

Kirk A. Cullimore proposes the following substitute bill:

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**Local Food Amendments**  
2026 GENERAL SESSION  
STATE OF UTAH

**Chief Sponsor: Kirk A. Cullimore**  
House Sponsor: Kristen Chevrier

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**LONG TITLE**

**General Description:**

This bill addresses provisions related to locally-produced foods.

**Highlighted Provisions:**

This bill:

- defines and modifies terms;
- removes a signage requirement for a direct-to-sale farmers market;
- clarifies when a producer or producer's designated representative may sell a homemade food product at a direct-to-sale location;
- provides that a producer retains ownership of a homemade food product distributed, sold, delivered, held, stored, or offered for sale by a designated representative unless otherwise agreed upon by the producer and designated representative;
- exempts from state sales tax food and food ingredients or prepared food sold by a home cook, including a homemade food product sold at a direct-to-sale farmers market or direct-to-sale location; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

- 4-5a-102 (Effective 05/06/26)**, as last amended by Laws of Utah 2023, Chapter 362
- 4-5a-103 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 79
- 4-5a-104 (Effective 05/06/26)**, as last amended by Laws of Utah 2023, Chapter 362
- 59-12-102 (Effective 07/01/26)**, as last amended by Laws of Utah 2025, First Special

29 Session, Chapters 9, 12  
30 **59-12-104 (Effective 07/01/26)**, as last amended by Laws of Utah 2025, First Special  
31 Session, Chapter 17

32 REPEALS:

33 **4-5a-101 (Effective 05/06/26)**, as enacted by Laws of Utah 2018, Chapter 377

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

36 Section 1. Section **4-5a-102** is amended to read:

37 **4-5a-102 (Effective 05/06/26). Definitions.**

38 For purposes of this chapter:

- 39 (1)(a) "Commercial establishment" means a wholesale or retail business that displays,  
40 sells, manufactures, processes, packs, holds, or stores food, drugs, devices, or  
41 cosmetics.
- 42 (b) "Commercial establishment" does not include a:
  - 43 (i) direct-to-sale location; or
  - 44 (ii) direct-to-sale farmers market.
- 45 (2) "Designated representative" means a person contracted by a producer to distribute, sell,  
46 deliver, hold, store, or offer for sale the producer's homemade food product.
- 47 ~~[(2)]~~ (3) "Direct-to-sale farmers market" means a public or private facility or area where  
48 producers gather on a regular basis to sell directly to an informed final consumer fresh  
49 food, locally grown products, and other food items that have not been certified, licensed,  
50 regulated, or inspected by state or local authorities.
- 51 ~~[(3)]~~ (4) "Direct-to-sale location" means a farm, ranch, direct-to-sale farmers market, home,  
52 office, or any location agreed upon by both a producer or a producer's designated  
53 representative and the informed final consumer where a producer or group of producers  
54 sells a food or food product to an informed final consumer.
- 55 ~~[(4)]~~ (5) "Home consumption" means the use or ingestion of homemade food or a  
56 homemade food product within a private home by a family member, an employee, or a  
57 nonpaying guest.
- 58 ~~[(5)]~~ (6) "Homemade food product" means a food product that is prepared in a private home  
59 kitchen that can be used, or prepared for use, as food or nonalcoholic drink, subject to  
60 the limitation described in Subsection 4-5a-105(1).
- 61 ~~[(6)]~~ (7) "Informed final consumer" means an individual who:
  - 62 (a) purchases the product directly from the producer or the producer's designated

- 63           representative;  
 64           (b) does not resell the product; and  
 65           (c) has been informed that the product is not certified, licensed, regulated, or inspected  
 66           by the state.

67   [(7)] (8) "Minor-operated business" means a business that is operated by an individual who  
 68   is:

- 69           (a) under 18 years old; and  
 70           (b) not regularly engaged in selling items.

71   [(8)] (9) "Minor producer" means a producer that is:

- 72           (a) an individual; and  
 73           (b) under 18 years old.

74   [(9)] (10) "Producer" means a person who harvests or produces homemade food or a  
 75   homemade food product.

76           Section 2. Section **4-5a-103** is amended to read:

77           **4-5a-103 (Effective 05/06/26). Regulation of a direct-to-sale farmers market.**

78   [(1) Except as provided in Subsection (4), a direct-to-sale farmers market selling homemade  
 79   food under this chapter shall:]

80           [(a) display signage indicating to an informed final consumer that the homemade food  
 81           and food products sold by producers at the market have not been certified, licensed,  
 82           regulated, or inspected by state or local authorities; and]

83           [(b) only include products for sale that have not been certified, licensed, regulated, or  
 84           inspected by state or local authorities.]

85   [(2) If the direct-to-sale farmers market is in any way associated with a farmers market as  
 86   defined in Section 4-5-102, the direct-to-sale farmers market section selling homemade  
 87   food under this chapter shall comply with the following requirements:]

88           [(a) the direct-to-sale farmers market section shall be separated from the farmers market  
 89           section; and]

90           [(b) the separate direct-to-sale farmers market section shall include signs or other  
 91           markings clearly indicating which space is the farmers market space offering  
 92           inspected items for sale and which space is the direct-to-sale farmers market space  
 93           offering items that are uninspected.]

94   [(3) The department may make rules, in accordance with Title 63G, Chapter 3, Utah  
 95   Administrative Rulemaking Act, regarding the signage described in Subsection (1).]

96   [(4) The requirements described in Subsection (1) do not apply to a direct-to-sale farmers

97 ~~market comprising only minor producers or minor-operated businesses.]~~

98 (1) Except as provided in Subsection (3), a direct-to-sale farmers market selling a  
 99 homemade food product under this chapter shall only include products for sale that have  
 100 not been certified, licensed, regulated, or inspected by a state or local authority.

101 (2) If a direct-to-sale farmers market is in any way associated with a farmers market, as that  
 102 term is defined in Section 4-5-102, the area designed for the direct-to-sale farmers  
 103 market shall:

104 (a) be separated from the area designated for the farmers market; and

105 (b) include signs or other markings clearly indicating the area designated for the farmers  
 106 market and the area designated for the direct-to-sale farmers market.

107 (3) The requirement described in Subsection (1) does not apply to a direct-to-sale farmers  
 108 market comprising only minor producers or minor-operated businesses.

109 Section 3. Section **4-5a-104** is amended to read:

110 **4-5a-104 (Effective 05/06/26). Home producer direct sales -- Exempt from**  
 111 **regulation.**

112 (1) A producer is exempt from state, county, or city licensing, permitting, certification,  
 113 inspection, packaging, and labeling requirements, except as described in this section,  
 114 related to the preparation, serving, use, consumption, or storage of food and food  
 115 products if:

116 (a) the producer complies with the requirements of this chapter; and

117 (b) the homemade food or homemade food product is:

118 (i) produced and sold within the state;

119 (ii) sold directly to an informed final consumer;

120 (iii) for personal or home consumption; and

121 (iv) not exempted under Subsection 4-5a-105(1).

122 (2) Notwithstanding Subsection (1), a producer shall comply with business license  
 123 requirements ~~[pursuant to]~~ in accordance with Section 10-1-203.

124 (3) Except as provided in Subsection ~~[(6)]~~ (7), food or food products sold under this section  
 125 shall be labeled with:

126 (a) the producer's name and address;

127 (b) a disclosure statement indicating that the product is:

128 (i) not for resale; and

129 (ii) processed and prepared without state or local inspection; and

130 (c) a statement listing whether the food or food product contains, or was prepared in a

131 location that also handles, common allergens including milk, soy, wheat, eggs,  
132 peanuts or tree nuts, fish, or shellfish.

133 (4)(a) If a producer meets the requirements of this section, the producer or producer's  
134 designated representative may distribute, sell, deliver, hold, store, or offer for sale a  
135 homemade food or homemade food product directly to an informed final consumer at  
136 a direct-to-sale location.

137 (b) A producer retains ownership for a homemade food or homemade food product  
138 distributed, sold, delivered, held, stored, or offered for sale by a designated  
139 representative unless the producer and the designated representative agree to share or  
140 transfer ownership.

141 [~~(4)~~] (5)(a) Except as provided in Subsection [~~(4)(b)~~] (5)(b), homemade food or a  
142 homemade food product that is exempt from certain regulations as described in this  
143 chapter may not be sold to, or used by, a restaurant or commercial establishment.

144 (b) A producer may sell a raw, unprocessed fruit or vegetable to a restaurant or  
145 commercial establishment.

146 [~~(5)~~] (6) A producer selling homemade food or homemade food products exempt under this  
147 section shall inform the final consumer that the food or food product is not certified,  
148 licensed, regulated, or inspected by the state or any county or city.

149 [~~(6)~~] (7) The requirements described in Subsection (3) do not apply to a direct sale by a  
150 home producer comprising only minor producers.

151 Section 4. Section **59-12-102** is amended to read:

152 **59-12-102 (Effective 07/01/26). Definitions.**

153 As used in this chapter:

154 (1) "800 service" means a telecommunications service that:

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

156 (b) is typically marketed:

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

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

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

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

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

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

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

- 165 (i) a subscriber purchases;
- 166 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 167 the subscriber's:
- 168 (A) prerecorded announcement; or
- 169 (B) live service; and
- 170 (iii) is typically marketed:
- 171 (A) under the name 900 service; or
- 172 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 173 Communications Commission.
- 174 (b) "900 service" does not include a charge for:
- 175 (i) a collection service a seller of a telecommunications service provides to a
- 176 subscriber; or
- 177 (ii) the following a subscriber sells to the subscriber's customer:
- 178 (A) a product; or
- 179 (B) a service.
- 180 (3)(a) "Adaptive driving equipment" means mobility enhancing equipment:
- 181 (i) to be installed in a motor vehicle; and
- 182 (ii) regardless of who provides the equipment or parts.
- 183 (b) "Adaptive driving equipment" includes:
- 184 (i) a wheelchair or scooter lift;
- 185 (ii) equipment to secure a wheelchair;
- 186 (iii) a swivel seat;
- 187 (iv) a hand or foot control; and
- 188 (v) a steering aid.
- 189 (4)(a) "Admission or user fees" includes season passes.
- 190 (b) "Admission or user fees" does not include:
- 191 (i) annual membership dues to private organizations; or
- 192 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
- 193 facility listed in Subsection 59-12-103(1)(f).
- 194 (5) "Affiliate" or "affiliated person" means a person that, with respect to another person:
- 195 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
- 196 person; or
- 197 (b) is related to the other person because a third person, or a group of third persons who
- 198 are affiliated persons with respect to each other, holds an ownership interest of more

- 199 than 5%, whether direct or indirect, in the related persons.
- 200 (6) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on  
201 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax  
202 Agreement after November 12, 2002.
- 203 (7) "Agreement combined tax rate" means the sum of the tax rates:  
204 (a) listed under Subsection (8); and  
205 (b) that are imposed within a local taxing jurisdiction.
- 206 (8) "Agreement sales and use tax" means a tax imposed under:  
207 (a) Subsection 59-12-103(2)(a)(i)(A);  
208 (b) Subsection 59-12-103(2)(a)(i)(B);  
209 (c) Subsection 59-12-103(2)(b)(i);  
210 (d) Subsection 59-12-103(2)(c)(i);  
211 (e) Subsection 59-12-103(2)(d);  
212 (f) Subsection 59-12-103(2)(e)(i)(A);  
213 (g) Section 59-12-204;  
214 (h) Section 59-12-401;  
215 (i) Section 59-12-402;  
216 (j) Section 59-12-402.1;  
217 (k) Section 59-12-703;  
218 (l) Section 59-12-802;  
219 (m) Section 59-12-804;  
220 (n) Section 59-12-1102;  
221 (o) Section 59-12-1302;  
222 (p) Section 59-12-1402;  
223 (q) Section 59-12-1802;  
224 (r) Section 59-12-2003;  
225 (s) Section 59-12-2103;  
226 (t) Section 59-12-2213;  
227 (u) Section 59-12-2214;  
228 (v) Section 59-12-2215;  
229 (w) Section 59-12-2216;  
230 (x) Section 59-12-2217;  
231 (y) Section 59-12-2218;  
232 (z) Section 59-12-2219;

- 233 (aa) Section 59-12-2220; or  
234 (bb) Section 59-12-2402.
- 235 (9) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 236 (10) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 237 (a) except for:
- 238 (i) an airline as defined in Section 59-2-102; or  
239 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"  
240 includes a corporation that is qualified to do business but is not otherwise doing  
241 business in the state, of an airline; and
- 242 (b) that has the workers, expertise, and facilities to perform the following, regardless of  
243 whether the business entity performs the following in this state:
- 244 (i) check, diagnose, overhaul, and repair:
- 245 (A) an onboard system of a fixed wing turbine powered aircraft; and  
246 (B) the parts that comprise an onboard system of a fixed wing turbine powered  
247 aircraft;
- 248 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered  
249 aircraft engine;
- 250 (iii) perform at least the following maintenance on a fixed wing turbine powered  
251 aircraft:
- 252 (A) an inspection;  
253 (B) a repair, including a structural repair or modification;  
254 (C) changing landing gear; and  
255 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 256 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft  
257 and completely apply new paint to the fixed wing turbine powered aircraft; and  
258 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that  
259 results in a change in the fixed wing turbine powered aircraft's certification  
260 requirements by the authority that certifies the fixed wing turbine powered aircraft.
- 261 (11) "Alcoholic beverage" means a beverage that:
- 262 (a) is suitable for human consumption; and  
263 (b) contains .5% or more alcohol by volume.
- 264 (12) "Alternative energy" means:
- 265 (a) biomass energy;  
266 (b) geothermal energy;

- 267 (c) hydroelectric energy;  
268 (d) solar energy;  
269 (e) wind energy; or  
270 (f) energy that is derived from:  
271 (i) coal-to-liquids;  
272 (ii) nuclear fuel;  
273 (iii) oil-impregnated diatomaceous earth;  
274 (iv) oil sands;  
275 (v) oil shale;  
276 (vi) petroleum coke; or  
277 (vii) waste heat from:  
278 (A) an industrial facility; or  
279 (B) a power station in which an electric generator is driven through a process in  
280 which water is heated, turns into steam, and spins a steam turbine.
- 281 (13)(a) Subject to Subsection (13)(b), "alternative energy electricity production facility"  
282 means a facility that:  
283 (i) uses alternative energy to produce electricity; and  
284 (ii) has a production capacity of two megawatts or greater.  
285 (b) A facility is an alternative energy electricity production facility regardless of whether  
286 the facility is:  
287 (i) connected to an electric grid; or  
288 (ii) located on the premises of an electricity consumer.
- 289 (14)(a) "Ancillary service" means a service associated with, or incidental to, the  
290 provision of telecommunications service.  
291 (b) "Ancillary service" includes:  
292 (i) a conference bridging service;  
293 (ii) a detailed communications billing service;  
294 (iii) directory assistance;  
295 (iv) a vertical service; or  
296 (v) a voice mail service.
- 297 (15) "Area agency on aging" means the same as that term is defined in Section 26B-6-101.  
298 (16) "Assisted amusement device" means an amusement device, skill device, or ride device  
299 that is started and stopped by an individual:  
300 (a) who is not the purchaser or renter of the right to use or operate the amusement

- 301 device, skill device, or ride device; and
- 302 (b) at the direction of the seller of the right to use the amusement device, skill device, or
- 303 ride device.
- 304 (17) "Assisted cleaning or washing of tangible personal property" means cleaning or
- 305 washing of tangible personal property if the cleaning or washing labor is primarily
- 306 performed by an individual:
- 307 (a) who is not the purchaser of the cleaning or washing of the tangible personal property;
- 308 and
- 309 (b) at the direction of the seller of the cleaning or washing of the tangible personal
- 310 property.
- 311 (18) "Authorized carrier" means:
- 312 (a) in the case of vehicles operated over public highways, the holder of credentials
- 313 indicating that the vehicle is or will be operated pursuant to both the International
- 314 Registration Plan and the International Fuel Tax Agreement;
- 315 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
- 316 certificate or air carrier's operating certificate; or
- 317 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
- 318 stock, a person who uses locomotives, freight cars, railroad work equipment, or other
- 319 rolling stock in more than one state.
- 320 (19)(a) "Biomass energy" means any of the following that is used as the primary source
- 321 of energy to produce fuel or electricity:
- 322 (i) material from a plant or tree; or
- 323 (ii) other organic matter that is available on a renewable basis, including:
- 324 (A) slash and brush from forests and woodlands;
- 325 (B) animal waste;
- 326 (C) waste vegetable oil;
- 327 (D) methane or synthetic gas produced at a landfill, as a byproduct of the
- 328 treatment of wastewater residuals, or through the conversion of a waste
- 329 material through a nonincineration, thermal conversion process;
- 330 (E) aquatic plants; and
- 331 (F) agricultural products.
- 332 (b) "Biomass energy" does not include:
- 333 (i) black liquor; or
- 334 (ii) treated woods.

