

Online Sales Tax Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Chris H. Wilson

House Sponsor:

LONG TITLE**General Description:**

This bill modifies sales and use tax provisions for online transactions.

Highlighted Provisions:

This bill:

- defines terms;
- imposes a sales and use tax for amounts paid or charged for access to digital video or audio works, including subscription-based streaming services; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-12-102, as last amended by Laws of Utah 2025, First Special Session, Chapters 9, 12

59-12-103, as last amended by Laws of Utah 2025, Chapter 285

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

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

59-12-102 . Definitions.

As used in this chapter:

- (1) "800 service" means a telecommunications service that:
 - (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
 - (b) is typically marketed:
 - (i) under the name 800 toll-free calling;
 - (ii) under the name 855 toll-free calling;
 - (iii) under the name 866 toll-free calling;

- (iv) under the name 877 toll-free calling;
- (v) under the name 888 toll-free calling; or
- (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

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

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

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

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

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

- (i) to be installed in a motor vehicle; and
- (ii) regardless of who provides the equipment or parts.

(b) "Adaptive driving equipment" includes:

- (i) a wheelchair or scooter lift;
- (ii) equipment to secure a wheelchair;
- (iii) a swivel seat;
- (iv) a hand or foot control; and
- (v) a steering aid.

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

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

- (i) annual membership dues to private organizations; or
- (ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

- (5) "Affiliate" or "affiliated person" means a person that, with respect to another person:
- (a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or
 - (b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.
- (6) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.
- (7) "Agreement combined tax rate" means the sum of the tax rates:
- (a) listed under Subsection (8); and
 - (b) that are imposed within a local taxing jurisdiction.
- (8) "Agreement sales and use tax" means a tax imposed under:
- (a) Subsection 59-12-103(2)(a)(i)(A);
 - (b) Subsection 59-12-103(2)(a)(i)(B);
 - (c) Subsection 59-12-103(2)(b)(i);
 - (d) Subsection 59-12-103(2)(c)(i);
 - (e) Subsection 59-12-103(2)(d);
 - (f) Subsection 59-12-103(2)(e)(i)(A);
 - (g) Section 59-12-204;
 - (h) Section 59-12-401;
 - (i) Section 59-12-402;
 - (j) Section 59-12-402.1;
 - (k) Section 59-12-703;
 - (l) Section 59-12-802;
 - (m) Section 59-12-804;
 - (n) Section 59-12-1102;
 - (o) Section 59-12-1302;
 - (p) Section 59-12-1402;
 - (q) Section 59-12-1802;
 - (r) Section 59-12-2003;
 - (s) Section 59-12-2103;
 - (t) Section 59-12-2213;
 - (u) Section 59-12-2214;

(v) Section 59-12-2215;

(w) Section 59-12-2216;

(x) Section 59-12-2217;

(y) Section 59-12-2218;

(z) Section 59-12-2219;

(aa) Section 59-12-2220; or

(bb) Section 59-12-2402.

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

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

(a) except for:

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

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

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

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

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

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

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

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

(A) an inspection;

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

(C) changing landing gear; and

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

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

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

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

- 133 (a) is suitable for human consumption; and
134 (b) contains .5% or more alcohol by volume.
- 135 (12) "Alternative energy" means:
- 136 (a) biomass energy;
137 (b) geothermal energy;
138 (c) hydroelectric energy;
139 (d) solar energy;
140 (e) wind energy; or
141 (f) energy that is derived from:
- 142 (i) coal-to-liquids;
143 (ii) nuclear fuel;
144 (iii) oil-impregnated diatomaceous earth;
145 (iv) oil sands;
146 (v) oil shale;
147 (vi) petroleum coke; or
148 (vii) waste heat from:
- 149 (A) an industrial facility; or
150 (B) a power station in which an electric generator is driven through a process in
151 which water is heated, turns into steam, and spins a steam turbine.
- 152 (13)(a) Subject to Subsection (13)(b), "alternative energy electricity production facility"
153 means a facility that:
- 154 (i) uses alternative energy to produce electricity; and
155 (ii) has a production capacity of two megawatts or greater.
- 156 (b) A facility is an alternative energy electricity production facility regardless of whether
157 the facility is:
- 158 (i) connected to an electric grid; or
159 (ii) located on the premises of an electricity consumer.
- 160 (14)(a) "Ancillary service" means a service associated with, or incidental to, the
161 provision of telecommunications service.
- 162 (b) "Ancillary service" includes:
- 163 (i) a conference bridging service;
164 (ii) a detailed communications billing service;
165 (iii) directory assistance;
166 (iv) a vertical service; or

- 167 (v) a voice mail service.
- 168 (15) "Area agency on aging" means the same as that term is defined in Section 26B-6-101.
- 169 (16) "Assisted amusement device" means an amusement device, skill device, or ride device
- 170 that is started and stopped by an individual:
- 171 (a) who is not the purchaser or renter of the right to use or operate the amusement
- 172 device, skill device, or ride device; and
- 173 (b) at the direction of the seller of the right to use the amusement device, skill device, or
- 174 ride device.
- 175 (17) "Assisted cleaning or washing of tangible personal property" means cleaning or
- 176 washing of tangible personal property if the cleaning or washing labor is primarily
- 177 performed by an individual:
- 178 (a) who is not the purchaser of the cleaning or washing of the tangible personal property;
- 179 and
- 180 (b) at the direction of the seller of the cleaning or washing of the tangible personal
- 181 property.
- 182 (18) "Authorized carrier" means:
- 183 (a) in the case of vehicles operated over public highways, the holder of credentials
- 184 indicating that the vehicle is or will be operated pursuant to both the International
- 185 Registration Plan and the International Fuel Tax Agreement;
- 186 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
- 187 certificate or air carrier's operating certificate; or
- 188 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
- 189 stock, a person who uses locomotives, freight cars, railroad work equipment, or other
- 190 rolling stock in more than one state.
- 191 (19)(a) "Biomass energy" means any of the following that is used as the primary source
- 192 of energy to produce fuel or electricity:
- 193 (i) material from a plant or tree; or
- 194 (ii) other organic matter that is available on a renewable basis, including:
- 195 (A) slash and brush from forests and woodlands;
- 196 (B) animal waste;
- 197 (C) waste vegetable oil;
- 198 (D) methane or synthetic gas produced at a landfill, as a byproduct of the
- 199 treatment of wastewater residuals, or through the conversion of a waste
- 200 material through a nonincineration, thermal conversion process;

- 201 (E) aquatic plants; and
202 (F) agricultural products.
- 203 (b) "Biomass energy" does not include:
204 (i) black liquor; or
205 (ii) treated woods.
- 206 (20)(a) "Bundled transaction" means the sale of two or more items of tangible personal
207 property, products, or services if the tangible personal property, products, or services
208 are:
209 (i) distinct and identifiable; and
210 (ii) sold for one nonitemized price.
- 211 (b) "Bundled transaction" does not include:
212 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
213 the basis of the selection by the purchaser of the items of tangible personal
214 property included in the transaction;
215 (ii) the sale of real property;
216 (iii) the sale of services to real property;
217 (iv) the retail sale of tangible personal property and a service if:
218 (A) the tangible personal property:
219 (I) is essential to the use of the service; and
220 (II) is provided exclusively in connection with the service; and
221 (B) the service is the true object of the transaction;
222 (v) the retail sale of two services if:
223 (A) one service is provided that is essential to the use or receipt of a second
224 service;
225 (B) the first service is provided exclusively in connection with the second service;
226 and
227 (C) the second service is the true object of the transaction;
228 (vi) a transaction that includes tangible personal property or a product subject to
229 taxation under this chapter and tangible personal property or a product that is not
230 subject to taxation under this chapter if the:
231 (A) seller's purchase price of the tangible personal property or product subject to
232 taxation under this chapter is de minimis; or
233 (B) seller's sales price of the tangible personal property or product subject to
234 taxation under this chapter is de minimis; and

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

(A) that retail sale includes:

- (I) food and food ingredients;
- (II) a drug;
- (III) durable medical equipment;
- (IV) mobility enhancing equipment;
- (V) an over-the-counter drug;
- (VI) a prosthetic device; or
- (VII) a medical supply; and

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

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

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

(A) packaging that:

- (I) accompanies the sale of the tangible personal property, product, or service; and
- (II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

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

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

(ii) For purposes of Subsection (20)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary

269 depending on the inclusion of the tangible personal property, product, or service
270 provided free of charge.

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

275 (A) a binding sales document; or

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

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

279 (A) a bill of sale;

280 (B) a contract;

281 (C) an invoice;

282 (D) a lease agreement;

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

284 (F) a price list;

285 (G) a rate card;

286 (H) a receipt; or

287 (I) a service agreement.

