

Representative Steve Eliason proposes the following substitute bill:

TAX REVISIONS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tim Quinn

Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill modifies the Sales and Use Tax Act by amending provisions relating to the taxation of food and food ingredients and tax rates.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ excludes candy from the definition of food and food ingredients;
- ▶ increases the general state sales and use tax rate;
- ▶ reduces the state sales and use tax rate on food and food ingredients; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-12-102, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422

59-12-103, as last amended by Laws of Utah 2017, Chapters 234, 421, and 422



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

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

59-12-102. Definitions.

As used in this chapter:

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

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

(b) is typically marketed:

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

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

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

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

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

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

Federal Communications Commission.

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

(i) a subscriber purchases;

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

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

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

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

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

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

(A) a product; or

(B) a service.

- 57 (3) (a) "Admission or user fees" includes season passes.
- 58 (b) "Admission or user fees" does not include annual membership dues to private
59 organizations.
- 60 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
61 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
62 Agreement after November 12, 2002.
- 63 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 64 (a) listed under Subsection (6); and
- 65 (b) that are imposed within a local taxing jurisdiction.
- 66 (6) "Agreement sales and use tax" means a tax imposed under:
- 67 (a) Subsection 59-12-103(2)(a)(i)(A);
- 68 (b) Subsection 59-12-103(2)(b)(i);
- 69 (c) Subsection 59-12-103(2)(c)(i);
- 70 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 71 (e) Section 59-12-204;
- 72 (f) Section 59-12-401;
- 73 (g) Section 59-12-402;
- 74 (h) Section 59-12-402.1;
- 75 (i) Section 59-12-703;
- 76 (j) Section 59-12-802;
- 77 (k) Section 59-12-804;
- 78 (l) Section 59-12-1102;
- 79 (m) Section 59-12-1302;
- 80 (n) Section 59-12-1402;
- 81 (o) Section 59-12-1802;
- 82 (p) Section 59-12-2003;
- 83 (q) Section 59-12-2103;
- 84 (r) Section 59-12-2213;
- 85 (s) Section 59-12-2214;
- 86 (t) Section 59-12-2215;
- 87 (u) Section 59-12-2216;

- 88 (v) Section 59-12-2217;
- 89 (w) Section 59-12-2218; or
- 90 (x) Section 59-12-2219.
- 91 (7) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 92 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 93 (a) except for:
- 94 (i) an airline as defined in Section 59-2-102; or
- 95 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 96 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 97 state, of an airline; and
- 98 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 99 whether the business entity performs the following in this state:
- 100 (i) check, diagnose, overhaul, and repair:
- 101 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 102 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 103 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 104 engine;
- 105 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 106 aircraft:
- 107 (A) an inspection;
- 108 (B) a repair, including a structural repair or modification;
- 109 (C) changing landing gear; and
- 110 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 111 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 112 completely apply new paint to the fixed wing turbine powered aircraft; and
- 113 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 114 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 115 authority that certifies the fixed wing turbine powered aircraft.
- 116 (9) "Alcoholic beverage" means a beverage that:
- 117 (a) is suitable for human consumption; and
- 118 (b) contains .5% or more alcohol by volume.

- 119 (10) "Alternative energy" means:
- 120 (a) biomass energy;
- 121 (b) geothermal energy;
- 122 (c) hydroelectric energy;
- 123 (d) solar energy;
- 124 (e) wind energy; or
- 125 (f) energy that is derived from:
- 126 (i) coal-to-liquids;
- 127 (ii) nuclear fuel;
- 128 (iii) oil-impregnated diatomaceous earth;
- 129 (iv) oil sands;
- 130 (v) oil shale;
- 131 (vi) petroleum coke; or
- 132 (vii) waste heat from:
- 133 (A) an industrial facility; or
- 134 (B) a power station in which an electric generator is driven through a process in which
- 135 water is heated, turns into steam, and spins a steam turbine.
- 136 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 137 facility" means a facility that:
- 138 (i) uses alternative energy to produce electricity; and
- 139 (ii) has a production capacity of two megawatts or greater.
- 140 (b) A facility is an alternative energy electricity production facility regardless of
- 141 whether the facility is:
- 142 (i) connected to an electric grid; or
- 143 (ii) located on the premises of an electricity consumer.
- 144 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 145 provision of telecommunications service.
- 146 (b) "Ancillary service" includes:
- 147 (i) a conference bridging service;
- 148 (ii) a detailed communications billing service;
- 149 (iii) directory assistance;