- 335 (20)(a) "Bundled transaction" means the sale of two or more items of tangible personal  
336 property, products, or services if the tangible personal property, products, or services  
337 are:
- 338 (i) distinct and identifiable; and
  - 339 (ii) sold for one nonitemized price.
- 340 (b) "Bundled transaction" does not include:
- 341 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on  
342 the basis of the selection by the purchaser of the items of tangible personal  
343 property included in the transaction;
  - 344 (ii) the sale of real property;
  - 345 (iii) the sale of services to real property;
  - 346 (iv) the retail sale of tangible personal property and a service if:
    - 347 (A) the tangible personal property:
      - 348 (I) is essential to the use of the service; and
      - 349 (II) is provided exclusively in connection with the service; and
    - 350 (B) the service is the true object of the transaction;
  - 351 (v) the retail sale of two services if:
    - 352 (A) one service is provided that is essential to the use or receipt of a second  
353 service;
    - 354 (B) the first service is provided exclusively in connection with the second service;  
355 and
    - 356 (C) the second service is the true object of the transaction;
  - 357 (vi) a transaction that includes tangible personal property or a product subject to  
358 taxation under this chapter and tangible personal property or a product that is not  
359 subject to taxation under this chapter if the:
    - 360 (A) seller's purchase price of the tangible personal property or product subject to  
361 taxation under this chapter is de minimis; or
    - 362 (B) seller's sales price of the tangible personal property or product subject to  
363 taxation under this chapter is de minimis; and
  - 364 (vii) the retail sale of tangible personal property that is not subject to taxation under  
365 this chapter and tangible personal property that is subject to taxation under this  
366 chapter if:
    - 367 (A) that retail sale includes:
      - 368 (I) food and food ingredients;

- 369 (II) a drug;
- 370 (III) durable medical equipment;
- 371 (IV) mobility enhancing equipment;
- 372 (V) an over-the-counter drug;
- 373 (VI) a prosthetic device; or
- 374 (VII) a medical supply; and
- 375 (B) subject to Subsection (20)(f):
- 376 (I) the seller's purchase price of the tangible personal property subject to
- 377 taxation under this chapter is 50% or less of the seller's total purchase price
- 378 of that retail sale; or
- 379 (II) the seller's sales price of the tangible personal property subject to taxation
- 380 under this chapter is 50% or less of the seller's total sales price of that retail
- 381 sale.
- 382 (c)(i) For purposes of Subsection (20)(a)(i), tangible personal property, a product, or
- 383 a service that is distinct and identifiable does not include:
- 384 (A) packaging that:
- 385 (I) accompanies the sale of the tangible personal property, product, or service;
- 386 and
- 387 (II) is incidental or immaterial to the sale of the tangible personal property,
- 388 product, or service;
- 389 (B) tangible personal property, a product, or a service provided free of charge with
- 390 the purchase of another item of tangible personal property, a product, or a
- 391 service; or
- 392 (C) an item of tangible personal property, a product, or a service included in the
- 393 definition of "purchase price."
- 394 (ii) For purposes of Subsection (20)(c)(i)(B), an item of tangible personal property, a
- 395 product, or a service is provided free of charge with the purchase of another item
- 396 of tangible personal property, a product, or a service if the sales price of the
- 397 purchased item of tangible personal property, product, or service does not vary
- 398 depending on the inclusion of the tangible personal property, product, or service
- 399 provided free of charge.
- 400 (d)(i) For purposes of Subsection (20)(a)(ii), property sold for one nonitemized price
- 401 does not include a price that is separately identified by tangible personal property,
- 402 product, or service on the following, regardless of whether the following is in

- 403 paper format or electronic format:
- 404 (A) a binding sales document; or
- 405 (B) another supporting sales-related document that is available to a purchaser.
- 406 (ii) For purposes of Subsection (20)(d)(i), a binding sales document or another
- 407 supporting sales-related document that is available to a purchaser includes:
- 408 (A) a bill of sale;
- 409 (B) a contract;
- 410 (C) an invoice;
- 411 (D) a lease agreement;
- 412 (E) a periodic notice of rates and services;
- 413 (F) a price list;
- 414 (G) a rate card;
- 415 (H) a receipt; or
- 416 (I) a service agreement.
- 417 (e)(i) For purposes of Subsection (20)(b)(vi), the sales price of tangible personal
- 418 property or a product subject to taxation under this chapter is de minimis if:
- 419 (A) the seller's purchase price of the tangible personal property or product is 10%
- 420 or less of the seller's total purchase price of the bundled transaction; or
- 421 (B) the seller's sales price of the tangible personal property or product is 10% or
- 422 less of the seller's total sales price of the bundled transaction.
- 423 (ii) For purposes of Subsection (20)(b)(vi), a seller:
- 424 (A) shall use the seller's purchase price or the seller's sales price to determine if
- 425 the purchase price or sales price of the tangible personal property or product
- 426 subject to taxation under this chapter is de minimis; and
- 427 (B) may not use a combination of the seller's purchase price and the seller's sales
- 428 price to determine if the purchase price or sales price of the tangible personal
- 429 property or product subject to taxation under this chapter is de minimis.
- 430 (iii) For purposes of Subsection (20)(b)(vi), a seller shall use the full term of a service
- 431 contract to determine if the sales price of tangible personal property or a product is
- 432 de minimis.
- 433 (f) For purposes of Subsection (20)(b)(vii)(B), a seller may not use a combination of the
- 434 seller's purchase price and the seller's sales price to determine if tangible personal
- 435 property subject to taxation under this chapter is 50% or less of the seller's total
- 436 purchase price or sales price of that retail sale.

- 437 (21) "Car sharing" means the same as that term is defined in Section 13-48a-101.
- 438 (22) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.
- 439 (23) "Certified automated system" means software certified by the governing board of the  
440 agreement that:
- 441 (a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:
- 442 (i) on a transaction; and
- 443 (ii) in the states that are members of the agreement;
- 444 (b) determines the amount of agreement sales and use tax to remit to a state that is a  
445 member of the agreement; and
- 446 (c) maintains a record of the transaction described in Subsection (23)(a)(i).
- 447 (24) "Certified service provider" means an agent certified:
- 448 (a) by the governing board of the agreement; and
- 449 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as  
450 outlined in the contract between the governing board of the agreement and the  
451 certified service provider, other than the seller's obligation under Section 59-12-124  
452 to remit a tax on the seller's own purchases.
- 453 (25)(a) Subject to Subsection (25)(b), "clothing" means all human wearing apparel  
454 suitable for general use.
- 455 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
456 commission shall make rules:
- 457 (i) listing the items that constitute "clothing"; and
- 458 (ii) that are consistent with the list of items that constitute "clothing" under the  
459 agreement.
- 460 (26) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- 461 (27) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels  
462 that does not constitute industrial use under Subsection [~~(61)~~] (62) or residential use  
463 under Subsection [~~(117)~~] (118).
- 464 (28)(a) "Common carrier" means a person engaged in or transacting the business of  
465 transporting passengers, freight, merchandise, or other property for hire within this  
466 state.
- 467 (b)(i) "Common carrier" does not include a person that, at the time the person is  
468 traveling to or from that person's place of employment, transports a passenger to  
469 or from the passenger's place of employment.
- 470 (ii) For purposes of Subsection (28)(b)(i), in accordance with Title 63G, Chapter 3,

- 471 Utah Administrative Rulemaking Act, the commission may make rules defining  
472 what constitutes a person's place of employment.
- 473 (c) "Common carrier" does not include a person that provides transportation network  
474 services, as defined in Section 13-51-102.
- 475 (29) "Component part" includes:
- 476 (a) poultry, dairy, and other livestock feed, and their components;  
477 (b) baling ties and twine used in the baling of hay and straw;  
478 (c) fuel used for providing temperature control of orchards and commercial greenhouses  
479 doing a majority of their business in wholesale sales, and for providing power for  
480 off-highway type farm machinery; and  
481 (d) feed, seeds, and seedlings.
- 482 (30) "Computer" means an electronic device that accepts information:
- 483 (a)(i) in digital form; or  
484 (ii) in a form similar to digital form; and  
485 (b) manipulates that information for a result based on a sequence of instructions.
- 486 (31) "Computer software" means a set of coded instructions designed to cause:
- 487 (a) a computer to perform a task; or  
488 (b) automatic data processing equipment to perform a task.
- 489 (32) "Computer software maintenance contract" means a contract that obligates a seller of  
490 computer software to provide a customer with:
- 491 (a) future updates or upgrades to computer software;  
492 (b) support services with respect to computer software; or  
493 (c) a combination of Subsections (32)(a) and (b).
- 494 (33)(a) "Conference bridging service" means an ancillary service that links two or more  
495 participants of an audio conference call or video conference call.
- 496 (b) "Conference bridging service" may include providing a telephone number as part of  
497 the ancillary service described in Subsection (33)(a).
- 498 (c) "Conference bridging service" does not include a telecommunications service used to  
499 reach the ancillary service described in Subsection (33)(a).
- 500 (34) "Construction materials" means any tangible personal property that will be converted  
501 into real property.
- 502 (35) "Delivered electronically" means delivered to a purchaser by means other than tangible  
503 storage media.
- 504 (36)(a) "Delivery charge" means a charge:

- 505 (i) by a seller of:
- 506 (A) tangible personal property;
- 507 (B) a product transferred electronically; or
- 508 (C) a service; and
- 509 (ii) for preparation and delivery of the tangible personal property, product transferred
- 510 electronically, or services described in Subsection (36)(a)(i) to a location
- 511 designated by the purchaser.
- 512 (b) "Delivery charge" includes a charge for the following:
- 513 (i) transportation;
- 514 (ii) shipping;
- 515 (iii) postage;
- 516 (iv) handling;
- 517 (v) crating; or
- 518 (vi) packing.
- 519 (37) "Detailed telecommunications billing service" means an ancillary service of separately
- 520 stating information pertaining to individual calls on a customer's billing statement.
- 521 (38) "Dietary supplement" means a product, other than tobacco, that:
- 522 (a) is intended to supplement the diet;
- 523 (b) contains one or more of the following dietary ingredients:
- 524 (i) a vitamin;
- 525 (ii) a mineral;
- 526 (iii) an herb or other botanical;
- 527 (iv) an amino acid;
- 528 (v) a dietary substance for use by humans to supplement the diet by increasing the
- 529 total dietary intake; or
- 530 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 531 described in Subsections (38)(b)(i) through (v);
- 532 (c)(i) except as provided in Subsection (38)(c)(ii), is intended for ingestion in:
- 533 (A) tablet form;
- 534 (B) capsule form;
- 535 (C) powder form;
- 536 (D) softgel form;
- 537 (E) gelcap form; or
- 538 (F) liquid form; or

- 539 (ii) if the product is not intended for ingestion in a form described in Subsections  
540 (38)(c)(i)(A) through (F), is not represented:  
541 (A) as conventional food; and  
542 (B) for use as a sole item of:  
543 (I) a meal; or  
544 (II) the diet; and  
545 (d) is required to be labeled as a dietary supplement:  
546 (i) identifiable by the "Supplemental Facts" box found on the label; and  
547 (ii) as required by 21 C.F.R. Sec. 101.36.
- 548 (39)(a) "Digital audio work" means a work that results from the fixation of a series of  
549 musical, spoken, or other sounds.  
550 (b) "Digital audio work" includes a ringtone.
- 551 (40) "Digital audio-visual work" means a series of related images which, when shown in  
552 succession, imparts an impression of motion, together with accompanying sounds, if any.
- 553 (41) "Digital book" means a work that is generally recognized in the ordinary and usual  
554 sense as a book.
- 555 (42)(a) "Direct mail" means printed material delivered or distributed by United States  
556 mail or other delivery service:  
557 (i) to:  
558 (A) a mass audience; or  
559 (B) addressees on a mailing list provided:  
560 (I) by a purchaser of the mailing list; or  
561 (II) at the discretion of the purchaser of the mailing list; and  
562 (ii) if the cost of the printed material is not billed directly to the recipients.
- 563 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a  
564 purchaser to a seller of direct mail for inclusion in a package containing the printed  
565 material.
- 566 (c) "Direct mail" does not include multiple items of printed material delivered to a single  
567 address.
- 568 (43) "Directory assistance" means an ancillary service of providing:  
569 (a) address information; or  
570 (b) telephone number information.
- 571 (44)(a) "Disposable home medical equipment or supplies" means medical equipment or  
572 supplies that:

- 573 (i) cannot withstand repeated use; and  
574 (ii) are purchased by, for, or on behalf of a person other than:  
575 (A) a health care facility as defined in Section 26B-2-201;  
576 (B) a health care provider as defined in Section 78B-3-403;  
577 (C) an office of a health care provider described in Subsection (44)(a)(ii)(B); or  
578 (D) a person similar to a person described in Subsections (44)(a)(ii)(A) through  
579 (C).
- 580 (b) "Disposable home medical equipment or supplies" does not include:  
581 (i) a drug;  
582 (ii) durable medical equipment;  
583 (iii) a hearing aid;  
584 (iv) a hearing aid accessory;  
585 (v) mobility enhancing equipment; or  
586 (vi) tangible personal property used to correct impaired vision, including:  
587 (A) eyeglasses; or  
588 (B) contact lenses.
- 589 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
590 commission may by rule define what constitutes medical equipment or supplies.
- 591 (45) "Drilling equipment manufacturer" means a facility:  
592 (a) located in the state;  
593 (b) with respect to which 51% or more of the manufacturing activities of the facility  
594 consist of manufacturing component parts of drilling equipment;  
595 (c) that uses pressure of 800,000 or more pounds per square inch as part of the  
596 manufacturing process; and  
597 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the  
598 manufacturing process.
- 599 (46)(a) "Drug" means a compound, substance, or preparation, or a component of a  
600 compound, substance, or preparation that is:  
601 (i) recognized in:  
602 (A) the official United States Pharmacopoeia;  
603 (B) the official Homeopathic Pharmacopoeia of the United States;  
604 (C) the official National Formulary; or  
605 (D) a supplement to a publication listed in Subsections (46)(a)(i)(A) through (C);  
606 (ii) intended for use in the:

- 607 (A) diagnosis of disease;
- 608 (B) cure of disease;
- 609 (C) mitigation of disease;
- 610 (D) treatment of disease; or
- 611 (E) prevention of disease; or
- 612 (iii) intended to affect:
- 613 (A) the structure of the body; or
- 614 (B) any function of the body.
- 615 (b) "Drug" does not include:
- 616 (i) food and food ingredients;
- 617 (ii) a dietary supplement;
- 618 (iii) an alcoholic beverage; or
- 619 (iv) a prosthetic device.
- 620 (47)(a) "Durable medical equipment" means equipment that:
- 621 (i) can withstand repeated use;
- 622 (ii) is primarily and customarily used to serve a medical purpose;
- 623 (iii) generally is not useful to a person in the absence of illness or injury; and
- 624 (iv) is not worn in or on the body.
- 625 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 626 equipment described in Subsection (47)(a).
- 627 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 628 (48) "Electronic" means:
- 629 (a) relating to technology; and
- 630 (b) having:
- 631 (i) electrical capabilities;
- 632 (ii) digital capabilities;
- 633 (iii) magnetic capabilities;
- 634 (iv) wireless capabilities;
- 635 (v) optical capabilities;
- 636 (vi) electromagnetic capabilities; or
- 637 (vii) capabilities similar to Subsections (48)(b)(i) through (vi).
- 638 (49) "Electronic financial payment service" means an establishment:
- 639 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 640 Clearinghouse Activities, of the 2012 North American Industry Classification System

- 641 of the federal Executive Office of the President, Office of Management and Budget;  
642 and
- 643 (b) that performs electronic financial payment services.
- 644 (50) "Employee" means the same as that term is defined in Section 59-10-401.
- 645 (51) "Fixed guideway" means a public transit facility that uses and occupies:
- 646 (a) rail for the use of public transit; or
- 647 (b) a separate right-of-way for the use of public transit.
- 648 (52) "Fixed wing turbine powered aircraft" means an aircraft that:
- 649 (a) is powered by turbine engines;
- 650 (b) operates on jet fuel; and
- 651 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 652 (53) "Fixed wireless service" means a telecommunications service that provides radio  
653 communication between fixed points.
- 654 (54)(a) "Food and food ingredients" means substances:
- 655 (i) regardless of whether the substances are in:
- 656 (A) liquid form;
- 657 (B) concentrated form;
- 658 (C) solid form;
- 659 (D) frozen form;
- 660 (E) dried form; or
- 661 (F) dehydrated form; and
- 662 (ii) that are:
- 663 (A) sold for:
- 664 (I) ingestion by humans; or
- 665 (II) chewing by humans; and
- 666 (B) consumed for the substance's:
- 667 (I) taste; or
- 668 (II) nutritional value.
- 669 (b) "Food and food ingredients" includes an item described in Subsection [~~(100)(b)(iii)~~]  
670 (101)(b)(iii).
- 671 (c) "Food and food ingredients" does not include:
- 672 (i) an alcoholic beverage;
- 673 (ii) tobacco; or
- 674 (iii) prepared food.