288 (e)(i) For purposes of Subsection (20)(b)(vi), the sales price of tangible personal
289 property or a product subject to taxation under this chapter is de minimis if:

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

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

294 (ii) For purposes of Subsection (20)(b)(vi), a seller:

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

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

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

- 303 de minimis.
- 304 (f) For purposes of Subsection (20)(b)(vii)(B), a seller may not use a combination of the
305 seller's purchase price and the seller's sales price to determine if tangible personal
306 property subject to taxation under this chapter is 50% or less of the seller's total
307 purchase price or sales price of that retail sale.
- 308 (21) "Car sharing" means the same as that term is defined in Section 13-48a-101.
- 309 (22) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.
- 310 (23) "Certified automated system" means software certified by the governing board of the
311 agreement that:
- 312 (a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:
- 313 (i) on a transaction; and
- 314 (ii) in the states that are members of the agreement;
- 315 (b) determines the amount of agreement sales and use tax to remit to a state that is a
316 member of the agreement; and
- 317 (c) maintains a record of the transaction described in Subsection (23)(a)(i).
- 318 (24) "Certified service provider" means an agent certified:
- 319 (a) by the governing board of the agreement; and
- 320 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as
321 outlined in the contract between the governing board of the agreement and the
322 certified service provider, other than the seller's obligation under Section 59-12-124
323 to remit a tax on the seller's own purchases.
- 324 (25)(a) Subject to Subsection (25)(b), "clothing" means all human wearing apparel
325 suitable for general use.
- 326 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
327 commission shall make rules:
- 328 (i) listing the items that constitute "clothing"; and
- 329 (ii) that are consistent with the list of items that constitute "clothing" under the
330 agreement.
- 331 (26) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- 332 (27) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels
333 that does not constitute industrial use under Subsection (61) or residential use under
334 Subsection (117).
- 335 (28)(a) "Common carrier" means a person engaged in or transacting the business of
336 transporting passengers, freight, merchandise, or other property for hire within this

337 state.

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

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

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

346 (29) "Component part" includes:

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

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

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

352 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 371 (34) "Construction materials" means any tangible personal property that will be converted
372 into real property.
- 373 (35) "Delivered electronically" means delivered to a purchaser by means other than tangible
374 storage media.
- 375 (36)(a) "Delivery charge" means a charge:
376 (i) by a seller of:
377 (A) tangible personal property;
378 (B) a product transferred electronically; or
379 (C) a service; and
380 (ii) for preparation and delivery of the tangible personal property, product transferred
381 electronically, or services described in Subsection (36)(a)(i) to a location
382 designated by the purchaser.
- 383 (b) "Delivery charge" includes a charge for the following:
384 (i) transportation;
385 (ii) shipping;
386 (iii) postage;
387 (iv) handling;
388 (v) crating; or
389 (vi) packing.
- 390 (37) "Detailed telecommunications billing service" means an ancillary service of separately
391 stating information pertaining to individual calls on a customer's billing statement.
- 392 (38) "Dietary supplement" means a product, other than tobacco, that:
393 (a) is intended to supplement the diet;
394 (b) contains one or more of the following dietary ingredients:
395 (i) a vitamin;
396 (ii) a mineral;
397 (iii) an herb or other botanical;
398 (iv) an amino acid;
399 (v) a dietary substance for use by humans to supplement the diet by increasing the
400 total dietary intake; or
401 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
402 described in Subsections (38)(b)(i) through (v);
403 (c)(i) except as provided in Subsection (38)(c)(ii), is intended for ingestion in:
404 (A) tablet form;

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

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

440 (a) address information; or

441 (b) telephone number information.

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

444 (i) cannot withstand repeated use; and

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

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

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

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

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

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

452 (i) a drug;

453 (ii) durable medical equipment;

454 (iii) a hearing aid;

455 (iv) a hearing aid accessory;

456 (v) mobility enhancing equipment; or

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

458 (A) eyeglasses; or

459 (B) contact lenses.

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

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

463 (a) located in the state;

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

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

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

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

472 (i) recognized in:

- 473 (A) the official United States Pharmacopoeia;
474 (B) the official Homeopathic Pharmacopoeia of the United States;
475 (C) the official National Formulary; or
476 (D) a supplement to a publication listed in Subsections (46)(a)(i)(A) through (C);
477 (ii) intended for use in the:
478 (A) diagnosis of disease;
479 (B) cure of disease;
480 (C) mitigation of disease;
481 (D) treatment of disease; or
482 (E) prevention of disease; or
483 (iii) intended to affect:
484 (A) the structure of the body; or
485 (B) any function of the body.
486 (b) "Drug" does not include:
487 (i) food and food ingredients;
488 (ii) a dietary supplement;
489 (iii) an alcoholic beverage; or
490 (iv) a prosthetic device.
491 (47)(a) "Durable medical equipment" means equipment that:
492 (i) can withstand repeated use;
493 (ii) is primarily and customarily used to serve a medical purpose;
494 (iii) generally is not useful to a person in the absence of illness or injury; and
495 (iv) is not worn in or on the body.
496 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
497 equipment described in Subsection (47)(a).
498 (c) "Durable medical equipment" does not include mobility enhancing equipment.
499 (48) "Electronic" means:
500 (a) relating to technology; and
501 (b) having:
502 (i) electrical capabilities;
503 (ii) digital capabilities;
504 (iii) magnetic capabilities;
505 (iv) wireless capabilities;
506 (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.

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

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

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (100)(b)(iii).

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

- (i) an alcoholic beverage;
- (ii) tobacco; or
- (iii) prepared food.

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

- (i)(A) made by a school; or
- (B) made by a school student;
- (ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and
- (iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (55)(a)(iii), "officially sanctioned school activity" means a school activity:

- (i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;
- (ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and
- (iii) the net or gross revenue from which is deposited in a dedicated account controlled by the school or school district.

(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, the Office of Legislative Services, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of

- 575 the Legislative Fiscal Analyst;
- 576 (iv) the National Guard;
- 577 (v) an independent entity as defined in Section 63E-1-102; or
- 578 (vi) a political subdivision as defined in Section 17B-1-102.
- 579 (b) "Governmental entity" does not include the state systems of public and higher
- 580 education, including:
- 581 (i) a school;
- 582 (ii) the State Board of Education;
- 583 (iii) the Utah Board of Higher Education; or
- 584 (iv) an institution of higher education listed in Section 53H-1-102.
- 585 (59) "Hydroelectric energy" means water used as the sole source of energy to produce
- 586 electricity.
- 587 (60) "Individual-owned shared vehicle" means the same as that term is defined in Section
- 588 13-48a-101.
- 589 (61) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other
- 590 fuels:
- 591 (a) in mining or extraction of minerals;
- 592 (b) in agricultural operations to produce an agricultural product up to the time of harvest
- 593 or placing the agricultural product into a storage facility, including:
- 594 (i) commercial greenhouses;
- 595 (ii) irrigation pumps;
- 596 (iii) farm machinery;
- 597 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
- 598 under Title 41, Chapter 1a, Part 2, Registration; and
- 599 (v) other farming activities;
- 600 (c) in manufacturing tangible personal property at an establishment described in:
- 601 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 602 the federal Executive Office of the President, Office of Management and Budget;
- 603 or
- 604 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 605 American Industry Classification System of the federal Executive Office of the
- 606 President, Office of Management and Budget;
- 607 (d) by a scrap recycler if:
- 608 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to

- 609 process one or more of the following items into prepared grades of processed
610 materials for use in new products:
- 611 (A) iron;
 - 612 (B) steel;
 - 613 (C) nonferrous metal;
 - 614 (D) paper;
 - 615 (E) glass;
 - 616 (F) plastic;
 - 617 (G) textile; or
 - 618 (H) rubber; and
- 619 (ii) the new products under Subsection (61)(d)(i) would otherwise be made with
620 nonrecycled materials; or
- 621 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
622 cogeneration facility as defined in Section 54-2-1.
- 623 (62)(a) "Installation charge" means a charge for installing:
- 624 (i) tangible personal property; or
 - 625 (ii) a product transferred electronically.
- 626 (b) "Installation charge" does not include a charge for:
- 627 (i) repairs or renovations of:
 - 628 (A) tangible personal property; or
 - 629 (B) a product transferred electronically; or
 - 630 (ii) attaching tangible personal property or a product transferred electronically:
 - 631 (A) to other tangible personal property; and
 - 632 (B) as part of a manufacturing or fabrication process.
- 633 (63) "Institution of higher education" means an institution of higher education listed in
634 Section 53H-1-102.
- 635 (64)(a) "Lease" or "rental" means a transfer of possession or control of tangible personal
636 property or a product transferred electronically for:
- 637 (i)(A) a fixed term; or
 - 638 (B) an indeterminate term; and
 - 639 (ii) consideration.
- 640 (b) "Lease" or "rental" includes:
- 641 (i) an agreement covering a motor vehicle and trailer if the amount of consideration
642 may be increased or decreased by reference to the amount realized upon sale or

- 643 disposition of the property as defined in Section 7701(h)(1), Internal Revenue
644 Code; and
- 645 (ii) car sharing.
- 646 (c) "Lease" or "rental" does not include:
- 647 (i) a transfer of possession or control of property under a security agreement or
648 deferred payment plan that requires the transfer of title upon completion of the
649 required payments;
- 650 (ii) a transfer of possession or control of property under an agreement that requires
651 the transfer of title:
- 652 (A) upon completion of required payments; and
- 653 (B) if the payment of an option price does not exceed the greater of:
- 654 (I) \$100; or
- 655 (II) 1% of the total required payments; or
- 656 (iii) providing tangible personal property along with an operator for a fixed period of
657 time or an indeterminate period of time if the operator is necessary for equipment
658 to perform as designed.
- 659 (d) For purposes of Subsection (64)(c)(iii), an operator is necessary for equipment to
660 perform as designed if the operator's duties exceed the:
- 661 (i) set-up of tangible personal property;
- 662 (ii) maintenance of tangible personal property; or
- 663 (iii) inspection of tangible personal property.
- 664 (65) "Lesson" means a fixed period of time for the duration of which a trained instructor:
- 665 (a) is present with a student in person or by video; and
- 666 (b) actively instructs the student, including by providing observation or feedback.
- 667 (66) "Life science establishment" means an establishment in this state that is classified
668 under the following NAICS codes of the 2007 North American Industry Classification
669 System of the federal Executive Office of the President, Office of Management and
670 Budget:
- 671 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 672 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
673 Manufacturing; or
- 674 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 675 (67) "Life science research and development facility" means a facility owned, leased, or
676 rented by a life science establishment if research and development is performed in 51%

677 or more of the total area of the facility.