150 (iv) a vertical service; or

151 (v) a voice mail service.

152 (13) "Area agency on aging" means the same as that term is defined in Section
153 [62A-3-101](#).

154 (14) "Assisted amusement device" means an amusement device, skill device, or ride
155 device that is started and stopped by an individual:

156 (a) who is not the purchaser or renter of the right to use or operate the amusement
157 device, skill device, or ride device; and

158 (b) at the direction of the seller of the right to use the amusement device, skill device,
159 or ride device.

160 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
161 washing of tangible personal property if the cleaning or washing labor is primarily performed
162 by an individual:

163 (a) who is not the purchaser of the cleaning or washing of the tangible personal
164 property; and

165 (b) at the direction of the seller of the cleaning or washing of the tangible personal
166 property.

167 (16) "Authorized carrier" means:

168 (a) in the case of vehicles operated over public highways, the holder of credentials
169 indicating that the vehicle is or will be operated pursuant to both the International Registration
170 Plan and the International Fuel Tax Agreement;

171 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
172 certificate or air carrier's operating certificate; or

173 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
174 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
175 stock in more than one state.

176 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
177 following that is used as the primary source of energy to produce fuel or electricity:

178 (i) material from a plant or tree; or

179 (ii) other organic matter that is available on a renewable basis, including:

180 (A) slash and brush from forests and woodlands;

- 181 (B) animal waste;
- 182 (C) waste vegetable oil;
- 183 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
- 184 wastewater residuals, or through the conversion of a waste material through a nonincineration,
- 185 thermal conversion process;
- 186 (E) aquatic plants; and
- 187 (F) agricultural products.
- 188 (b) "Biomass energy" does not include:
- 189 (i) black liquor; or
- 190 (ii) treated woods.
- 191 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 192 property, products, or services if the tangible personal property, products, or services are:
- 193 (i) distinct and identifiable; and
- 194 (ii) sold for one nonitemized price.
- 195 (b) "Bundled transaction" does not include:
- 196 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 197 the basis of the selection by the purchaser of the items of tangible personal property included in
- 198 the transaction;
- 199 (ii) the sale of real property;
- 200 (iii) the sale of services to real property;
- 201 (iv) the retail sale of tangible personal property and a service if:
- 202 (A) the tangible personal property:
- 203 (I) is essential to the use of the service; and
- 204 (II) is provided exclusively in connection with the service; and
- 205 (B) the service is the true object of the transaction;
- 206 (v) the retail sale of two services if:
- 207 (A) one service is provided that is essential to the use or receipt of a second service;
- 208 (B) the first service is provided exclusively in connection with the second service; and
- 209 (C) the second service is the true object of the transaction;
- 210 (vi) a transaction that includes tangible personal property or a product subject to
- 211 taxation under this chapter and tangible personal property or a product that is not subject to

212 taxation under this chapter if the:

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

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

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

219 (A) that retail sale includes:

220 (I) food and food ingredients;

221 (II) a drug;

222 (III) durable medical equipment;

223 (IV) mobility enhancing equipment;

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

225 (VI) a prosthetic device; or

226 (VII) a medical supply; and

227 (B) subject to Subsection (18)(f):

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

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

232 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
233 service that is distinct and identifiable does not include:

234 (A) packaging that:

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

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

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

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

242 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a

243 product, or a service is provided free of charge with the purchase of another item of tangible
244 personal property, a product, or a service if the sales price of the purchased item of tangible
245 personal property, product, or service does not vary depending on the inclusion of the tangible
246 personal property, product, or service provided free of charge.