- 675 (55)(a) "Fundraising sales" means sales:  
676 (i)(A) made by a school; or  
677 (B) made by a school student;  
678 (ii) that are for the purpose of raising funds for the school to purchase equipment,  
679 materials, or provide transportation; and  
680 (iii) that are part of an officially sanctioned school activity.
- 681 (b) For purposes of Subsection (55)(a)(iii), "officially sanctioned school activity" means  
682 a school activity:  
683 (i) that is conducted in accordance with a formal policy adopted by the school or  
684 school district governing the authorization and supervision of fundraising  
685 activities;  
686 (ii) that does not directly or indirectly compensate an individual teacher or other  
687 educational personnel by direct payment, commissions, or payment in kind; and  
688 (iii) the net or gross revenue from which is deposited in a dedicated account  
689 controlled by the school or school district.
- 690 (56) "Geothermal energy" means energy contained in heat that continuously flows outward  
691 from the earth that is used as the sole source of energy to produce electricity.
- 692 (57) "Governing board of the agreement" means the governing board of the agreement that  
693 is:  
694 (a) authorized to administer the agreement; and  
695 (b) established in accordance with the agreement.
- 696 (58)(a) For purposes of Subsection 59-12-104(41), "governmental entity" means:  
697 (i) the executive branch of the state, including all departments, institutions, boards,  
698 divisions, bureaus, offices, commissions, and committees;  
699 (ii) the judicial branch of the state, including the courts, the Judicial Council, the  
700 Administrative Office of the Courts, and similar administrative units in the  
701 judicial branch;  
702 (iii) the legislative branch of the state, including the House of Representatives, the  
703 Senate, the Office of Legislative Services, the Office of Legislative Research and  
704 General Counsel, the Office of the Legislative Auditor General, and the Office of  
705 the Legislative Fiscal Analyst;  
706 (iv) the National Guard;  
707 (v) an independent entity as defined in Section 63E-1-102; or  
708 (vi) a political subdivision as defined in Section 17B-1-102.

- 709 (b) "Governmental entity" does not include the state systems of public and higher  
 710 education, including:
- 711 (i) a school;
  - 712 (ii) the State Board of Education;
  - 713 (iii) the Utah Board of Higher Education; or
  - 714 (iv) an institution of higher education listed in Section 53H-1-102.
- 715 (59) "Home cook" means an individual who prepares food and food ingredients or prepared  
 716 food exclusively in a private, noncommercial home kitchen.
- 717 [~~59~~] (60) "Hydroelectric energy" means water used as the sole source of energy to produce  
 718 electricity.
- 719 [~~60~~] (61) "Individual-owned shared vehicle" means the same as that term is defined in  
 720 Section 13-48a-101.
- 721 [~~61~~] (62) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or  
 722 other fuels:
- 723 (a) in mining or extraction of minerals;
  - 724 (b) in agricultural operations to produce an agricultural product up to the time of harvest  
 725 or placing the agricultural product into a storage facility, including:
    - 726 (i) commercial greenhouses;
    - 727 (ii) irrigation pumps;
    - 728 (iii) farm machinery;
    - 729 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered  
 730 under Title 41, Chapter 1a, Part 2, Registration; and
    - 731 (v) other farming activities;  - 732 (c) in manufacturing tangible personal property at an establishment described in:
    - 733 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
 734 the federal Executive Office of the President, Office of Management and Budget;
    - 735 or
    - 736 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
 737 American Industry Classification System of the federal Executive Office of the  
 738 President, Office of Management and Budget;
  - 739 (d) by a scrap recycler if:
    - 740 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to  
 741 process one or more of the following items into prepared grades of processed  
 742 materials for use in new products:

- 743 (A) iron;
- 744 (B) steel;
- 745 (C) nonferrous metal;
- 746 (D) paper;
- 747 (E) glass;
- 748 (F) plastic;
- 749 (G) textile; or
- 750 (H) rubber; and
- 751 (ii) the new products under Subsection [~~(61)(d)(i)~~] (62)(d)(i) would otherwise be
- 752 made with nonrecycled materials; or
- 753 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 754 cogeneration facility as defined in Section 54-2-1.
- 755 [~~(62)~~] (63)(a) "Installation charge" means a charge for installing:
- 756 (i) tangible personal property; or
- 757 (ii) a product transferred electronically.
- 758 (b) "Installation charge" does not include a charge for:
- 759 (i) repairs or renovations of:
- 760 (A) tangible personal property; or
- 761 (B) a product transferred electronically; or
- 762 (ii) attaching tangible personal property or a product transferred electronically:
- 763 (A) to other tangible personal property; and
- 764 (B) as part of a manufacturing or fabrication process.
- 765 [~~(63)~~] (64) "Institution of higher education" means an institution of higher education listed
- 766 in Section 53H-1-102.
- 767 [~~(64)~~] (65)(a) "Lease" or "rental" means a transfer of possession or control of tangible
- 768 personal property or a product transferred electronically for:
- 769 (i)(A) a fixed term; or
- 770 (B) an indeterminate term; and
- 771 (ii) consideration.
- 772 (b) "Lease" or "rental" includes:
- 773 (i) an agreement covering a motor vehicle and trailer if the amount of consideration
- 774 may be increased or decreased by reference to the amount realized upon sale or
- 775 disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 776 Code; and

- 777 (ii) car sharing.
- 778 (c) "Lease" or "rental" does not include:
- 779 (i) a transfer of possession or control of property under a security agreement or
- 780 deferred payment plan that requires the transfer of title upon completion of the
- 781 required payments;
- 782 (ii) a transfer of possession or control of property under an agreement that requires
- 783 the transfer of title:
- 784 (A) upon completion of required payments; and
- 785 (B) if the payment of an option price does not exceed the greater of:
- 786 (I) \$100; or
- 787 (II) 1% of the total required payments; or
- 788 (iii) providing tangible personal property along with an operator for a fixed period of
- 789 time or an indeterminate period of time if the operator is necessary for equipment
- 790 to perform as designed.
- 791 (d) For purposes of Subsection [~~(64)(e)(iii)~~] (65)(c)(iii), an operator is necessary for
- 792 equipment to perform as designed if the operator's duties exceed the:
- 793 (i) set-up of tangible personal property;
- 794 (ii) maintenance of tangible personal property; or
- 795 (iii) inspection of tangible personal property.
- 796 [~~(65)~~] (66) "Lesson" means a fixed period of time for the duration of which a trained
- 797 instructor:
- 798 (a) is present with a student in person or by video; and
- 799 (b) actively instructs the student, including by providing observation or feedback.
- 800 [~~(66)~~] (67) "Life science establishment" means an establishment in this state that is
- 801 classified under the following NAICS codes of the 2007 North American Industry
- 802 Classification System of the federal Executive Office of the President, Office of
- 803 Management and Budget:
- 804 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 805 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
- 806 Manufacturing; or
- 807 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 808 [~~(67)~~] (68) "Life science research and development facility" means a facility owned, leased,
- 809 or rented by a life science establishment if research and development is performed in
- 810 51% or more of the total area of the facility.

- 811 ~~[(68)]~~ (69) "Load and leave" means delivery to a purchaser by use of a tangible storage  
812 media if the tangible storage media is not physically transferred to the purchaser.
- 813 ~~[(69)]~~ (70) "Local taxing jurisdiction" means a:
- 814 (a) county that is authorized to impose an agreement sales and use tax;
- 815 (b) city that is authorized to impose an agreement sales and use tax; or
- 816 (c) town that is authorized to impose an agreement sales and use tax.
- 817 ~~[(70)]~~ (71) "Manufactured home" means the same as that term is defined in Section  
818 15A-1-302.
- 819 ~~[(71)]~~ (72) "Manufacturing facility" means:
- 820 (a) an establishment described in:
- 821 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
822 the federal Executive Office of the President, Office of Management and Budget;  
823 or
- 824 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
825 American Industry Classification System of the federal Executive Office of the  
826 President, Office of Management and Budget;
- 827 (b) a scrap recycler if:
- 828 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to  
829 process one or more of the following items into prepared grades of processed  
830 materials for use in new products:
- 831 (A) iron;
- 832 (B) steel;
- 833 (C) nonferrous metal;
- 834 (D) paper;
- 835 (E) glass;
- 836 (F) plastic;
- 837 (G) textile; or
- 838 (H) rubber; and
- 839 (ii) the new products under Subsection ~~[(71)(b)(i)]~~ (72)(b)(i) would otherwise be  
840 made with nonrecycled materials; or
- 841 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is  
842 placed in service on or after May 1, 2006.
- 843 ~~[(72)]~~ (73)(a) "Marketplace" means a physical or electronic place, platform, or forum  
844 where tangible personal property, a product transferred electronically, or a service is

845 offered for sale.

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

848 ~~[(73)]~~ (74)(a) "Marketplace facilitator" means a person, including an affiliate of the  
849 person, that enters into a contract, an agreement, or otherwise with sellers, for  
850 consideration, to facilitate the sale of a seller's product through a marketplace that the  
851 person owns, operates, or controls and that directly or indirectly:

852 (i) does any of the following:

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

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

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

865 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of  
866 tangible personal property, a product transferred electronically, or a service,  
867 regardless of ownership or control of the tangible personal property, the  
868 product transferred electronically, or the service that is the subject of the retail  
869 sale;

870 (E) provides software development or research and development activities related  
871 to any activity described in this Subsection ~~[(73)(a)(i)]~~ (74)(a)(i), if the software  
872 development or research and development activity is directly related to the  
873 person's marketplace;

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

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

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

- 879 of tangible personal property, a product transferred electronically, or a service  
 880 sold by a marketplace seller on the person's marketplace; or
- 881 (I) brands or otherwise identifies sales as those of the person; and
- 882 (ii) does any of the following:
- 883 (A) collects the sales price or purchase price of a retail sale of tangible personal  
 884 property, a product transferred electronically, or a service;
- 885 (B) provides payment processing services for a retail sale of tangible personal  
 886 property, a product transferred electronically, or a service;
- 887 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee,  
 888 closing fee, a fee for inserting or making available tangible personal property, a  
 889 product transferred electronically, or a service on the person's marketplace, or  
 890 other consideration for the facilitation of a retail sale of tangible personal  
 891 property, a product transferred electronically, or a service, regardless of  
 892 ownership or control of the tangible personal property, the product transferred  
 893 electronically, or the service that is the subject of the retail sale;
- 894 (D) through terms and conditions, an agreement, or another arrangement with a  
 895 third person, collects payment from a purchase for a retail sale of tangible  
 896 personal property, a product transferred electronically, or a service and  
 897 transmits that payment to the marketplace seller, regardless of whether the  
 898 third person receives compensation or other consideration in exchange for the  
 899 service; or
- 900 (E) provides a virtual currency for a purchaser to use to purchase tangible personal  
 901 property, a product transferred electronically, or service offered for sale.
- 902 (b) "Marketplace facilitator" does not include:
- 903 (i) a person that only provides payment processing services; or
- 904 (ii) a person described in Subsection [~~(73)~~(a)] (74)(a) to the extent the person is  
 905 facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.
- 906 [~~(74)~~] (75) "Marketplace seller" means a seller that makes one or more retail sales through a  
 907 marketplace that a marketplace facilitator owns, operates, or controls, regardless of  
 908 whether the seller is required to be registered to collect and remit the tax under this part.
- 909 [~~(75)~~] (76) "Member of the immediate family of the producer" means a person who is  
 910 related to a producer described in Subsection 59-12-104(20)(a) as a:
- 911 (a) child or stepchild, regardless of whether the child or stepchild is:
- 912 (i) an adopted child or adopted stepchild; or

- 913 (ii) a foster child or foster stepchild;
- 914 (b) grandchild or stepgrandchild;
- 915 (c) grandparent or stepgrandparent;
- 916 (d) nephew or stepnephew;
- 917 (e) niece or stepniece;
- 918 (f) parent or stepparent;
- 919 (g) sibling or stepsibling;
- 920 (h) spouse;
- 921 (i) person who is the spouse of a person described in Subsections [~~(75)~~(a)] (76)(a)
- 922 through (g); or
- 923 (j) person similar to a person described in Subsections [~~(75)~~(a)] (76)(a) through (i) as
- 924 determined by the commission by rule made in accordance with Title 63G, Chapter 3,
- 925 Utah Administrative Rulemaking Act.
- 926 [~~(76)~~] (77) "Mobile home" means the same as that term is defined in Section 15A-1-302.
- 927 [~~(77)~~] (78) "Mobile telecommunications service" means the same as that term is defined in
- 928 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 929 [~~(78)~~] (79)(a) "Mobile wireless service" means a telecommunications service, regardless
- 930 of the technology used, if:
- 931 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 932 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 933 (iii) the origination point described in Subsection [~~(78)(a)(i)~~] (79)(a)(i) and the
- 934 termination point described in Subsection [~~(78)(a)(ii)~~] (79)(a)(ii) are not fixed.
- 935 (b) "Mobile wireless service" includes a telecommunications service that is provided by
- 936 a commercial mobile radio service provider.
- 937 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 938 commission may by rule define "commercial mobile radio service provider."
- 939 [~~(79)~~] (80)(a) "Mobility enhancing equipment" means equipment that is:
- 940 (i) primarily and customarily used to provide or increase the ability to move from one
- 941 place to another;
- 942 (ii) appropriate for use in a:
- 943 (A) home; or
- 944 (B) motor vehicle; and
- 945 (iii) not generally used by persons with normal mobility.
- 946 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of

- 947 the equipment described in Subsection [~~(79)~~(a)] (80)(a).
- 948 (c) "Mobility enhancing equipment" does not include:
- 949 (i) a motor vehicle;
- 950 (ii) equipment on a motor vehicle if that equipment is normally provided by the
- 951 motor vehicle manufacturer;
- 952 (iii) durable medical equipment; or
- 953 (iv) a prosthetic device.
- 954 [~~(80)~~] (81) "Model 1 seller" means a seller registered under the agreement that has selected a
- 955 certified service provider as the seller's agent to perform the seller's sales and use tax
- 956 functions for agreement sales and use taxes, as outlined in the contract between the
- 957 governing board of the agreement and the certified service provider, other than the
- 958 seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.
- 959 [~~(81)~~] (82) "Model 2 seller" means a seller registered under the agreement that:
- 960 (a) except as provided in Subsection [~~(81)~~(b)] (82)(b), has selected a certified automated
- 961 system to perform the seller's sales tax functions for agreement sales and use taxes;
- 962 and
- 963 (b) retains responsibility for remitting all of the sales tax:
- 964 (i) collected by the seller; and
- 965 (ii) to the appropriate local taxing jurisdiction.
- 966 [~~(82)~~] (83)(a) Subject to Subsection [~~(82)~~(b)] (83)(b), "model 3 seller" means a seller
- 967 registered under the agreement that has:
- 968 (i) sales in at least five states that are members of the agreement;
- 969 (ii) total annual sales revenue of at least \$500,000,000;
- 970 (iii) a proprietary system that calculates the amount of tax:
- 971 (A) for an agreement sales and use tax; and
- 972 (B) due to each local taxing jurisdiction; and
- 973 (iv) entered into a performance agreement with the governing board of the agreement.
- 974 (b) For purposes of Subsection [~~(82)~~(a)] (83)(a), "model 3 seller" includes an affiliated
- 975 group of sellers using the same proprietary system.
- 976 [~~(83)~~] (84) "Model 4 seller" means a seller that is registered under the agreement and is not a
- 977 model 1 seller, model 2 seller, or model 3 seller.
- 978 [~~(84)~~] (85) "Modular home" means a modular unit as defined in Section 15A-1-302.
- 979 [~~(85)~~] (86) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.
- 980 [~~(86)~~] (87) "Oil sands" means impregnated bituminous sands that:

- 981 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with  
 982 other hydrocarbons, or otherwise treated;  
 983 (b) yield mixtures of liquid hydrocarbon; and  
 984 (c) require further processing other than mechanical blending before becoming finished  
 985 petroleum products.

986 ~~[(87)]~~ (88) "Oil shale" means a group of fine black to dark brown shales containing kerogen  
 987 material that yields petroleum upon heating and distillation.

988 ~~[(88)]~~ (89) "Optional computer software maintenance contract" means a computer software  
 989 maintenance contract that a customer is not obligated to purchase as a condition to the  
 990 retail sale of computer software.

991 ~~[(89)]~~ (90)(a) "Other fuels" means products that burn independently to produce heat or  
 992 energy.

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

995 ~~[(90)]~~ (91)(a) "Paging service" means a telecommunications service that provides  
 996 transmission of a coded radio signal for the purpose of activating a specific pager.

997 (b) For purposes of Subsection ~~[(90)(a)]~~ (91)(a), the transmission of a coded radio signal  
 998 includes a transmission by message or sound.

999 ~~[(91)]~~ (92) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

1000 ~~[(92)]~~ (93) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

1001 ~~[(93)]~~ (94)(a) "Permanently attached to real property" means that for tangible personal  
 1002 property attached to real property:

1003 (i) the attachment of the tangible personal property to the real property:

1004 (A) is essential to the use of the tangible personal property; and

1005 (B) suggests that the tangible personal property will remain attached to the real  
 1006 property in the same place over the useful life of the tangible personal  
 1007 property; or

1008 (ii) if the tangible personal property is detached from the real property, the  
 1009 detachment would:

1010 (A) cause substantial damage to the tangible personal property; or

1011 (B) require substantial alteration or repair of the real property to which the  
 1012 tangible personal property is attached.