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

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

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

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

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

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

685 (71) "Manufacturing facility" means:

686 (a) an establishment described in:

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

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

693 (b) a scrap recycler if:

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

697 (A) iron;

698 (B) steel;

699 (C) nonferrous metal;

700 (D) paper;

701 (E) glass;

702 (F) plastic;

703 (G) textile; or

704 (H) rubber; and

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

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

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

711 for sale.

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

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

718 (i) does any of the following:

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

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

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

731 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of
732 tangible personal property, a product transferred electronically, or a service,
733 regardless of ownership or control of the tangible personal property, the
734 product transferred electronically, or the service that is the subject of the retail
735 sale;

736 (E) provides software development or research and development activities related
737 to any activity described in this Subsection (73)(a)(i), if the software
738 development or research and development activity is directly related to the
739 person's marketplace;

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

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

743 (H) provides or offers customer service to a marketplace seller or a marketplace
744 seller's purchaser or accepts or assists with taking orders, returns, or exchanges

- 745 of tangible personal property, a product transferred electronically, or a service
746 sold by a marketplace seller on the person's marketplace; or
747 (I) brands or otherwise identifies sales as those of the person; and
748 (ii) does any of the following:
- 749 (A) collects the sales price or purchase price of a retail sale of tangible personal
750 property, a product transferred electronically, or a service;
751 (B) provides payment processing services for a retail sale of tangible personal
752 property, a product transferred electronically, or a service;
753 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee,
754 closing fee, a fee for inserting or making available tangible personal property, a
755 product transferred electronically, or a service on the person's marketplace, or
756 other consideration for the facilitation of a retail sale of tangible personal
757 property, a product transferred electronically, or a service, regardless of
758 ownership or control of the tangible personal property, the product transferred
759 electronically, or the service that is the subject of the retail sale;
760 (D) through terms and conditions, an agreement, or another arrangement with a
761 third person, collects payment from a purchase for a retail sale of tangible
762 personal property, a product transferred electronically, or a service and
763 transmits that payment to the marketplace seller, regardless of whether the
764 third person receives compensation or other consideration in exchange for the
765 service; or
766 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
767 property, a product transferred electronically, or service offered for sale.
- 768 (b) "Marketplace facilitator" does not include:
- 769 (i) a person that only provides payment processing services; or
770 (ii) a person described in Subsection (73)(a) to the extent the person is facilitating a
771 sale for a seller that is a restaurant as defined in Section 59-12-602.
- 772 (74) "Marketplace seller" means a seller that makes one or more retail sales through a
773 marketplace that a marketplace facilitator owns, operates, or controls, regardless of
774 whether the seller is required to be registered to collect and remit the tax under this part.
- 775 (75) "Member of the immediate family of the producer" means a person who is related to a
776 producer described in Subsection 59-12-104(20)(a) as a:
- 777 (a) child or stepchild, regardless of whether the child or stepchild is:
778 (i) an adopted child or adopted stepchild; or

- (ii) a foster child or foster stepchild;
- (b) grandchild or stepgrandchild;
- (c) grandparent or stepgrandparent;
- (d) nephew or stepnephew;
- (e) niece or stepniece;
- (f) parent or stepparent;
- (g) sibling or stepsibling;
- (h) spouse;
- (i) person who is the spouse of a person described in Subsections (75)(a) through (g); or
- (j) person similar to a person described in Subsections (75)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(82)(a) Subject to Subsection (82)(b), "model 3 seller" means a seller registered under the agreement that has:

- (i) sales in at least five states that are members of the agreement;
- (ii) total annual sales revenue of at least \$500,000,000;
- (iii) a proprietary system that calculates the amount of tax:
 - (A) for an agreement sales and use tax; and
 - (B) due to each local taxing jurisdiction; and
- (iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (82)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

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

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

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

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

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

(b) yield mixtures of liquid hydrocarbon; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 881 repair or renovation if the repair or renovation is performed where the tangible
882 personal property and real property are located; or
- 883 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
884 Subsection (93)(c)(iii) or (iv).
- 885 (c) "Permanently attached to real property" does not include:
- 886 (i) the attachment of portable or movable tangible personal property to real property
887 if that portable or movable tangible personal property is attached to real property
888 only for:
- 889 (A) convenience;
- 890 (B) stability; or
- 891 (C) for an obvious temporary purpose;
- 892 (ii) the detachment of tangible personal property from real property except for the
893 detachment described in Subsection (93)(b)(ii);
- 894 (iii) an attachment of the following tangible personal property to real property if the
895 attachment to real property is only through a line that supplies water, electricity,
896 gas, telecommunications, cable, or supplies a similar item as determined by the
897 commission by rule made in accordance with Title 63G, Chapter 3, Utah
898 Administrative Rulemaking Act:
- 899 (A) a computer;
- 900 (B) a telephone;
- 901 (C) a television; or
- 902 (D) tangible personal property similar to Subsections (93)(c)(iii)(A) through (C)
903 as determined by the commission by rule made in accordance with Title 63G,
904 Chapter 3, Utah Administrative Rulemaking Act; or
- 905 (iv) an item listed in Subsection (139)(c).
- 906 (94) "Person" includes any individual, firm, partnership, joint venture, association,
907 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
908 municipality, district, or other local governmental entity of the state, or any group or
909 combination acting as a unit.
- 910 (95) "Place of primary use":
- 911 (a) for telecommunications service other than mobile telecommunications service,
912 means the street address representative of where the customer's use of the
913 telecommunications service primarily occurs, which shall be:
- 914 (i) the residential street address of the customer; or

- 915 (ii) the primary business street address of the customer; or
- 916 (b) for mobile telecommunications service, means the same as that term is defined in the
- 917 Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 918 (96)(a) "Postpaid calling service" means a telecommunications service a person obtains
- 919 by making a payment on a call-by-call basis:
- 920 (i) through the use of a:
- 921 (A) bank card;
- 922 (B) credit card;
- 923 (C) debit card; or
- 924 (D) travel card; or
- 925 (ii) by a charge made to a telephone number that is not associated with the origination
- 926 or termination of the telecommunications service.
- 927 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
- 928 service, that would be a prepaid wireless calling service if the service were
- 929 exclusively a telecommunications service.
- 930 (97) "Postproduction" means an activity related to the finishing or duplication of a medium
- 931 described in Subsection 59-12-104(54)(a).
- 932 (98) "Prepaid calling service" means a telecommunications service:
- 933 (a) that allows a purchaser access to telecommunications service that is exclusively
- 934 telecommunications service;
- 935 (b) that:
- 936 (i) is paid for in advance; and
- 937 (ii) enables the origination of a call using an:
- 938 (A) access number; or
- 939 (B) authorization code;
- 940 (c) that is dialed:
- 941 (i) manually; or
- 942 (ii) electronically; and
- 943 (d) sold in predetermined units or dollars that decline:
- 944 (i) by a known amount; and
- 945 (ii) with use.
- 946 (99) "Prepaid wireless calling service" means a telecommunications service:
- 947 (a) that provides the right to utilize:
- 948 (i) mobile wireless service; and

- 949 (ii) other service that is not a telecommunications service, including:
- 950 (A) the download of a product transferred electronically;
- 951 (B) a content service; or
- 952 (C) an ancillary 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 (100)(a) "Prepared food" means:
- 965 (i) food:
- 966 (A) sold in a heated state; or
- 967 (B) heated by a seller;
- 968 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 969 item; or
- 970 (iii) except as provided in Subsection (100)(c), food sold with an eating utensil
- 971 provided by the seller, including a:
- 972 (A) plate;
- 973 (B) knife;
- 974 (C) fork;
- 975 (D) spoon;
- 976 (E) glass;
- 977 (F) cup;
- 978 (G) napkin; or
- 979 (H) straw.
- 980 (b) "Prepared food" does not include:
- 981 (i) food that a seller only:
- 982 (A) cuts;

(B) repackages; or

(C) pasteurizes;

(ii)(A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (100)(b)(ii)(A)(I)

through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (100)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

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

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

- (XIII) a pie;
- (XIV) a roll;
- (XV) a tart;
- (XVI) a torte; or
- (XVII) a tortilla.

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

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

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

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

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

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

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

(b) "Prewritten computer software" includes:

- (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:
 - (A) by the author or other creator of the computer software; and
 - (B) to the specifications of a specific purchaser;
- (ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or
- (iii) except as provided in Subsection (102)(c), prewritten computer software or a prewritten portion of prewritten computer software:
 - (A) that is modified or enhanced to any degree; and
 - (B) if the modification or enhancement described in Subsection (102)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

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

enhancement are:

(i) reasonable; and

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

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

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

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

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

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

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

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

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

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

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

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

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

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

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

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

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

(b) "Prosthetic device" includes:

- (i) parts used in the repairs or renovation of a prosthetic device;
- (ii) replacement parts for a prosthetic device;
- (iii) a dental prosthesis; or
- (iv) a hearing aid.

(c) "Prosthetic device" does not include:

- (i) corrective eyeglasses; or
- (ii) contact lenses.

