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**Local Sales Tax Modifications**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Christine F. Watkins**

Senate Sponsor:

2

**LONG TITLE**

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**General Description:**

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This bill modifies local sales and use tax provisions.

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**Highlighted Provisions:**

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This bill:

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- ▶ defines terms;

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▶ 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;

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▶ requires a municipality's legislative body to hold a public hearing before approving the tax;

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▶ requires a municipality to deposit tax revenue into a special revenue fund that is separate from the municipality's general fund;

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- ▶ provides for the reauthorization of a tax at the end of the levy period;

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- ▶ addresses the administration and collection of the tax;

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▶ allows the State Tax Commission to retain an administrative charge from collected tax revenue; and

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- ▶ makes technical and conforming changes.

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**Money Appropriated in this Bill:**

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None

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**Other Special Clauses:**

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This bill provides a special effective date.

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**Utah Code Sections Affected:**

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**AMENDS:**

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**59-12-102 (Effective 05/06/26) (Superseded 07/01/26)**, as last amended by Laws of Utah

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2025, First Special Session, Chapters 9, 12

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

31 ENACTS:

32 **59-12-2501 (Effective 05/06/26)**, Utah Code Annotated 1953

33 **59-12-2502 (Effective 05/06/26)**, Utah Code Annotated 1953

34 **59-12-2503 (Effective 05/06/26)**, Utah Code Annotated 1953

35 **59-12-2504 (Effective 05/06/26)**, Utah Code Annotated 1953

36 **59-12-2505 (Effective 05/06/26)**, Utah Code Annotated 1953

37 **59-12-2506 (Effective 05/06/26)**, Utah Code Annotated 1953

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

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

41 **59-12-102 (Effective 05/06/26) (Superseded 07/01/26). Definitions.**

42 As used in this chapter:

43 (1) "800 service" means a telecommunications service that:

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

45 (b) is typically marketed:

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

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

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

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

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

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

52 Federal Communications Commission.

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

54 (i) a subscriber purchases;

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

57 (A) prerecorded announcement; or

58 (B) live service; and

59 (iii) is typically marketed:

60 (A) under the name 900 service; or

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

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

64 (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);

99 (d) Subsection 59-12-103(2)(d);  
100 (e) Subsection 59-12-103(2)(f)(i)(A)(I);  
101 (f) Section 59-12-204;  
102 (g) Section 59-12-401;  
103 (h) Section 59-12-402;  
104 (i) Section 59-12-402.1;  
105 (j) Section 59-12-703;  
106 (k) Section 59-12-802;  
107 (l) Section 59-12-804;  
108 (m) Section 59-12-1102;  
109 (n) Section 59-12-1302;  
110 (o) Section 59-12-1402;  
111 (p) Section 59-12-1802;  
112 (q) Section 59-12-2003;  
113 (r) Section 59-12-2103;  
114 (s) Section 59-12-2213;  
115 (t) Section 59-12-2214;  
116 (u) Section 59-12-2215;  
117 (v) Section 59-12-2216;  
118 (w) Section 59-12-2217;  
119 (x) Section 59-12-2218;  
120 (y) Section 59-12-2219;  
121 (z) Section 59-12-2220;[-or]  
122 (aa) Section 59-12-2402[.] ; or  
123 (bb) Section 59-12-2502.

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

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

126 (a) except for:  
127 (i) an airline as defined in Section 59-2-102; or  
128 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"  
129 includes a corporation that is qualified to do business but is not otherwise doing  
130 business in the state, of an airline; and  
131 (b) that has the workers, expertise, and facilities to perform the following, regardless of  
132 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;

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

236 (A) the tangible personal property:

237 (I) is essential to the use of the service; and

238 (II) is provided exclusively in connection with the service; and

239 (B) the service is the true object of the transaction;

240 (v) the retail sale of two services if:

241 (A) one service is provided that is essential to the use or receipt of a second

242 service;

243 (B) the first service is provided exclusively in connection with the second service;

244 and

245 (C) the second service is the true object of the transaction;

246 (vi) a transaction that includes tangible personal property or a product subject to

247 taxation under this chapter and tangible personal property or a product that is not

248 subject to taxation under this chapter if the:

249 (A) seller's purchase price of the tangible personal property or product subject to

250 taxation under this chapter is de minimis; or

251 (B) seller's sales price of the tangible personal property or product subject to

252 taxation under this chapter is de minimis; and

253 (vii) the retail sale of tangible personal property that is not subject to taxation under

254 this chapter and tangible personal property that is subject to taxation under this

255 chapter if:

256 (A) that retail sale includes:

257 (I) food and food ingredients;

258 (II) a drug;

259 (III) durable medical equipment;

260 (IV) mobility enhancing equipment;

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

262 (VI) a prosthetic device; or

263 (VII) a medical supply; and

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

265 (I) the seller's purchase price of the tangible personal property subject to

266 taxation under this chapter is 50% or less of the seller's total purchase price

267 of that retail sale; or

268 (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:

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

342 (25)(a) Subject to Subsection (25)(b), "clothing" means all human wearing apparel  
343 suitable for general use.  
344 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
345 commission shall make rules:  
346 (i) listing the items that constitute "clothing"; and  
347 (ii) that are consistent with the list of items that constitute "clothing" under the  
348 agreement.

349 (26) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.  
350 (27) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels  
351 that does not constitute industrial use under Subsection (61) or residential use under  
352 Subsection (117).