1013 (b) "Permanently attached to real property" includes:

1014 (i) the attachment of an accessory to the tangible personal property if the accessory is:

- 1015 (A) essential to the operation of the tangible personal property; and
- 1016 (B) attached only to facilitate the operation of the tangible personal property;
- 1017 (ii) a temporary detachment of tangible personal property from real property for a
- 1018 repair or renovation if the repair or renovation is performed where the tangible
- 1019 personal property and real property are located; or
- 1020 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
- 1021 Subsection [~~(93)(e)(iii)~~] (94)(c)(iii) or (iv).
- 1022 (c) "Permanently attached to real property" does not include:
- 1023 (i) the attachment of portable or movable tangible personal property to real property
- 1024 if that portable or movable tangible personal property is attached to real property
- 1025 only for:
- 1026 (A) convenience;
- 1027 (B) stability; or
- 1028 (C) for an obvious temporary purpose;
- 1029 (ii) the detachment of tangible personal property from real property except for the
- 1030 detachment described in Subsection [~~(93)(b)(ii)~~] (94)(b)(ii);
- 1031 (iii) an attachment of the following tangible personal property to real property if the
- 1032 attachment to real property is only through a line that supplies water, electricity,
- 1033 gas, telecommunications, cable, or supplies a similar item as determined by the
- 1034 commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 1035 Administrative Rulemaking Act:
- 1036 (A) a computer;
- 1037 (B) a telephone;
- 1038 (C) a television; or
- 1039 (D) tangible personal property similar to Subsections [~~(93)(e)(iii)(A)~~]
- 1040 (94)(c)(iii)(A) through (C) as determined by the commission by rule made in
- 1041 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
- 1042 (iv) an item listed in Subsection [~~(139)(e)~~] (140)(c).
- 1043 [~~(94)~~] (95) "Person" includes any individual, firm, partnership, joint venture, association,
- 1044 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
- 1045 municipality, district, or other local governmental entity of the state, or any group or
- 1046 combination acting as a unit.
- 1047 [~~(95)~~] (96) "Place of primary use":
- 1048 (a) for telecommunications service other than mobile telecommunications service,

- 1049 means the street address representative of where the customer's use of the  
1050 telecommunications service primarily occurs, which shall be:
- 1051 (i) the residential street address of the customer; or
  - 1052 (ii) the primary business street address of the customer; or
- 1053 (b) for mobile telecommunications service, means the same as that term is defined in the  
1054 Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 1055 [~~96~~] (97)(a) "Postpaid calling service" means a telecommunications service a person  
1056 obtains by making a payment on a call-by-call basis:
- 1057 (i) through the use of a:
    - 1058 (A) bank card;
    - 1059 (B) credit card;
    - 1060 (C) debit card; or
    - 1061 (D) travel card; or
  - 1062 (ii) by a charge made to a telephone number that is not associated with the origination  
1063 or termination of the telecommunications service.
- 1064 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
1065 service, that would be a prepaid wireless calling service if the service were  
1066 exclusively a telecommunications service.
- 1067 [~~97~~] (98) "Postproduction" means an activity related to the finishing or duplication of a  
1068 medium described in Subsection 59-12-104(54)(a).
- 1069 [~~98~~] (99) "Prepaid calling service" means a telecommunications service:
- 1070 (a) that allows a purchaser access to telecommunications service that is exclusively  
1071 telecommunications service;
  - 1072 (b) that:
    - 1073 (i) is paid for in advance; and
    - 1074 (ii) enables the origination of a call using an:
      - 1075 (A) access number; or
      - 1076 (B) authorization code;
  - 1077 (c) that is dialed:
    - 1078 (i) manually; or
    - 1079 (ii) electronically; and
  - 1080 (d) sold in predetermined units or dollars that decline:
    - 1081 (i) by a known amount; and
    - 1082 (ii) with use.

- 1083     ~~[(99)]~~ (100) "Prepaid wireless calling service" means a telecommunications service:
- 1084             (a) that provides the right to utilize:
- 1085                 (i) mobile wireless service; and
- 1086                 (ii) other service that is not a telecommunications service, including:
- 1087                     (A) the download of a product transferred electronically;
- 1088                     (B) a content service; or
- 1089                     (C) an ancillary service;
- 1090             (b) that:
- 1091                 (i) is paid for in advance; and
- 1092                 (ii) enables the origination of a call using an:
- 1093                     (A) access number; or
- 1094                     (B) authorization code;
- 1095             (c) that is dialed:
- 1096                 (i) manually; or
- 1097                 (ii) electronically; and
- 1098             (d) sold in predetermined units or dollars that decline:
- 1099                 (i) by a known amount; and
- 1100                 (ii) with use.
- 1101     ~~[(100)]~~ (101)(a) "Prepared food" means:
- 1102             (i) food:
- 1103                 (A) sold in a heated state; or
- 1104                 (B) heated by a seller;
- 1105             (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 1106                 item; or
- 1107             (iii) except as provided in Subsection ~~[(100)(e)]~~ (101)(c), food sold with an eating
- 1108                 utensil provided by the seller, including a:
- 1109                     (A) plate;
- 1110                     (B) knife;
- 1111                     (C) fork;
- 1112                     (D) spoon;
- 1113                     (E) glass;
- 1114                     (F) cup;
- 1115                     (G) napkin; or
- 1116                     (H) straw.

- 1117 (b) "Prepared food" does not include:
- 1118 (i) food that a seller only:
- 1119 (A) cuts;
- 1120 (B) repackages; or
- 1121 (C) pasteurizes;
- 1122 (ii)(A) the following:
- 1123 (I) raw egg;
- 1124 (II) raw fish;
- 1125 (III) raw meat;
- 1126 (IV) raw poultry; or
- 1127 (V) a food containing an item described in Subsections [~~(100)(b)(ii)(A)(I)~~
- 1128 (101)(b)(ii)(A)(I) through (IV); and
- 1129 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of
- 1130 the Food and Drug Administration's Food Code that a consumer cook the items
- 1131 described in Subsection [~~(100)(b)(ii)(A)~~] (101)(b)(ii)(A) to prevent food borne
- 1132 illness; or
- 1133 (iii) the following if sold without eating utensils provided by the seller:
- 1134 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1135 classification under the 2002 North American Industry Classification System
- 1136 of the federal Executive Office of the President, Office of Management and
- 1137 Budget, is manufacturing in Sector 311, Food Manufacturing, except for
- 1138 Subsector 3118, Bakeries and Tortilla Manufacturing;
- 1139 (B) food and food ingredients sold in an unheated state:
- 1140 (I) by weight or volume; and
- 1141 (II) as a single item; or
- 1142 (C) a bakery item, including:
- 1143 (I) a bagel;
- 1144 (II) a bar;
- 1145 (III) a biscuit;
- 1146 (IV) bread;
- 1147 (V) a bun;
- 1148 (VI) a cake;
- 1149 (VII) a cookie;
- 1150 (VIII) a croissant;

- 1151 (IX) a danish;
- 1152 (X) a donut;
- 1153 (XI) a muffin;
- 1154 (XII) a pastry;
- 1155 (XIII) a pie;
- 1156 (XIV) a roll;
- 1157 (XV) a tart;
- 1158 (XVI) a torte; or
- 1159 (XVII) a tortilla.

1160 (c) An eating utensil provided by the seller does not include the following used to  
 1161 transport the food:

- 1162 (i) a container; or
- 1163 (ii) packaging.

1164 ~~[(101)]~~ (102) "Prescription" means an order, formula, or recipe that is issued:

- 1165 (a)(i) orally;
- 1166 (ii) in writing;
- 1167 (iii) electronically; or
- 1168 (iv) by any other manner of transmission; and

1169 (b) by a licensed practitioner authorized by the laws of a state.

1170 ~~[(102)]~~ (103)(a) "Prewritten computer software" means computer software that is not  
 1171 designed and developed:

- 1172 (i) by the author or other creator of the computer software; and
- 1173 (ii) to the specifications of a specific purchaser.

1174 (b) "Prewritten computer software" includes:

- 1175 (i) a prewritten upgrade to computer software if the prewritten upgrade to the  
 1176 computer software is not designed and developed:
  - 1177 (A) by the author or other creator of the computer software; and
  - 1178 (B) to the specifications of a specific purchaser;
- 1179 (ii) computer software designed and developed by the author or other creator of the  
 1180 computer software to the specifications of a specific purchaser if the computer  
 1181 software is sold to a person other than the purchaser; or
- 1182 (iii) except as provided in Subsection ~~[(102)(e)]~~ (103)(c), prewritten computer  
 1183 software or a prewritten portion of prewritten computer software:
  - 1184 (A) that is modified or enhanced to any degree; and

1185 (B) if the modification or enhancement described in Subsection [~~(102)(b)(iii)(A)~~]  
1186 (103)(b)(iii)(A) is designed and developed to the specifications of a specific  
1187 purchaser.

1188 (c) "Prewritten computer software" does not include a modification or enhancement  
1189 described in Subsection [~~(102)(b)(iii)~~] (103)(b)(iii) if the charges for the modification  
1190 or enhancement are:

1191 (i) reasonable; and

1192 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the  
1193 invoice or other statement of price provided to the purchaser at the time of sale or  
1194 later, as demonstrated by:

1195 (A) the books and records the seller keeps at the time of the transaction in the  
1196 regular course of business, including books and records the seller keeps at the  
1197 time of the transaction in the regular course of business for nontax purposes;

1198 (B) a preponderance of the facts and circumstances at the time of the transaction;  
1199 and

1200 (C) the understanding of all of the parties to the transaction.

1201 [~~(103)~~] (104)(a) "Private communications service" means a telecommunications service:

1202 (i) that entitles a customer to exclusive or priority use of one or more  
1203 communications channels between or among termination points; and

1204 (ii) regardless of the manner in which the one or more communications channels are  
1205 connected.

1206 (b) "Private communications service" includes the following provided in connection  
1207 with the use of one or more communications channels:

1208 (i) an extension line;

1209 (ii) a station;

1210 (iii) switching capacity; or

1211 (iv) another associated service that is provided in connection with the use of one or  
1212 more communications channels as defined in Section 59-12-215.

1213 [~~(104)~~] (105)(a) "Product transferred electronically" means a product transferred  
1214 electronically that would be subject to a tax under this chapter if that product was  
1215 transferred in a manner other than electronically.

1216 (b) "Product transferred electronically" does not include:

1217 (i) an ancillary service;

1218 (ii) computer software; or

- 1219 (iii) a telecommunications service.
- 1220 [~~(105)~~] (106)(a) "Prosthetic device" means a device that is worn on or in the body to:
- 1221 (i) artificially replace a missing portion of the body;
- 1222 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1223 (iii) support a weak or deformed portion of the body.
- 1224 (b) "Prosthetic device" includes:
- 1225 (i) parts used in the repairs or renovation of a prosthetic device;
- 1226 (ii) replacement parts for a prosthetic device;
- 1227 (iii) a dental prosthesis; or
- 1228 (iv) a hearing aid.
- 1229 (c) "Prosthetic device" does not include:
- 1230 (i) corrective eyeglasses; or
- 1231 (ii) contact lenses.
- 1232 [~~(106)~~] (107)(a) "Protective equipment" means an item:
- 1233 (i) for human wear; and
- 1234 (ii) that is:
- 1235 (A) designed as protection:
- 1236 (I) to the wearer against injury or disease; or
- 1237 (II) against damage or injury of other persons or property; and
- 1238 (B) not suitable for general use.
- 1239 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1240 commission shall make rules:
- 1241 (i) listing the items that constitute "protective equipment"; and
- 1242 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1243 under the agreement.
- 1244 [~~(107)~~] (108)(a) For purposes of Subsection 59-12-104(41), "publication" means any
- 1245 written or printed matter, other than a photocopy:
- 1246 (i) regardless of:
- 1247 (A) characteristics;
- 1248 (B) copyright;
- 1249 (C) form;
- 1250 (D) format;
- 1251 (E) method of reproduction; or
- 1252 (F) source; and

- 1253 (ii) made available in printed or electronic format.
- 1254 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1255 commission may by rule define the term "photocopy."
- 1256 ~~[(108)]~~ (109)(a) "Purchase price" and "sales price" mean the total amount of  
1257 consideration:
- 1258 (i) valued in money; and
- 1259 (ii) for which tangible personal property, a product transferred electronically, or  
1260 services are:
- 1261 (A) sold;
- 1262 (B) leased; or
- 1263 (C) rented.
- 1264 (b) "Purchase price" and "sales price" include:
- 1265 (i) the seller's cost of the tangible personal property, a product transferred  
1266 electronically, or services sold;
- 1267 (ii) expenses of the seller, including:
- 1268 (A) the cost of materials used;
- 1269 (B) a labor cost;
- 1270 (C) a service cost;
- 1271 (D) interest;
- 1272 (E) a loss;
- 1273 (F) the cost of transportation to the seller; or
- 1274 (G) a tax imposed on the seller;
- 1275 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1276 (iv) consideration a seller receives from a person other than the purchaser if:
- 1277 (A)(I) the seller actually receives consideration from a person other than the  
1278 purchaser; and
- 1279 (II) the consideration described in Subsection ~~[(108)(b)(iv)(A)(I)]~~  
1280 (109)(b)(iv)(A)(I) is directly related to a price reduction or discount on the  
1281 sale;
- 1282 (B) the seller has an obligation to pass the price reduction or discount through to  
1283 the purchaser;
- 1284 (C) the amount of the consideration attributable to the sale is fixed and  
1285 determinable by the seller at the time of the sale to the purchaser; and
- 1286 (D)(I)(Aa) the purchaser presents a certificate, coupon, or other

- 1287 documentation to the seller to claim a price reduction or discount; and
- 1288 (Bb) a person other than the seller authorizes, distributes, or grants the
- 1289 certificate, coupon, or other documentation with the understanding that
- 1290 the person other than the seller will reimburse any seller to whom the
- 1291 certificate, coupon, or other documentation is presented;
- 1292 (II) the purchaser identifies that purchaser to the seller as a member of a group
- 1293 or organization allowed a price reduction or discount, except that a
- 1294 preferred customer card that is available to any patron of a seller does not
- 1295 constitute membership in a group or organization allowed a price reduction
- 1296 or discount; or
- 1297 (III) the price reduction or discount is identified as a third party price reduction
- 1298 or discount on the:
- 1299 (Aa) invoice the purchaser receives; or
- 1300 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1301 (c) "Purchase price" and "sales price" do not include:
- 1302 (i) a discount:
- 1303 (A) in a form including:
- 1304 (I) cash;
- 1305 (II) term; or
- 1306 (III) coupon;
- 1307 (B) that is allowed by a seller;
- 1308 (C) taken by a purchaser on a sale; and
- 1309 (D) that is not reimbursed by a third party; or
- 1310 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if
- 1311 separately stated on an invoice, bill of sale, or similar document provided to the
- 1312 purchaser at the time of sale or later, as demonstrated by the books and records the
- 1313 seller keeps at the time of the transaction in the regular course of business,
- 1314 including books and records the seller keeps at the time of the transaction in the
- 1315 regular course of business for nontax purposes, by a preponderance of the facts
- 1316 and circumstances at the time of the transaction, and by the understanding of all of
- 1317 the parties to the transaction:
- 1318 (A) the following from credit extended on the sale of tangible personal property or
- 1319 services:
- 1320 (I) a carrying charge;

- 1321 (II) a financing charge; or  
1322 (III) an interest charge;  
1323 (B) a delivery charge;  
1324 (C) an installation charge;  
1325 (D) a manufacturer rebate on a motor vehicle; or  
1326 (E) a tax or fee legally imposed directly on the consumer.

1327 [(H9)] (110) "Purchaser" means a person to whom:

- 1328 (a) a sale of tangible personal property is made;  
1329 (b) a product is transferred electronically; or  
1330 (c) a service is furnished.

1331 [(H0)] (111) "Qualifying data center" means a data center facility that:

- 1332 (a) houses a group of networked server computers in one physical location in order to  
1333 disseminate, manage, and store data and information;  
1334 (b) is located in the state;  
1335 (c) is a new operation constructed on or after July 1, 2016;  
1336 (d) consists of one or more buildings that total 150,000 or more square feet;  
1337 (e) is owned or leased by:  
1338 (i) the operator of the data center facility; or  
1339 (ii) a person under common ownership, as defined in Section 59-7-101, of the  
1340 operator of the data center facility; and  
1341 (f) is located on one or more parcels of land that are owned or leased by:  
1342 (i) the operator of the data center facility; or  
1343 (ii) a person under common ownership, as defined in Section 59-7-101, of the  
1344 operator of the data center facility.

1345 [(H1)] (112) "Qualifying energy storage manufacturing facility" means a facility that  
1346 manufactures, in the state, equipment or devices that store and discharge energy for the  
1347 purpose of providing electrical power.

1348 [(H2)] (113) "Regularly rented" means:

- 1349 (a) rented to a guest for value three or more times during a calendar year; or  
1350 (b) advertised or held out to the public as a place that is regularly rented to guests for  
1351 value.

1352 [(H3)] (114) "Rental" means the same as that term is defined in Subsection [(64)] (65).

1353 [(H4)] (115)(a) "Repairs or renovations of tangible personal property" means:

- 1354 (i) a repair or renovation of tangible personal property that is not permanently

- 1355 attached to real property; or
- 1356 (ii) attaching tangible personal property or a product transferred electronically to
- 1357 other tangible personal property or detaching tangible personal property or a
- 1358 product transferred electronically from other tangible personal property if:
- 1359 (A) the other tangible personal property to which the tangible personal property or
- 1360 product transferred electronically is attached or from which the tangible
- 1361 personal property or product transferred electronically is detached is not
- 1362 permanently attached to real property; and
- 1363 (B) the attachment of tangible personal property or a product transferred
- 1364 electronically to other tangible personal property or detachment of tangible
- 1365 personal property or a product transferred electronically from other tangible
- 1366 personal property is made in conjunction with a repair or replacement of
- 1367 tangible personal property or a product transferred electronically.
- 1368 (b) "Repairs or renovations of tangible personal property" does not include:
- 1369 (i) attaching prewritten computer software to other tangible personal property if the
- 1370 other tangible personal property to which the prewritten computer software is
- 1371 attached is not permanently attached to real property; or
- 1372 (ii) detaching prewritten computer software from other tangible personal property if
- 1373 the other tangible personal property from which the prewritten computer software
- 1374 is detached is not permanently attached to real property.
- 1375 [(H5)] (116) "Research and development" means the process of inquiry or experimentation
- 1376 aimed at the discovery of facts, devices, technologies, or applications and the process of
- 1377 preparing those devices, technologies, or applications for marketing.
- 1378 [(H6)] (117)(a) "Residential telecommunications services" means a telecommunications
- 1379 service or an ancillary service that is provided to an individual for personal use:
- 1380 (i) at a residential address; or
- 1381 (ii) at an institution, including a nursing home or a school, if the telecommunications
- 1382 service or ancillary service is provided to and paid for by the individual residing at
- 1383 the institution rather than the institution.
- 1384 (b) For purposes of Subsection [(H6)(a)(i)] (117)(a)(i), a residential address includes an:
- 1385 (i) apartment; or
- 1386 (ii) other individual dwelling unit.
- 1387 [(H7)] (118) "Residential use" means the use in or around a home, apartment building,
- 1388 sleeping quarters, and similar facilities or accommodations.