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

- (i) for human wear; and
- (ii) that is:
 - (A) designed as protection:
 - (I) to the wearer against injury or disease; or
 - (II) against damage or injury of other persons or property; and
 - (B) not 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 "protective equipment"; and
- (ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

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

- (i) regardless of:
 - (A) characteristics;
 - (B) copyright;
 - (C) form;
 - (D) format;
 - (E) method of reproduction; or
 - (F) source; and
- (ii) made available in printed or electronic format.

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

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

- (i) valued in money; and

- 1119 (ii) for which tangible personal property, a product transferred electronically, or
1120 services are:
- 1121 (A) sold;
1122 (B) leased; or
1123 (C) rented.
- 1124 (b) "Purchase price" and "sales price" include:
- 1125 (i) the seller's cost of the tangible personal property, a product transferred
1126 electronically, or services sold;
- 1127 (ii) expenses of the seller, including:
- 1128 (A) the cost of materials used;
1129 (B) a labor cost;
1130 (C) a service cost;
1131 (D) interest;
1132 (E) a loss;
1133 (F) the cost of transportation to the seller; or
1134 (G) a tax imposed on the seller;
- 1135 (iii) a charge by the seller for any service necessary to complete the sale; or
1136 (iv) consideration a seller receives from a person other than the purchaser if:
- 1137 (A)(I) the seller actually receives consideration from a person other than the
1138 purchaser; and
- 1139 (II) the consideration described in Subsection (108)(b)(iv)(A)(I) is directly
1140 related to a price reduction or discount on the sale;
- 1141 (B) the seller has an obligation to pass the price reduction or discount through to
1142 the purchaser;
- 1143 (C) the amount of the consideration attributable to the sale is fixed and
1144 determinable by the seller at the time of the sale to the purchaser; and
- 1145 (D)(I)(Aa) the purchaser presents a certificate, coupon, or other
1146 documentation to the seller to claim a price reduction or discount; and
- 1147 (Bb) a person other than the seller authorizes, distributes, or grants the
1148 certificate, coupon, or other documentation with the understanding that
1149 the person other than the seller will reimburse any seller to whom the
1150 certificate, coupon, or other documentation is presented;
- 1151 (II) the purchaser identifies that purchaser to the seller as a member of a group
1152 or organization allowed a price reduction or discount, except that a

- 1153 preferred customer card that is available to any patron of a seller does not
1154 constitute membership in a group or organization allowed a price reduction
1155 or discount; or
- 1156 (III) the price reduction or discount is identified as a third party price reduction
1157 or discount on the:
1158 (Aa) invoice the purchaser receives; or
1159 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1160 (c) "Purchase price" and "sales price" do not include:
- 1161 (i) a discount:
- 1162 (A) in a form including:
- 1163 (I) cash;
1164 (II) term; or
1165 (III) coupon;
- 1166 (B) that is allowed by a seller;
1167 (C) taken by a purchaser on a sale; and
1168 (D) that is not reimbursed by a third party; or
- 1169 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if
1170 separately stated on an invoice, bill of sale, or similar document provided to the
1171 purchaser at the time of sale or later, as demonstrated by the books and records the
1172 seller keeps at the time of the transaction in the regular course of business,
1173 including books and records the seller keeps at the time of the transaction in the
1174 regular course of business for nontax purposes, by a preponderance of the facts
1175 and circumstances at the time of the transaction, and by the understanding of all of
1176 the parties to the transaction:
- 1177 (A) the following from credit extended on the sale of tangible personal property or
1178 services:
- 1179 (I) a carrying charge;
1180 (II) a financing charge; or
1181 (III) an interest charge;
- 1182 (B) a delivery charge;
1183 (C) an installation charge;
1184 (D) a manufacturer rebate on a motor vehicle; or
1185 (E) a tax or fee legally imposed directly on the consumer.
- 1186 (109) "Purchaser" means a person to whom:

- 1187 (a) a sale of tangible personal property is made;
- 1188 (b) a product is transferred electronically; or
- 1189 (c) a service is furnished.
- 1190 (110) "Qualifying data center" means a data center facility that:
- 1191 (a) houses a group of networked server computers in one physical location in order to
- 1192 disseminate, manage, and store data and information;
- 1193 (b) is located in the state;
- 1194 (c) is a new operation constructed on or after July 1, 2016;
- 1195 (d) consists of one or more buildings that total 150,000 or more square feet;
- 1196 (e) is owned or leased by:
- 1197 (i) the operator of the data center facility; or
- 1198 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 1199 operator of the data center facility; and
- 1200 (f) is located on one or more parcels of land that are owned or leased by:
- 1201 (i) the operator of the data center facility; or
- 1202 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 1203 operator of the data center facility.
- 1204 (111) "Qualifying energy storage manufacturing facility" means a facility that
- 1205 manufactures, in the state, equipment or devices that store and discharge energy for the
- 1206 purpose of providing electrical power.
- 1207 (112) "Regularly rented" means:
- 1208 (a) rented to a guest for value three or more times during a calendar year; or
- 1209 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1210 value.
- 1211 (113) "Rental" means the same as that term is defined in Subsection (64).
- 1212 (114)(a) "Repairs or renovations of tangible personal property" means:
- 1213 (i) a repair or renovation of tangible personal property that is not permanently
- 1214 attached to real property; or
- 1215 (ii) attaching tangible personal property or a product transferred electronically to
- 1216 other tangible personal property or detaching tangible personal property or a
- 1217 product transferred electronically from other tangible personal property if:
- 1218 (A) the other tangible personal property to which the tangible personal property or
- 1219 product transferred electronically is attached or from which the tangible
- 1220 personal property or product transferred electronically is detached is not

1221 permanently attached to real property; and

1222 (B) the attachment of tangible personal property or a product transferred
1223 electronically to other tangible personal property or detachment of tangible
1224 personal property or a product transferred electronically from other tangible
1225 personal property is made in conjunction with a repair or replacement of
1226 tangible personal property or a product transferred electronically.

1227 (b) "Repairs or renovations of tangible personal property" does not include:

1228 (i) attaching prewritten computer software to other tangible personal property if the
1229 other tangible personal property to which the prewritten computer software is
1230 attached is not permanently attached to real property; or

1231 (ii) detaching prewritten computer software from other tangible personal property if
1232 the other tangible personal property from which the prewritten computer software
1233 is detached is not permanently attached to real property.

1234 (115) "Research and development" means the process of inquiry or experimentation aimed
1235 at the discovery of facts, devices, technologies, or applications and the process of
1236 preparing those devices, technologies, or applications for marketing.

1237 (116)(a) "Residential telecommunications services" means a telecommunications service
1238 or an ancillary service that is provided to an individual for personal use:

1239 (i) at a residential address; or

1240 (ii) at an institution, including a nursing home or a school, if the telecommunications
1241 service or ancillary service is provided to and paid for by the individual residing at
1242 the institution rather than the institution.

1243 (b) For purposes of Subsection (116)(a)(i), a residential address includes an:

1244 (i) apartment; or

1245 (ii) other individual dwelling unit.

1246 (117) "Residential use" means the use in or around a home, apartment building, sleeping
1247 quarters, and similar facilities or accommodations.

1248 (118) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

1249 (a) resale;

1250 (b) sublease; or

1251 (c) subrent.

1252 (119)(a) "Retailer" means any person, unless prohibited by the Constitution of the
1253 United States or federal law, that is engaged in a regularly organized business in
1254 tangible personal property or any other taxable transaction under Subsection

1255 59-12-103(1), and who is selling to the user or consumer and not for resale.

1256 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1257 engaged in the business of selling to users or consumers within the state.

1258 (120)(a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise,
1259 in any manner, of tangible personal property or any other taxable transaction under
1260 Subsection 59-12-103(1), for consideration.

1261 (b) "Sale" includes:

1262 (i) installment and credit sales;

1263 (ii) any closed transaction constituting a sale;

1264 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1265 chapter;

1266 (iv) any transaction if the possession of property is transferred but the seller retains
1267 the title as security for the payment of the price; and

1268 (v) any transaction under which right to possession, operation, or use of any article of
1269 tangible personal property is granted under a lease or contract and the transfer of
1270 possession would be taxable if an outright sale were made.

1271 (121) "Sale at retail" means the same as that term is defined in Subsection (118).

