 2215 (49) "Electronic financial payment service" means an establishment:
- 2216 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 2217 Clearinghouse Activities, of the 2012 North American Industry Classification System
- 2218 of the federal Executive Office of the President, Office of Management and Budget;
- 2219 and
- 2220 (b) that performs electronic financial payment services.
- 2221 (50) "Employee" means the same as that term is defined in Section 59-10-401.
- 2222 (51) "Fixed guideway" means a public transit facility that uses and occupies:
- 2223 (a) rail for the use of public transit; or
- 2224 (b) a separate right-of-way for the use of public transit.
- 2225 (52) "Fixed wing turbine powered aircraft" means an aircraft that:
- 2226 (a) is powered by turbine engines;
- 2227 (b) operates on jet fuel; and
- 2228 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 2229 (53) "Fixed wireless service" means a telecommunications service that provides radio
- 2230 communication between fixed points.
- 2231 (54)(a) "Food and food ingredients" means substances:
- 2232 (i) regardless of whether the substances are in:
- 2233 (A) liquid form;
- 2234 (B) concentrated form;
- 2235 (C) solid form;
- 2236 (D) frozen form;
- 2237 (E) dried form; or
- 2238 (F) dehydrated form; and
- 2239 (ii) that are:
- 2240 (A) sold for:

- 2241 (I) ingestion by humans; or
2242 (II) chewing by humans; and
2243 (B) consumed for the substance's:
2244 (I) taste; or
2245 (II) nutritional value.
- 2246 (b) "Food and food ingredients" includes an item described in Subsection (100)(b)(iii).
2247 (c) "Food and food ingredients" does not include:
2248 (i) an alcoholic beverage;
2249 (ii) tobacco; or
2250 (iii) prepared food.
- 2251 (55)(a) "Fundraising sales" means sales:
2252 (i)(A) made by a school; or
2253 (B) made by a school student;
2254 (ii) that are for the purpose of raising funds for the school to purchase equipment,
2255 materials, or provide transportation; and
2256 (iii) that are part of an officially sanctioned school activity.
- 2257 (b) For purposes of Subsection (55)(a)(iii), "officially sanctioned school activity" means
2258 a school activity:
2259 (i) that is conducted in accordance with a formal policy adopted by the school or
2260 school district governing the authorization and supervision of fundraising
2261 activities;
2262 (ii) that does not directly or indirectly compensate an individual teacher or other
2263 educational personnel by direct payment, commissions, or payment in kind; and
2264 (iii) the net or gross revenue from which is deposited in a dedicated account
2265 controlled by the school or school district.
- 2266 (56) "Geothermal energy" means energy contained in heat that continuously flows outward
2267 from the earth that is used as the sole source of energy to produce electricity.
- 2268 (57) "Governing board of the agreement" means the governing board of the agreement that
2269 is:
2270 (a) authorized to administer the agreement; and
2271 (b) established in accordance with the agreement.
- 2272 (58)(a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
2273 (i) the executive branch of the state, including all departments, institutions, boards,
2274 divisions, bureaus, offices, commissions, and committees;

- 2275 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
2276 Administrative Office of the Courts, and similar administrative units in the
2277 judicial branch;
- 2278 (iii) the legislative branch of the state, including the House of Representatives, the
2279 Senate, Legislative Services, the Office of Legislative Research and General
2280 Counsel, the Office of the Legislative Auditor General, and the Office of the
2281 Legislative Fiscal Analyst;
- 2282 (iv) the National Guard;
- 2283 (v) an independent entity as defined in Section 63E-1-102; or
- 2284 (vi) a political subdivision as defined in Section 17B-1-102.
- 2285 (b) "Governmental entity" does not include the state systems of public and higher
2286 education, including:
- 2287 (i) a school;
- 2288 (ii) the State Board of Education;
- 2289 (iii) the Utah Board of Higher Education; or
- 2290 (iv) an institution of higher education listed in Section 53H-1-102.
- 2291 (59) "Hydroelectric energy" means water used as the sole source of energy to produce
2292 electricity.
- 2293 (60) "Individual-owned shared vehicle" means the same as that term is defined in Section
2294 13-48a-101.
- 2295 (61) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other
2296 fuels:
- 2297 (a) in mining or extraction of minerals;
- 2298 (b) in agricultural operations to produce an agricultural product up to the time of harvest
2299 or placing the agricultural product into a storage facility, including:
- 2300 (i) commercial greenhouses;
- 2301 (ii) irrigation pumps;
- 2302 (iii) farm machinery;
- 2303 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
2304 under Title 41, Chapter 1a, Part 2, Registration; and
- 2305 (v) other farming activities;
- 2306 (c) in manufacturing tangible personal property at an establishment described in:
- 2307 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
2308 the federal Executive Office of the President, Office of Management and Budget;

- 2309 or
- 2310 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 2311 American Industry Classification System of the federal Executive Office of the
- 2312 President, Office of Management and Budget;
- 2313 (d) by a scrap recycler if:
- 2314 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to
- 2315 process one or more of the following items into prepared grades of processed
- 2316 materials for use in new products:
- 2317 (A) iron;
- 2318 (B) steel;
- 2319 (C) nonferrous metal;
- 2320 (D) paper;
- 2321 (E) glass;
- 2322 (F) plastic;
- 2323 (G) textile; or
- 2324 (H) rubber; and
- 2325 (ii) the new products under Subsection (61)(d)(i) would otherwise be made with
- 2326 nonrecycled materials; or
- 2327 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 2328 cogeneration facility as defined in Section 54-2-1.
- 2329 (62)(a) "Installation charge" means a charge for installing:
- 2330 (i) tangible personal property; or
- 2331 (ii) a product transferred electronically.
- 2332 (b) "Installation charge" does not include a charge for:
- 2333 (i) repairs or renovations of:
- 2334 (A) tangible personal property; or
- 2335 (B) a product transferred electronically; or
- 2336 (ii) attaching tangible personal property or a product transferred electronically:
- 2337 (A) to other tangible personal property; and
- 2338 (B) as part of a manufacturing or fabrication process.
- 2339 (63) "Institution of higher education" means an institution of higher education listed in
- 2340 Section 53H-1-102.
- 2341 (64)(a) "Lease" or "rental" means a transfer of possession or control of tangible personal
- 2342 property or a product transferred electronically for:

- 2343 (i)(A) a fixed term; or
2344 (B) an indeterminate term; and
2345 (ii) consideration.
- 2346 (b) "Lease" or "rental" includes:
2347 (i) an agreement covering a motor vehicle and trailer if the amount of consideration
2348 may be increased or decreased by reference to the amount realized upon sale or
2349 disposition of the property as defined in Section 7701(h)(1), Internal Revenue
2350 Code; and
2351 (ii) car sharing.
- 2352 (c) "Lease" or "rental" does not include:
2353 (i) a transfer of possession or control of property under a security agreement or
2354 deferred payment plan that requires the transfer of title upon completion of the
2355 required payments;
2356 (ii) a transfer of possession or control of property under an agreement that requires
2357 the transfer of title:
2358 (A) upon completion of required payments; and
2359 (B) if the payment of an option price does not exceed the greater of:
2360 (I) \$100; or
2361 (II) 1% of the total required payments; or
2362 (iii) providing tangible personal property along with an operator for a fixed period of
2363 time or an indeterminate period of time if the operator is necessary for equipment
2364 to perform as designed.
- 2365 (d) For purposes of Subsection (64)(c)(iii), an operator is necessary for equipment to
2366 perform as designed if the operator's duties exceed the:
2367 (i) set-up of tangible personal property;
2368 (ii) maintenance of tangible personal property; or
2369 (iii) inspection of tangible personal property.
- 2370 (65) "Lesson" means a fixed period of time for the duration of which a trained instructor:
2371 (a) is present with a student in person or by video; and
2372 (b) actively instructs the student, including by providing observation or feedback.
- 2373 (66) "Life science establishment" means an establishment in this state that is classified
2374 under the following NAICS codes of the 2007 North American Industry Classification
2375 System of the federal Executive Office of the President, Office of Management and
2376 Budget:

- 2377 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 2378 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
- 2379 Manufacturing; or
- 2380 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 2381 (67) "Life science research and development facility" means a facility owned, leased, or
- 2382 rented by a life science establishment if research and development is performed in 51%
- 2383 or more of the total area of the facility.
- 2384 (68) "Load and leave" means delivery to a purchaser by use of a tangible storage media if
- 2385 the tangible storage media is not physically transferred to the purchaser.
- 2386 (69) "Local taxing jurisdiction" means a:
- 2387 (a) county that is authorized to impose an agreement sales and use tax;
- 2388 (b) city that is authorized to impose an agreement sales and use tax; or
- 2389 (c) town that is authorized to impose an agreement sales and use tax.
- 2390 (70) "Manufactured home" means the same as that term is defined in Section 15A-1-302.
- 2391 (71) "Manufacturing facility" means:
- 2392 (a) an establishment described in:
- 2393 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 2394 the federal Executive Office of the President, Office of Management and Budget;
- 2395 or
- 2396 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 2397 American Industry Classification System of the federal Executive Office of the
- 2398 President, Office of Management and Budget;
- 2399 (b) a scrap recycler if:
- 2400 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to
- 2401 process one or more of the following items into prepared grades of processed
- 2402 materials for use in new products:
- 2403 (A) iron;
- 2404 (B) steel;
- 2405 (C) nonferrous metal;
- 2406 (D) paper;
- 2407 (E) glass;
- 2408 (F) plastic;
- 2409 (G) textile; or
- 2410 (H) rubber; and

- 2411 (ii) the new products under Subsection (71)(b)(i) would otherwise be made with
2412 nonrecycled materials; or
- 2413 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
2414 placed in service on or after May 1, 2006.
- 2415 (72)(a) "Marketplace" means a physical or electronic place, platform, or forum where
2416 tangible personal property, a product transferred electronically, or a service is offered
2417 for sale.
- 2418 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated
2419 sales software application.
- 2420 (73)(a) "Marketplace facilitator" means a person, including an affiliate of the person,
2421 that enters into a contract, an agreement, or otherwise with sellers, for consideration,
2422 to facilitate the sale of a seller's product through a marketplace that the person owns,
2423 operates, or controls and that directly or indirectly:
- 2424 (i) does any of the following:
- 2425 (A) lists, makes available, or advertises tangible personal property, a product
2426 transferred electronically, or a service for sale by a marketplace seller on a
2427 marketplace that the person owns, operates, or controls;
- 2428 (B) facilitates the sale of a marketplace seller's tangible personal property, product
2429 transferred electronically, or service by transmitting or otherwise
2430 communicating an offer or acceptance of a retail sale between the marketplace
2431 seller and a purchaser using the marketplace;
- 2432 (C) owns, rents, licenses, makes available, or operates any electronic or physical
2433 infrastructure or any property, process, method, copyright, trademark, or patent
2434 that connects a marketplace seller to a purchaser for the purpose of making a
2435 retail sale of tangible personal property, a product transferred electronically, or
2436 a service;
- 2437 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of
2438 tangible personal property, a product transferred electronically, or a service,
2439 regardless of ownership or control of the tangible personal property, the
2440 product transferred electronically, or the service that is the subject of the retail
2441 sale;
- 2442 (E) provides software development or research and development activities related
2443 to any activity described in this Subsection (73)(a)(i), if the software
2444 development or research and development activity is directly related to the

- 2445 person's marketplace;
- 2446 (F) provides or offers fulfillment or storage services for a marketplace seller;
- 2447 (G) sets prices for the sale of tangible personal property, a product transferred
- 2448 electronically, or a service by a marketplace seller;
- 2449 (H) provides or offers customer service to a marketplace seller or a marketplace
- 2450 seller's purchaser or accepts or assists with taking orders, returns, or exchanges
- 2451 of tangible personal property, a product transferred electronically, or a service
- 2452 sold by a marketplace seller on the person's marketplace; or
- 2453 (I) brands or otherwise identifies sales as those of the person; and
- 2454 (ii) does any of the following:
- 2455 (A) collects the sales price or purchase price of a retail sale of tangible personal
- 2456 property, a product transferred electronically, or a service;
- 2457 (B) provides payment processing services for a retail sale of tangible personal
- 2458 property, a product transferred electronically, or a service;
- 2459 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee,
- 2460 closing fee, a fee for inserting or making available tangible personal property, a
- 2461 product transferred electronically, or a service on the person's marketplace, or
- 2462 other consideration for the facilitation of a retail sale of tangible personal
- 2463 property, a product transferred electronically, or a service, regardless of
- 2464 ownership or control of the tangible personal property, the product transferred
- 2465 electronically, or the service that is the subject of the retail sale;
- 2466 (D) through terms and conditions, an agreement, or another arrangement with a
- 2467 third person, collects payment from a purchase for a retail sale of tangible
- 2468 personal property, a product transferred electronically, or a service and
- 2469 transmits that payment to the marketplace seller, regardless of whether the
- 2470 third person receives compensation or other consideration in exchange for the
- 2471 service; or
- 2472 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
- 2473 property, a product transferred electronically, or service offered for sale.
- 2474 (b) "Marketplace facilitator" does not include:
- 2475 (i) a person that only provides payment processing services; or
- 2476 (ii) a person described in Subsection (73)(a) to the extent the person is facilitating a
- 2477 sale for a seller that is a restaurant as defined in Section 59-12-602.
- 2478 (74) "Marketplace seller" means a seller that makes one or more retail sales through a

marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

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

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

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (75)(a) through (g); or

(j) person similar to a person described in Subsections (75)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

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

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

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (78)(a)(i) and the termination point described in Subsection (78)(a)(ii) are not fixed.

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

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

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

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

- 2513 (ii) appropriate for use in a:
- 2514 (A) home; or
- 2515 (B) motor vehicle; and
- 2516 (iii) not generally used by persons with normal mobility.
- 2517 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
- 2518 the equipment described in Subsection (79)(a).
- 2519 (c) "Mobility enhancing equipment" does not include:
- 2520 (i) a motor vehicle;
- 2521 (ii) equipment on a motor vehicle if that equipment is normally provided by the
- 2522 motor vehicle manufacturer;
- 2523 (iii) durable medical equipment; or
- 2524 (iv) a prosthetic device.
- 2525 (80) "Model 1 seller" means a seller registered under the agreement that has selected a
- 2526 certified service provider as the seller's agent to perform the seller's sales and use tax
- 2527 functions for agreement sales and use taxes, as outlined in the contract between the
- 2528 governing board of the agreement and the certified service provider, other than the
- 2529 seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.
- 2530 (81) "Model 2 seller" means a seller registered under the agreement that:
- 2531 (a) except as provided in Subsection (81)(b), has selected a certified automated system
- 2532 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 2533 (b) retains responsibility for remitting all of the sales tax:
- 2534 (i) collected by the seller; and
- 2535 (ii) to the appropriate local taxing jurisdiction.
- 2536 (82)(a) Subject to Subsection (82)(b), "model 3 seller" means a seller registered under
- 2537 the agreement that has:
- 2538 (i) sales in at least five states that are members of the agreement;
- 2539 (ii) total annual sales revenue of at least \$500,000,000;
- 2540 (iii) a proprietary system that calculates the amount of tax:
- 2541 (A) for an agreement sales and use tax; and
- 2542 (B) due to each local taxing jurisdiction; and
- 2543 (iv) entered into a performance agreement with the governing board of the agreement.
- 2544 (b) For purposes of Subsection (82)(a), "model 3 seller" includes an affiliated group of
- 2545 sellers using the same proprietary system.
- 2546 (83) "Model 4 seller" means a seller that is registered under the agreement and is not a

model 1 seller, model 2 seller, or model 3 seller.

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

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

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

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

(b) yield mixtures of liquid hydrocarbon; and

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

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

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

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

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

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

(b) For purposes of Subsection (90)(a), the transmission of a coded radio signal includes a transmission by message or sound.