1389 [~~(118)~~] (119) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
1390 than:

- 1391 (a) resale;  
1392 (b) sublease; or  
1393 (c) subrent.

1394 [~~(119)~~] (120)(a) "Retailer" means any person, unless prohibited by the Constitution of the  
1395 United States or federal law, that is engaged in a regularly organized business in  
1396 tangible personal property or any other taxable transaction under Subsection  
1397 59-12-103(1), and who is selling to the user or consumer and not for resale.

1398 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1399 engaged in the business of selling to users or consumers within the state.

1400 [~~(120)~~] (121)(a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1401 otherwise, in any manner, of tangible personal property or any other taxable  
1402 transaction under Subsection 59-12-103(1), for consideration.

1403 (b) "Sale" includes:

- 1404 (i) installment and credit sales;  
1405 (ii) any closed transaction constituting a sale;  
1406 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
1407 chapter;  
1408 (iv) any transaction if the possession of property is transferred but the seller retains  
1409 the title as security for the payment of the price; and  
1410 (v) any transaction under which right to possession, operation, or use of any article of  
1411 tangible personal property is granted under a lease or contract and the transfer of  
1412 possession would be taxable if an outright sale were made.

1413 [~~(121)~~] (122) "Sale at retail" means the same as that term is defined in Subsection [~~(118)~~]  
1414 (119).

1415 [~~(122)~~] (123) "Sale-leaseback transaction" means a transaction by which title to tangible  
1416 personal property or a product transferred electronically that is subject to a tax under this  
1417 chapter is transferred:

- 1418 (a) by a purchaser-lessee;  
1419 (b) to a lessor;  
1420 (c) for consideration; and  
1421 (d) if:  
1422 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial

- 1423 purchase of the tangible personal property or product transferred electronically;
- 1424 (ii) the sale of the tangible personal property or product transferred electronically to
- 1425 the lessor is intended as a form of financing:
- 1426 (A) for the tangible personal property or product transferred electronically; and
- 1427 (B) to the purchaser-lessee; and
- 1428 (iii) in accordance with generally accepted accounting principles, the
- 1429 purchaser-lessee is required to:
- 1430 (A) capitalize the tangible personal property or product transferred electronically
- 1431 for financial reporting purposes; and
- 1432 (B) account for the lease payments as payments made under a financing
- 1433 arrangement.
- 1434 [~~(123)~~] (124) "Sales price" means the same as that term is defined in Subsection [~~(108)~~] (109).
- 1435 [~~(124)~~] (125)(a) "Sales relating to schools" means the following sales by, amounts paid
- 1436 to, or amounts charged by a school:
- 1437 (i) sales that are directly related to the school's educational functions or activities
- 1438 including:
- 1439 (A) the sale of:
- 1440 (I) textbooks;
- 1441 (II) textbook fees;
- 1442 (III) laboratory fees;
- 1443 (IV) laboratory supplies; or
- 1444 (V) safety equipment;
- 1445 (B) the sale of a uniform, protective equipment, or sports or recreational
- 1446 equipment that:
- 1447 (I) a student is specifically required to wear as a condition of participation in a
- 1448 school-related event or school-related activity; and
- 1449 (II) is not readily adaptable to general or continued usage to the extent that it
- 1450 takes the place of ordinary clothing;
- 1451 (C) sales of the following if the net or gross revenue generated by the sales is
- 1452 deposited into a school district fund or school fund dedicated to school meals:
- 1453 (I) food and food ingredients; or
- 1454 (II) prepared food; or
- 1455 (D) transportation charges for official school activities; or
- 1456 (ii) amounts paid to or amounts charged by a school for admission to a school-related

- 1457 event or school-related activity.
- 1458 (b) "Sales relating to schools" does not include:
- 1459 (i) bookstore sales of items that are not educational materials or supplies;
- 1460 (ii) except as provided in Subsection [~~(124)(a)(i)(B)~~] (125)(a)(i)(B):
- 1461 (A) clothing;
- 1462 (B) clothing accessories or equipment;
- 1463 (C) protective equipment; or
- 1464 (D) sports or recreational equipment; or
- 1465 (iii) amounts paid to or amounts charged by a school for admission to a
- 1466 school-related event or school-related activity if the amounts paid or charged are
- 1467 passed through to a person:
- 1468 (A) other than a:
- 1469 (I) school;
- 1470 (II) nonprofit organization authorized by a school board or a governing body of
- 1471 a private school to organize and direct a competitive secondary school
- 1472 activity; or
- 1473 (III) nonprofit association authorized by a school board or a governing body of
- 1474 a private school to organize and direct a competitive secondary school
- 1475 activity; and
- 1476 (B) that is required to collect sales and use taxes under this chapter.
- 1477 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1478 commission may make rules defining the term "passed through."
- 1479 [~~(125)~~] (126) For purposes of this section and Section 59-12-104, "school" means:
- 1480 (a) an elementary school or a secondary school that:
- 1481 (i) is a:
- 1482 (A) public school; or
- 1483 (B) private school; and
- 1484 (ii) provides instruction for one or more grades kindergarten through 12; or
- 1485 (b) a public school district.
- 1486 [~~(126)~~] (127)(a) "Seller" means a person that makes a sale, lease, or rental of:
- 1487 (i) tangible personal property;
- 1488 (ii) a product transferred electronically; or
- 1489 (iii) a service.
- 1490 (b) "Seller" includes a marketplace facilitator.

- 1491 [~~(127)~~] (128)(a) "Semiconductor fabricating, processing, research, or development  
 1492 materials" means tangible personal property or a product transferred electronically if  
 1493 the tangible personal property or product transferred electronically is:
- 1494 (i) used primarily in the process of:
    - 1495 (A)(I) manufacturing a semiconductor;
    - 1496 (II) fabricating a semiconductor; or
    - 1497 (III) research or development of a:
      - 1498 (Aa) semiconductor; or
      - 1499 (Bb) semiconductor manufacturing process; or
    - 1500 (B) maintaining an environment suitable for a semiconductor; or
  - 1501 (ii) consumed primarily in the process of:
    - 1502 (A)(I) manufacturing a semiconductor;
    - 1503 (II) fabricating a semiconductor; or
    - 1504 (III) research or development of a:
      - 1505 (Aa) semiconductor; or
      - 1506 (Bb) semiconductor manufacturing process; or
      - 1507 (B) maintaining an environment suitable for a semiconductor.
  - 1508 (b) "Semiconductor fabricating, processing, research, or development materials"  
 1509 includes:
    - 1510 (i) parts used in the repairs or renovations of tangible personal property or a product  
 1511 transferred electronically described in Subsection [~~(127)~~](a) (128)(a); or
    - 1512 (ii) a chemical, catalyst, or other material used to:
      - 1513 (A) produce or induce in a semiconductor a:
        - 1514 (I) chemical change; or
        - 1515 (II) physical change;
      - 1516 (B) remove impurities from a semiconductor; or
      - 1517 (C) improve the marketable condition of a semiconductor.
  - 1518 [~~(128)~~] (129) "Senior citizen center" means a facility having the primary purpose of  
 1519 providing services to the aged as defined in Section 26B-6-101.
  - 1520 [~~(129)~~] (130) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.
  - 1521 [~~(130)~~] (131) "Shared vehicle driver" means the same as that term is defined in Section  
 1522 13-48a-101.
  - 1523 [~~(131)~~] (132) "Shared vehicle owner" means the same as that term is defined in Section  
 1524 13-48a-101.

- 1525 [~~(132)~~] (133)(a) Subject to Subsections [~~(132)(b)~~] (133)(b) and (c), "short-term lodging  
1526 consumable" means tangible personal property that:
- 1527 (i) a business that provides accommodations and services described in Subsection  
1528 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations  
1529 and services to a purchaser;
  - 1530 (ii) is intended to be consumed by the purchaser; and
  - 1531 (iii) is:
    - 1532 (A) included in the purchase price of the accommodations and services; and
    - 1533 (B) not separately stated on an invoice, bill of sale, or other similar document  
1534 provided to the purchaser.
- 1535 (b) "Short-term lodging consumable" includes:
- 1536 (i) a beverage;
  - 1537 (ii) a brush or comb;
  - 1538 (iii) a cosmetic;
  - 1539 (iv) a hair care product;
  - 1540 (v) lotion;
  - 1541 (vi) a magazine;
  - 1542 (vii) makeup;
  - 1543 (viii) a meal;
  - 1544 (ix) mouthwash;
  - 1545 (x) nail polish remover;
  - 1546 (xi) a newspaper;
  - 1547 (xii) a notepad;
  - 1548 (xiii) a pen;
  - 1549 (xiv) a pencil;
  - 1550 (xv) a razor;
  - 1551 (xvi) saline solution;
  - 1552 (xvii) a sewing kit;
  - 1553 (xviii) shaving cream;
  - 1554 (xix) a shoe shine kit;
  - 1555 (xx) a shower cap;
  - 1556 (xxi) a snack item;
  - 1557 (xxii) soap;
  - 1558 (xxiii) toilet paper;

- 1559 (xxiv) a toothbrush;
- 1560 (xxv) toothpaste; or
- 1561 (xxvi) an item similar to Subsections [~~(132)(b)(i)~~] (133)(b)(i) through (xxv) as the
- 1562 commission may provide by rule made in accordance with Title 63G, Chapter 3,
- 1563 Utah Administrative Rulemaking Act.
- 1564 (c) "Short-term lodging consumable" does not include:
- 1565 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1566 property to be reused; or
- 1567 (ii) a product transferred electronically.
- 1568 [~~(133)~~] (134)(a) "Short-term rental" means a lease or rental for less than 30 consecutive
- 1569 days.
- 1570 (b) "Short-term rental" does not include car sharing.
- 1571 [~~(134)~~] (135) "Simplified electronic return" means the electronic return:
- 1572 (a) described in Section 318(C) of the agreement; and
- 1573 (b) approved by the governing board of the agreement.
- 1574 [~~(135)~~] (136) "Solar energy" means the sun used as the sole source of energy for producing
- 1575 electricity.
- 1576 [~~(136)~~] (137)(a) "Sports or recreational equipment" means an item:
- 1577 (i) designed for human use; and
- 1578 (ii) that is:
- 1579 (A) worn in conjunction with:
- 1580 (I) an athletic activity; or
- 1581 (II) a recreational activity; and
- 1582 (B) not suitable for general use.
- 1583 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1584 commission shall make rules:
- 1585 (i) listing the items that constitute "sports or recreational equipment"; and
- 1586 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1587 equipment" under the agreement.
- 1588 [~~(137)~~] (138) "State" means the state of Utah, its departments, and agencies.
- 1589 [~~(138)~~] (139) "Storage" means any keeping or retention of tangible personal property or any
- 1590 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 1591 except sale in the regular course of business.
- 1592 [~~(139)~~] (140)(a) "Tangible personal property" means personal property that:

- 1593 (i) may be:
- 1594 (A) seen;
- 1595 (B) weighed;
- 1596 (C) measured;
- 1597 (D) felt; or
- 1598 (E) touched; or
- 1599 (ii) is in any manner perceptible to the senses.
- 1600 (b) "Tangible personal property" includes:
- 1601 (i) electricity;
- 1602 (ii) water;
- 1603 (iii) gas;
- 1604 (iv) steam; or
- 1605 (v) prewritten computer software, regardless of the manner in which the prewritten
- 1606 computer software is transferred.
- 1607 (c) "Tangible personal property" includes the following regardless of whether the item is
- 1608 attached to real property:
- 1609 (i) a dishwasher;
- 1610 (ii) a dryer;
- 1611 (iii) a freezer;
- 1612 (iv) a microwave;
- 1613 (v) a refrigerator;
- 1614 (vi) a stove;
- 1615 (vii) a washer; or
- 1616 (viii) an item similar to Subsections [~~(139)(e)(i)~~] (140)(c)(i) through (vii) as
- 1617 determined by the commission by rule made in accordance with Title 63G,
- 1618 Chapter 3, Utah Administrative Rulemaking Act.
- 1619 (d) "Tangible personal property" does not include a product that is transferred
- 1620 electronically.
- 1621 (e) "Tangible personal property" does not include the following if attached to real
- 1622 property, regardless of whether the attachment to real property is only through a line
- 1623 that supplies water, electricity, gas, telephone, cable, or supplies a similar item as
- 1624 determined by the commission by rule made in accordance with Title 63G, Chapter 3,
- 1625 Utah Administrative Rulemaking Act:
- 1626 (i) a hot water heater;

1627 (ii) a water filtration system; or

1628 (iii) a water softener system.

1629 ~~[(140)]~~ (141)(a) "Telecommunications enabling or facilitating equipment, machinery, or  
1630 software" means an item listed in Subsection~~[-(140)(b)]~~ (141)(b) if that item is  
1631 purchased or leased primarily to enable or facilitate one or more of the following to  
1632 function:

1633 (i) telecommunications switching or routing equipment, machinery, or software; or

1634 (ii) telecommunications transmission equipment, machinery, or software.

1635 (b) The following apply to Subsection ~~[(140)(a)]~~ (141)(a):

1636 (i) a pole;

1637 (ii) software;

1638 (iii) a supplementary power supply;

1639 (iv) temperature or environmental equipment or machinery;

1640 (v) test equipment;

1641 (vi) a tower; or

1642 (vii) equipment, machinery, or software that functions similarly to an item listed in  
1643 Subsections ~~[(140)(b)(i)]~~ (141)(b)(i) through (vi) as determined by the commission  
1644 by rule made in accordance with Subsection ~~[(140)(e)]~~ (141)(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 ~~[(140)(b)(i)]~~ (141)(b)(i)  
1648 through (vi).

1649 ~~[(141)]~~ (142) "Telecommunications equipment, machinery, or software required for 911  
1650 service" means equipment, machinery, or software that is required to comply with 47  
1651 C.F.R. Sec. 20.18.

1652 ~~[(142)]~~ (143) "Telecommunications maintenance or repair equipment, machinery, or  
1653 software" means equipment, machinery, or software purchased or leased primarily to  
1654 maintain or repair one or more of the following, regardless of whether the equipment,  
1655 machinery, or software is purchased or leased as a spare part or as an upgrade or  
1656 modification to one or more of the following:

1657 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1658 (b) telecommunications switching or routing equipment, machinery, or software; or

1659 (c) telecommunications transmission equipment, machinery, or software.