247 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
248 does not include a price that is separately identified by tangible personal property, product, or
249 service on the following, regardless of whether the following is in paper format or electronic
250 format:

251 (A) a binding sales document; or

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

253 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
254 supporting sales-related document that is available to a purchaser includes:

255 (A) a bill of sale;

256 (B) a contract;

257 (C) an invoice;

258 (D) a lease agreement;

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

260 (F) a price list;

261 (G) a rate card;

262 (H) a receipt; or

263 (I) a service agreement.

264 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
265 property or a product subject to taxation under this chapter is de minimis if:

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

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

270 (ii) For purposes of Subsection (18)(b)(vi), a seller:

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

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

277 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
278 contract to determine if the sales price of tangible personal property or a product is de minimis.

279 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
280 the seller's purchase price and the seller's sales price to determine if tangible personal property
281 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
282 price of that retail sale.

283 (19) (a) "Candy" means a preparation of sugar, honey, or other natural or artificial
284 sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the
285 form of bars, drops, or pieces.

286 (b) "Candy" does not include:

287 (i) any preparation containing flour; and

288 (ii) any preparation requiring refrigeration.

289 ~~[(19)]~~ (20) "Certified automated system" means software certified by the governing
290 board of the agreement that:

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

293 (i) on a transaction; and

294 (ii) in the states that are members of the agreement;

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

297 (c) maintains a record of the transaction described in Subsection ~~[(19)]~~ (20)(a)(i).

298 ~~[(20)]~~ (21) "Certified service provider" means an agent certified:

299 (a) by the governing board of the agreement; and

300 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
301 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
302 own purchases.

303 ~~[(21)]~~ (22) (a) Subject to Subsection ~~[(21)]~~ (22)(b), "clothing" means all human
304 wearing apparel suitable for general use.

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

307 (i) listing the items that constitute "clothing"; and

308 (ii) that are consistent with the list of items that constitute "clothing" under the
309 agreement.

310 [~~(22)~~] (23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic
311 fuel.

312 [~~(23)~~] (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or
313 other fuels that does not constitute industrial use under Subsection [~~(56)~~] (57) or residential use
314 under Subsection [~~(106)~~] (107).

315 [~~(24)~~] (25) (a) "Common carrier" means a person engaged in or transacting the
316 business of transporting passengers, freight, merchandise, or other property for hire within this
317 state.

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

321 (ii) For purposes of Subsection [~~(24)~~] (25)(b)(i), in accordance with Title 63G, Chapter
322 3, Utah Administrative Rulemaking Act, the commission may make rules defining what
323 constitutes a person's place of employment.

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

326 [~~(25)~~] (26) "Component part" includes:

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

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

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

332 (d) feed, seeds, and seedlings.

333 [~~(26)~~] (27) "Computer" means an electronic device that accepts information:

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

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

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

337 [~~(27)~~] (28) "Computer software" means a set of coded instructions designed to cause:

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

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

340 [~~(28)~~] (29) "Computer software maintenance contract" means a contract that obligates a
341 seller of computer software to provide a customer with:

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

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

344 (c) a combination of Subsections [~~(28)~~] (29)(a) and (b).

345 [~~(29)~~] (30) (a) "Conference bridging service" means an ancillary service that links two
346 or more participants of an audio conference call or video conference call.

347 (b) "Conference bridging service" may include providing a telephone number as part of
348 the ancillary service described in Subsection [~~(29)~~] (30)(a).

349 (c) "Conference bridging service" does not include a telecommunications service used
350 to reach the ancillary service described in Subsection [~~(29)~~] (30)(a).

351 [~~(30)~~] (31) "Construction materials" means any tangible personal property that will be
352 converted into real property.