1272 (122) "Sale-leaseback transaction" means a transaction by which title to tangible personal
1273 property or a product transferred electronically that is subject to a tax under this chapter
1274 is transferred:

1275 (a) by a purchaser-lessee;

1276 (b) to a lessor;

1277 (c) for consideration; and

1278 (d) if:

1279 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial
1280 purchase of the tangible personal property or product transferred electronically;

1281 (ii) the sale of the tangible personal property or product transferred electronically to
1282 the lessor is intended as a form of financing:

1283 (A) for the tangible personal property or product transferred electronically; and

1284 (B) to the purchaser-lessee; and

1285 (iii) in accordance with generally accepted accounting principles, the
1286 purchaser-lessee is required to:

1287 (A) capitalize the tangible personal property or product transferred electronically
1288 for financial reporting purposes; and

- 1289 (B) account for the lease payments as payments made under a financing
1290 arrangement.
- 1291 (123) "Sales price" means the same as that term is defined in Subsection (108).
- 1292 (124)(a) "Sales relating to schools" means the following sales by, amounts paid to, or
1293 amounts charged by a school:
- 1294 (i) sales that are directly related to the school's educational functions or activities
1295 including:
- 1296 (A) the sale of:
- 1297 (I) textbooks;
- 1298 (II) textbook fees;
- 1299 (III) laboratory fees;
- 1300 (IV) laboratory supplies; or
- 1301 (V) safety equipment;
- 1302 (B) the sale of a uniform, protective equipment, or sports or recreational
1303 equipment that:
- 1304 (I) a student is specifically required to wear as a condition of participation in a
1305 school-related event or school-related activity; and
- 1306 (II) is not readily adaptable to general or continued usage to the extent that it
1307 takes the place of ordinary clothing;
- 1308 (C) sales of the following if the net or gross revenue generated by the sales is
1309 deposited into a school district fund or school fund dedicated to school meals:
- 1310 (I) food and food ingredients; or
- 1311 (II) prepared food; or
- 1312 (D) transportation charges for official school activities; or
- 1313 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1314 event or school-related activity.
- 1315 (b) "Sales relating to schools" does not include:
- 1316 (i) bookstore sales of items that are not educational materials or supplies;
- 1317 (ii) except as provided in Subsection (124)(a)(i)(B):
- 1318 (A) clothing;
- 1319 (B) clothing accessories or equipment;
- 1320 (C) protective equipment; or
- 1321 (D) sports or recreational equipment; or
- 1322 (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:

(A) public school; or

(B) private school; and

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

(b) a public school district.

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

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

(127) "Seller-hosted prewritten computer software" means prewritten computer software

that is accessed through the internet or a seller-hosted server, regardless of whether:

(a) the access is permanent; or

(b) any downloading occurs.

[(127)] (128)(a) "Semiconductor fabricating, processing, research, or development

materials" means tangible personal property or a product transferred electronically if

the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A)(I) manufacturing a semiconductor;

- 1357 (II) fabricating a semiconductor; or
- 1358 (III) research or development of a:
- 1359 (Aa) semiconductor; or
- 1360 (Bb) semiconductor manufacturing process; or
- 1361 (B) maintaining an environment suitable for a semiconductor; or
- 1362 (ii) consumed primarily in the process of:
- 1363 (A)(I) manufacturing a semiconductor;
- 1364 (II) fabricating a semiconductor; or
- 1365 (III) research or development of a:
- 1366 (Aa) semiconductor; or
- 1367 (Bb) semiconductor manufacturing process; or
- 1368 (B) maintaining an environment suitable for a semiconductor.
- 1369 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1370 includes:
- 1371 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1372 transferred electronically described in Subsection (127)(a); or
- 1373 (ii) a chemical, catalyst, or other material used to:
- 1374 (A) produce or induce in a semiconductor a:
- 1375 (I) chemical change; or
- 1376 (II) physical change;
- 1377 (B) remove impurities from a semiconductor; or
- 1378 (C) improve the marketable condition of a semiconductor.
- 1379 ~~[(128)]~~ (129) "Senior citizen center" means a facility having the primary purpose of
- 1380 providing services to the aged as defined in Section 26B-6-101.
- 1381 ~~[(129)]~~ (130) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.
- 1382 ~~[(130)]~~ (131) "Shared vehicle driver" means the same as that term is defined in Section
- 1383 13-48a-101.
- 1384 ~~[(131)]~~ (132) "Shared vehicle owner" means the same as that term is defined in Section
- 1385 13-48a-101.
- 1386 ~~[(132)]~~ (133)(a) Subject to Subsections ~~[(132)(b)]~~ (133)(b) and (c), "short-term lodging
- 1387 consumable" means tangible personal property that:
- 1388 (i) a business that provides accommodations and services described in Subsection
- 1389 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations
- 1390 and services to a purchaser;

1391 (ii) is intended to be consumed by the purchaser; and
1392 (iii) is:
1393 (A) included in the purchase price of the accommodations and services; and
1394 (B) not separately stated on an invoice, bill of sale, or other similar document
1395 provided to the purchaser.

1396 (b) "Short-term lodging consumable" includes:

1397 (i) a beverage;
1398 (ii) a brush or comb;
1399 (iii) a cosmetic;
1400 (iv) a hair care product;
1401 (v) lotion;
1402 (vi) a magazine;
1403 (vii) makeup;
1404 (viii) a meal;
1405 (ix) mouthwash;
1406 (x) nail polish remover;
1407 (xi) a newspaper;
1408 (xii) a notepad;
1409 (xiii) a pen;
1410 (xiv) a pencil;
1411 (xv) a razor;
1412 (xvi) saline solution;
1413 (xvii) a sewing kit;
1414 (xviii) shaving cream;
1415 (xix) a shoe shine kit;
1416 (xx) a shower cap;
1417 (xxi) a snack item;
1418 (xxii) soap;
1419 (xxiii) toilet paper;
1420 (xxiv) a toothbrush;
1421 (xxv) toothpaste; or
1422 (xxvi) an item similar to Subsections [~~(132)(b)(i)~~] (133)(b)(i) through (xxv) as the
1423 commission may provide by rule made in accordance with Title 63G, Chapter 3,
1424 Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

~~[(133)]~~ (134)(a) "Short-term rental" means a lease or rental for less than 30 consecutive days.

(b) "Short-term rental" does not include car sharing.

~~[(134)]~~ (135) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

~~[(135)]~~ (136) "Solar energy" means the sun used as the sole source of energy for producing electricity.

~~[(136)]~~ (137)(a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not 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 "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

~~[(137)]~~ (138) "State" means the state of Utah, its departments, and agencies.

~~[(138)]~~ (139) "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)]~~ (140)(a) "Tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

- 1459 (E) touched; or
- 1460 (ii) is in any manner perceptible to the senses.
- 1461 (b) "Tangible personal property" includes:
- 1462 (i) electricity;
- 1463 (ii) water;
- 1464 (iii) gas;
- 1465 (iv) steam; or
- 1466 (v) prewritten computer software, regardless of the manner in which the prewritten
- 1467 computer software is transferred.
- 1468 (c) "Tangible personal property" includes the following regardless of whether the item is
- 1469 attached to real property:
- 1470 (i) a dishwasher;
- 1471 (ii) a dryer;
- 1472 (iii) a freezer;
- 1473 (iv) a microwave;
- 1474 (v) a refrigerator;
- 1475 (vi) a stove;
- 1476 (vii) a washer; or
- 1477 (viii) an item similar to Subsections [~~(139)(e)(i)~~] (140)(c)(i) through (vii) as
- 1478 determined by the commission by rule made in accordance with Title 63G,
- 1479 Chapter 3, Utah Administrative Rulemaking Act.
- 1480 (d) "Tangible personal property" does not include a product that is transferred
- 1481 electronically.
- 1482 (e) "Tangible personal property" does not include the following if attached to real
- 1483 property, regardless of whether the attachment to real property is only through a line
- 1484 that supplies water, electricity, gas, telephone, cable, or supplies a similar item as
- 1485 determined by the commission by rule made in accordance with Title 63G, Chapter 3,
- 1486 Utah Administrative Rulemaking Act:
- 1487 (i) a hot water heater;
- 1488 (ii) a water filtration system; or
- 1489 (iii) a water softener system.
- 1490 [~~(140)~~] (141)(a) "Telecommunications enabling or facilitating equipment, machinery, or
- 1491 software" means an item listed in Subsection [~~(140)(b)~~] (141)(b) if that item is
- 1492 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)]~~ (141)(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)]~~ (141)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection ~~[(140)(c)]~~ (141)(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)]~~ (141)(b)(i) through (vi).

~~[(141)]~~ (142) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

~~[(142)]~~ (143) "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.

~~[(143)]~~ (144)(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:

- 1527 (A) on the code, form, or protocol of the content;
- 1528 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 1529 (C) regardless of whether the service:
- 1530 (I) is referred to as voice over Internet protocol service; or
- 1531 (II) is classified by the Federal Communications Commission as enhanced or
- 1532 value added;
- 1533 (ii) an 800 service;
- 1534 (iii) a 900 service;
- 1535 (iv) a fixed wireless service;
- 1536 (v) a mobile wireless service;
- 1537 (vi) a postpaid calling service;
- 1538 (vii) a prepaid calling service;
- 1539 (viii) a prepaid wireless calling service; or
- 1540 (ix) a private communications service.
- 1541 (c) "Telecommunications service" does not include:
- 1542 (i) advertising, including directory advertising;
- 1543 (ii) an ancillary service;
- 1544 (iii) a billing and collection service provided to a third party;
- 1545 (iv) a data processing and information service if:
- 1546 (A) the data processing and information service allows data to be:
- 1547 (I)(Aa) acquired;
- 1548 (Bb) generated;
- 1549 (Cc) processed;
- 1550 (Dd) retrieved; or
- 1551 (Ee) stored; and
- 1552 (II) delivered by an electronic transmission to a purchaser; and
- 1553 (B) the purchaser's primary purpose for the underlying transaction is the processed
- 1554 data or information;
- 1555 (v) installation or maintenance of the following on a customer's premises:
- 1556 (A) equipment; or
- 1557 (B) wiring;
- 1558 (vi) Internet access service;
- 1559 (vii) a paging service;
- 1560 (viii) a product transferred electronically, including:

- 1561 (A) music;
- 1562 (B) reading material;
- 1563 (C) a ring tone;
- 1564 (D) software; or
- 1565 (E) video;
- 1566 (ix) a radio and television audio and video programming service:
- 1567 (A) regardless of the medium; and
- 1568 (B) including:
 - 1569 (I) furnishing conveyance, routing, or transmission of a television audio and
 - 1570 video programming service by a programming service provider;
 - 1571 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 1572 (III) audio and video programming services delivered by a commercial mobile
 - 1573 radio service provider as defined in 47 C.F.R. Sec. 20.3;
- 1574 (x) a value-added nonvoice data service; or
- 1575 (xi) tangible personal property.
- 1576 ~~[(144)]~~ (145)(a) "Telecommunications service provider" means a person that:
 - 1577 (i) owns, controls, operates, or manages a telecommunications service; and
 - 1578 (ii) engages in an activity described in Subsection ~~[(144)(a)(i)]~~ (145)(a)(i) for the
 - 1579 shared use with or resale to any person of the telecommunications service.
- 1580 (b) A person described in Subsection ~~[(144)(a)]~~ (145)(a) is a telecommunications service
- 1581 provider whether or not the Public Service Commission of Utah regulates:
 - 1582 (i) that person; or
 - 1583 (ii) the telecommunications service that the person owns, controls, operates, or
 - 1584 manages.
- 1585 ~~[(145)]~~ (146)(a) "Telecommunications switching or routing equipment, machinery, or
- 1586 software" means an item listed in Subsection ~~[(145)(b)]~~ (146)(b) if that item is
- 1587 purchased or leased primarily for switching or routing:
 - 1588 (i) an ancillary service;
 - 1589 (ii) data communications;
 - 1590 (iii) voice communications; or
 - 1591 (iv) telecommunications service.
- 1592 (b) The following apply to Subsection ~~[(145)(a)]~~ (146)(a):
 - 1593 (i) a bridge;
 - 1594 (ii) a computer;

- 1595 (iii) a cross connect;
1596 (iv) a modem;
1597 (v) a multiplexer;
1598 (vi) plug in circuitry;
1599 (vii) a router;
1600 (viii) software;
1601 (ix) a switch; or
1602 (x) equipment, machinery, or software that functions similarly to an item listed in
1603 Subsections [~~(145)(b)(i)~~] (146)(b)(i) through (ix) as determined by the commission
1604 by rule made in accordance with Subsection [~~(145)(c)~~] (146)(c).
- 1605 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1606 commission may by rule define what constitutes equipment, machinery, or software
1607 that functions similarly to an item listed in Subsections [~~(145)(b)(i)~~] (146)(b)(i)
1608 through (ix).
- 1609 [~~(146)~~] (147)(a) "Telecommunications transmission equipment, machinery, or software"
1610 means an item listed in Subsection [~~(146)(b)~~] (147)(b) if that item is purchased or
1611 leased primarily for sending, receiving, or transporting:
- 1612 (i) an ancillary service;
1613 (ii) data communications;
1614 (iii) voice communications; or
1615 (iv) telecommunications service.
- 1616 (b) The following apply to Subsection [~~(146)(a)~~] (147)(a):
- 1617 (i) an amplifier;
1618 (ii) a cable;
1619 (iii) a closure;
1620 (iv) a conduit;
1621 (v) a controller;
1622 (vi) a duplexer;
1623 (vii) a filter;
1624 (viii) an input device;
1625 (ix) an input/output device;
1626 (x) an insulator;
1627 (xi) microwave machinery or equipment;
1628 (xii) an oscillator;

1629 (xiii) an output device;
 1630 (xiv) a pedestal;
 1631 (xv) a power converter;
 1632 (xvi) a power supply;
 1633 (xvii) a radio channel;
 1634 (xviii) a radio receiver;
 1635 (xix) a radio transmitter;
 1636 (xx) a repeater;
 1637 (xxi) software;
 1638 (xxii) a terminal;
 1639 (xxiii) a timing unit;
 1640 (xxiv) a transformer;
 1641 (xxv) a wire; or
 1642 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
 1643 Subsections [~~(146)(b)(i)~~] (147)(b)(i) through (xxv) as the commission determines
 1644 by rule made in accordance with Subsection [~~(146)(c)~~] (147)(c).

1645 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 1646 commission may by rule define what constitutes equipment, machinery, or software
 1647 that functions similarly to an item listed in Subsections [~~(146)(b)(i)~~] (147)(b)(i)
 1648 through (xxv).

1649 [~~(147)~~] (148)(a) "Textbook for a higher education course" means a textbook or other
 1650 printed material that is required for a course:

1651 (i) offered by an institution of higher education; and
 1652 (ii) that the purchaser of the textbook or other printed material attends or will attend.

1653 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1654 [~~(148)~~] (149) "Tobacco" means:

1655 (a) a cigarette;
 1656 (b) a cigar;
 1657 (c) chewing tobacco;
 1658 (d) pipe tobacco; or
 1659 (e) any other item that contains tobacco.

1660 [~~(149)~~] (150) "Unassisted amusement device" means an amusement device, skill device, or
 1661 ride device that is started and stopped by the purchaser or renter of the right to use or
 1662 operate the amusement device, skill device, or ride device.

- 1663 ~~[(150)]~~ (151)(a) "Use" means the exercise of any right or power over tangible personal
1664 property, a product transferred electronically, or a service under Subsection
1665 59-12-103(1), incident to the ownership or the leasing of that tangible personal
1666 property, product transferred electronically, or service.
- 1667 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1668 property, a product transferred electronically, or a service in the regular course of
1669 business and held for resale.
- 1670 ~~[(151)]~~ (152) "Value-added nonvoice data service" means a service:
- 1671 (a) that otherwise meets the definition of a telecommunications service except that a
1672 computer processing application is used to act primarily for a purpose other than
1673 conveyance, routing, or transmission; and
- 1674 (b) with respect to which a computer processing application is used to act on data or
1675 information:
- 1676 (i) code;
- 1677 (ii) content;
- 1678 (iii) form; or
- 1679 (iv) protocol.
- 1680 ~~[(152)]~~ (153)(a) Subject to Subsection ~~[(152)(b)]~~ (153)(b), "vehicle" means the following
1681 that are required to be titled, registered, or titled and registered:
- 1682 (i) an aircraft as defined in Section 72-10-102;
- 1683 (ii) a vehicle as defined in Section 41-1a-102;
- 1684 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1685 (iv) a vessel as defined in Section 41-1a-102.
- 1686 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1687 (i) a vehicle described in Subsection ~~[(152)(a)]~~ (153)(a); or
- 1688 (ii)(A) a locomotive;
- 1689 (B) a freight car;
- 1690 (C) railroad work equipment; or
- 1691 (D) other railroad rolling stock.
- 1692 ~~[(153)]~~ (154) "Vehicle dealer" means a person engaged in the business of buying, selling, or
1693 exchanging a vehicle as defined in Subsection ~~[(152)]~~ (153).
- 1694 ~~[(154)]~~ (155)(a) "Vertical service" means an ancillary service that:
- 1695 (i) is offered in connection with one or more telecommunications services; and
- 1696 (ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

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

~~[(155)]~~ (156)(a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

~~[(156)]~~ (157)(a) "Waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

~~[(157)]~~ (158) "Watercraft" means a vessel as defined in Section 73-18-2.

~~[(158)]~~ (159) "Wind energy" means wind used as the sole source of energy to produce electricity.

~~[(159)]~~ (160) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 2. Section **59-12-103** is amended to read:

59-12-103 . Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenue.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the

- 1731 boundaries of one state only to the extent permitted by the Mobile
1732 Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
1733 (iii) an ancillary service associated with a:
1734 (A) telecommunications service described in Subsection (1)(b)(i); or
1735 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
1736 (c) sales of the following for commercial use:
1737 (i) gas;
1738 (ii) electricity;
1739 (iii) heat;
1740 (iv) coal;
1741 (v) fuel oil; or
1742 (vi) other fuels;
1743 (d) sales of the following for residential use:
1744 (i) gas;
1745 (ii) electricity;
1746 (iii) heat;
1747 (iv) coal;
1748 (v) fuel oil; or
1749 (vi) other fuels;
1750 (e) sales of prepared food;
1751 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
1752 user fees for theaters, movies, operas, museums, planetariums, shows of any type or
1753 nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses,
1754 menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling
1755 matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling
1756 lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts,
1757 ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides,
1758 river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or
1759 any other amusement, entertainment, recreation, exhibition, cultural, or athletic
1760 activity;
1761 (g) amounts paid or charged for services for repairs or renovations of tangible personal
1762 property, unless Section 59-12-104 provides for an exemption from sales and use tax
1763 for:
1764 (i) the tangible personal property; and

- (ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:
 - (A) any parts are actually used in the repairs or renovations of that tangible personal property; or
 - (B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;
- (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;
- (i) amounts paid or charged for short-term rentals of tourist home, hotel, motel, or trailer court accommodations and services;
- (j) amounts paid or charged for laundry or dry cleaning services;
- (k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:
 - (i) stored;
 - (ii) used; or
 - (iii) otherwise consumed;
- (l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:
 - (i) stored;
 - (ii) used; or
 - (iii) consumed;
- (m) amounts paid or charged for a sale:
 - (i)(A) of a product transferred electronically; or
 - (B) of a repair or renovation of a product transferred electronically; and
 - (ii) regardless of whether the sale provides:
 - (A) a right of permanent use of the product; or
 - (B) a right to use the product that is less than a permanent use, including a right:
 - (I) for a definite or specified length of time; and
 - (II) that terminates upon the occurrence of a condition;~~[-and]~~
- (n) sales of leased tangible personal property from the lessor to the lessee made in the state~~[-]~~ ;
- (o) amounts paid or charged for access to digital audio-visual works, digital audio works, digital books, or gaming services, including the streaming of or subscription for access to digital audio-visual works, digital audio works, digital books, or gaming

1799 services regardless of:

1800 (i) the delivery method; or

1801 (ii) whether the amount paid or charged for access provides a right to:

1802 (A) single-use access to the digital audio-visual works, digital audio works, digital
1803 books, or gaming services; or

1804 (B) access to the digital audio-visual works, digital audio works, digital books, or
1805 gaming services through a subscription, including a right that terminates upon
1806 the occurrence of a condition; and

1807 (p) amounts paid or charged for the storage, use, or other consumption of:

1808 (i) prewritten computer software delivered electronically or by load and leave; or

1809 (ii) seller-hosted prewritten computer software.