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

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

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

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

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

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

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

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

(B) require substantial alteration or repair of the real property to which the

2581 tangible personal property is attached.

2582 (b) "Permanently attached to real property" includes:

2583 (i) the attachment of an accessory to the tangible personal property if the accessory is:

2584 (A) essential to the operation of the tangible personal property; and

2585 (B) attached only to facilitate the operation of the tangible personal property;

2586 (ii) a temporary detachment of tangible personal property from real property for a
2587 repair or renovation if the repair or renovation is performed where the tangible
2588 personal property and real property are located; or

2589 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
2590 Subsection (93)(c)(iii) or (iv).

2591 (c) "Permanently attached to real property" does not include:

2592 (i) the attachment of portable or movable tangible personal property to real property
2593 if that portable or movable tangible personal property is attached to real property
2594 only for:

2595 (A) convenience;

2596 (B) stability; or

2597 (C) for an obvious temporary purpose;

2598 (ii) the detachment of tangible personal property from real property except for the
2599 detachment described in Subsection (93)(b)(ii);

2600 (iii) an attachment of the following tangible personal property to real property if the
2601 attachment to real property is only through a line that supplies water, electricity,
2602 gas, telecommunications, cable, or supplies a similar item as determined by the
2603 commission by rule made in accordance with Title 63G, Chapter 3, Utah
2604 Administrative Rulemaking Act:

2605 (A) a computer;

2606 (B) a telephone;

2607 (C) a television; or

2608 (D) tangible personal property similar to Subsections (93)(c)(iii)(A) through (C)
2609 as determined by the commission by rule made in accordance with Title 63G,
2610 Chapter 3, Utah Administrative Rulemaking Act; or

2611 (iv) an item listed in Subsection (139)(c).

2612 (94) "Person" includes any individual, firm, partnership, joint venture, association,
2613 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
2614 municipality, district, or other local governmental entity of the state, or any group or

2615 combination acting as a unit.

2616 (95) "Place of primary use":

2617 (a) for telecommunications service other than mobile telecommunications service,

2618 means the street address representative of where the customer's use of the

2619 telecommunications service primarily occurs, which shall be:

2620 (i) the residential street address of the customer; or

2621 (ii) the primary business street address of the customer; or

2622 (b) for mobile telecommunications service, means the same as that term is defined in the

2623 Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2624 (96)(a) "Postpaid calling service" means a telecommunications service a person obtains

2625 by making a payment on a call-by-call basis:

2626 (i) through the use of a:

2627 (A) bank card;

2628 (B) credit card;

2629 (C) debit card; or

2630 (D) travel card; or

2631 (ii) by a charge made to a telephone number that is not associated with the origination

2632 or termination of the telecommunications service.

2633 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling

2634 service, that would be a prepaid wireless calling service if the service were

2635 exclusively a telecommunications service.

2636 (97) "Postproduction" means an activity related to the finishing or duplication of a medium

2637 described in Subsection 59-12-104(54)(a).

2638 (98) "Prepaid calling service" means a telecommunications service:

2639 (a) that allows a purchaser access to telecommunications service that is exclusively

2640 telecommunications service;

2641 (b) that:

2642 (i) is paid for in advance; and

2643 (ii) enables the origination of a call using an:

2644 (A) access number; or

2645 (B) authorization code;

2646 (c) that is dialed:

2647 (i) manually; or

2648 (ii) electronically; and

- 2649 (d) sold in predetermined units or dollars that decline:
2650 (i) by a known amount; and
2651 (ii) with use.
- 2652 (99) "Prepaid wireless calling service" means a telecommunications service:
2653 (a) that provides the right to utilize:
2654 (i) mobile wireless service; and
2655 (ii) other service that is not a telecommunications service, including:
2656 (A) the download of a product transferred electronically;
2657 (B) a content service; or
2658 (C) an ancillary service;
- 2659 (b) that:
2660 (i) is paid for in advance; and
2661 (ii) enables the origination of a call using an:
2662 (A) access number; or
2663 (B) authorization code;
- 2664 (c) that is dialed:
2665 (i) manually; or
2666 (ii) electronically; and
- 2667 (d) sold in predetermined units or dollars that decline:
2668 (i) by a known amount; and
2669 (ii) with use.
- 2670 (100)(a) "Prepared food" means:
2671 (i) food:
2672 (A) sold in a heated state; or
2673 (B) heated by a seller;
2674 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
2675 item; or
2676 (iii) except as provided in Subsection (100)(c), food sold with an eating utensil
2677 provided by the seller, including a:
2678 (A) plate;
2679 (B) knife;
2680 (C) fork;
2681 (D) spoon;
2682 (E) glass;

- 2683 (F) cup;
2684 (G) napkin; or
2685 (H) straw.
- 2686 (b) "Prepared food" does not include:
- 2687 (i) food that a seller only:
- 2688 (A) cuts;
2689 (B) repackages; or
2690 (C) pasteurizes;
- 2691 (ii)(A) the following:
- 2692 (I) raw egg;
2693 (II) raw fish;
2694 (III) raw meat;
2695 (IV) raw poultry; or
2696 (V) a food containing an item described in Subsections (100)(b)(ii)(A)(I)
2697 through (IV); and
- 2698 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of
2699 the Food and Drug Administration's Food Code that a consumer cook the items
2700 described in Subsection (100)(b)(ii)(A) to prevent food borne illness; or
- 2701 (iii) the following if sold without eating utensils provided by the seller:
- 2702 (A) food and food ingredients sold by a seller if the seller's proper primary
2703 classification under the 2002 North American Industry Classification System
2704 of the federal Executive Office of the President, Office of Management and
2705 Budget, is manufacturing in Sector 311, Food Manufacturing, except for
2706 Subsector 3118, Bakeries and Tortilla Manufacturing;
- 2707 (B) food and food ingredients sold in an unheated state:
- 2708 (I) by weight or volume; and
2709 (II) as a single item; or
- 2710 (C) a bakery item, including:
- 2711 (I) a bagel;
2712 (II) a bar;
2713 (III) a biscuit;
2714 (IV) bread;
2715 (V) a bun;
2716 (VI) a cake;

- 2717 (VII) a cookie;
- 2718 (VIII) a croissant;
- 2719 (IX) a danish;
- 2720 (X) a donut;
- 2721 (XI) a muffin;
- 2722 (XII) a pastry;
- 2723 (XIII) a pie;
- 2724 (XIV) a roll;
- 2725 (XV) a tart;
- 2726 (XVI) a torte; or
- 2727 (XVII) a tortilla.

2728 (c) An eating utensil provided by the seller does not include the following used to
2729 transport the food:

- 2730 (i) a container; or
- 2731 (ii) packaging.

2732 (101) "Prescription" means an order, formula, or recipe that is issued:

- 2733 (a)(i) orally;
- 2734 (ii) in writing;
- 2735 (iii) electronically; or
- 2736 (iv) by any other manner of transmission; and

2737 (b) by a licensed practitioner authorized by the laws of a state.

2738 (102)(a) "Prewritten computer software" means computer software that is not designed
2739 and developed:

- 2740 (i) by the author or other creator of the computer software; and
- 2741 (ii) to the specifications of a specific purchaser.

2742 (b) "Prewritten computer software" includes:

- 2743 (i) a prewritten upgrade to computer software if the prewritten upgrade to the
2744 computer software is not designed and developed:
 - 2745 (A) by the author or other creator of the computer software; and
 - 2746 (B) to the specifications of a specific purchaser;
- 2747 (ii) computer software designed and developed by the author or other creator of the
2748 computer software to the specifications of a specific purchaser if the computer
2749 software is sold to a person other than the purchaser; or
- 2750 (iii) except as provided in Subsection (102)(c), prewritten computer software or a

2751 prewritten portion of prewritten computer software:

2752 (A) that is modified or enhanced to any degree; and

2753 (B) if the modification or enhancement described in Subsection (102)(b)(iii)(A) is
2754 designed and developed to the specifications of a specific purchaser.