353 [~~(31)~~] (32) "Delivered electronically" means delivered to a purchaser by means other
354 than tangible storage media.

355 [~~(32)~~] (33) (a) "Delivery charge" means a charge:

356 (i) by a seller of:

357 (A) tangible personal property;

358 (B) a product transferred electronically; or

359 (C) services; and

360 (ii) for preparation and delivery of the tangible personal property, product transferred
361 electronically, or services described in Subsection [~~(32)~~] (33)(a)(i) to a location designated by
362 the purchaser.

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

364 (i) transportation;

365 (ii) shipping;

366 (iii) postage;

- 367 (iv) handling;
- 368 (v) crating; or
- 369 (vi) packing.
- 370 ~~[(33)]~~ (34) "Detailed telecommunications billing service" means an ancillary service of
- 371 separately stating information pertaining to individual calls on a customer's billing statement.
- 372 ~~[(34)]~~ (35) "Dietary supplement" means a product, other than tobacco, that:
- 373 (a) is intended to supplement the diet;
- 374 (b) contains one or more of the following dietary ingredients:
- 375 (i) a vitamin;
- 376 (ii) a mineral;
- 377 (iii) an herb or other botanical;
- 378 (iv) an amino acid;
- 379 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 380 dietary intake; or
- 381 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 382 described in Subsections ~~[(34)]~~ (35)(b)(i) through (v);
- 383 (c) (i) except as provided in Subsection ~~[(34)]~~ (35)(c)(ii), is intended for ingestion in:
- 384 (A) tablet form;
- 385 (B) capsule form;
- 386 (C) powder form;
- 387 (D) softgel form;
- 388 (E) gelcap form; or
- 389 (F) liquid form; or
- 390 (ii) if the product is not intended for ingestion in a form described in Subsections ~~[(34)]~~
- 391 ~~(35)~~(c)(i)(A) through (F), is not represented:
- 392 (A) as conventional food; and
- 393 (B) for use as a sole item of:
- 394 (I) a meal; or
- 395 (II) the diet; and
- 396 (d) is required to be labeled as a dietary supplement:
- 397 (i) identifiable by the "Supplemental Facts" box found on the label; and

398 (ii) as required by 21 C.F.R. Sec. 101.36.

399 [~~(35)~~] (36) "Digital audio-visual work" means a series of related images which, when
400 shown in succession, imparts an impression of motion, together with accompanying sounds, if
401 any.

402 [~~(36)~~] (37) (a) "Digital audio work" means a work that results from the fixation of a
403 series of musical, spoken, or other sounds.

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

405 [~~(37)~~] (38) "Digital book" means a work that is generally recognized in the ordinary
406 and usual sense as a book.

407 [~~(38)~~] (39) (a) "Direct mail" means printed material delivered or distributed by United
408 States mail or other delivery service:

409 (i) to:

410 (A) a mass audience; or

411 (B) addressees on a mailing list provided:

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

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

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

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

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

419 [~~(39)~~] (40) "Directory assistance" means an ancillary service of providing:

420 (a) address information; or

421 (b) telephone number information.

422 [~~(40)~~] (41) (a) "Disposable home medical equipment or supplies" means medical
423 equipment or supplies that:

424 (i) cannot withstand repeated use; and

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

426 (A) a health care facility as defined in Section 26-21-2;

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

428 (C) an office of a health care provider described in Subsection [~~(40)~~] (41)(a)(ii)(B); or

429 (D) a person similar to a person described in Subsections [~~(40)~~] (41)(a)(ii)(A) through
430 (C).

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

432 (i) a drug;

433 (ii) durable medical equipment;

434 (iii) a hearing aid;

435 (iv) a hearing aid accessory;

436 (v) mobility enhancing equipment; or

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

438 (A) eyeglasses; or

439 (B) contact lenses.