353 (28)(a) "Common carrier" means a person engaged in or transacting the business of  
354 transporting passengers, freight, merchandise, or other property for hire within this  
355 state.  
356 (b)(i) "Common carrier" does not include a person that, at the time the person is  
357 traveling to or from that person's place of employment, transports a passenger to  
358 or from the passenger's place of employment.  
359 (ii) For purposes of Subsection (28)(b)(i), in accordance with Title 63G, Chapter 3,  
360 Utah Administrative Rulemaking Act, the commission may make rules defining  
361 what constitutes a person's place of employment.  
362 (c) "Common carrier" does not include a person that provides transportation network  
363 services, as defined in Section 13-51-102.

364 (29) "Component part" includes:  
365 (a) poultry, dairy, and other livestock feed, and their components;  
366 (b) baling ties and twine used in the baling of hay and straw;  
367 (c) fuel used for providing temperature control of orchards and commercial greenhouses  
368 doing a majority of their business in wholesale sales, and for providing power for  
369 off-highway type farm machinery; and  
370 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

378 (32) "Computer software maintenance contract" means a contract that obligates a seller of

379 computer software to provide a customer with:

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

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

382 (c) a combination of Subsections (32)(a) and (b).

383 (33)(a) "Conference bridging service" means an ancillary service that links two or more

384 participants of an audio conference call or video conference call.

385 (b) "Conference bridging service" may include providing a telephone number as part of

386 the ancillary service described in Subsection (33)(a).

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

388 reach the ancillary service described in Subsection (33)(a).

389 (34) "Construction materials" means any tangible personal property that will be converted

390 into real property.

391 (35) "Delivered electronically" means delivered to a purchaser by means other than tangible

392 storage media.

393 (36)(a) "Delivery charge" means a charge:

394 (i) by a seller of:

395 (A) tangible personal property;

396 (B) a product transferred electronically; or

397 (C) a service; and

398 (ii) for preparation and delivery of the tangible personal property, product transferred

399 electronically, or services described in Subsection (36)(a)(i) to a location

400 designated by the purchaser.

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

402 (i) transportation;

403 (ii) shipping;

404 (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.

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

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

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

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

446 (i) to:

447 (A) a mass audience; or

448 (B) addressees on a mailing list provided:

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

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

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

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

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

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

458 (a) address information; or

459 (b) telephone number information.

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

462 (i) cannot withstand repeated use; and

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

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

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

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

467 (D) a person similar to a person described in Subsections (44)(a)(ii)(A) through  
468 (C).

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

470 (i) a drug;

471 (ii) durable medical equipment;

472 (iii) a hearing aid;

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

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

480 (45) "Drilling equipment manufacturer" means a facility:  
481 (a) located in the state;  
482 (b) with respect to which 51% or more of the manufacturing activities of the facility  
483 consist of manufacturing component parts of drilling equipment;  
484 (c) that uses pressure of 800,000 or more pounds per square inch as part of the  
485 manufacturing process; and  
486 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the  
487 manufacturing process.

488 (46)(a) "Drug" means a compound, substance, or preparation, or a component of a  
489 compound, substance, or preparation that is:  
490 (i) recognized in:  
491 (A) the official United States Pharmacopoeia;  
492 (B) the official Homeopathic Pharmacopoeia of the United States;  
493 (C) the official National Formulary; or  
494 (D) a supplement to a publication listed in Subsections (46)(a)(i)(A) through (C);  
495 (ii) intended for use in the:  
496 (A) diagnosis of disease;  
497 (B) cure of disease;  
498 (C) mitigation of disease;  
499 (D) treatment of disease; or  
500 (E) prevention of disease; or  
501 (iii) intended to affect:  
502 (A) the structure of the body; or  
503 (B) any function of the body.

504 (b) "Drug" does not include:  
505 (i) food and food ingredients;  
506 (ii) a dietary supplement;

- (iii) an alcoholic beverage; or
- (iv) a prosthetic device.

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

- (i) can withstand repeated use;
- (ii) is primarily and customarily used to serve a medical purpose;
- (iii) generally is not useful to a person in the absence of illness or injury; and
- (iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (47)(a).

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

(48) "Electronic" means:

- (a) relating to technology; and
- (b) having:
  - (i) electrical capabilities;
  - (ii) digital capabilities;
  - (iii) magnetic capabilities;
  - (iv) wireless capabilities;
  - (v) optical capabilities;
  - (vi) electromagnetic capabilities; or
  - (vii) capabilities similar to Subsections (48)(b)(i) through (vi).

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

- (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and
- (b) that performs electronic financial payment services.

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

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

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

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

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

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

educational personnel by direct payment, commissions, or payment in kind; and

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

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

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

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

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

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

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

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

(iv) the National Guard;

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

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

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

(i) a school;

(ii) the State Board of Education;

(iii) the Utah Board of Higher Education; or

(iv) an institution of higher education listed in Section 53H-1-102.

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

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

(61) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other 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.