1660 ~~[(143)]~~ (144)(a) "Telecommunications service" means the electronic conveyance,

- 1661 routing, or transmission of audio, data, video, voice, or any other information or  
1662 signal to a point, or among or between points.
- 1663 (b) "Telecommunications service" includes:
- 1664 (i) an electronic conveyance, routing, or transmission with respect to which a  
1665 computer processing application is used to act:
- 1666 (A) on the code, form, or protocol of the content;  
1667 (B) for the purpose of electronic conveyance, routing, or transmission; and  
1668 (C) regardless of whether the service:
- 1669 (I) is referred to as voice over [~~Internet~~] internet protocol service; or  
1670 (II) is classified by the Federal Communications Commission as enhanced or  
1671 value added;
- 1672 (ii) an 800 service;  
1673 (iii) a 900 service;  
1674 (iv) a fixed wireless service;  
1675 (v) a mobile wireless service;  
1676 (vi) a postpaid calling service;  
1677 (vii) a prepaid calling service;  
1678 (viii) a prepaid wireless calling service; or  
1679 (ix) a private communications service.
- 1680 (c) "Telecommunications service" does not include:
- 1681 (i) advertising, including directory advertising;  
1682 (ii) an ancillary service;  
1683 (iii) a billing and collection service provided to a third party;  
1684 (iv) a data processing and information service if:
- 1685 (A) the data processing and information service allows data to be:  
1686 (I)(Aa) acquired;  
1687 (Bb) generated;  
1688 (Cc) processed;  
1689 (Dd) retrieved; or  
1690 (Ee) stored; and  
1691 (II) delivered by an electronic transmission to a purchaser; and  
1692 (B) the purchaser's primary purpose for the underlying transaction is the processed  
1693 data or information;
- 1694 (v) installation or maintenance of the following on a customer's premises:

- 1695 (A) equipment; or
- 1696 (B) wiring;
- 1697 (vi) [~~Internet~~] internet access service;
- 1698 (vii) a paging service;
- 1699 (viii) a product transferred electronically, including:
- 1700 (A) music;
- 1701 (B) reading material;
- 1702 (C) a ring tone;
- 1703 (D) software; or
- 1704 (E) video;
- 1705 (ix) a radio and television audio and video programming service:
- 1706 (A) regardless of the medium; and
- 1707 (B) including:
- 1708 (I) furnishing conveyance, routing, or transmission of a television audio and
- 1709 video programming service by a programming service provider;
- 1710 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1711 (III) audio and video programming services delivered by a commercial mobile
- 1712 radio service provider as defined in 47 C.F.R. Sec. 20.3;
- 1713 (x) a value-added nonvoice data service; or
- 1714 (xi) tangible personal property.
- 1715 [~~(144)~~] (145)(a) "Telecommunications service provider" means a person that:
- 1716 (i) owns, controls, operates, or manages a telecommunications service; and
- 1717 (ii) engages in an activity described in Subsection [~~(144)(a)(i)~~] (145)(a)(i) for the
- 1718 shared use with or resale to any person of the telecommunications service.
- 1719 (b) A person described in Subsection [~~(144)(a)~~] (145)(a) is a telecommunications service
- 1720 provider whether or not the Public Service Commission of Utah regulates:
- 1721 (i) that person; or
- 1722 (ii) the telecommunications service that the person owns, controls, operates, or
- 1723 manages.
- 1724 [~~(145)~~] (146)(a) "Telecommunications switching or routing equipment, machinery, or
- 1725 software" means an item listed in Subsection [~~(145)(b)~~] (146)(b) if that item is
- 1726 purchased or leased primarily for switching or routing:
- 1727 (i) an ancillary service;
- 1728 (ii) data communications;

- 1729 (iii) voice communications; or
- 1730 (iv) telecommunications service.
- 1731 (b) The following apply to Subsection [~~(145)(a)~~] (146)(a):
- 1732 (i) a bridge;
- 1733 (ii) a computer;
- 1734 (iii) a cross connect;
- 1735 (iv) a modem;
- 1736 (v) a multiplexer;
- 1737 (vi) plug in circuitry;
- 1738 (vii) a router;
- 1739 (viii) software;
- 1740 (ix) a switch; or
- 1741 (x) equipment, machinery, or software that functions similarly to an item listed in
- 1742 Subsections [~~(145)(b)(i)~~] (146)(b)(i) through (ix) as determined by the commission
- 1743 by rule made in accordance with Subsection [~~(145)(e)~~] (146)(c).
- 1744 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1745 commission may by rule define what constitutes equipment, machinery, or software
- 1746 that functions similarly to an item listed in Subsections [~~(145)(b)(i)~~] (146)(b)(i)
- 1747 through (ix).
- 1748 [~~(146)~~] (147)(a) "Telecommunications transmission equipment, machinery, or software"
- 1749 means an item listed in Subsection [~~(146)(b)~~] (147)(b) if that item is purchased or
- 1750 leased primarily for sending, receiving, or transporting:
- 1751 (i) an ancillary service;
- 1752 (ii) data communications;
- 1753 (iii) voice communications; or
- 1754 (iv) telecommunications service.
- 1755 (b) The following apply to Subsection [~~(146)(a)~~] (147)(a):
- 1756 (i) an amplifier;
- 1757 (ii) a cable;
- 1758 (iii) a closure;
- 1759 (iv) a conduit;
- 1760 (v) a controller;
- 1761 (vi) a duplexer;
- 1762 (vii) a filter;

- 1763 (viii) an input device;
- 1764 (ix) an input/output device;
- 1765 (x) an insulator;
- 1766 (xi) microwave machinery or equipment;
- 1767 (xii) an oscillator;
- 1768 (xiii) an output device;
- 1769 (xiv) a pedestal;
- 1770 (xv) a power converter;
- 1771 (xvi) a power supply;
- 1772 (xvii) a radio channel;
- 1773 (xviii) a radio receiver;
- 1774 (xix) a radio transmitter;
- 1775 (xx) a repeater;
- 1776 (xxi) software;
- 1777 (xxii) a terminal;
- 1778 (xxiii) a timing unit;
- 1779 (xxiv) a transformer;
- 1780 (xxv) a wire; or
- 1781 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1782 Subsections [~~(146)(b)(i)~~] (147)(b)(i) through (xxv) as the commission determines
- 1783 by rule made in accordance with Subsection [~~(146)(e)~~] (147)(c).
- 1784 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1785 commission may by rule define what constitutes equipment, machinery, or software
- 1786 that functions similarly to an item listed in Subsections [~~(146)(b)(i)~~] (147)(b)(i)
- 1787 through (xxv).
- 1788 [~~(147)~~] (148)(a) "Textbook for a higher education course" means a textbook or other
- 1789 printed material that is required for a course:
- 1790 (i) offered by an institution of higher education; and
- 1791 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1792 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 1793 [~~(148)~~] (149) "Tobacco" means:
- 1794 (a) a cigarette;
- 1795 (b) a cigar;
- 1796 (c) chewing tobacco;

- 1797 (d) pipe tobacco; or
- 1798 (e) any other item that contains tobacco.
- 1799 [(149)] (150) "Unassisted amusement device" means an amusement device, skill device, or
- 1800 ride device that is started and stopped by the purchaser or renter of the right to use or
- 1801 operate the amusement device, skill device, or ride device.
- 1802 [(150)] (151)(a) "Use" means the exercise of any right or power over tangible personal
- 1803 property, a product transferred electronically, or a service under Subsection
- 1804 59-12-103(1), incident to the ownership or the leasing of that tangible personal
- 1805 property, product transferred electronically, or service.
- 1806 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
- 1807 property, a product transferred electronically, or a service in the regular course of
- 1808 business and held for resale.
- 1809 [(151)] (152) "Value-added nonvoice data service" means a service:
- 1810 (a) that otherwise meets the definition of a telecommunications service except that a
- 1811 computer processing application is used to act primarily for a purpose other than
- 1812 conveyance, routing, or transmission; and
- 1813 (b) with respect to which a computer processing application is used to act on data or
- 1814 information:
- 1815 (i) code;
- 1816 (ii) content;
- 1817 (iii) form; or
- 1818 (iv) protocol.
- 1819 [(152)] (153)(a) Subject to Subsection [(152)(b)] (153)(b), "vehicle" means the following
- 1820 that are required to be titled, registered, or titled and registered:
- 1821 (i) an aircraft as defined in Section 72-10-102;
- 1822 (ii) a vehicle as defined in Section 41-1a-102;
- 1823 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1824 (iv) a vessel as defined in Section 41-1a-102.
- 1825 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1826 (i) a vehicle described in Subsection [(152)(a)] (153)(a); or
- 1827 (ii)(A) a locomotive;
- 1828 (B) a freight car;
- 1829 (C) railroad work equipment; or
- 1830 (D) other railroad rolling stock.

1831 ~~[(153)]~~ (154) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
 1832 exchanging a vehicle as defined in Subsection ~~[(152)]~~ (153).

1833 ~~[(154)]~~ (155)(a) "Vertical service" means an ancillary service that:

1834 (i) is offered in connection with one or more telecommunications services; and

1835 (ii) offers an advanced calling feature that allows a customer to:

1836 (A) identify a caller; and

1837 (B) manage multiple calls and call connections.

1838 (b) "Vertical service" includes an ancillary service that allows a customer to manage a  
 1839 conference bridging service.

1840 ~~[(155)]~~ (156)(a) "Voice mail service" means an ancillary service that enables a customer  
 1841 to receive, send, or store a recorded message.

1842 (b) "Voice mail service" does not include a vertical service that a customer is required to  
 1843 have in order to utilize a voice mail service.

1844 ~~[(156)]~~ (157)(a) "Waste energy facility" means a facility that generates electricity:

1845 (i) using as the primary source of energy waste materials that would be placed in a  
 1846 landfill or refuse pit if it were not used to generate electricity, including:

1847 (A) tires;

1848 (B) waste coal;

1849 (C) oil shale; or

1850 (D) municipal solid waste; and

1851 (ii) in amounts greater than actually required for the operation of the facility.

1852 (b) "Waste energy facility" does not include a facility that incinerates:

1853 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1854 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1855 ~~[(157)]~~ (158) "Watercraft" means a vessel as defined in Section 73-18-2.

1856 ~~[(158)]~~ (159) "Wind energy" means wind used as the sole source of energy to produce  
 1857 electricity.

1858 ~~[(159)]~~ (160) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
 1859 location by the United States Postal Service.

1860 Section 5. Section **59-12-104** is amended to read:

1861 **59-12-104 (Effective 07/01/26). Exemptions.**

1862 Exemptions from the taxes imposed by this chapter are as follows:

1863 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax  
 1864 under Chapter 13, Motor and Special Fuel Tax Act;

- 1865 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political  
1866 subdivisions; however, this exemption does not apply to sales of:
- 1867 (a) construction materials except:
- 1868 (i) construction materials purchased by or on behalf of institutions of the public  
1869 education system as defined in Utah Constitution, Article X, Section 2, provided  
1870 the construction materials are clearly identified and segregated and installed or  
1871 converted to real property which is owned by institutions of the public education  
1872 system; and
- 1873 (ii) construction materials purchased by the state, its institutions, or its political  
1874 subdivisions which are installed or converted to real property by employees of the  
1875 state, its institutions, or its political subdivisions; or
- 1876 (b) tangible personal property in connection with the construction, operation,  
1877 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or  
1878 facilities providing additional project capacity, as defined in Section 11-13-103;
- 1879 (3)(a) sales of an item described in Subsection (3)(b) from a vending machine if:
- 1880 (i) the proceeds of each sale do not exceed \$1; and  
1881 (ii) the seller or operator of the vending machine reports an amount equal to 150% of  
1882 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 1883 (b) Subsection (3)(a) applies to:
- 1884 (i) food and food ingredients; or  
1885 (ii) prepared food;
- 1886 (4)(a) sales of the following to a commercial airline carrier for in-flight consumption:
- 1887 (i) alcoholic beverages;  
1888 (ii) food and food ingredients; or  
1889 (iii) prepared food;
- 1890 (b) sales of tangible personal property or a product transferred electronically:
- 1891 (i) to a passenger;  
1892 (ii) by a commercial airline carrier; and  
1893 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 1894 (c) services related to Subsection (4)(a) or (b);
- 1895 (5) sales of parts and equipment for installation in an aircraft operated by a common carrier  
1896 in interstate or foreign commerce;
- 1897 (6) sales of commercials, motion picture films, prerecorded audio program tapes or records,  
1898 and prerecorded video tapes by a producer, distributor, or studio to a motion picture

- 1899 exhibitor, distributor, or commercial television or radio broadcaster;
- 1900 (7)(a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of
- 1901 cleaning or washing of tangible personal property if the cleaning or washing of the
- 1902 tangible personal property is not assisted cleaning or washing of tangible personal
- 1903 property;
- 1904 (b) if a seller that sells at the same business location assisted cleaning or washing of
- 1905 tangible personal property and cleaning or washing of tangible personal property that
- 1906 is not assisted cleaning or washing of tangible personal property, the exemption
- 1907 described in Subsection (7)(a) applies if the seller separately accounts for the sales of
- 1908 the assisted cleaning or washing of the tangible personal property; and
- 1909 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah
- 1910 Administrative Rulemaking Act, the commission may make rules:
- 1911 (i) governing the circumstances under which sales are at the same business location;
- 1912 and
- 1913 (ii) establishing the procedures and requirements for a seller to separately account for
- 1914 sales of assisted cleaning or washing of tangible personal property;
- 1915 (8) sales made to or by religious or charitable institutions in the conduct of their regular
- 1916 religious or charitable functions and activities, if the requirements of Section 59-12-104.1
- 1917 are fulfilled;
- 1918 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this
- 1919 state if:
- 1920 (a) the sale is not from the vehicle's lessor to the vehicle's lessee;
- 1921 (b) the vehicle is not registered in this state; and
- 1922 (c)(i) the vehicle is not used in this state; or
- 1923 (ii) the vehicle is used in this state:
- 1924 (A) if the vehicle is not used to conduct business, for a time period that does not
- 1925 exceed the longer of:
- 1926 (I) 30 days in any calendar year; or
- 1927 (II) the time period necessary to transport the vehicle to the borders of this
- 1928 state; or
- 1929 (B) if the vehicle is used to conduct business, for the time period necessary to
- 1930 transport the vehicle to the borders of this state;
- 1931 (10)(a) amounts paid for an item described in Subsection (10)(b) if:
- 1932 (i) the item is intended for human use; and

- 1933 (ii)(A) a prescription was issued for the item; or  
1934 (B) the item was purchased by a hospital or other medical facility; and  
1935 (b)(i) Subsection (10)(a) applies to:  
1936 (A) a drug;  
1937 (B) a syringe; or  
1938 (C) a stoma supply; and  
1939 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1940 the commission may by rule define the terms:  
1941 (A) "syringe"; or  
1942 (B) "stoma supply";  
1943 (11) purchases or leases exempt under Section 19-12-201;  
1944 (12)(a) sales of an item described in Subsection (12)(c) served by:  
1945 (i) the following if the item described in Subsection (12)(c) is not available to the  
1946 general public:  
1947 (A) a church; or  
1948 (B) a charitable institution; or  
1949 (ii) an institution of higher education if:  
1950 (A) the item described in Subsection (12)(c) is not available to the general public;  
1951 or  
1952 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal  
1953 plan offered by the institution of higher education;  
1954 (b) sales of an item described in Subsection (12)(c) provided for a patient by:  
1955 (i) a medical facility; or  
1956 (ii) a nursing facility; and  
1957 (c) Subsections (12)(a) and (b) apply to:  
1958 (i) food and food ingredients;  
1959 (ii) prepared food; or  
1960 (iii) alcoholic beverages;  
1961 (13)(a) except as provided in Subsection (13)(b), the sale of tangible personal property  
1962 or a product transferred electronically by a person:  
1963 (i) regardless of the number of transactions involving the sale of that tangible  
1964 personal property or product transferred electronically by that person; and  
1965 (ii) not regularly engaged in the business of selling that type of tangible personal  
1966 property or product transferred electronically;

- 1967 (b) this Subsection (13) does not apply if:
- 1968 (i) the sale is one of a series of sales of a character to indicate that the person is
- 1969 regularly engaged in the business of selling that type of tangible personal property
- 1970 or product transferred electronically;
- 1971 (ii) the person holds that person out as regularly engaged in the business of selling
- 1972 that type of tangible personal property or product transferred electronically;
- 1973 (iii) the person sells an item of tangible personal property or product transferred
- 1974 electronically that the person purchased as a sale that is exempt under Subsection
- 1975 (25); or
- 1976 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws
- 1977 of this state in which case the tax is based upon:
- 1978 (A) the bill of sale, lease agreement, or other written evidence of value of the
- 1979 vehicle or vessel being sold; or
- 1980 (B) in the absence of a bill of sale, lease agreement, or other written evidence of
- 1981 value, the fair market value of the vehicle or vessel being sold at the time of the
- 1982 sale as determined by the commission; and
- 1983 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1984 commission shall make rules establishing the circumstances under which:
- 1985 (i) a person is regularly engaged in the business of selling a type of tangible personal
- 1986 property or product transferred electronically;
- 1987 (ii) a sale of tangible personal property or a product transferred electronically is one
- 1988 of a series of sales of a character to indicate that a person is regularly engaged in
- 1989 the business of selling that type of tangible personal property or product
- 1990 transferred electronically; or
- 1991 (iii) a person holds that person out as regularly engaged in the business of selling a
- 1992 type of tangible personal property or product transferred electronically;
- 1993 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal
- 1994 operating repair or replacement parts, or materials, except for office equipment or office
- 1995 supplies, by:
- 1996 (a) a manufacturing facility that:
- 1997 (i) is located in the state; and
- 1998 (ii) uses or consumes the machinery, equipment, normal operating repair or
- 1999 replacement parts, or materials:
- 2000 (A) in the manufacturing process to manufacture an item sold as tangible personal

- 2001 property, as the commission may define that phrase in accordance with Title  
 2002 63G, Chapter 3, Utah Administrative Rulemaking Act; or
- 2003 (B) for a scrap recycler, to process an item sold as tangible personal property, as  
 2004 the commission may define that phrase in accordance with Title 63G, Chapter 3,  
 2005 Utah Administrative Rulemaking Act;
- 2006 (b) an establishment, as the commission defines that term in accordance with Title 63G,  
 2007 Chapter 3, Utah Administrative Rulemaking Act, that:
- 2008 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS  
 2009 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for  
 2010 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except  
 2011 Fuels) Mining, of the 2002 North American Industry Classification System of the  
 2012 federal Executive Office of the President, Office of Management and Budget;
- 2013 (ii) is located in the state; and
- 2014 (iii) uses or consumes the machinery, equipment, normal operating repair or  
 2015 replacement parts, or materials in:
- 2016 (A) the production process to produce an item sold as tangible personal property,  
 2017 as the commission may define that phrase in accordance with Title 63G,  
 2018 Chapter 3, Utah Administrative Rulemaking Act;
- 2019 (B) research and development, as the commission may define that phrase in  
 2020 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 2021 (C) transporting, storing, or managing tailings, overburden, or similar waste  
 2022 materials produced from mining;
- 2023 (D) developing or maintaining a road, tunnel, excavation, or similar feature used  
 2024 in mining; or
- 2025 (E) preventing, controlling, or reducing dust or other pollutants from mining; or
- 2026 (c) an establishment, as the commission defines that term in accordance with Title 63G,  
 2027 Chapter 3, Utah Administrative Rulemaking Act, that:
- 2028 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North  
 2029 American Industry Classification System of the federal Executive Office of the  
 2030 President, Office of Management and Budget;
- 2031 (ii) is located in the state; and
- 2032 (iii) uses or consumes the machinery, equipment, normal operating repair or  
 2033 replacement parts, or materials in the operation of the web search portal;
- 2034 (15)(a) sales of the following if the requirements of Subsection (15)(b) are met:

- 2035 (i) tooling;
- 2036 (ii) special tooling;
- 2037 (iii) support equipment;
- 2038 (iv) special test equipment; or
- 2039 (v) parts used in the repairs or renovations of tooling or equipment described in
- 2040 Subsections (15)(a)(i) through (iv); and
- 2041 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
- 2042 (i) the tooling, equipment, or parts are used or consumed exclusively in the
- 2043 performance of any aerospace or electronics industry contract with the United
- 2044 States government or any subcontract under that contract; and
- 2045 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
- 2046 title to the tooling, equipment, or parts is vested in the United States government
- 2047 as evidenced by:
- 2048 (A) a government identification tag placed on the tooling, equipment, or parts; or
- 2049 (B) listing on a government-approved property record if placing a government
- 2050 identification tag on the tooling, equipment, or parts is impractical;
- 2051 (16) sales of newspapers or newspaper subscriptions;
- 2052 (17)(a) except as provided in Subsection (17)(b), tangible personal property or a product
- 2053 transferred electronically traded in as full or part payment of the purchase price,
- 2054 except that for purposes of calculating sales or use tax upon vehicles not sold by a
- 2055 vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:
- 2056 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
- 2057 vehicle being traded in; or
- 2058 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
- 2059 fair market value of the vehicle being sold and the vehicle being traded in, as
- 2060 determined by the commission; and
- 2061 (b) Subsection (17)(a) does not apply to the following items of tangible personal
- 2062 property or products transferred electronically traded in as full or part payment of the
- 2063 purchase price:
- 2064 (i) money;
- 2065 (ii) electricity;
- 2066 (iii) water;
- 2067 (iv) gas; or
- 2068 (v) steam;

- 2069 (18)(a)(i) except as provided in Subsection (18)(b), sales of tangible personal  
2070 property or a product transferred electronically used or consumed primarily and  
2071 directly in farming operations, regardless of whether the tangible personal  
2072 property or product transferred electronically:
- 2073 (A) becomes part of real estate; or
  - 2074 (B) is installed by a farmer, contractor, or subcontractor; or
- 2075 (ii) sales of parts used in the repairs or renovations of tangible personal property or a  
2076 product transferred electronically if the tangible personal property or product  
2077 transferred electronically is exempt under Subsection (18)(a)(i); and
- 2078 (b) amounts paid or charged for the following are subject to the taxes imposed by this  
2079 chapter:
- 2080 (i)(A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or  
2081 supplies if used in a manner that is incidental to farming; and
  - 2082 (B) tangible personal property that is considered to be used in a manner that is  
2083 incidental to farming includes:
    - 2084 (I) hand tools; or
    - 2085 (II) maintenance and janitorial equipment and supplies;
  - 2086 (ii)(A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product  
2087 transferred electronically if the tangible personal property or product  
2088 transferred electronically is used in an activity other than farming; and
  - 2089 (B) tangible personal property or a product transferred electronically that is  
2090 considered to be used in an activity other than farming includes:
    - 2091 (I) office equipment and supplies; or
    - 2092 (II) equipment and supplies used in:
      - 2093 (Aa) the sale or distribution of farm products;
      - 2094 (Bb) research; or
      - 2095 (Cc) transportation; or
    - 2096 (iii) a vehicle required to be registered by the laws of this state during the period  
2097 ending two years after the date of the vehicle's purchase;
- 2098 (19) sales of hay;
- 2099 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden,  
2100 farm, or other agricultural produce if the seasonal crops are, seedling plants are, or  
2101 garden, farm, or other agricultural produce is sold by:
- 2102 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other

- 2103 agricultural produce;
- 2104 (b) an employee of the producer described in Subsection (20)(a); or
- 2105 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 2106 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under
- 2107 the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 2108 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
- 2109 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
- 2110 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
- 2111 manufacturer, processor, wholesaler, or retailer;
- 2112 (23) a product stored in the state for resale;
- 2113 (24)(a) purchases of a product if:
- 2114 (i) the product is:
- 2115 (A) purchased outside of this state;
- 2116 (B) brought into this state:
- 2117 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- 2118 (II) by a nonresident person who is not living or working in this state at the
- 2119 time of the purchase;
- 2120 (C) used for the personal use or enjoyment of the nonresident person described in
- 2121 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state;
- 2122 and
- 2123 (D) not used in conducting business in this state; and
- 2124 (ii) for:
- 2125 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use
- 2126 of the product for a purpose for which the product is designed occurs outside of
- 2127 this state;
- 2128 (B) a boat, the boat is registered outside of this state; or
- 2129 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is
- 2130 registered outside of this state;
- 2131 (b) the exemption provided for in Subsection (24)(a) does not apply to:
- 2132 (i) a lease or rental of a product; or
- 2133 (ii) a sale of a vehicle exempt under Subsection (33); and
- 2134 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 2135 purposes of Subsection (24)(a), the commission may by rule define what constitutes
- 2136 the following:

- 2137 (i) conducting business in this state if that phrase has the same meaning in this  
2138 Subsection (24) as in Subsection (63);
- 2139 (ii) the first use of a product if that phrase has the same meaning in this Subsection  
2140 (24) as in Subsection (63); or
- 2141 (iii) a purpose for which a product is designed if that phrase has the same meaning in  
2142 this Subsection (24) as in Subsection (63);
- 2143 (25) a product purchased for resale in the regular course of business, either in the product's  
2144 original form or as an ingredient or component part of a manufactured or compounded  
2145 product;
- 2146 (26) a product upon which a sales or use tax was paid to some other state, or one of another  
2147 state's subdivisions, except that the state shall be paid any difference between the tax  
2148 paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no  
2149 adjustment is allowed if the tax paid was greater than the tax imposed by this part and  
2150 Part 2, Local Sales and Use Tax Act;
- 2151 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person  
2152 for use in compounding a service taxable under the subsections;
- 2153 (28) purchases made in accordance with the special supplemental nutrition program for  
2154 women, infants, and children established in 42 U.S.C. Sec. 1786;
- 2155 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement  
2156 parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of  
2157 the 1987 Standard Industrial Classification Manual of the federal Executive Office of the  
2158 President, Office of Management and Budget;
- 2159 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State  
2160 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard  
2161 motor is:
- 2162 (a) not registered in this state; and
- 2163 (b)(i) not used in this state; or
- 2164 (ii) used in this state:
- 2165 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for  
2166 a time period that does not exceed the longer of:
- 2167 (I) 30 days in any calendar year; or
- 2168 (II) the time period necessary to transport the boat, boat trailer, or outboard  
2169 motor to the borders of this state; or
- 2170 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the

- 2171 time period necessary to transport the boat, boat trailer, or outboard motor to  
2172 the borders of this state;
- 2173 (31) sales of aircraft manufactured in Utah;
- 2174 (32) amounts paid for the purchase of telecommunications service for purposes of  
2175 providing telecommunications service;
- 2176 (33) sales, leases, or uses of the following:
- 2177 (a) a vehicle by an authorized carrier; or
- 2178 (b) tangible personal property that is installed on a vehicle:
- 2179 (i) sold or leased to or used by an authorized carrier; and
- 2180 (ii) before the vehicle is placed in service for the first time;
- 2181 (34)(a) 45% of the sales price of any new manufactured home; and
- 2182 (b) 100% of the sales price of any used manufactured home;
- 2183 (35) sales relating to schools and fundraising sales;
- 2184 (36) sales or rentals of durable medical equipment if:
- 2185 (a) a person presents a prescription for the durable medical equipment; and
- 2186 (b) the durable medical equipment is used for home use only;
- 2187 (37)(a) sales to a ski resort of electricity to operate a passenger ropeway as defined in  
2188 Section 72-11-102; and
- 2189 (b) the commission shall by rule determine the method for calculating sales exempt  
2190 under Subsection (37)(a) that are not separately metered and accounted for in utility  
2191 billings;
- 2192 (38) sales to a ski resort of:
- 2193 (a) snowmaking equipment;
- 2194 (b) ski slope grooming equipment;
- 2195 (c) passenger ropeways as defined in Section 72-11-102; or
- 2196 (d) parts used in the repairs or renovations of equipment or passenger ropeways  
2197 described in Subsections (38)(a) through (c);
- 2198 (39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel  
2199 oil, or other fuels for industrial use;
- 2200 (40)(a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for  
2201 amusement, entertainment, or recreation an unassisted amusement device as defined  
2202 in Section 59-12-102;
- 2203 (b) if a seller that sells or rents at the same business location the right to use or operate  
2204 for amusement, entertainment, or recreation one or more unassisted amusement

- 2205 devices and one or more assisted amusement devices, the exemption described in  
2206 Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of  
2207 the right to use or operate for amusement, entertainment, or recreation for the assisted  
2208 amusement devices; and
- 2209 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah  
2210 Administrative Rulemaking Act, the commission may make rules:
- 2211 (i) governing the circumstances under which sales are at the same business location;  
2212 and
- 2213 (ii) establishing the procedures and requirements for a seller to separately account for  
2214 the sales or rentals of the right to use or operate for amusement, entertainment, or  
2215 recreation for assisted amusement devices;
- 2216 (41)(a) sales of photocopies by:
- 2217 (i) a governmental entity; or
- 2218 (ii) an entity within the state system of public education, including:
- 2219 (A) a school; or
- 2220 (B) the State Board of Education; or
- 2221 (b) sales of publications by a governmental entity;
- 2222 (42) amounts paid for admission to an athletic event at an institution of higher education  
2223 that is subject to the provisions of Title IX of the Education Amendments of 1972, 20  
2224 U.S.C. Sec. 1681 et seq.;
- 2225 (43)(a) sales made to or by:
- 2226 (i) an area agency on aging; or
- 2227 (ii) a senior citizen center owned by a county, city, or town; or
- 2228 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 2229 (44) sales or leases of semiconductor fabricating, processing, research, or development  
2230 materials regardless of whether the semiconductor fabricating, processing, research, or  
2231 development materials:
- 2232 (a) actually come into contact with a semiconductor; or
- 2233 (b) ultimately become incorporated into real property;
- 2234 (45) an amount paid by or charged to a purchaser for accommodations and services  
2235 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under  
2236 Section 59-12-104.2;
- 2237 (46) the lease or use of a vehicle issued a temporary sports event registration certificate in  
2238 accordance with Section 41-3-306 for the event period specified on the temporary sports

- 2239 event registration certificate;
- 2240 (47)(a) sales or uses of electricity, if the sales or uses are made under a retail tariff
- 2241 adopted by the Public Service Commission only for purchase of electricity produced
- 2242 from a new alternative energy source built after January 1, 2016, as designated in the
- 2243 tariff by the Public Service Commission; and
- 2244 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
- 2245 only to the portion of the tariff rate a customer pays under the tariff described in
- 2246 Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection
- 2247 (47)(a) that the customer would have paid absent the tariff;
- 2248 (48) sales or rentals of mobility enhancing equipment if a person presents a prescription for
- 2249 the mobility enhancing equipment;
- 2250 (49) sales of water in a:
- 2251 (a) pipe;
- 2252 (b) conduit;
- 2253 (c) ditch; or
- 2254 (d) reservoir;
- 2255 (50) sales of currency or coins that constitute legal tender of a state, the United States, or a
- 2256 foreign nation;
- 2257 (51)(a) sales of an item described in Subsection (51)(b) if the item:
- 2258 (i) does not constitute legal tender of a state, the United States, or a foreign nation;
- 2259 and
- 2260 (ii) has a gold, silver, or platinum content of 50% or more; and
- 2261 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 2262 (i) ingot;
- 2263 (ii) bar;
- 2264 (iii) medallion; or
- 2265 (iv) decorative coin;
- 2266 (52) amounts paid on a sale-leaseback transaction;
- 2267 (53) sales of a prosthetic device:
- 2268 (a) for use on or in a human; and
- 2269 (b)(i) for which a prescription is required; or
- 2270 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 2271 (54)(a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 2272 machinery or equipment by an establishment described in Subsection (54)(c) if the

- 2273 machinery or equipment is primarily used in the production or postproduction of the  
 2274 following media for commercial distribution:
- 2275 (i) a motion picture;
  - 2276 (ii) a television program;
  - 2277 (iii) a movie made for television;
  - 2278 (iv) a music video;
  - 2279 (v) a commercial;
  - 2280 (vi) a documentary; or
  - 2281 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the  
 2282 commission by administrative rule made in accordance with Subsection (54)(d);
- 2283 (b) purchases, leases, or rentals of machinery or equipment by an establishment  
 2284 described in Subsection (54)(c) that is used for the production or postproduction of  
 2285 the following are subject to the taxes imposed by this chapter:
- 2286 (i) a live musical performance;
  - 2287 (ii) a live news program; or
  - 2288 (iii) a live sporting event;
- 2289 (c) the following establishments listed in the 1997 North American Industry  
 2290 Classification System of the federal Executive Office of the President, Office of  
 2291 Management and Budget, apply to Subsections (54)(a) and (b):
- 2292 (i) NAICS Code 512110; or
  - 2293 (ii) NAICS Code 51219; and
- 2294 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 2295 commission may by rule:
- 2296 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);  
 2297 or
  - 2298 (ii) define:
    - 2299 (A) "commercial distribution";
    - 2300 (B) "live musical performance";
    - 2301 (C) "live news program"; or
    - 2302 (D) "live sporting event";
- 2303 (55)(a) leases of seven or more years or purchases made on or after July 1, 2004, but on  
 2304 or before June 30, 2027, of tangible personal property that:
- 2305 (i) is leased or purchased for or by a facility that:
    - 2306 (A) is an alternative energy electricity production facility;

- 2307 (B) is located in the state; and
- 2308 (C)(I) becomes operational on or after July 1, 2004; or
- 2309 (II) has its generation capacity increased by one or more megawatts on or after
- 2310 July 1, 2004, as a result of the use of the tangible personal property;
- 2311 (ii) has an economic life of five or more years; and
- 2312 (iii) is used to make the facility or the increase in capacity of the facility described in
- 2313 Subsection (55)(a)(i) operational up to the point of interconnection with an
- 2314 existing transmission grid including:
- 2315 (A) a wind turbine;
- 2316 (B) generating equipment;
- 2317 (C) a control and monitoring system;
- 2318 (D) a power line;
- 2319 (E) substation equipment;
- 2320 (F) lighting;
- 2321 (G) fencing;
- 2322 (H) pipes; or
- 2323 (I) other equipment used for locating a power line or pole; and
- 2324 (b) this Subsection (55) does not apply to:
- 2325 (i) tangible personal property used in construction of:
- 2326 (A) a new alternative energy electricity production facility; or
- 2327 (B) the increase in the capacity of an alternative energy electricity production
- 2328 facility;
- 2329 (ii) contracted services required for construction and routine maintenance activities;
- 2330 and
- 2331 (iii) unless the tangible personal property is used or acquired for an increase in
- 2332 capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal
- 2333 property used or acquired after:
- 2334 (A) the alternative energy electricity production facility described in Subsection
- 2335 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
- 2336 (B) the increased capacity described in Subsection (55)(a)(i) is operational as
- 2337 described in Subsection (55)(a)(iii);
- 2338 (56)(a) leases of seven or more years or purchases made on or after July 1, 2004, but on
- 2339 or before June 30, 2027, of tangible personal property that:
- 2340 (i) is leased or purchased for or by a facility that:

- 2341 (A) is a waste energy production facility;
- 2342 (B) is located in the state; and
- 2343 (C)(I) becomes operational on or after July 1, 2004; or
- 2344 (II) has its generation capacity increased by one or more megawatts on or after
- 2345 July 1, 2004, as a result of the use of the tangible personal property;
- 2346 (ii) has an economic life of five or more years; and
- 2347 (iii) is used to make the facility or the increase in capacity of the facility described in
- 2348 Subsection (56)(a)(i) operational up to the point of interconnection with an
- 2349 existing transmission grid including:
- 2350 (A) generating equipment;
- 2351 (B) a control and monitoring system;
- 2352 (C) a power line;
- 2353 (D) substation equipment;
- 2354 (E) lighting;
- 2355 (F) fencing;
- 2356 (G) pipes; or
- 2357 (H) other equipment used for locating a power line or pole; and
- 2358 (b) this Subsection (56) does not apply to:
- 2359 (i) tangible personal property used in construction of:
- 2360 (A) a new waste energy facility; or
- 2361 (B) the increase in the capacity of a waste energy facility;
- 2362 (ii) contracted services required for construction and routine maintenance activities;
- 2363 and
- 2364 (iii) unless the tangible personal property is used or acquired for an increase in
- 2365 capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used
- 2366 or acquired after:
- 2367 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
- 2368 described in Subsection (56)(a)(iii); or
- 2369 (B) the increased capacity described in Subsection (56)(a)(i) is operational as
- 2370 described in Subsection (56)(a)(iii);
- 2371 (57)(a) leases of five or more years or purchases made on or after July 1, 2004, but on or
- 2372 before June 30, 2027, of tangible personal property that:
- 2373 (i) is leased or purchased for or by a facility that:
- 2374 (A) is located in the state;