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

442 [~~(41)~~] (42) "Drilling equipment manufacturer" means a facility:

443 (a) located in the state;

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

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

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

450 [~~(42)~~] (43) (a) "Drug" means a compound, substance, or preparation, or a component of
451 a compound, substance, or preparation that is:

452 (i) recognized in:

453 (A) the official United States Pharmacopoeia;

454 (B) the official Homeopathic Pharmacopoeia of the United States;

455 (C) the official National Formulary; or

456 (D) a supplement to a publication listed in Subsections [~~(42)~~] (43)(a)(i)(A) through
457 (C);

458 (ii) intended for use in the:

459 (A) diagnosis of disease;

- 460 (B) cure of disease;
- 461 (C) mitigation of disease;
- 462 (D) treatment of disease; or
- 463 (E) prevention of disease; or
- 464 (iii) intended to affect:
 - 465 (A) the structure of the body; or
 - 466 (B) any function of the body.
- 467 (b) "Drug" does not include:
 - 468 (i) food and food ingredients;
 - 469 (ii) a dietary supplement;
 - 470 (iii) an alcoholic beverage; or
 - 471 (iv) a prosthetic device.
- 472 ~~[(43)]~~ (44) (a) Except as provided in Subsection ~~[(43)]~~ (44)(c), "durable medical
- 473 equipment" means equipment that:
 - 474 (i) can withstand repeated use;
 - 475 (ii) is primarily and customarily used to serve a medical purpose;
 - 476 (iii) generally is not useful to a person in the absence of illness or injury; and
 - 477 (iv) is not worn in or on the body.
- 478 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 479 equipment described in Subsection ~~[(43)]~~ (44)(a).
- 480 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 481 ~~[(44)]~~ (45) "Electronic" means:
 - 482 (a) relating to technology; and
 - 483 (b) having:
 - 484 (i) electrical capabilities;
 - 485 (ii) digital capabilities;
 - 486 (iii) magnetic capabilities;
 - 487 (iv) wireless capabilities;
 - 488 (v) optical capabilities;
 - 489 (vi) electromagnetic capabilities; or
 - 490 (vii) capabilities similar to Subsections ~~[(44)]~~ (45)(b)(i) through (vi).

- 491 [~~(45)~~] (46) "Electronic financial payment service" means an establishment:
- 492 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 493 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 494 federal Executive Office of the President, Office of Management and Budget; and
- 495 (b) that performs electronic financial payment services.
- 496 [~~(46)~~] (47) "Employee" means the same as that term is defined in Section 59-10-401.
- 497 [~~(47)~~] (48) "Fixed guideway" means a public transit facility that uses and occupies:
- 498 (a) rail for the use of public transit; or
- 499 (b) a separate right-of-way for the use of public transit.
- 500 [~~(48)~~] (49) "Fixed wing turbine powered aircraft" means an aircraft that:
- 501 (a) is powered by turbine engines;
- 502 (b) operates on jet fuel; and
- 503 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 504 [~~(49)~~] (50) "Fixed wireless service" means a telecommunications service that provides
- 505 radio communication between fixed points.
- 506 [~~(50)~~] (51) (a) "Food and food ingredients" means substances:
- 507 (i) regardless of whether the substances are in:
- 508 (A) liquid form;
- 509 (B) concentrated form;
- 510 (C) solid form;
- 511 (D) frozen form;
- 512 (E) dried form; or
- 513 (F) dehydrated form; and
- 514 (ii) that are:
- 515 (A) sold for:
- 516 (I) ingestion by humans; or
- 517 (II) chewing by humans; and
- 518 (B) consumed for the substance's:
- 519 (I) taste; or
- 520 (II) nutritional value.
- 521 (b) "Food and food ingredients" includes an item described in Subsection [~~(91)~~]

522 (92)(b)(iii).

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

524 (i) an alcoholic beverage;

525 (ii) tobacco; ~~[or]~~

526 (iii) prepared food~~[-];~~ or

527 (vi) candy.