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

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

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

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

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

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

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

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

698 (69) "Local taxing jurisdiction" means a:

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

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

703 (71) "Manufacturing facility" means:

704 (a) an establishment described in:

705 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
706 the federal Executive Office of the President, Office of Management and Budget;  
707 or  
708 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
709 American Industry Classification System of the federal Executive Office of the  
710 President, Office of Management and Budget;

711 (b) a scrap recycler if:

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

715 (A) iron;

716 (B) steel;

717 (C) nonferrous metal;

718 (D) paper;

719 (E) glass;

720 (F) plastic;

721 (G) textile; or

722 (H) rubber; and

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

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

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

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

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

736 (i) does any of the following:

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

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

744 (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

third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include:

(i) a person that only provides payment processing services; or

(ii) a person described in Subsection (73)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.

(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

813 technology used, if:

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

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

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

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

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

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

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

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

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

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

- 843 (a) except as provided in Subsection (81)(b), has selected a certified automated system  
844 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 845 (b) retains responsibility for remitting all of the sales tax:
  - 846 (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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

907 (A) convenience;

908 (B) stability; or

909 (C) for an obvious temporary purpose;

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

912 (iii) an attachment of the following tangible personal property to real property if the  
913 attachment to real property is only through a line that supplies water, electricity,  
914 gas, telecommunications, 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:

- (A) a computer;
- (B) a telephone;
- (C) a television; or
- (D) tangible personal property similar to Subsections (93)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
- an item listed in Subsection (139)(c).

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

(95) "Place of primary use":

- (a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:
  - (i) the residential street address of the customer; or
  - (ii) the primary business street address of the customer; or
- (b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

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

- (i) through the use of a:
  - (A) bank card;
  - (B) credit card;
  - (C) debit card; or
  - (D) travel card; or
- (ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

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

(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



1051 and developed:

1052 (i) by the author or other creator of the computer software; and

1053 (ii) to the specifications of a specific purchaser.

1054 (b) "Prewritten computer software" includes:

1055 (i) a prewritten upgrade to computer software if the prewritten upgrade to the  
1056 computer software is not designed and developed:

1057 (A) by the author or other creator of the computer software; and

1058 (B) to the specifications of a specific purchaser;

1059 (ii) computer software designed and developed by the author or other creator of the  
1060 computer software to the specifications of a specific purchaser if the computer  
1061 software is sold to a person other than the purchaser; or

1062 (iii) except as provided in Subsection (102)(c), prewritten computer software or a  
1063 prewritten portion of prewritten computer software:  
1064 (A) that is modified or enhanced to any degree; and  
1065 (B) if the modification or enhancement described in Subsection (102)(b)(iii)(A) is  
1066 designed and developed to the specifications of a specific purchaser.

1067 (c) "Prewritten computer software" does not include a modification or enhancement  
1068 described in Subsection (102)(b)(iii) if the charges for the modification or  
1069 enhancement are:

1070 (i) reasonable; and

1071 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the  
1072 invoice or other statement of price provided to the purchaser at the time of sale or  
1073 later, as demonstrated by:

1074 (A) the books and records the seller keeps at the time of the transaction in the  
1075 regular course of business, including books and records the seller keeps at the  
1076 time of the transaction in the regular course of business for nontax purposes;

1077 (B) a preponderance of the facts and circumstances at the time of the transaction;  
1078 and

1079 (C) the understanding of all of the parties to the transaction.

1080 (103)(a) "Private communications service" means a telecommunications service:

1081 (i) that entitles a customer to exclusive or priority use of one or more  
1082 communications channels between or among termination points; and

1083 (ii) regardless of the manner in which the one or more communications channels are  
1084 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

1187 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if  
1188 separately stated on an invoice, bill of sale, or similar document provided to the  
1189 purchaser at the time of sale or later, as demonstrated by the books and records the  
1190 seller keeps at the time of the transaction in the regular course of business,  
1191 including books and records the seller keeps at the time of the transaction in the  
1192 regular course of business for nontax purposes, by a preponderance of the facts  
1193 and circumstances at the time of the transaction, and by the understanding of all of  
1194 the parties to the transaction:  
1195 (A) the following from credit extended on the sale of tangible personal property or  
1196 services:  
1197 (I) a carrying charge;  
1198 (II) a financing charge; or  
1199 (III) an interest charge;  
1200 (B) a delivery charge;  
1201 (C) an installation charge;  
1202 (D) a manufacturer rebate on a motor vehicle; or  
1203 (E) a tax or fee legally imposed directly on the consumer.

1204 (109) "Purchaser" means a person to whom:

- 1205 (a) a sale of tangible personal property is made;
- 1206 (b) a product is transferred electronically; or
- 1207 (c) a service is furnished.

1208 (110) "Qualifying data center" means a data center facility that:

- 1209 (a) houses a group of networked server computers in one physical location in order to  
1210 disseminate, manage, and store data and information;
- 1211 (b) is located in the state;
- 1212 (c) is a new operation constructed on or after July 1, 2016;
- 1213 (d) consists of one or more buildings that total 150,000 or more square feet;
- 1214 (e) is owned or leased by:
  - 1215 (i) the operator of the data center facility; or
  - 1216 (ii) a person under common ownership, as defined in Section 59-7-101, of the  
1217 operator of the data center facility; and
- 1218 (f) is located on one or more parcels of land that are owned or leased by:
  - 1219 (i) the operator of the data center facility; or
  - 1220 (ii) a person under common ownership, as defined in Section 59-7-101, of the

1221 operator of the data center facility.

1222 (111) "Qualifying energy storage manufacturing facility" means a facility that  
1223 manufactures, in the state, equipment or devices that store and discharge energy for the  
1224 purpose of providing electrical power.