- 2375 (B) produces fuel from alternative energy, including:
- 2376 (I) methanol; or
- 2377 (II) ethanol; and
- 2378 (C)(I) becomes operational on or after July 1, 2004; or
- 2379 (II) has its capacity to produce fuel increase by 25% or more on or after July 1,
- 2380 2004, as a result of the installation of the tangible personal property;
- 2381 (ii) has an economic life of five or more years; and
- 2382 (iii) is installed on the facility described in Subsection (57)(a)(i);
- 2383 (b) this Subsection (57) does not apply to:
- 2384 (i) tangible personal property used in construction of:
- 2385 (A) a new facility described in Subsection (57)(a)(i); or
- 2386 (B) the increase in capacity of the facility described in Subsection (57)(a)(i);
- 2387 (ii) contracted services required for construction and routine maintenance activities;
- 2388 and
- 2389 (iii) unless the tangible personal property is used or acquired for an increase in
- 2390 capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used
- 2391 or acquired after:
- 2392 (A) the facility described in Subsection (57)(a)(i) is operational; or
- 2393 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
- 2394 (58)(a) subject to Subsection (58)(b), sales of tangible personal property or a product
- 2395 transferred electronically to a person within this state if that tangible personal
- 2396 property or product transferred electronically is subsequently shipped outside the
- 2397 state and incorporated pursuant to contract into and becomes a part of real property
- 2398 located outside of this state; and
- 2399 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
- 2400 state or political entity to which the tangible personal property is shipped imposes a
- 2401 sales, use, gross receipts, or other similar transaction excise tax on the transaction
- 2402 against which the other state or political entity allows a credit for sales and use taxes
- 2403 imposed by this chapter;
- 2404 (59) purchases:
- 2405 (a) of one or more of the following items in printed or electronic format:
- 2406 (i) a list containing information that includes one or more:
- 2407 (A) names; or
- 2408 (B) addresses; or

- 2409 (ii) a database containing information that includes one or more:
- 2410 (A) names; or
- 2411 (B) addresses; and
- 2412 (b) used to send direct mail;
- 2413 (60) redemptions or repurchases of a product by a person if that product was:
- 2414 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 2415 (b) redeemed or repurchased within the time period established in a written agreement
- 2416 between the person and the pawnbroker for redeeming or repurchasing the product;
- 2417 (61)(a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 2418 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 2419 and
- 2420 (ii) has a useful economic life of one or more years; and
- 2421 (b) the following apply to Subsection (61)(a):
- 2422 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 2423 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 2424 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 2425 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 2426 (v) telecommunications transmission equipment, machinery, or software;
- 2427 (62)(a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
- 2428 personal property or a product transferred electronically that are used in the research
- 2429 and development of alternative energy technology; and
- 2430 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2431 commission may, for purposes of Subsection (62)(a), make rules defining what
- 2432 constitutes purchases of tangible personal property or a product transferred
- 2433 electronically that are used in the research and development of alternative energy
- 2434 technology;
- 2435 (63)(a) purchases of tangible personal property or a product transferred electronically if:
- 2436 (i) the tangible personal property or product transferred electronically is:
- 2437 (A) purchased outside of this state;
- 2438 (B) brought into this state at any time after the purchase described in Subsection
- 2439 (63)(a)(i)(A); and
- 2440 (C) used in conducting business in this state; and
- 2441 (ii) for:
- 2442 (A) tangible personal property or a product transferred electronically other than

- 2443 the tangible personal property described in Subsection (63)(a)(ii)(B), the first  
 2444 use of the property for a purpose for which the property is designed occurs  
 2445 outside of this state; or
- 2446 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is  
 2447 registered outside of this state and not required to be registered in this state  
 2448 under Section 41-1a-202 or 73-18-9 based on residency;
- 2449 (b) the exemption provided for in Subsection (63)(a) does not apply to:
- 2450 (i) a lease or rental of tangible personal property or a product transferred  
 2451 electronically; or
- 2452 (ii) a sale of a vehicle exempt under Subsection (33); and
- 2453 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
 2454 purposes of Subsection (63)(a), the commission may by rule define what constitutes  
 2455 the following:
- 2456 (i) conducting business in this state if that phrase has the same meaning in this  
 2457 Subsection (63) as in Subsection (24);
- 2458 (ii) the first use of tangible personal property or a product transferred electronically if  
 2459 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
- 2460 (iii) a purpose for which tangible personal property or a product transferred  
 2461 electronically is designed if that phrase has the same meaning in this Subsection  
 2462 (63) as in Subsection (24);
- 2463 (64) sales of disposable home medical equipment or supplies if:
- 2464 (a) a person presents a prescription for the disposable home medical equipment or  
 2465 supplies;
- 2466 (b) the disposable home medical equipment or supplies are used exclusively by the  
 2467 person to whom the prescription described in Subsection (64)(a) is issued; and
- 2468 (c) the disposable home medical equipment and supplies are listed as eligible for  
 2469 payment under:
- 2470 (i) Title XVIII, federal Social Security Act; or
- 2471 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 2472 (65) sales:
- 2473 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District  
 2474 Act; or
- 2475 (b) of tangible personal property to a subcontractor of a public transit district, if the  
 2476 tangible personal property is:

- 2477 (i) clearly identified; and
- 2478 (ii) installed or converted to real property owned by the public transit district;
- 2479 (66) sales of construction materials:
- 2480 (a) purchased on or after July 1, 2010;
- 2481 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 2482 (i) located within a county of the first class; and
- 2483 (ii) that has a United States customs office on its premises; and
- 2484 (c) if the construction materials are:
- 2485 (i) clearly identified;
- 2486 (ii) segregated; and
- 2487 (iii) installed or converted to real property:
- 2488 (A) owned or operated by the international airport described in Subsection (66)(b);
- 2489 and
- 2490 (B) located at the international airport described in Subsection (66)(b);
- 2491 (67) sales of construction materials:
- 2492 (a) purchased on or after July 1, 2008;
- 2493 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 2494 (i) located within a county of the second or third class, as classified in Section
- 2495 17-60-104; and
- 2496 (ii) that is owned or operated by a city in which an airline as defined in Section
- 2497 59-2-102 is headquartered; and
- 2498 (c) if the construction materials are:
- 2499 (i) clearly identified;
- 2500 (ii) segregated; and
- 2501 (iii) installed or converted to real property:
- 2502 (A) owned or operated by the new airport described in Subsection (67)(b);
- 2503 (B) located at the new airport described in Subsection (67)(b); and
- 2504 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 2505 (68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a common
- 2506 carrier that is a railroad for use in a locomotive engine;
- 2507 (69) purchases and sales described in Section 63H-4-111;
- 2508 (70)(a) sales of tangible personal property to an aircraft maintenance, repair, and
- 2509 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in
- 2510 this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered

- 2511 aircraft's registration lists a state or country other than this state as the location of  
 2512 registry of the fixed wing turbine powered aircraft; or
- 2513 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul  
 2514 provider in connection with the maintenance, repair, overhaul, or refurbishment in  
 2515 this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered  
 2516 aircraft's registration lists a state or country other than this state as the location of  
 2517 registry of the fixed wing turbine powered aircraft;
- 2518 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
- 2519 (a) to a person admitted to an institution of higher education; and
- 2520 (b) by a seller, other than a bookstore owned by an institution of higher education, if  
 2521 51% or more of that seller's sales revenue for the previous calendar quarter are sales  
 2522 of a textbook for a higher education course;
- 2523 (72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5)  
 2524 on a purchaser from a business for which the municipality provides an enhanced level of  
 2525 municipal services;
- 2526 (73) amounts paid or charged for construction materials used in the construction of a new or  
 2527 expanding life science research and development facility in the state, if the construction  
 2528 materials are:
- 2529 (a) clearly identified;
- 2530 (b) segregated; and
- 2531 (c) installed or converted to real property;
- 2532 (74) amounts paid or charged for:
- 2533 (a) a purchase or lease of machinery and equipment that:
- 2534 (i) are used in performing qualified research:
- 2535 (A) as defined in Section 41(d), Internal Revenue Code; and
- 2536 (B) in the state; and
- 2537 (ii) have an economic life of three or more years; and
- 2538 (b) normal operating repair or replacement parts:
- 2539 (i) for the machinery and equipment described in Subsection (74)(a); and
- 2540 (ii) that have an economic life of three or more years;
- 2541 (75) a sale or lease of tangible personal property used in the preparation of prepared food if:
- 2542 (a) for a sale:
- 2543 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 2544 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that

- 2545                    tangible personal property prior to making the sale; or
- 2546            (b) for a lease:
- 2547                    (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 2548                    (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that
- 2549                    tangible personal property prior to making the lease;
- 2550            (76)(a) purchases of machinery or equipment if:
- 2551                    (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 2552                    Gambling, and Recreation Industries, of the 2012 North American Industry
- 2553                    Classification System of the federal Executive Office of the President, Office of
- 2554                    Management and Budget;
- 2555                    (ii) the machinery or equipment:
- 2556                    (A) has an economic life of three or more years; and
- 2557                    (B) is used by one or more persons who pay admission or user fees described in
- 2558                    Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment;
- 2559                    and
- 2560                    (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 2561                    (A) amounts paid or charged as admission or user fees described in Subsection
- 2562                    59-12-103(1)(f); and
- 2563                    (B) subject to taxation under this chapter; and
- 2564            (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2565                    commission may make rules for verifying that 51% of a purchaser's sales revenue for
- 2566                    the previous calendar quarter is:
- 2567                    (i) amounts paid or charged as admission or user fees described in Subsection
- 2568                    59-12-103(1)(f); and
- 2569                    (ii) subject to taxation under this chapter;
- 2570            (77) purchases of a short-term lodging consumable by a business that provides
- 2571                    accommodations and services described in Subsection 59-12-103(1)(i);
- 2572            (78) amounts paid or charged to access a database:
- 2573                    (a) if the primary purpose for accessing the database is to view or retrieve information
- 2574                    from the database; and
- 2575                    (b) not including amounts paid or charged for a:
- 2576                    (i) digital audio work;
- 2577                    (ii) digital audio-visual work; or
- 2578                    (iii) digital book;

- 2579 (79) amounts paid or charged for a purchase or lease made by an electronic financial  
2580 payment service, of:
- 2581 (a) machinery and equipment that:
- 2582 (i) are used in the operation of the electronic financial payment service; and  
2583 (ii) have an economic life of three or more years; and
- 2584 (b) normal operating repair or replacement parts that:
- 2585 (i) are used in the operation of the electronic financial payment service; and  
2586 (ii) have an economic life of three or more years;
- 2587 (80) sales of a fuel cell as defined in Section 54-15-102;
- 2588 (81) amounts paid or charged for a purchase or lease of tangible personal property or a  
2589 product transferred electronically if the tangible personal property or product transferred  
2590 electronically:
- 2591 (a) is stored, used, or consumed in the state; and  
2592 (b) is temporarily brought into the state from another state:
- 2593 (i) during a disaster period as defined in Section 53-2a-1202;  
2594 (ii) by an out-of-state business as defined in Section 53-2a-1202;  
2595 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and  
2596 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- 2597 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined in  
2598 Section 39A-7-102, made [~~pursuant to~~] in accordance with Title 39A, Chapter 7, Morale,  
2599 Welfare, and Recreation Program;
- 2600 (83) amounts paid or charged for a purchase or lease of molten magnesium;
- 2601 (84) amounts paid or charged for a purchase or lease made by a qualifying data center or an  
2602 occupant of a qualifying data center of machinery, equipment, or normal operating  
2603 repair or replacement parts, if the machinery, equipment, or normal operating repair or  
2604 replacement parts:
- 2605 (a) are used in:
- 2606 (i) the operation of the qualifying data center; or  
2607 (ii) the occupant's operations in the qualifying data center; and
- 2608 (b) have an economic life of one or more years;
- 2609 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle  
2610 that includes cleaning or washing of the interior of the vehicle;
- 2611 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal  
2612 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or

- 2613 supplies used or consumed:
- 2614 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined  
2615 in Section 79-6-701 located in the state;
- 2616 (b) if the machinery, equipment, normal operating repair or replacement parts, catalysts,  
2617 chemicals, reagents, solutions, or supplies are used or consumed in:
- 2618 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is  
2619 added to gasoline or diesel fuel;
- 2620 (ii) research and development;
- 2621 (iii) transporting, storing, or managing raw materials, work in process, finished  
2622 products, and waste materials produced from refining gasoline or diesel fuel, or  
2623 adding blendstock to gasoline or diesel fuel;
- 2624 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in  
2625 refining; or
- 2626 (v) preventing, controlling, or reducing pollutants from refining; and
- 2627 (c) if the person holds a valid refiner tax exemption certification as defined in Section  
2628 79-6-701;
- 2629 (87) amounts paid to or charged by a proprietor for accommodations and services, as  
2630 defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations  
2631 tax imposed under Section 63H-1-205;
- 2632 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal  
2633 operating repair or replacement parts, or materials, except for office equipment or office  
2634 supplies, by an establishment, as the commission defines that term in accordance with  
2635 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
- 2636 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North  
2637 American Industry Classification System of the federal Executive Office of the  
2638 President, Office of Management and Budget;
- 2639 (b) is located in this state; and
- 2640 (c) uses the machinery, equipment, normal operating repair or replacement parts, or  
2641 materials in the operation of the establishment;
- 2642 (89) amounts paid or charged for an item exempt under Section 59-12-104.10;
- 2643 (90) sales of a note, leaf, foil, or film, if the item:
- 2644 (a) is used as currency;
- 2645 (b) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 2646 (c) has a gold, silver, or platinum metallic content of 50% or more, exclusive of any

- 2647 transparent polymer holder, coating, or encasement;
- 2648 (91) amounts paid or charged for admission to an indoor skydiving, rock climbing, or  
2649 surfing facility, if a trained instructor:
- 2650 (a) is present with the participant, in person or by video, for the duration of the activity;  
2651 and
- 2652 (b) actively instructs the participant, including providing observation or feedback;
- 2653 (92) amounts paid or charged in connection with the construction, operation, maintenance,  
2654 repair, or replacement of facilities owned by or constructed for:
- 2655 (a) a distribution electrical cooperative, as defined in Section 54-2-1; or  
2656 (b) a wholesale electrical cooperative, as defined in Section 54-2-1;
- 2657 (93) amounts paid by the service provider for tangible personal property, other than  
2658 machinery, equipment, parts, office supplies, electricity, gas, heat, steam, or other fuels,  
2659 that:
- 2660 (a) is consumed in the performance of a service that is subject to tax under Subsection  
2661 59-12-103(1)(b), (f), (g), (h), (i), or (j);
- 2662 (b) has to be consumed for the service provider to provide the service described in  
2663 Subsection (93)(a); and
- 2664 (c) will be consumed in the performance of the service described in Subsection (93)(a),  
2665 to one or more customers, to the point that the tangible personal property disappears  
2666 or cannot be used for any other purpose;
- 2667 (94) sales of rail rolling stock manufactured in Utah;
- 2668 (95) amounts paid or charged for sales of sand, gravel, rock aggregate, cement products, or  
2669 construction materials between establishments, as the commission defines that term in  
2670 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if:
- 2671 (a) the establishments are related directly or indirectly through 100% common  
2672 ownership or control; and
- 2673 (b) each establishment is described in one of the following subsectors of the 2022 North  
2674 American Industry Classification System of the federal Executive Office of the  
2675 President, Office of Management and Budget:
- 2676 (i) NAICS Subsector 237, Heavy and Civil Engineering Construction; or  
2677 (ii) NAICS Subsector 327, Nonmetallic Mineral Product Manufacturing;
- 2678 (96) sales of construction materials used for the construction of a qualified stadium, as  
2679 defined in Section 11-70-101;
- 2680 (97) amounts paid or charged for sales of a cannabinoid product as that term is defined in

- 2681 Section 4-41-102;
- 2682 (98) amounts paid or charged by an operator of a qualifying energy storage manufacturing
- 2683 facility for:
- 2684 (a) a purchase of tangible personal property if the tangible personal property is
- 2685 incorporated into equipment or a device that stores and discharges energy at the
- 2686 qualifying energy storage manufacturing facility; and
- 2687 (b) a purchase or lease of machinery, equipment, or normal operating repair or
- 2688 replacement parts if the machinery, equipment, or normal operating repair or
- 2689 replacement parts are used exclusively in the operation of the qualifying energy
- 2690 storage manufacturing facility;
- 2691 (99) amounts paid or charged for sales of adaptive driving equipment if the adaptive driving
- 2692 equipment is not yet installed in a motor vehicle;
- 2693 (100) amounts paid or charged for sales of adaptive driving equipment if the adaptive
- 2694 driving equipment is installed in a motor vehicle by a previous owner and the
- 2695 requirements of Section 59-12-104.11 are met;[~~and~~]
- 2696 (101) sales of construction materials used for the construction, remodeling, or refurbishing
- 2697 of a major sporting event venue, as defined in Section 63N-3-1701, within an approved
- 2698 major sporting event venue zone[-] ; and
- 2699 (102) sales of food and food ingredients or prepared food by a home cook.

2700 Section 6. **Repealer.**

2701 This bill repeals:

2702 Section **4-5a-101, Title.**

2703 Section 7. **Effective Date.**

2704 (1) Except as provided in Subsection (2), this bill takes effect May 6, 2026.

2705 (2) The actions affecting the following sections take effect on July 1, 2026:

2706 (a) Section 59-12-102 (Effective 07/01/26); and

2707 (b) Section 59-12-104 (Effective 07/01/26).