528 ~~[(51)]~~ (52) (a) "Fundraising sales" means sales:

529 (i) (A) made by a school; or

530 (B) made by a school student;

531 (ii) that are for the purpose of raising funds for the school to purchase equipment,

532 materials, or provide transportation; and

533 (iii) that are part of an officially sanctioned school activity.

534 (b) For purposes of Subsection ~~[(51)]~~ (52)(a)(iii), "officially sanctioned school activity"
535 means a school activity:

536 (i) that is conducted in accordance with a formal policy adopted by the school or school
537 district governing the authorization and supervision of fundraising activities;

538 (ii) that does not directly or indirectly compensate an individual teacher or other
539 educational personnel by direct payment, commissions, or payment in kind; and

540 (iii) the net or gross revenues from which are deposited in a dedicated account
541 controlled by the school or school district.

542 ~~[(52)]~~ (53) "Geothermal energy" means energy contained in heat that continuously
543 flows outward from the earth that is used as the sole source of energy to produce electricity.

544 ~~[(53)]~~ (54) "Governing board of the agreement" means the governing board of the
545 agreement that is:

546 (a) authorized to administer the agreement; and

547 (b) established in accordance with the agreement.

548 ~~[(54)]~~ (55) (a) For purposes of Subsection [59-12-104\(41\)](#), "governmental entity"
549 means:

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

552 (ii) the judicial branch of the state, including the courts, the Judicial Council, the

553 Office of the Court Administrator, and similar administrative units in the judicial branch;
554 (iii) the legislative branch of the state, including the House of Representatives, the
555 Senate, the Legislative Printing Office, the Office of Legislative Research and General
556 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
557 Analyst;

558 (iv) the National Guard;
559 (v) an independent entity as defined in Section [63E-1-102](#); or
560 (vi) a political subdivision as defined in Section [17B-1-102](#).

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

563 (i) a school;
564 (ii) the State Board of Education;
565 (iii) the State Board of Regents; or
566 (iv) an institution of higher education described in Section [53B-1-102](#).

567 ~~[(55)]~~ [\(56\)](#) "Hydroelectric energy" means water used as the sole source of energy to
568 produce electricity.

569 ~~[(56)]~~ [\(57\)](#) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
570 or other fuels:

571 (a) in mining or extraction of minerals;
572 (b) in agricultural operations to produce an agricultural product up to the time of
573 harvest or placing the agricultural product into a storage facility, including:

574 (i) commercial greenhouses;
575 (ii) irrigation pumps;
576 (iii) farm machinery;
577 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered
578 under Title 41, Chapter 1a, Part 2, Registration; and
579 (v) other farming activities;

580 (c) in manufacturing tangible personal property at an establishment described in SIC
581 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
582 Executive Office of the President, Office of Management and Budget;
583 (d) by a scrap recycler if:

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

- 587 (A) iron;
- 588 (B) steel;
- 589 (C) nonferrous metal;
- 590 (D) paper;
- 591 (E) glass;
- 592 (F) plastic;
- 593 (G) textile; or
- 594 (H) rubber; and

595 (ii) the new products under Subsection [~~(56)~~] (57)(d)(i) would otherwise be made with
596 nonrecycled materials; or

597 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
598 cogeneration facility as defined in Section 54-2-1.

599 [~~(57)~~] (58) (a) Except as provided in Subsection [~~(57)~~] (58)(b), "installation charge"
600 means a charge for installing:

- 601 (i) tangible personal property; or
- 602 (ii) a product transferred electronically.
- 603 (b) "Installation charge" does not include a charge for:
 - 604 (i) repairs or renovations of:
 - 605 (A) tangible personal property; or
 - 606 (B) a product transferred electronically; or
 - 607 (ii) attaching tangible personal property or a product transferred electronically:
 - 608 (A) to other tangible personal property; and
 - 609 (B) as part of a manufacturing or fabrication process.