1225 (112) "Regularly rented" means:

1226 (a) rented to a guest for value three or more times during a calendar year; or  
1227 (b) advertised or held out to the public as a place that is regularly rented to guests for  
1228 value.

1229 (113) "Rental" means the same as that term is defined in Subsection (64).

1230 (114)(a) "Repairs or renovations of tangible personal property" means:

1231 (i) a repair or renovation of tangible personal property that is not permanently  
1232 attached to real property; or  
1233 (ii) attaching tangible personal property or a product transferred electronically to  
1234 other tangible personal property or detaching tangible personal property or a  
1235 product transferred electronically from other tangible personal property if:  
1236 (A) the other tangible personal property to which the tangible personal property or  
1237 product transferred electronically is attached or from which the tangible  
1238 personal property or product transferred electronically is detached is not  
1239 permanently attached to real property; and  
1240 (B) the attachment of tangible personal property or a product transferred  
1241 electronically to other tangible personal property or detachment of tangible  
1242 personal property or a product transferred electronically from other tangible  
1243 personal property is made in conjunction with a repair or replacement of  
1244 tangible personal property or a product transferred electronically.

1245 (b) "Repairs or renovations of tangible personal property" does not include:

1246 (i) attaching prewritten computer software to other tangible personal property if the  
1247 other tangible personal property to which the prewritten computer software is  
1248 attached is not permanently attached to real property; or  
1249 (ii) detaching prewritten computer software from other tangible personal property if  
1250 the other tangible personal property from which the prewritten computer software  
1251 is detached is not permanently attached to real property.

1252 (115) "Research and development" means the process of inquiry or experimentation aimed  
1253 at the discovery of facts, devices, technologies, or applications and the process of  
1254 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

school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenue generated by the sales is deposited into a school district fund or school fund dedicated to school meals:

#### (I) food and food ingredients; or

## (II) prepared food: or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (124)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a

school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

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

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

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

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

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

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

(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

equipment" under the agreement.

(137) "State" means the state of Utah, its departments, and agencies.

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

(139)(a) "Tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measur

(D) felt; or

(E) touched; or

(b) "Tangible personal property" includes:

(i) electricity.

(ii) water.

### (iii) gas:

(iv) steam or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

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

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections

commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

1493 (e) "Tangible personal property" does not include the following if attached to real  
1494 property, regardless of whether the attachment to real property is only through a line  
1495 that supplies water, electricity, gas, telephone, cable, or supplies a similar item as  
1496 determined by the commission by rule made in accordance with Title 63G, Chapter 3,  
1497 Utah Administrative Rulemaking Act:  
1498 (i) a hot water heater;  
1499 (ii) a water filtration system; or  
1500 (iii) a water softener system.

1501 (140)(a) "Telecommunications enabling or facilitating equipment, machinery, or  
1502 software" means an item listed in Subsection (140)(b) if that item is purchased or  
1503 leased primarily to enable or facilitate one or more of the following to function:  
1504 (i) telecommunications switching or routing equipment, machinery, or software; or  
1505 (ii) telecommunications transmission equipment, machinery, or software.

1506 (b) The following apply to Subsection (140)(a):  
1507 (i) a pole;  
1508 (ii) software;  
1509 (iii) a supplementary power supply;  
1510 (iv) temperature or environmental equipment or machinery;  
1511 (v) test equipment;  
1512 (vi) a tower; or  
1513 (vii) equipment, machinery, or software that functions similarly to an item listed in  
1514 Subsections (140)(b)(i) through (vi) as determined by the commission by rule  
1515 made in accordance with Subsection (140)(c).

1516 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1517 commission may by rule define what constitutes equipment, machinery, or software  
1518 that functions similarly to an item listed in Subsections (140)(b)(i) through (vi).

1519 (141) "Telecommunications equipment, machinery, or software required for 911 service"  
1520 means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec.  
1521 20.18.

1522 (142) "Telecommunications maintenance or repair equipment, machinery, or software"  
1523 means equipment, machinery, or software purchased or leased primarily to maintain or  
1524 repair one or more of the following, regardless of whether the equipment, machinery, or  
1525 software is purchased or leased as a spare part or as an upgrade or modification to one or  
1526 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

- (II) delivered by an electronic transmission to a purchaser; and
- (B) the purchaser's primary purpose for the underlying transaction is the processed data or information;
- (v) installation or maintenance of the following on a customer's premises:
  - (A) equipment; or
  - (B) wiring;
- (vi) Internet access service;
- (vii) a paging service;
- (viii) a product transferred electronically, including:
  - (A) music;
  - (B) reading material;
  - (C) a ring tone;
  - (D) software; or
  - (E) video;
- (ix) a radio and television audio and video programming service:
  - (A) regardless of the medium; and
  - (B) including:
    - (I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;
    - (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
    - (III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;
- (x) a value-added nonvoice data service; or
- (xi) tangible personal property.

"Telecommunications service provider" means a person that:

- (i) owns, controls, operates, or manages a telecommunications service; and
- (ii) engages in an activity described in Subsection (144)(a)(i) for the shared use with or resale to any person of the telecommunications service.

A person described in Subsection (144)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

- (i) that person; or
- (ii) the telecommunications service that the person owns, controls, operates, or manages.