2755 (c) "Prewritten computer software" does not include a modification or enhancement
2756 described in Subsection (102)(b)(iii) if the charges for the modification or
2757 enhancement are:

2758 (i) reasonable; and

2759 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the
2760 invoice or other statement of price provided to the purchaser at the time of sale or
2761 later, as demonstrated by:

2762 (A) the books and records the seller keeps at the time of the transaction in the
2763 regular course of business, including books and records the seller keeps at the
2764 time of the transaction in the regular course of business for nontax purposes;

2765 (B) a preponderance of the facts and circumstances at the time of the transaction;
2766 and

2767 (C) the understanding of all of the parties to the transaction.

2768 (103)(a) "Private communications service" means a telecommunications service:

2769 (i) that entitles a customer to exclusive or priority use of one or more
2770 communications channels between or among termination points; and

2771 (ii) regardless of the manner in which the one or more communications channels are
2772 connected.

2773 (b) "Private communications service" includes the following provided in connection
2774 with the use of one or more communications channels:

2775 (i) an extension line;

2776 (ii) a station;

2777 (iii) switching capacity; or

2778 (iv) another associated service that is provided in connection with the use of one or
2779 more communications channels as defined in Section 59-12-215.

2780 (104)(a) "Product transferred electronically" means a product transferred electronically
2781 that would be subject to a tax under this chapter if that product was transferred in a
2782 manner other than electronically.

2783 (b) "Product transferred electronically" does not include:

2784 (i) an ancillary service;

- 2785 (ii) computer software; or
2786 (iii) a telecommunications service.
- 2787 (105)(a) "Prosthetic device" means a device that is worn on or in the body to:
2788 (i) artificially replace a missing portion of the body;
2789 (ii) prevent or correct a physical deformity or physical malfunction; or
2790 (iii) support a weak or deformed portion of the body.
- 2791 (b) "Prosthetic device" includes:
2792 (i) parts used in the repairs or renovation of a prosthetic device;
2793 (ii) replacement parts for a prosthetic device;
2794 (iii) a dental prosthesis; or
2795 (iv) a hearing aid.
- 2796 (c) "Prosthetic device" does not include:
2797 (i) corrective eyeglasses; or
2798 (ii) contact lenses.
- 2799 (106)(a) "Protective equipment" means an item:
2800 (i) for human wear; and
2801 (ii) that is:
2802 (A) designed as protection:
2803 (I) to the wearer against injury or disease; or
2804 (II) against damage or injury of other persons or property; and
2805 (B) not suitable for general use.
- 2806 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2807 commission shall make rules:
2808 (i) listing the items that constitute "protective equipment"; and
2809 (ii) that are consistent with the list of items that constitute "protective equipment"
2810 under the agreement.
- 2811 (107)(a) For purposes of Subsection 59-12-104(41), "publication" means any written or
2812 printed matter, other than a photocopy:
2813 (i) regardless of:
2814 (A) characteristics;
2815 (B) copyright;
2816 (C) form;
2817 (D) format;
2818 (E) method of reproduction; or

- 2819 (F) source; and
- 2820 (ii) made available in printed or electronic format.
- 2821 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2822 commission may by rule define the term "photocopy."
- 2823 (108)(a) "Purchase price" and "sales price" mean the total amount of consideration:
- 2824 (i) valued in money; and
- 2825 (ii) for which tangible personal property, a product transferred electronically, or
- 2826 services are:
- 2827 (A) sold;
- 2828 (B) leased; or
- 2829 (C) rented.
- 2830 (b) "Purchase price" and "sales price" include:
- 2831 (i) the seller's cost of the tangible personal property, a product transferred
- 2832 electronically, or services sold;
- 2833 (ii) expenses of the seller, including:
- 2834 (A) the cost of materials used;
- 2835 (B) a labor cost;
- 2836 (C) a service cost;
- 2837 (D) interest;
- 2838 (E) a loss;
- 2839 (F) the cost of transportation to the seller; or
- 2840 (G) a tax imposed on the seller;
- 2841 (iii) a charge by the seller for any service necessary to complete the sale; or
- 2842 (iv) consideration a seller receives from a person other than the purchaser if:
- 2843 (A)(I) the seller actually receives consideration from a person other than the
- 2844 purchaser; and
- 2845 (II) the consideration described in Subsection (108)(b)(iv)(A)(I) is directly
- 2846 related to a price reduction or discount on the sale;
- 2847 (B) the seller has an obligation to pass the price reduction or discount through to
- 2848 the purchaser;
- 2849 (C) the amount of the consideration attributable to the sale is fixed and
- 2850 determinable by the seller at the time of the sale to the purchaser; and
- 2851 (D)(I)(Aa) the purchaser presents a certificate, coupon, or other
- 2852 documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

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

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

(Aa) invoice the purchaser receives; or

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

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

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

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

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

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

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

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

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

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

(109) "Purchaser" means a person to whom:

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

(b) a product is transferred electronically; or

(c) a service is furnished.

(110) "Qualifying data center" means a data center facility that:

(a) houses a group of networked server computers in one physical location in order to disseminate, manage, and store data and information;

(b) is located in the state;

(c) is a new operation constructed on or after July 1, 2016;

(d) consists of one or more buildings that total 150,000 or more square feet;

(e) is owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and

(f) is located on one or more parcels of land that are owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility.

(111) "Qualifying energy storage manufacturing facility" means a facility that

manufactures, in the state, equipment or devices that store and discharge energy for the purpose of providing electrical power.

(112) "Regularly rented" means:

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

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

(113) "Rental" means the same as that term is defined in Subsection (64).

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

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

- 2921 (ii) attaching tangible personal property or a product transferred electronically to
2922 other tangible personal property or detaching tangible personal property or a
2923 product transferred electronically from other tangible personal property if:
2924 (A) the other tangible personal property to which the tangible personal property or
2925 product transferred electronically is attached or from which the tangible
2926 personal property or product transferred electronically is detached is not
2927 permanently attached to real property; and
2928 (B) the attachment of tangible personal property or a product transferred
2929 electronically to other tangible personal property or detachment of tangible
2930 personal property or a product transferred electronically from other tangible
2931 personal property is made in conjunction with a repair or replacement of
2932 tangible personal property or a product transferred electronically.
- 2933 (b) "Repairs or renovations of tangible personal property" does not include:
2934 (i) attaching prewritten computer software to other tangible personal property if the
2935 other tangible personal property to which the prewritten computer software is
2936 attached is not permanently attached to real property; or
2937 (ii) detaching prewritten computer software from other tangible personal property if
2938 the other tangible personal property from which the prewritten computer software
2939 is detached is not permanently attached to real property.
- 2940 (115) "Research and development" means the process of inquiry or experimentation aimed
2941 at the discovery of facts, devices, technologies, or applications and the process of
2942 preparing those devices, technologies, or applications for marketing.
- 2943 (116)(a) "Residential telecommunications services" means a telecommunications service
2944 or an ancillary service that is provided to an individual for personal use:
2945 (i) at a residential address; or
2946 (ii) at an institution, including a nursing home or a school, if the telecommunications
2947 service or ancillary service is provided to and paid for by the individual residing at
2948 the institution rather than the institution.
- 2949 (b) For purposes of Subsection (116)(a)(i), a residential address includes an:
2950 (i) apartment; or
2951 (ii) other individual dwelling unit.
- 2952 (117) "Residential use" means the use in or around a home, apartment building, sleeping
2953 quarters, and similar facilities or accommodations.
- 2954 (118) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