610 [~~(58)~~] (59) "Institution of higher education" means an institution of higher education
611 listed in Section 53B-2-101.

612 [~~(59)~~] (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible
613 personal property or a product transferred electronically for:

- 614 (i) (A) a fixed term; or

- 615 (B) an indeterminate term; and
616 (ii) consideration.
- 617 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
618 amount of consideration may be increased or decreased by reference to the amount realized
619 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
620 Code.
- 621 (c) "Lease" or "rental" does not include:
- 622 (i) a transfer of possession or control of property under a security agreement or
623 deferred payment plan that requires the transfer of title upon completion of the required
624 payments;
- 625 (ii) a transfer of possession or control of property under an agreement that requires the
626 transfer of title:
- 627 (A) upon completion of required payments; and
628 (B) if the payment of an option price does not exceed the greater of:
- 629 (I) \$100; or
630 (II) 1% of the total required payments; or
631 (iii) providing tangible personal property along with an operator for a fixed period of
632 time or an indeterminate period of time if the operator is necessary for equipment to perform as
633 designed.
- 634 (d) For purposes of Subsection [~~(59)~~] (60)(c)(iii), an operator is necessary for
635 equipment to perform as designed if the operator's duties exceed the:
- 636 (i) set-up of tangible personal property;
637 (ii) maintenance of tangible personal property; or
638 (iii) inspection of tangible personal property.
- 639 [~~(60)~~] (61) "Life science establishment" means an establishment in this state that is
640 classified under the following NAICS codes of the 2007 North American Industry
641 Classification System of the federal Executive Office of the President, Office of Management
642 and Budget:
- 643 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
644 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
645 Manufacturing; or

646 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

647 [~~(61)~~] (62) "Life science research and development facility" means a facility owned,
648 leased, or rented by a life science establishment if research and development is performed in
649 51% or more of the total area of the facility.

650 [~~(62)~~] (63) "Load and leave" means delivery to a purchaser by use of a tangible storage
651 media if the tangible storage media is not physically transferred to the purchaser.

652 [~~(63)~~] (64) "Local taxing jurisdiction" means a:

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

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

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

656 [~~(64)~~] (65) "Manufactured home" means the same as that term is defined in Section
657 [15A-1-302](#).

658 [~~(65)~~] (66) "Manufacturing facility" means:

659 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
660 Industrial Classification Manual of the federal Executive Office of the President, Office of
661 Management and Budget;

662 (b) a scrap recycler if:

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

666 (A) iron;

667 (B) steel;

668 (C) nonferrous metal;

669 (D) paper;

670 (E) glass;

671 (F) plastic;

672 (G) textile; or

673 (H) rubber; and

674 (ii) the new products under Subsection [~~(65)~~] (66)(b)(i) would otherwise be made with
675 nonrecycled materials; or

676 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is

677 placed in service on or after May 1, 2006.

678 ~~[(66)]~~ (67) "Member of the immediate family of the producer" means a person who is
679 related to a producer described in Subsection 59-12-104(20)(a) as a:

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

681 (i) an adopted child or adopted stepchild; or

682 (ii) a foster child or foster stepchild;

683 (b) grandchild or stepgrandchild;

684 (c) grandparent or stepgrandparent;

685 (d) nephew or stepnephew;

686 (e) niece or stepniece;

687 (f) parent or stepparent;

688 (g) sibling or stepsibling;

689 (h) spouse;

690 (i) person who is the spouse of a person described in Subsections ~~[(66)]~~ (67)(a) through
691 (g); or

692 (j) person similar to a person described in Subsections ~~[(66)]~~ (67)(a) through (i) as
693 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
694 Administrative Rulemaking Act.

695 ~~[(67)]~~ (68) "Mobile home" means the same as that term is defined in Section
696 15A-1-302.