"Telecommunications switching or routing equipment, machinery, or software"

1595 means an item listed in Subsection (145)(b) if that item is purchased or leased  
1596 primarily for switching or routing:

- 1597 (i) an ancillary service;
- 1598 (ii) data communications;
- 1599 (iii) voice communications; or
- 1600 (iv) telecommunications service.

1601 (b) The following apply to Subsection (145)(a):

- 1602 (i) a bridge;
- 1603 (ii) a computer;
- 1604 (iii) a cross connect;
- 1605 (iv) a modem;
- 1606 (v) a multiplexer;
- 1607 (vi) plug in circuitry;
- 1608 (vii) a router;
- 1609 (viii) software;
- 1610 (ix) a switch; or
- 1611 (x) equipment, machinery, or software that functions similarly to an item listed in  
1612 Subsections (145)(b)(i) through (ix) as determined by the commission by rule  
1613 made in accordance with Subsection (145)(c).

1614 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1615 commission may by rule define what constitutes equipment, machinery, or software  
1616 that functions similarly to an item listed in Subsections (145)(b)(i) through (ix).

1617 (146)(a) "Telecommunications transmission equipment, machinery, or software" means  
1618 an item listed in Subsection (146)(b) if that item is purchased or leased primarily for  
1619 sending, receiving, or transporting:

- 1620 (i) an ancillary service;
- 1621 (ii) data communications;
- 1622 (iii) voice communications; or
- 1623 (iv) telecommunications service.

1624 (b) The following apply to Subsection (146)(a):

- 1625 (i) an amplifier;
- 1626 (ii) a cable;
- 1627 (iii) a closure;
- 1628 (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;

1663 (b) a cigar;

1664 (c) chewing tobacco;

1665 (d) pipe tobacco; or

1666 (e) any other item that contains tobacco.

1667 (149) "Unassisted amusement device" means an amusement device, skill device, or ride

1668 device that is started and stopped by the purchaser or renter of the right to use or operate

1669 the amusement device, skill device, or ride device.

1670 (150)(a) "Use" means the exercise of any right or power over tangible personal property,

1671 a product transferred electronically, or a service under Subsection 59-12-103(1),

1672 incident to the ownership or the leasing of that tangible personal property, product

1673 transferred electronically, or service.

1674 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal

1675 property, a product transferred electronically, or a service in the regular course of

1676 business and held for resale.

1677 (151) "Value-added nonvoice data service" means a service:

1678 (a) that otherwise meets the definition of a telecommunications service except that a

1679 computer processing application is used to act primarily for a purpose other than

1680 conveyance, routing, or transmission; and

1681 (b) with respect to which a computer processing application is used to act on data or

1682 information:

1683 (i) code;

1684 (ii) content;

1685 (iii) form; or

1686 (iv) protocol.

1687 (152)(a) Subject to Subsection (152)(b), "vehicle" means the following that are required

1688 to be titled, registered, or titled and registered:

1689 (i) an aircraft as defined in Section 72-10-102;

1690 (ii) a vehicle as defined in Section 41-1a-102;

1691 (iii) an off-highway vehicle as defined in Section 41-22-2; or

1692 (iv) a vessel as defined in Section 41-1a-102.

1693 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

1694 (i) a vehicle described in Subsection (152)(a); or

1695 (ii)(A) a locomotive;

1696 (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

subject to taxation under this chapter is de minimis; and

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

(iii) For purposes of Subsection (20)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (20)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(21) "Car sharing" means the same as that term is defined in Section 13-48a-101.

(22) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.

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

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

- (i) on a transaction; and
- (ii) in the states that are members of the agreement;

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

(c) maintains a record of the transaction described in Subsection (23)(a)(i).

(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.

2037 (26) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

2038 (27) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels

2039 that does not constitute industrial use under Subsection (61) or residential use under

2040 Subsection (117).

2041 (28)(a) "Common carrier" means a person engaged in or transacting the business of

2042 transporting passengers, freight, merchandise, or other property for hire within this

2043 state.

2044 (b)(i) "Common carrier" does not include a person that, at the time the person is

2045 traveling to or from that person's place of employment, transports a passenger to

2046 or from the passenger's place of employment.

2047 (ii) For purposes of Subsection (28)(b)(i), in accordance with Title 63G, Chapter 3,

2048 Utah Administrative Rulemaking Act, the commission may make rules defining

2049 what constitutes a person's place of employment.

2050 (c) "Common carrier" does not include a person that provides transportation network

2051 services, as defined in Section 13-51-102.

2052 (29) "Component part" includes:

2053 (a) poultry, dairy, and other livestock feed, and their components;

2054 (b) baling ties and twine used in the baling of hay and straw;

2055 (c) fuel used for providing temperature control of orchards and commercial greenhouses

2056 doing a majority of their business in wholesale sales, and for providing power for

2057 off-highway type farm machinery; and

2058 (d) feed, seeds, and seedlings.

2059 (30) "Computer" means an electronic device that accepts information:

2060 (a)(i) in digital form; or

2061 (ii) in a form similar to digital form; and

2062 (b) manipulates that information for a result based on a sequence of instructions.

2063 (31) "Computer software" means a set of coded instructions designed to cause:

2064 (a) a computer to perform a task; or

2065 (b) automatic data processing equipment to perform a task.

2066 (32) "Computer software maintenance contract" means a contract that obligates a seller of

2067 computer software to provide a customer with:

2068 (a) future updates or upgrades to computer software;

2069 (b) support services with respect to computer software; or

2070 (c) a combination of Subsections (32)(a) and (b).