- 2955 (a) resale;
- 2956 (b) sublease; or
- 2957 (c) subrent.
- 2958 (119)(a) "Retailer" means any person, unless prohibited by the Constitution of the
- 2959 United States or federal law, that is engaged in a regularly organized business in
- 2960 tangible personal property or any other taxable transaction under Subsection
- 2961 59-12-103(1), and who is selling to the user or consumer and not for resale.
- 2962 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
- 2963 engaged in the business of selling to users or consumers within the state.
- 2964 (120)(a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise,
- 2965 in any manner, of tangible personal property or any other taxable transaction under
- 2966 Subsection 59-12-103(1), for consideration.
- 2967 (b) "Sale" includes:
- 2968 (i) installment and credit sales;
- 2969 (ii) any closed transaction constituting a sale;
- 2970 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 2971 chapter;
- 2972 (iv) any transaction if the possession of property is transferred but the seller retains
- 2973 the title as security for the payment of the price; and
- 2974 (v) any transaction under which right to possession, operation, or use of any article of
- 2975 tangible personal property is granted under a lease or contract and the transfer of
- 2976 possession would be taxable if an outright sale were made.
- 2977 (121) "Sale at retail" means the same as that term is defined in Subsection (118).
- 2978 (122) "Sale-leaseback transaction" means a transaction by which title to tangible personal
- 2979 property or a product transferred electronically that is subject to a tax under this chapter
- 2980 is transferred:
- 2981 (a) by a purchaser-lessee;
- 2982 (b) to a lessor;
- 2983 (c) for consideration; and
- 2984 (d) if:
- 2985 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial
- 2986 purchase of the tangible personal property or product transferred electronically;
- 2987 (ii) the sale of the tangible personal property or product transferred electronically to
- 2988 the lessor is intended as a form of financing:

- 2989 (A) for the tangible personal property or product transferred electronically; and
2990 (B) to the purchaser-lessee; and
2991 (iii) in accordance with generally accepted accounting principles, the
2992 purchaser-lessee is required to:
2993 (A) capitalize the tangible personal property or product transferred electronically
2994 for financial reporting purposes; and
2995 (B) account for the lease payments as payments made under a financing
2996 arrangement.
- 2997 (123) "Sales price" means the same as that term is defined in Subsection (108).
2998 (124)(a) "Sales relating to schools" means the following sales by, amounts paid to, or
2999 amounts charged by a school:
- 3000 (i) sales that are directly related to the school's educational functions or activities
3001 including:
3002 (A) the sale of:
3003 (I) textbooks;
3004 (II) textbook fees;
3005 (III) laboratory fees;
3006 (IV) laboratory supplies; or
3007 (V) safety equipment;
3008 (B) the sale of a uniform, protective equipment, or sports or recreational
3009 equipment that:
3010 (I) a student is specifically required to wear as a condition of participation in a
3011 school-related event or school-related activity; and
3012 (II) is not readily adaptable to general or continued usage to the extent that it
3013 takes the place of ordinary clothing;
3014 (C) sales of the following if the net or gross revenue generated by the sales is
3015 deposited into a school district fund or school fund dedicated to school meals:
3016 (I) food and food ingredients; or
3017 (II) prepared food; or
3018 (D) transportation charges for official school activities; or
3019 (ii) amounts paid to or amounts charged by a school for admission to a school-related
3020 event or school-related activity.
- 3021 (b) "Sales relating to schools" does not include:
3022 (i) bookstore sales of items that are not educational materials or supplies;

- 3023 (ii) except as provided in Subsection (124)(a)(i)(B):
3024 (A) clothing;
3025 (B) clothing accessories or equipment;
3026 (C) protective equipment; or
3027 (D) sports or recreational equipment; or
3028 (iii) amounts paid to or amounts charged by a school for admission to a
3029 school-related event or school-related activity if the amounts paid or charged are
3030 passed through to a person:
3031 (A) other than a:
3032 (I) school;
3033 (II) nonprofit organization authorized by a school board or a governing body of
3034 a private school to organize and direct a competitive secondary school
3035 activity; or
3036 (III) nonprofit association authorized by a school board or a governing body of
3037 a private school to organize and direct a competitive secondary school
3038 activity; and
3039 (B) that is required to collect sales and use taxes under this chapter.
3040 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3041 commission may make rules defining the term "passed through."
3042 (125) For purposes of this section and Section 59-12-104, "school" means:
3043 (a) an elementary school or a secondary school that:
3044 (i) is a:
3045 (A) public school; or
3046 (B) private school; and
3047 (ii) provides instruction for one or more grades kindergarten through 12; or
3048 (b) a public school district.
3049 (126)(a) "Seller" means a person that makes a sale, lease, or rental of:
3050 (i) tangible personal property;
3051 (ii) a product transferred electronically; or
3052 (iii) a service.
3053 (b) "Seller" includes a marketplace facilitator.
3054 (127)(a) "Semiconductor fabricating, processing, research, or development materials"
3055 means tangible personal property or a product transferred electronically if the
3056 tangible personal property or product transferred electronically is:

- 3057 (i) used primarily in the process of:
- 3058 (A)(I) manufacturing a semiconductor;
- 3059 (II) fabricating a semiconductor; or
- 3060 (III) research or development of a:
- 3061 (Aa) semiconductor; or
- 3062 (Bb) semiconductor manufacturing process; or
- 3063 (B) maintaining an environment suitable for a semiconductor; or
- 3064 (ii) consumed primarily in the process of:
- 3065 (A)(I) manufacturing a semiconductor;
- 3066 (II) fabricating a semiconductor; or
- 3067 (III) research or development of a:
- 3068 (Aa) semiconductor; or
- 3069 (Bb) semiconductor manufacturing process; or
- 3070 (B) maintaining an environment suitable for a semiconductor.
- 3071 (b) "Semiconductor fabricating, processing, research, or development materials"
- 3072 includes:
- 3073 (i) parts used in the repairs or renovations of tangible personal property or a product
- 3074 transferred electronically described in Subsection (127)(a); or
- 3075 (ii) a chemical, catalyst, or other material used to:
- 3076 (A) produce or induce in a semiconductor a:
- 3077 (I) chemical change; or
- 3078 (II) physical change;
- 3079 (B) remove impurities from a semiconductor; or
- 3080 (C) improve the marketable condition of a semiconductor.
- 3081 (128) "Senior citizen center" means a facility having the primary purpose of providing
- 3082 services to the aged as defined in Section 26B-6-101.
- 3083 (129) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.
- 3084 (130) "Shared vehicle driver" means the same as that term is defined in Section 13-48a-101.
- 3085 (131) "Shared vehicle owner" means the same as that term is defined in Section 13-48a-101.
- 3086 (132)(a) Subject to Subsections (132)(b) and (c), "short-term lodging consumable"
- 3087 means tangible personal property that:
- 3088 (i) a business that provides accommodations and services described in Subsection
- 3089 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations
- 3090 and services to a purchaser;

3091 (ii) is intended to be consumed by the purchaser; and
3092 (iii) is:
3093 (A) included in the purchase price of the accommodations and services; and
3094 (B) not separately stated on an invoice, bill of sale, or other similar document
3095 provided to the purchaser.

3096 (b) "Short-term lodging consumable" includes:

3097 (i) a beverage;
3098 (ii) a brush or comb;
3099 (iii) a cosmetic;
3100 (iv) a hair care product;
3101 (v) lotion;
3102 (vi) a magazine;
3103 (vii) makeup;
3104 (viii) a meal;
3105 (ix) mouthwash;
3106 (x) nail polish remover;
3107 (xi) a newspaper;
3108 (xii) a notepad;
3109 (xiii) a pen;
3110 (xiv) a pencil;
3111 (xv) a razor;
3112 (xvi) saline solution;
3113 (xvii) a sewing kit;
3114 (xviii) shaving cream;
3115 (xix) a shoe shine kit;
3116 (xx) a shower cap;
3117 (xxi) a snack item;
3118 (xxii) soap;
3119 (xxiii) toilet paper;
3120 (xxiv) a toothbrush;
3121 (xxv) toothpaste; or
3122 (xxvi) an item similar to Subsections (132)(b)(i) through (xxv) as the commission
3123 may provide by rule made in accordance with Title 63G, Chapter 3, Utah
3124 Administrative Rulemaking Act.