1810 (2)(a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are
1811 imposed on a transaction described in Subsection (1) equal to the sum of:

1812 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

1813 (A) 4.70%;

1814 (B) the rate specified in Subsection (6)(a); and

1815 (C) the tax rate the state imposes in accordance with Part 20, Supplemental State
1816 Sales and Use Tax Act, if the location of the transaction as determined under
1817 Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated
1818 area of a county in which the state imposes the tax under Part 20, Supplemental
1819 State Sales and Use Tax Act; and

1820 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1821 transaction under this chapter other than this part.

1822 (b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state
1823 tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal
1824 to the sum of:

1825 (i) a state tax imposed on the transaction at a tax rate of 2%; and

1826 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1827 transaction under this chapter other than this part.

1828 (c) Except as provided in Subsection (2)(f) or (g), a state tax and a local tax are imposed
1829 on amounts paid or charged for food and food ingredients equal to the sum of:

1830 (i) a state tax imposed on the amounts paid or charged for food and food ingredients
1831 at a tax rate of 1.75%; and

1832 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate equal to the sum of the rates described in Subsections (2)(a)(i)(A) and (2)(a)(i)(B).

(e)(i)(A) The rates described in Subsections (2)(a)(i)(A) and (2)(a)(i)(B) do not apply to car sharing, a car sharing program, a shared vehicle driver, or a shared vehicle owner, for a car sharing or shared vehicle transaction if a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle.

(B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is required once during the time that the shared vehicle owner owns the shared vehicle.

(C) The commission shall verify that a shared vehicle is an individual-owned shared vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the purchase of the shared vehicle.

(D) The exception under Subsection (2)(e)(i)(A) applies to a certified individual-owned shared vehicle shared through a car-sharing program even if non-certified shared vehicles are also available to be shared through the same car-sharing program.

(ii) A tax imposed under Subsection (2)(a)(i)(C) or (2)(a)(ii) applies to car sharing.

(iii)(A) A car-sharing program may rely in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i).

(B) If a car-sharing program relies in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

(iv) If all shared vehicles shared through a car-sharing program are certified as described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation to collect and remit the tax under Subsections (2)(a)(i)(A) and (2)(a)(i)(B) for that tax period.

- (v) A car-sharing program is not required to list or otherwise identify an individual-owned shared vehicle on a return or an attachment to a return.
- (vi) A car-sharing program shall:
- (A) retain tax information for each car-sharing program transaction; and
 - (B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at the commission's request.
- (f)(i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:
- (A) the tax rates described in Subsection (2)(a)(i); and
 - (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).
- (ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.
- (iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(f)(i) or (ii):
- (A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:
 - (I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or
 - (II) state or federal law provides otherwise; or
 - (B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:
 - (I) the seller is able to identify by reasonable and verifiable standards the

tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

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

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

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

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

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

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

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

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

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

chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

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

(i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(a)(i)(B);

(iii) Subsection (2)(b)(i);

(iv) Subsection (2)(c)(i); or

(v) Subsection (2)(f)(i)(A).

(j)(i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(a)(i)(B);

(C) Subsection (2)(b)(i);

(D) Subsection (2)(c)(i); or

(E) Subsection (2)(f)(i)(A).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(a)(i)(B);

(C) Subsection (2)(b)(i);

(D) Subsection (2)(c)(i); or

(E) Subsection (2)(f)(i)(A).

(k)(i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

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

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(a)(i)(B);

(C) Subsection (2)(b)(i);

(D) Subsection (2)(c)(i); or

(E) Subsection (2)(f)(i)(A).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(l)(i) For a location described in Subsection (2)(l)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3)(a) The commission shall deposit the following state taxes into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i);

(iv) the tax imposed by Subsection (2)(d); and

(v) the tax imposed by Subsection (2)(f)(i)(A).

(b) The commission shall distribute the following local taxes to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

- 2003 (ii) the tax imposed by Subsection (2)(b)(ii);
- 2004 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 2005 (iv) the tax imposed by Subsection (2)(f)(i)(B).
- 2006 (4)(a) Notwithstanding Subsection (3)(a), for each fiscal year the commission shall make
- 2007 the deposits described in Subsections (4)(b) through (4)(h) from the revenue from the
- 2008 taxes imposed by:
- 2009 (i) Subsection (2)(a)(i)(A);
- 2010 (ii) Subsection (2)(b)(i);
- 2011 (iii) Subsection (2)(c)(i); and
- 2012 (iv) Subsection (2)(f)(i)(A).
- 2013 (b) The commission shall deposit 15% of the difference between 1.4543% of the
- 2014 revenue described in Subsection (4)(a) and the deposits made under Subsection (5)(b),
- 2015 into the Water Rights Restricted Account created in Section 73-2-1.6.
- 2016 (c) The commission shall deposit 85% of the difference between 1.4543% of the revenue
- 2017 described in Subsection (4)(a) and the deposits made under Subsection (5)(b), into
- 2018 the Water Resources Conservation and Development Fund created in Section
- 2019 73-10-24 for use by the Division of Water Resources for:
- 2020 (i) preconstruction costs:
- 2021 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73,
- 2022 Chapter 26, Bear River Development Act; and
- 2023 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
- 2024 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;
- 2025 (ii) the cost of employing a civil engineer to oversee any project authorized by Title
- 2026 73, Chapter 26, Bear River Development Act;
- 2027 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline
- 2028 project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development
- 2029 Act; and
- 2030 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
- 2031 Subsection (5)(b)(iv)(B) after funding the uses specified in Subsections (4)(c)(i)
- 2032 through (iii).
- 2033 (d) The commission shall deposit 1.4543% of the revenue described in Subsection (4)(a)
- 2034 into the Water Infrastructure Restricted Account created in Section 73-10g-103.
- 2035 (e)(i) Subject to Subsection (4)(e)(ii), the commission shall deposit 26.24% of the
- 2036 revenue described in Subsection (4)(a) into the Transportation Investment Fund of

- 2005 created in Section 72-2-124.
- (ii) The commission shall annually reduce the deposit described in Subsection (4)(e)(i) by the sum of:
- (A) \$1,813,400;
- (B) the earmark described in Subsection (5)(c); and
- (C) an amount equal to 35% of the revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received in the state that exceeds 29.4 cents per gallon.
- (iii) The amount described in Subsection (4)(e)(ii)(C) shall be annually deposited into the Transit Transportation Investment Fund created in Section 72-2-124.
- (f) The commission shall deposit .44% of the revenue described in Subsection (4)(a) into the Cottonwood Canyons Transportation Investment Fund created in Section 72-2-124.
- (g) The commission shall deposit 1% of the revenue described in Subsection (4)(a) into the Commuter Rail Subaccount created in Section 72-2-124.
- (h) The commission shall deposit 1% of the revenue described in Subsection (4)(a) into the Outdoor Adventure Infrastructure Restricted Account created in Section 51-9-902 as follows:
- (i) into the Outdoor Adventure Infrastructure Restricted Account created in Section 51-9-902, an amount equal to the amount that was deposited into the Outdoor Adventure Infrastructure Restricted Account in fiscal year 2025; and
- (ii) for any amount exceeding the amount described in Subsection (4)(h)(i), 50% into the Outdoor Adventure Infrastructure Restricted Account and 50% to the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201.
- (5)(a) Notwithstanding Subsection (3)(a), each fiscal year the commission shall make the deposits described in this Subsection (5).
- (b)(i)(A) The commission shall deposit \$500,000 to the Department of Natural Resources to be used for watershed rehabilitation or restoration.
- (B) At the end of each fiscal year, 100% of any unexpended amount described in Subsection (5)(b)(i)(A) shall lapse into the Water Resources Conservation and Development Fund created in Section 73-10-24.
- (ii) The commission shall deposit \$150,000 to the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

- 2071 (iii) The commission shall deposit \$525,000 into the Division of Conservation
2072 created in Section 4-46-401 to implement water related programs.
- 2073 (iv) The commission shall deposit \$7,175,000 into the Water Resources Conservation
2074 and Development Fund created in Section 73-10-24 for use by the Division of
2075 Water Resources:
- 2076 (A) for the uses allowed of the Water Resources Conservation and Development
2077 Fund under Section 73-10-24;
- 2078 (B) to conduct hydrologic and geotechnical investigations by the Division of
2079 Water Resources in a cooperative effort with other state, federal, or local
2080 entities, for the purpose of quantifying surface and ground water resources and
2081 describing the hydrologic systems of an area in sufficient detail so as to enable
2082 local and state resource managers to plan for and accommodate growth in
2083 water use without jeopardizing the resource;
- 2084 (C) to fund state required dam safety improvements; and
- 2085 (D) to protect the state's interest in interstate water compact allocations, including
2086 the hiring of technical and legal staff.
- 2087 (v) The commission shall deposit \$3,587,500 into the Utah Wastewater Loan
2088 Program Subaccount created in Section 73-10c-5 for use by the Water Quality
2089 Board to fund wastewater projects.
- 2090 (vi) The commission shall deposit \$3,587,500 into the Drinking Water Loan Program
2091 Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water
2092 to:
- 2093 (A) provide for the installation and repair of collection, treatment, storage, and
2094 distribution facilities for any public water system, as defined in Section
2095 19-4-102;
- 2096 (B) develop underground sources of water, including springs and wells; and
- 2097 (C) develop surface water sources.
- 2098 (vii) The commission shall deposit \$2,450,000 to the Division of Wildlife Resources
2099 to:
- 2100 (A) implement the measures described in Subsections 23A-3-214(3)(a) through
2101 (d) to protect sensitive plant and animal species; or
- 2102 (B) award grants, up to the amount authorized by the Legislature in an
2103 appropriations act, to political subdivisions of the state to implement the
2104 measures described in Subsections 23A-3-214(3)(a) through (d) to protect

sensitive plant and animal species.