2071 (33)(a) "Conference bridging service" means an ancillary service that links two or more  
2072 participants of an audio conference call or video conference call.

2073 (b) "Conference bridging service" may include providing a telephone number as part of  
2074 the ancillary service described in Subsection (33)(a).

2075 (c) "Conference bridging service" does not include a telecommunications service used to  
2076 reach the ancillary service described in Subsection (33)(a).

2077 (34) "Construction materials" means any tangible personal property that will be converted  
2078 into real property.

2079 (35) "Delivered electronically" means delivered to a purchaser by means other than tangible  
2080 storage media.

2081 (36)(a) "Delivery charge" means a charge:

2082 (i) by a seller of:

2083 (A) tangible personal property;

2084 (B) a product transferred electronically; or

2085 (C) a service; and

2086 (ii) for preparation and delivery of the tangible personal property, product transferred  
2087 electronically, or services described in Subsection (36)(a)(i) to a location  
2088 designated by the purchaser.

2089 (b) "Delivery charge" includes a charge for the following:

2090 (i) transportation;

2091 (ii) shipping;

2092 (iii) postage;

2093 (iv) handling;

2094 (v) crating; or

2095 (vi) packing.

2096 (37) "Detailed telecommunications billing service" means an ancillary service of separately  
2097 stating information pertaining to individual calls on a customer's billing statement.

2098 (38) "Dietary supplement" means a product, other than tobacco, that:

2099 (a) is intended to supplement the diet;

2100 (b) contains one or more of the following dietary ingredients:

2101 (i) a vitamin;

2102 (ii) a mineral;

2103 (iii) an herb or other botanical;

2104 (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

person's marketplace;

- (F) provides or offers fulfillment or storage services for a marketplace seller;
- (G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;
- (H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or
- (I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

- (A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;
- (B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;
- (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, a closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;
- (D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchaser for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or
- (E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

2479 marketplace that a marketplace facilitator owns, operates, or controls, regardless of  
2480 whether the seller is required to be registered to collect and remit the tax under this part.

2481 (75) "Member of the immediate family of the producer" means a person who is related to a  
2482 producer described in Subsection 59-12-104(20)(a) as a:

2483 (a) child or stepchild, regardless of whether the child or stepchild is:  
2484 (i) an adopted child or adopted stepchild; or  
2485 (ii) a foster child or foster stepchild;  
2486 (b) grandchild or stepgrandchild;  
2487 (c) grandparent or stepgrandparent;  
2488 (d) nephew or stepnephew;  
2489 (e) niece or stepniece;  
2490 (f) parent or stepparent;  
2491 (g) sibling or stepsibling;  
2492 (h) spouse;  
2493 (i) person who is the spouse of a person described in Subsections (75)(a) through (g); or  
2494 (j) person similar to a person described in Subsections (75)(a) through (i) as determined  
2495 by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
2496 Administrative Rulemaking Act.

2497 (76) "Mobile home" means the same as that term is defined in Section 15A-1-302.

2498 (77) "Mobile telecommunications service" means the same as that term is defined in the  
2499 Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2500 (78)(a) "Mobile wireless service" means a telecommunications service, regardless of the  
2501 technology used, if:

2502 (i) the origination point of the conveyance, routing, or transmission is not fixed;  
2503 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or  
2504 (iii) the origination point described in Subsection (78)(a)(i) and the termination point  
2505 described in Subsection (78)(a)(ii) are not fixed.

2506 (b) "Mobile wireless service" includes a telecommunications service that is provided by  
2507 a commercial mobile radio service provider.

2508 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2509 commission may by rule define "commercial mobile radio service provider."

2510 (79)(a) "Mobility enhancing equipment" means equipment that is:

2511 (i) primarily and customarily used to provide or increase the ability to move from one  
2512 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

2547 model 1 seller, model 2 seller, or model 3 seller.

2548 (84) "Modular home" means a modular unit as defined in Section 15A-1-302.

2549 (85) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

2550 (86) "Oil sands" means impregnated bituminous sands that:

2551 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with  
2552 other hydrocarbons, or otherwise treated;

2553 (b) yield mixtures of liquid hydrocarbon; and

2554 (c) require further processing other than mechanical blending before becoming finished  
2555 petroleum products.

2556 (87) "Oil shale" means a group of fine black to dark brown shales containing kerogen  
2557 material that yields petroleum upon heating and distillation.

2558 (88) "Optional computer software maintenance contract" means a computer software  
2559 maintenance contract that a customer is not obligated to purchase as a condition to the  
2560 retail sale of computer software.

2561 (89)(a) "Other fuels" means products that burn independently to produce heat or energy.

2562 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
2563 personal property.

2564 (90)(a) "Paging service" means a telecommunications service that provides transmission  
2565 of a coded radio signal for the purpose of activating a specific pager.

2566 (b) For purposes of Subsection (90)(a), the transmission of a coded radio signal includes  
2567 a transmission by message or sound.