- 3125 (c) "Short-term lodging consumable" does not include:
- 3126 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 3127 property to be reused; or
- 3128 (ii) a product transferred electronically.
- 3129 (133)(a) "Short-term rental" means a lease or rental for less than 30 consecutive days.
- 3130 (b) "Short-term rental" does not include car sharing.
- 3131 (134) "Simplified electronic return" means the electronic return:
- 3132 (a) described in Section 318(C) of the agreement; and
- 3133 (b) approved by the governing board of the agreement.
- 3134 (135) "Solar energy" means the sun used as the sole source of energy for producing
- 3135 electricity.
- 3136 (136)(a) "Sports or recreational equipment" means an item:
- 3137 (i) designed for human use; and
- 3138 (ii) that is:
- 3139 (A) worn in conjunction with:
- 3140 (I) an athletic activity; or
- 3141 (II) a recreational activity; and
- 3142 (B) not suitable for general use.
- 3143 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3144 commission shall make rules:
- 3145 (i) listing the items that constitute "sports or recreational equipment"; and
- 3146 (ii) that are consistent with the list of items that constitute "sports or recreational
- 3147 equipment" under the agreement.
- 3148 (137) "State" means the state of Utah, its departments, and agencies.
- 3149 (138) "Storage" means any keeping or retention of tangible personal property or any other
- 3150 taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
- 3151 sale in the regular course of business.
- 3152 (139)(a) "Tangible personal property" means personal property that:
- 3153 (i) may be:
- 3154 (A) seen;
- 3155 (B) weighed;
- 3156 (C) measured;
- 3157 (D) felt; or
- 3158 (E) touched; or

- 3159 (ii) is in any manner perceptible to the senses.
- 3160 (b) "Tangible personal property" includes:
- 3161 (i) electricity;
- 3162 (ii) water;
- 3163 (iii) gas;
- 3164 (iv) steam; or
- 3165 (v) prewritten computer software, regardless of the manner in which the prewritten
- 3166 computer software is transferred.
- 3167 (c) "Tangible personal property" includes the following regardless of whether the item is
- 3168 attached to real property:
- 3169 (i) a dishwasher;
- 3170 (ii) a dryer;
- 3171 (iii) a freezer;
- 3172 (iv) a microwave;
- 3173 (v) a refrigerator;
- 3174 (vi) a stove;
- 3175 (vii) a washer; or
- 3176 (viii) an item similar to Subsections (139)(c)(i) through (vii) as determined by the
- 3177 commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 3178 Administrative Rulemaking Act.
- 3179 (d) "Tangible personal property" does not include a product that is transferred
- 3180 electronically.
- 3181 (e) "Tangible personal property" does not include the following if attached to real
- 3182 property, regardless of whether the attachment to real property is only through a line
- 3183 that supplies water, electricity, gas, telephone, cable, or supplies a similar item as
- 3184 determined by the commission by rule made in accordance with Title 63G, Chapter 3,
- 3185 Utah Administrative Rulemaking Act:
- 3186 (i) a hot water heater;
- 3187 (ii) a water filtration system; or
- 3188 (iii) a water softener system.
- 3189 (140)(a) "Telecommunications enabling or facilitating equipment, machinery, or
- 3190 software" means an item listed in Subsection (140)(b) if that item is purchased or
- 3191 leased primarily to enable or facilitate one or more of the following to function:
- 3192 (i) telecommunications switching or routing equipment, machinery, or software; or

- 3193 (ii) telecommunications transmission equipment, machinery, or software.
- 3194 (b) The following apply to Subsection (140)(a):
- 3195 (i) a pole;
- 3196 (ii) software;
- 3197 (iii) a supplementary power supply;
- 3198 (iv) temperature or environmental equipment or machinery;
- 3199 (v) test equipment;
- 3200 (vi) a tower; or
- 3201 (vii) equipment, machinery, or software that functions similarly to an item listed in
- 3202 Subsections (140)(b)(i) through (vi) as determined by the commission by rule
- 3203 made in accordance with Subsection (140)(c).
- 3204 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3205 commission may by rule define what constitutes equipment, machinery, or software
- 3206 that functions similarly to an item listed in Subsections (140)(b)(i) through (vi).
- 3207 (141) "Telecommunications equipment, machinery, or software required for 911 service"
- 3208 means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec.
- 3209 20.18.
- 3210 (142) "Telecommunications maintenance or repair equipment, machinery, or software"
- 3211 means equipment, machinery, or software purchased or leased primarily to maintain or
- 3212 repair one or more of the following, regardless of whether the equipment, machinery, or
- 3213 software is purchased or leased as a spare part or as an upgrade or modification to one or
- 3214 more of the following:
- 3215 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 3216 (b) telecommunications switching or routing equipment, machinery, or software; or
- 3217 (c) telecommunications transmission equipment, machinery, or software.
- 3218 (143)(a) "Telecommunications service" means the electronic conveyance, routing, or
- 3219 transmission of audio, data, video, voice, or any other information or signal to a
- 3220 point, or among or between points.
- 3221 (b) "Telecommunications service" includes:
- 3222 (i) an electronic conveyance, routing, or transmission with respect to which a
- 3223 computer processing application is used to act:
- 3224 (A) on the code, form, or protocol of the content;
- 3225 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 3226 (C) regardless of whether the service:

- 3227 (I) is referred to as voice over Internet protocol service; or
3228 (II) is classified by the Federal Communications Commission as enhanced or
3229 value added;
- 3230 (ii) an 800 service;
3231 (iii) a 900 service;
3232 (iv) a fixed wireless service;
3233 (v) a mobile wireless service;
3234 (vi) a postpaid calling service;
3235 (vii) a prepaid calling service;
3236 (viii) a prepaid wireless calling service; or
3237 (ix) a private communications service.
- 3238 (c) "Telecommunications service" does not include:
3239 (i) advertising, including directory advertising;
3240 (ii) an ancillary service;
3241 (iii) a billing and collection service provided to a third party;
3242 (iv) a data processing and information service if:
3243 (A) the data processing and information service allows data to be:
3244 (I)(Aa) acquired;
3245 (Bb) generated;
3246 (Cc) processed;
3247 (Dd) retrieved; or
3248 (Ee) stored; and
3249 (II) delivered by an electronic transmission to a purchaser; and
3250 (B) the purchaser's primary purpose for the underlying transaction is the processed
3251 data or information;
- 3252 (v) installation or maintenance of the following on a customer's premises:
3253 (A) equipment; or
3254 (B) wiring;
- 3255 (vi) Internet access service;
3256 (vii) a paging service;
3257 (viii) a product transferred electronically, including:
3258 (A) music;
3259 (B) reading material;
3260 (C) a ring tone;

- 3261 (D) software; or
3262 (E) video;
3263 (ix) a radio and television audio and video programming service:
3264 (A) regardless of the medium; and
3265 (B) including:
3266 (I) furnishing conveyance, routing, or transmission of a television audio and
3267 video programming service by a programming service provider;
3268 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
3269 (III) audio and video programming services delivered by a commercial mobile
3270 radio service provider as defined in 47 C.F.R. Sec. 20.3;
3271 (x) a value-added nonvoice data service; or
3272 (xi) tangible personal property.
- 3273 (144)(a) "Telecommunications service provider" means a person that:
3274 (i) owns, controls, operates, or manages a telecommunications service; and
3275 (ii) engages in an activity described in Subsection (144)(a)(i) for the shared use with
3276 or resale to any person of the telecommunications service.
- 3277 (b) A person described in Subsection (144)(a) is a telecommunications service provider
3278 whether or not the Public Service Commission of Utah regulates:
3279 (i) that person; or
3280 (ii) the telecommunications service that the person owns, controls, operates, or
3281 manages.
- 3282 (145)(a) "Telecommunications switching or routing equipment, machinery, or software"
3283 means an item listed in Subsection (145)(b) if that item is purchased or leased
3284 primarily for switching or routing:
3285 (i) an ancillary service;
3286 (ii) data communications;
3287 (iii) voice communications; or
3288 (iv) telecommunications service.
- 3289 (b) The following apply to Subsection (145)(a):
3290 (i) a bridge;
3291 (ii) a computer;
3292 (iii) a cross connect;
3293 (iv) a modem;
3294 (v) a multiplexer;