(viii) Funds transferred to the Division of Wildlife Resources under Subsection (5)(b)(vii)(A) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531, et seq.

(ix) At the end of each fiscal year, any unexpended amounts described in Subsections (5)(b)(vii)(A) and (B) shall lapse:

(A) 50% into the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% into the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(x) The commission shall allocate \$175,000 to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(xi) At the end of each fiscal year, any unexpended amounts described in Subsection (5)(b)(x) shall lapse:

(A) 50% into the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% into the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) The commission shall deposit \$45,000,000 into the Active Transportation Investment Fund created in Section 72-2-124.

(d) The commission shall deposit \$533,750 into the Qualified Emergency Food Agencies Fund created by and expended in accordance with Section 35A-8-1009.

(e) The commission shall deposit \$200,000 into the General Fund as a dedicated credit for the sole use of the Search and Rescue Financial Assistance Program created by and to be expended in accordance with Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(6)(a) The rate specified in this Subsection (6) is 0.15%.

(b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (6)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(B) into the Medicaid ACA Fund created in Section 26B-1-315.

(7)(a) Notwithstanding Subsection (3)(a) and except as provided in Subsections (11), (12), and (13), and as described in Section 63N-3-610, beginning the first day of a calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment from the sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate, on transactions occurring within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(b) Beginning no sooner than January 1, 2026, notwithstanding Subsection (3)(a), and except as provided in Subsections (11), (12), and (13), and as described in Section 63N-3-610.1, beginning the first day of a calendar quarter after the year set in the proposal and after the sales and use tax boundary for a convention center reinvestment zone is established in a capital city under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the commission, at least annually, shall transfer an amount equal to 50% of the sales and use tax increment as defined in Section 63N-3-602 from the sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate, on transactions occurring within an established sales and use tax boundary, as defined in Section 63N-3-602, to a convention center public infrastructure district created in accordance with Section 17D-4-202.1 and specified in the convention center reinvestment zone proposal submitted pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(8) Notwithstanding Subsection (3)(a) and except as provided in Subsections (11), (12), and (13), beginning October 1, 2024 the commission shall transfer to the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, the revenue from the sales and use tax imposed by Subsection (2)(a)(i)(A), on transactions occurring within the district sales tax area, as defined in Section 11-70-101.

(9)(a) As used in this Subsection (9):

(i) "Additional land" means point of the mountain state land described in Subsection

- 2173 11-59-102(6)(b) that the point of the mountain authority acquires after the point of
2174 the mountain authority provides the commission a map under Subsection (9)(c).
- 2175 (ii) "Point of the mountain authority" means the Point of the Mountain State Land
2176 Authority, created in Section 11-59-201.
- 2177 (iii) "Point of the mountain state land" means the same as that term is defined in
2178 Section 11-59-102.
- 2179 (b) Notwithstanding Subsection (3)(a) and except as provided in Subsections (11), (12),
2180 and (13), the commission shall distribute to the point of the mountain authority 50%
2181 of the revenue from the sales and use tax imposed by Subsection (2)(a)(i)(A), on
2182 transactions occurring on the point of the mountain state land.
- 2183 (c) The distribution under Subsection (9)(b) shall begin the next calendar quarter that
2184 begins at least 90 days after the point of the mountain authority provides the
2185 commission a map that:
- 2186 (i) accurately describes the point of the mountain state land; and
2187 (ii) the point of the mountain authority certifies as accurate.
- 2188 (d) A distribution under Subsection (9)(b) with respect to additional land shall begin the
2189 next calendar quarter that begins at least 90 days after the point of the mountain
2190 authority provides the commission a map of point of the mountain state land that:
- 2191 (i) accurately describes the point of the mountain state land, including the additional
2192 land; and
2193 (ii) the point of the mountain authority certifies as accurate.
- 2194 (e)(i) Upon the payment in full of bonds secured by the sales and use tax revenue
2195 distributed to the point of the mountain authority under Subsection (9)(b), the
2196 point of the mountain authority shall immediately notify the commission in
2197 writing that the bonds are paid in full.
- 2198 (ii) The commission shall discontinue distributions of sales and use tax revenue under
2199 Subsection (9)(b) at the beginning of the calendar quarter that begins at least 90
2200 days after the date that the commission receives the written notice under
2201 Subsection (9)(e)(i).
- 2202 (10) Notwithstanding Subsection (3)(a), the amount of state sales tax revenues described in
2203 Section 63N-2-503.5 is deposited into the Convention Incentive Fund created in Section
2204 63N-2-503.5.
- 2205 (11)(a) As used in this Subsection (11):
- 2206 (i) "Applicable percentage" means:

- 2207 (A) for a housing and transit reinvestment zone created under Title 63N, Chapter
2208 3, Part 6, Housing and Transit Reinvestment Zone Act, 15% of the revenue
2209 from the sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate
2210 for sales occurring within the qualified development zone described in
2211 Subsection (11)(a)(ii)(A);
- 2212 (B) for the Utah Fairpark Area Investment and Restoration District created in
2213 Section 11-70-201, the revenue from the sales and use tax imposed by
2214 Subsection (2)(a)(i)(A) at a 4.7% rate for sales occurring within the qualified
2215 development zone described in Subsection (11)(a)(ii)(B); and
- 2216 (C) for the Point of the Mountain State Land Authority created in Section
2217 11-59-201, 50% of the revenue from sales and use tax imposed by Subsection
2218 (2)(a)(i)(A) at a 4.7% rate for sales occurring within the qualified development
2219 zone described in Subsection (11)(a)(ii)(C).
- 2220 (ii) "Qualified development zone" means:
- 2221 (A) the sales and use tax boundary of a housing and transit reinvestment zone
2222 created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment
2223 Act;
- 2224 (B) the district sales tax boundary as defined in Section 11-70-101 for the Utah
2225 Fairpark Area Investment and Restoration District, created in Section
2226 11-70-201; or
- 2227 (C) the sales and use tax boundary of point of the mountain state land, as defined
2228 in Section 11-59-102, under the Point of the Mountain State Land Authority
2229 created in Section 11-59-201.
- 2230 (iii) "Schedule J sale" means a sale reported on State Tax Commission Form
2231 TC-62M, Schedule J or a substantially similar form as designated by the
2232 commission.
- 2233 (b) Revenue generated from the applicable percentage by a Schedule J sale within a
2234 qualified development zone shall be deposited into the General Fund.
- 2235 (12)(a) As used in Subsections (12) and (13):
- 2236 (i) "Applicable percentage" means, for a convention center reinvestment zone created
2237 in a capital city under Title 63N, Chapter 3, Part 6, Housing and Transit
2238 Reinvestment Zone Act, an amount equal to 50% of the sales and use tax
2239 increment, as that term is defined in Section 63N-3-602, from the sales and use tax
2240 imposed by Subsection (2)(a)(i)(A) at a 4.7% rate for sales occurring within the

2241 qualified development zone described in Subsection (12)(a)(ii).

2242 (ii) "Qualified development zone" means the sales and use tax boundary of a
2243 convention center reinvestment zone created in a capital city under Title 63N,
2244 Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

2245 (iii) "Qualifying construction materials" means construction materials that are:

2246 (A) delivered to a delivery outlet within a qualified development zone; and

2247 (B) intended to be permanently attached to real property within the qualified
2248 development zone.

2249 (b) For a sale of qualifying construction materials, the commission shall distribute the
2250 product calculated in Subsection (12)(c) to a qualified development zone if the seller
2251 of the construction materials:

2252 (i) establishes a delivery outlet with the commission within the qualified development
2253 zone;

2254 (ii) reports the sales of the construction materials to the delivery outlet described in
2255 Subsection (12)(b)(i); and

2256 (iii) does not report the sales of the construction materials on a simplified electronic
2257 return.

2258 (c) For the purposes of Subsection (12)(b), the product is equal to:

2259 (i) the sales price or purchase price of the qualifying construction materials; and

2260 (ii) the applicable percentage.

2261 (13)(a) As used in this Subsection (13), "Schedule J sale" means a sale reported on State
2262 Tax Commission Form TC-62M, Schedule J, or a substantially similar form as
2263 designated by the commission.

2264 (b) Revenue generated from the applicable percentage by a Schedule J sale within a
2265 qualified development zone shall be distributed into the General Fund.

2266 **Section 3. Effective Date.**

2267 This bill takes effect on July 1, 2026.