2568 (91) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

2569 (92) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

2570 (93)(a) "Permanently attached to real property" means that for tangible personal property  
2571 attached to real property:

2572 (i) the attachment of the tangible personal property to the real property:

2573 (A) is essential to the use of the tangible personal property; and

2574 (B) suggests that the tangible personal property will remain attached to the real  
2575 property in the same place over the useful life of the tangible personal  
2576 property; or

2577 (ii) if the tangible personal property is detached from the real property, the  
2578 detachment would:

2579 (A) cause substantial damage to the tangible personal property; or

2580 (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 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

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

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

(94) "Person" includes any individual, firm, partnership, joint venture, association,

corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, 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

2853 (Bb) a person other than the seller authorizes, distributes, or grants the  
2854 certificate, coupon, or other documentation with the understanding that  
2855 the person other than the seller will reimburse any seller to whom the  
2856 certificate, coupon, or other documentation is presented;

2857 (II) the purchaser identifies that purchaser to the seller as a member of a group  
2858 or organization allowed a price reduction or discount, except that a  
2859 preferred customer card that is available to any patron of a seller does not  
2860 constitute membership in a group or organization allowed a price reduction  
2861 or discount; or

2862 (III) the price reduction or discount is identified as a third party price reduction  
2863 or discount on the:  
2864 (Aa) invoice the purchaser receives; or  
2865 (Bb) certificate, coupon, or other documentation the purchaser presents.

2866 (c) "Purchase price" and "sales price" do not include:

2867 (i) a discount:  
2868 (A) in a form including:  
2869 (I) cash;  
2870 (II) term; or  
2871 (III) coupon;  
2872 (B) that is allowed by a seller;  
2873 (C) taken by a purchaser on a sale; and  
2874 (D) that is not reimbursed by a third party; or  
2875 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if  
2876 separately stated on an invoice, bill of sale, or similar document provided to the  
2877 purchaser at the time of sale or later, as demonstrated by the books and records the  
2878 seller keeps at the time of the transaction in the regular course of business,  
2879 including books and records the seller keeps at the time of the transaction in the  
2880 regular course of business for nontax purposes, by a preponderance of the facts  
2881 and circumstances at the time of the transaction, and by the understanding of all of  
2882 the parties to the transaction:  
2883 (A) the following from credit extended on the sale of tangible personal property or  
2884 services:  
2885 (I) a carrying charge;  
2886 (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;

(ii) except as provided in Subsection (124)(a)(i)(B):

- (A) clothing;
- (B) clothing accessories or equipment;
- (C) protective equipment; or
- (D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

- (A) other than a:
  - (I) school;
  - (II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or
  - (III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and
- (B) that is required to collect sales and use taxes under this chapter.

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

For purposes of this section and Section 59-12-104, "school" means:  
an elementary school or a secondary school that:

- (i) is a:
  - (A) public school; or
  - (B) private school; and
- (ii) provides instruction for one or more grades kindergarten through 12; or a public school district.

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

- (i) tangible personal property;
- (ii) a product transferred electronically; or
- (iii) a service.

"Seller" includes a marketplace facilitator.

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

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

- (ii) is in any manner perceptible to the senses.
- (b) "Tangible personal property" includes:
  - (i) electricity;
  - (ii) water;
  - (iii) gas;
  - (iv) steam; or
  - (v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.
- (c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:
  - (i) a dishwasher;
  - (ii) a dryer;
  - (iii) a freezer;
  - (iv) a microwave;
  - (v) a refrigerator;
  - (vi) a stove;
  - (vii) a washer; or
  - (viii) an item similar to Subsections (139)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (d) "Tangible personal property" does not include a product that is transferred electronically.
- (e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
  - (i) a hot water heater;
  - (ii) a water filtration system; or
  - (iii) a water softener system.

0)(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).

1) "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.

2) "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:

- (a) telecommunications enabling or facilitating equipment, machinery, or software;
- (b) telecommunications switching or routing equipment, machinery, or software; or
- (c) telecommunications transmission equipment, machinery, or software.

3)(a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

- (i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:
  - (A) on the code, form, or protocol of the content;
  - (B) for the purpose of electronic conveyance, routing, or transmission; and
  - (C) regardless of whether the service:

- (I) is referred to as voice over Internet protocol service; or
- (II) is classified by the Federal Communications Commission as enhanced or value added;

- (ii) an 800 service;
- (iii) a 900 service;
- (iv) a fixed wireless service;
- (v) a mobile wireless service;
- (vi) a postpaid calling service;
- (vii) a prepaid calling service;
- (viii) a prepaid wireless calling service; or
- (ix) a private communications service.

(c) "Telecommunications service" does not include:

- (i) advertising, including directory advertising;
- (ii) an ancillary service;
- (iii) a billing and collection service provided to a third party;
- (iv) a data processing and information service if:
  - (A) the data processing and information service allows data to be:
    - (I)(Aa) acquired;
    - (Bb) generated;
    - (Cc) processed;
    - (Dd) retrieved; or
    - (Ee) stored; and
  - (II) delivered by an electronic transmission to a purchaser; and
- (B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

- (v) installation or maintenance of the following on a customer's premises:
  - (A) equipment; or
  - (B) wiring;
- (vi) Internet access service;
- (vii) a paging service;
- (viii) a product transferred electronically, including:
  - (A) music;
  - (B) reading material;
  - (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

3431 (b) does not impose a sales and use tax under Section 59-12-401 or 59-12-402.

3432 Section 4. Section **59-12-2502** is enacted to read:

3433 **59-12-2502 (Effective 05/06/26). Imposition of law enforcement infrastructure**

3434 **tax -- Rate -- Requirements for imposing tax -- Expenditure of tax revenue --**

3435 **Administration, collection, and enforcement of tax -- Reauthorization of tax --**

3436 **Administrative charge.**

3437 (1)(a) The legislative body of a qualifying municipality may impose a sales and use tax

3438 of up to 0.5% on the transactions described in Subsection 59-12-103(1) located

3439 within the qualifying municipality.