- 3295 (vi) plug in circuitry;
3296 (vii) a router;
3297 (viii) software;
3298 (ix) a switch; or
3299 (x) equipment, machinery, or software that functions similarly to an item listed in
3300 Subsections (145)(b)(i) through (ix) as determined by the commission by rule
3301 made in accordance with Subsection (145)(c).
- 3302 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3303 commission may by rule define what constitutes equipment, machinery, or software
3304 that functions similarly to an item listed in Subsections (145)(b)(i) through (ix).
- 3305 (146)(a) "Telecommunications transmission equipment, machinery, or software" means
3306 an item listed in Subsection (146)(b) if that item is purchased or leased primarily for
3307 sending, receiving, or transporting:
- 3308 (i) an ancillary service;
3309 (ii) data communications;
3310 (iii) voice communications; or
3311 (iv) telecommunications service.
- 3312 (b) The following apply to Subsection (146)(a):
- 3313 (i) an amplifier;
3314 (ii) a cable;
3315 (iii) a closure;
3316 (iv) a conduit;
3317 (v) a controller;
3318 (vi) a duplexer;
3319 (vii) a filter;
3320 (viii) an input device;
3321 (ix) an input/output device;
3322 (x) an insulator;
3323 (xi) microwave machinery or equipment;
3324 (xii) an oscillator;
3325 (xiii) an output device;
3326 (xiv) a pedestal;
3327 (xv) a power converter;
3328 (xvi) a power supply;

- 3329 (xvii) a radio channel;
3330 (xviii) a radio receiver;
3331 (xix) a radio transmitter;
3332 (xx) a repeater;
3333 (xxi) software;
3334 (xxii) a terminal;
3335 (xxiii) a timing unit;
3336 (xxiv) a transformer;
3337 (xxv) a wire; or
3338 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
3339 Subsections (146)(b)(i) through (xxv) as the commission determines by rule made
3340 in accordance with Subsection (146)(c).
- 3341 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3342 commission may by rule define what constitutes equipment, machinery, or software
3343 that functions similarly to an item listed in Subsections (146)(b)(i) through (xxv).
- 3344 (147)(a) "Textbook for a higher education course" means a textbook or other printed
3345 material that is required for a course:
3346 (i) offered by an institution of higher education; and
3347 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 3348 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 3349 (148) "Tobacco" means:
3350 (a) a cigarette;
3351 (b) a cigar;
3352 (c) chewing tobacco;
3353 (d) pipe tobacco; or
3354 (e) any other item that contains tobacco.
- 3355 (149) "Unassisted amusement device" means an amusement device, skill device, or ride
3356 device that is started and stopped by the purchaser or renter of the right to use or operate
3357 the amusement device, skill device, or ride device.
- 3358 (150)(a) "Use" means the exercise of any right or power over tangible personal property,
3359 a product transferred electronically, or a service under Subsection 59-12-103(1),
3360 incident to the ownership or the leasing of that tangible personal property, product
3361 transferred electronically, or service.
- 3362 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal

3363 property, a product transferred electronically, or a service in the regular course of
3364 business and held for resale.

3365 (151) "Value-added nonvoice data service" means a service:

3366 (a) that otherwise meets the definition of a telecommunications service except that a
3367 computer processing application is used to act primarily for a purpose other than
3368 conveyance, routing, or transmission; and

3369 (b) with respect to which a computer processing application is used to act on data or
3370 information:

3371 (i) code;

3372 (ii) content;

3373 (iii) form; or

3374 (iv) protocol.

3375 (152)(a) Subject to Subsection (152)(b), "vehicle" means the following that are required
3376 to be titled, registered, or titled and registered:

3377 (i) an aircraft as defined in Section 72-10-102;

3378 (ii) a vehicle as defined in Section 41-1a-102;

3379 (iii) an off-highway vehicle as defined in Section 41-22-2; or

3380 (iv) a vessel as defined in Section 41-1a-102.

3381 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

3382 (i) a vehicle described in Subsection (152)(a); or

3383 (ii)(A) a locomotive;

3384 (B) a freight car;

3385 (C) railroad work equipment; or

3386 (D) other railroad rolling stock.

3387 (153) "Vehicle dealer" means a person engaged in the business of buying, selling, or
3388 exchanging a vehicle as defined in Subsection (152).

3389 (154)(a) "Vertical service" means an ancillary service that:

3390 (i) is offered in connection with one or more telecommunications services; and

3391 (ii) offers an advanced calling feature that allows a customer to:

3392 (A) identify a caller; and

3393 (B) manage multiple calls and call connections.

3394 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
3395 conference bridging service.

3396 (155)(a) "Voice mail service" means an ancillary service that enables a customer to

- 3397 receive, send, or store a recorded message.
- 3398 (b) "Voice mail service" does not include a vertical service that a customer is required to
- 3399 have in order to utilize a voice mail service.
- 3400 (156)(a) "Waste energy facility" means a facility that generates electricity:
- 3401 (i) using as the primary source of energy waste materials that would be placed in a
- 3402 landfill or refuse pit if it were not used to generate electricity, including:
- 3403 (A) tires;
- 3404 (B) waste coal;
- 3405 (C) oil shale; or
- 3406 (D) municipal solid waste; and
- 3407 (ii) in amounts greater than actually required for the operation of the facility.
- 3408 (b) "Waste energy facility" does not include a facility that incinerates:
- 3409 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 3410 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 3411 (157) "Watercraft" means a vessel as defined in Section 73-18-2.
- 3412 (158) "Wind energy" means wind used as the sole source of energy to produce electricity.
- 3413 (159) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
- 3414 location by the United States Postal Service.

3415 Section 3. Section **59-12-2501** is enacted to read:

3416 **Part 25. Law Enforcement Infrastructure Tax**

3417 **59-12-2501 (Effective 05/06/26). Definitions.**

3418 As used in this part:

- 3419 (1)(a) "Infrastructure improvement" means the replacement, repair, or upgrade of a
- 3420 facility, equipment, or technology that a local law enforcement agency owns or
- 3421 operates for law enforcement purposes.
- 3422 (b) "Infrastructure improvement" does not include payment for salaries of law
- 3423 enforcement personnel or other operational costs.
- 3424 (2) "Law enforcement infrastructure tax" means the sales and use tax authorized under
- 3425 Section 59-12-2502.
- 3426 (3) "Local law enforcement agency" means the law enforcement agency of a qualifying
- 3427 municipality.
- 3428 (4) "Qualifying municipality" means a city or town that:
- 3429 (a) is located within a county of the fourth, fifth, or sixth class, as classified in Section
- 3430 17-60-104; and

(b) does not impose a sales and use tax under Section 59-12-401 or 59-12-402.

Section 4. Section **59-12-2502** is enacted to read:

59-12-2502 (Effective 05/06/26). Imposition of law enforcement infrastructure tax -- Rate -- Requirements for imposing tax -- Expenditure of tax revenue -- Administration, collection, and enforcement of tax -- Reauthorization of tax -- Administrative charge.

(1)(a) The legislative body of a qualifying municipality may impose a sales and use tax of up to 0.5% on the transactions described in Subsection 59-12-103(1) located within the qualifying municipality.

(b) Notwithstanding Subsection (1)(a), a qualifying municipality may not impose a tax under this section on:

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

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

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

(d) A qualifying municipality that imposes a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) Before imposing a tax under this section, the legislative body of a qualifying municipality shall:

(a) hold a public hearing at which the tax is discussed, after providing notice under Subsection (3); and

(b) after the public hearing required by Subsection (2)(a) is held, obtain approval to impose the tax from a majority of the members of the qualifying municipality's legislative body.

(3)(a) The legislative body of a qualifying municipality proposing a tax under this section shall, as a class A notice under Section 63G-30-102, publish notice of the public hearing required by Subsection (2)(a) for at least 14 days before the day of the public hearing.

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

- (i) that the legislative body proposes to adopt a tax under this section;
- (ii) the proposed tax rate;
- (iii) the date, time, and location of the public hearing; and
- (iv) that the purpose of the public hearing is to obtain public comments regarding the proposed tax.

(4)(a) Subject to Subsection (4)(b), a qualifying municipality may use money collected from a tax imposed under this section to fund infrastructure improvements for the qualifying municipality's local law enforcement agency.