3440 (b) Notwithstanding Subsection (1)(a), a qualifying municipality may not impose a tax

3441 under this section on:

3442 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses

3443 are exempt from taxation under Section 59-12-104; and

3444 (ii) except as provided in Subsection (1)(d), amounts paid or charged for food and

3445 food ingredients.

3446 (c) For purposes of this Subsection (1), the location of a transaction is determined in

3447 accordance with Sections 59-12-211 through 59-12-215.

3448 (d) A qualifying municipality that imposes a tax under this section shall impose the tax

3449 on the purchase price or sales price for amounts paid or charged for food and food

3450 ingredients if the food and food ingredients are sold as part of a bundled transaction

3451 attributable to food and food ingredients and tangible personal property other than

3452 food and food ingredients.

3453 (2) Before imposing a tax under this section, the legislative body of a qualifying

3454 municipality shall:

3455 (a) hold a public hearing at which the tax is discussed, after providing notice under

3456 Subsection (3); and

3457 (b) after the public hearing required by Subsection (2)(a) is held, obtain approval to

3458 impose the tax from a majority of the members of the qualifying municipality's

3459 legislative body.

3460 (3)(a) The legislative body of a qualifying municipality proposing a tax under this

3461 section shall, as a class A notice under Section 63G-30-102, publish notice of the

3462 public hearing required by Subsection (2)(a) for at least 14 days before the day of the

3463 public hearing.

3464 (b) The notice described in Subsection (3)(a) shall state:

3465 (i) that the legislative body proposes to adopt a tax under this section;  
3466 (ii) the proposed tax rate;  
3467 (iii) the date, time, and location of the public hearing; and  
3468 (iv) that the purpose of the public hearing is to obtain public comments regarding the  
3469 proposed tax.

3470 (4)(a) Subject to Subsection (4)(b), a qualifying municipality may use money collected  
3471 from a tax imposed under this section to fund infrastructure improvements for the  
3472 qualifying municipality's local law enforcement agency.

3473 (b) A qualifying municipality that imposes a tax under this section:

3474 (i) shall deposit the revenue the qualifying municipality receives from the tax into a  
3475 special revenue fund that is created to hold the revenue and is separate from the  
3476 qualifying municipality's general fund; and  
3477 (ii) may only expend the revenue as provided in Subsection (4)(a).

3478 (5)(a) Except as provided in Subsection (5)(b), a tax under this section shall be  
3479 administered, collected, and enforced in accordance with the same procedures used to  
3480 administer, collect, and enforce the tax under:

3481 (i)(A) Part 1, Tax Collection; or  
3482 (B) Part 2, Local Sales and Use Tax Act; and  
3483 (ii) Chapter 1, General Taxation Policies.

3484 (b) A tax under this section is not subject to Subsections 59-12-205(2) through (5).

3485 (6)(a) The legislative body of a qualifying municipality shall levy a tax under this  
3486 section for a period of 10 years.

3487 (b) The legislative body of a qualifying municipality may reauthorize a tax under this  
3488 section at the end of the 10-year levy period by following the procedures and  
3489 requirements of Subsections (2) and (3).

3490 (7) The commission shall retain and deposit an administrative charge in accordance with  
3491 Section 59-1-306 from the revenue the commission collects from a tax under this section.

3492 Section 5. Section **59-12-2503** is enacted to read:

3493 **59-12-2503 (Effective 05/06/26). Enactment, repeal, or change in the rate of**  
3494 **rural public safety tax -- Annexation -- Notice.**

3495 (1)(a) Except as provided in Subsection (3), if a qualifying municipality enacts or  
3496 repeals a law enforcement infrastructure tax or changes the rate of a law enforcement  
3497 infrastructure tax, the enactment, repeal, or change shall take effect:

3498 (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  
enforcement infrastructure tax;
- 3503 (ii) the statutory authority for the law enforcement infrastructure tax;
- 3504 (iii) the effective date of the enactment, repeal, or change in the rate of the law  
enforcement infrastructure tax; and
- 3505 (iv) if the qualifying municipality enacts or changes the rate of the law enforcement  
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  
meeting the requirements of Subsection (2)(b) from the municipality that annexes  
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,  
repeal, or change in the rate of a law enforcement infrastructure tax for the  
annexing area;
- 3518 (ii) the statutory authority for the law enforcement infrastructure tax;
- 3519 (iii) the effective date of the enactment, repeal, or change in the rate of the law  
enforcement infrastructure tax; and
- 3520 (iv) if the annexation results in the enactment or change in the rate of a law  
enforcement infrastructure tax for the annexing area, the rate of the law  
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:

- (i) provided by the commission; or
- (ii) in the software the commission certifies.

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

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

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

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

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

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

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

- (i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:
  - (A) on a tax rate;
  - (B) on a boundary;
  - (C) on a taxing jurisdiction; or
  - (D) in the taxability matrix the commission provides in accordance with the agreement; or
- (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the

### commission:

- (A) on a tax rate;
- (B) on a boundary;
- (C) on a taxing jurisdiction; or
- (D) in the taxability matrix the commission provides in accordance with the agreement.

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

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.