(b) A qualifying municipality that imposes a tax under this section:

- (i) shall deposit the revenue the qualifying municipality receives from the tax into a special revenue fund that is created to hold the revenue and is separate from the qualifying municipality's general fund; and
- (ii) may only expend the revenue as provided in Subsection (4)(a).

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

- (i)(A) Part 1, Tax Collection; or
- (B) Part 2, Local Sales and Use Tax Act; and
- (ii) Chapter 1, General Taxation Policies.

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

(6)(a) The legislative body of a qualifying municipality shall levy a tax under this section for a period of 10 years.

(b) The legislative body of a qualifying municipality may reauthorize a tax under this section at the end of the 10-year levy period by following the procedures and requirements of Subsections (2) and (3).

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

Section 5. Section **59-12-2503** is enacted to read:

59-12-2503 (Effective 05/06/26). Enactment, repeal, or change in the rate of rural public safety tax -- Annexation -- Notice.

(1)(a) Except as provided in Subsection (3), if a qualifying municipality enacts or repeals a law enforcement infrastructure tax or changes the rate of a law enforcement infrastructure tax, the enactment, repeal, or change shall take effect:

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

3499 (ii) after a 90-day period beginning on the date the commission receives notice that
3500 meets the requirements of Subsection (1)(b) from the qualifying municipality.

3501 (b) The notice described in Subsection (1)(a)(ii) shall state:

3502 (i) that the qualifying municipality will enact, repeal, or change the rate of a law
3503 enforcement infrastructure tax;

3504 (ii) the statutory authority for the law enforcement infrastructure tax;

3505 (iii) the effective date of the enactment, repeal, or change in the rate of the law
3506 enforcement infrastructure tax; and

3507 (iv) if the qualifying municipality enacts or changes the rate of the law enforcement
3508 infrastructure tax, the rate of the law enforcement infrastructure tax.

3509 (2)(a) Except as provided in Subsection (3), if an annexation will result in the enactment,
3510 repeal, or change in the rate of a law enforcement infrastructure tax for an annexing
3511 area, the enactment, repeal, or change shall take effect:

3512 (i) on the first day of a calendar quarter; and

3513 (ii) after a 90-day period beginning on the date the commission receives notice
3514 meeting the requirements of Subsection (2)(b) from the municipality that annexes
3515 the annexing area.

3516 (b) The notice described in Subsection (2)(a)(ii) shall state:

3517 (i) that the annexation described in Subsection (2)(a) will result in the enactment,
3518 repeal, or change in the rate of a law enforcement infrastructure tax for the
3519 annexing area;

3520 (ii) the statutory authority for the law enforcement infrastructure tax;

3521 (iii) the effective date of the enactment, repeal, or change in the rate of the law
3522 enforcement infrastructure tax; and

3523 (iv) if the annexation results in the enactment or change in the rate of a law
3524 enforcement infrastructure tax for the annexing area, the rate of the law
3525 enforcement infrastructure tax.

3526 (3)(a) If the billing period for a transaction begins before the effective date of the
3527 enactment of a law enforcement infrastructure tax or the increase in the rate of a law
3528 enforcement infrastructure tax, the enactment of the tax or the tax rate increase shall
3529 take effect on the first day of the first billing period that begins after the effective
3530 date of the enactment of the tax or the tax rate increase.

3531 (b) If the billing period for a transaction begins before the effective date of the repeal of
3532 a law enforcement infrastructure tax or the decrease in the rate of a law enforcement

3533 infrastructure tax, the repeal of the tax or the tax rate decrease shall take effect on the
 3534 first day of the billing period that began before the effective date of the repeal of the
 3535 tax or the tax rate decrease.

3536 (c) If a law enforcement infrastructure tax due on a catalogue sale is computed on the
 3537 basis of sales and use tax rates published in the catalogue, an enactment, repeal, or
 3538 change in the rate of the tax shall take effect:

3539 (i) on the first day of a calendar quarter; and

3540 (ii) beginning 60 days after the effective date of the enactment, repeal, or change in
 3541 the rate of the tax.

3542 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for
 3543 purposes of Subsection (3)(c), the commission may by rule define the term "catalogue
 3544 sale."

3545 Section 6. Section **59-12-2504** is enacted to read:

3546 **59-12-2504 (Effective 05/06/26). Seller or certified service provider reliance on**
 3547 **commission information.**

3548 A seller or certified service provider is not liable for failing to collect a law enforcement
 3549 infrastructure tax if the seller's or certified service provider's failure to collect the law
 3550 enforcement infrastructure tax is as a result of the seller's or certified service provider's
 3551 reliance on incorrect data provided by the commission in a database created by the
 3552 commission:

3553 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

3554 (2) indicating the taxability of tangible personal property, a product transferred
 3555 electronically, or a service.

3556 Section 7. Section **59-12-2505** is enacted to read:

3557 **59-12-2505 (Effective 05/06/26). Certified service provider or model 2 seller**
 3558 **reliance on commission certified software.**

3559 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service
 3560 provider or model 2 seller is not liable for failing to collect a law enforcement
 3561 infrastructure tax if:

3562 (a) the certified service provider or model 2 seller relies on software the commission
 3563 certifies; and

3564 (b) the certified service provider's or model 2 seller's failure to collect a law enforcement
 3565 infrastructure tax is a result of the certified service provider's or model 2 seller's
 3566 reliance on incorrect data:

- 3567 (i) provided by the commission; or
- 3568 (ii) in the software the commission certifies.
- 3569 (2) The relief from liability described in Subsection (1) does not apply if a certified service
- 3570 provider or model 2 seller incorrectly classifies an item or transaction into a product
- 3571 category the commission certifies.
- 3572 (3) If the taxability of a product category is incorrectly classified in software the
- 3573 commission certifies, the commission shall:
- 3574 (a) notify a certified service provider or model 2 seller of the incorrect classification of
- 3575 the taxability of a product category in software the commission certifies; and
- 3576 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
- 3577 model 2 seller is liable for failing to collect the correct amount of a law enforcement
- 3578 infrastructure tax on the incorrectly classified product category if the certified service
- 3579 provider or model 2 seller fails to correct the taxability of the item or transaction
- 3580 within 10 days after the day on which the certified service provider or model 2 seller
- 3581 receives the notice.
- 3582 (4) If a certified service provider or model 2 seller fails to correct the taxability of an item
- 3583 or transaction within 10 days after the day on which the certified service provider or
- 3584 model 2 seller receives the notice described in Subsection (3), the certified service
- 3585 provider or model 2 seller is liable for failing to collect the correct amount of a law
- 3586 enforcement infrastructure tax on the item or transaction.

3587 Section 8. Section **59-12-2506** is enacted to read:

3588 **59-12-2506 (Effective 05/06/26). Purchaser relief from liability.**

- 3589 (1)(a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
- 3590 under Section 59-1-401 for failure to pay a tax due under this part or an
- 3591 underpayment of the tax if:
- 3592 (i) the purchaser's seller or certified service provider relies on incorrect data provided
- 3593 by the commission:
- 3594 (A) on a tax rate;
- 3595 (B) on a boundary;
- 3596 (C) on a taxing jurisdiction; or
- 3597 (D) in the taxability matrix the commission provides in accordance with the
- 3598 agreement; or
- 3599 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit
- 3600 in accordance with Section 59-12-107.1, relies on incorrect data provided by the

commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

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

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment of the tax if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

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

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

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

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

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

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

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

- 3635 (ii) an erroneous classification by the commission:
3636 (A) in the taxability matrix the commission provides in accordance with the
3637 agreement; and
3638 (B) with respect to a term that is in the library of definitions and that is listed as
3639 taxable or exempt, included in or excluded from "sales price," or included in or
3640 excluded from a definition.

3641 Section 9. **Effective Date.**

- 3642 (1) Except as provided in Subsection (2), this bill takes effect May 6, 2026.
3643 (2) The actions affecting Section 59-12-102 (**Effective 07/01/26**) take effect on July 1, 2026.