697 ~~[(68)]~~ (69) "Mobile telecommunications service" is as defined in the Mobile
698 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

699 ~~[(69)]~~ (70) (a) "Mobile wireless service" means a telecommunications service,
700 regardless of the technology used, if:

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

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

703 (iii) the origination point described in Subsection ~~[(69)]~~ (70)(a)(i) and the termination
704 point described in Subsection ~~[(69)]~~ (70)(a)(ii) are not fixed.

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

707 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

708 commission may by rule define "commercial mobile radio service provider."

709 ~~[(70)]~~ (71) (a) Except as provided in Subsection ~~[(70)]~~ (71)(c), "mobility enhancing
710 equipment" means equipment that is:

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

713 (ii) appropriate for use in a:

714 (A) home; or

715 (B) motor vehicle; and

716 (iii) not generally used by persons with normal mobility.

717 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
718 the equipment described in Subsection ~~[(70)]~~ (71)(a).

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

720 (i) a motor vehicle;

721 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
722 vehicle manufacturer;

723 (iii) durable medical equipment; or

724 (iv) a prosthetic device.

725 ~~[(71)]~~ (72) "Model 1 seller" means a seller registered under the agreement that has
726 selected a certified service provider as the seller's agent to perform all of the seller's sales and
727 use tax functions for agreement sales and use taxes other than the seller's obligation under
728 Section 59-12-124 to remit a tax on the seller's own purchases.

729 ~~[(72)]~~ (73) "Model 2 seller" means a seller registered under the agreement that:

730 (a) except as provided in Subsection ~~[(72)]~~ (73)(b), has selected a certified automated
731 system to perform the seller's sales tax functions for agreement sales and use taxes; and

732 (b) retains responsibility for remitting all of the sales tax:

733 (i) collected by the seller; and

734 (ii) to the appropriate local taxing jurisdiction.

735 ~~[(73)]~~ (74) (a) Subject to Subsection ~~[(73)]~~ (74)(b), "model 3 seller" means a seller
736 registered under the agreement that has:

737 (i) sales in at least five states that are members of the agreement;

738 (ii) total annual sales revenues of at least \$500,000,000;

- 739 (iii) a proprietary system that calculates the amount of tax:
- 740 (A) for an agreement sales and use tax; and
- 741 (B) due to each local taxing jurisdiction; and
- 742 (iv) entered into a performance agreement with the governing board of the agreement.
- 743 (b) For purposes of Subsection ~~[(73)]~~ (74)(a), "model 3 seller" includes an affiliated
- 744 group of sellers using the same proprietary system.
- 745 ~~[(74)]~~ (75) "Model 4 seller" means a seller that is registered under the agreement and is
- 746 not a model 1 seller, model 2 seller, or model 3 seller.
- 747 ~~[(75)]~~ (76) "Modular home" means a modular unit as defined in Section 15A-1-302.
- 748 ~~[(76)]~~ (77) "Motor vehicle" means the same as that term is defined in Section
- 749 41-1a-102.
- 750 ~~[(77)]~~ (78) "Oil sands" means impregnated bituminous sands that:
- 751 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 752 other hydrocarbons, or otherwise treated;
- 753 (b) yield mixtures of liquid hydrocarbon; and
- 754 (c) require further processing other than mechanical blending before becoming finished
- 755 petroleum products.
- 756 ~~[(78)]~~ (79) "Oil shale" means a group of fine black to dark brown shales containing
- 757 kerogen material that yields petroleum upon heating and distillation.
- 758 ~~[(79)]~~ (80) "Optional computer software maintenance contract" means a computer
- 759 software maintenance contract that a customer is not obligated to purchase as a condition to the
- 760 retail sale of computer software.
- 761 ~~[(80)]~~ (81) (a) "Other fuels" means products that burn independently to produce heat or
- 762 energy.
- 763 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 764 personal property.
- 765 ~~[(81)]~~ (82) (a) "Paging service" means a telecommunications service that provides
- 766 transmission of a coded radio signal for the purpose of activating a specific pager.
- 767 (b) For purposes of Subsection ~~[(81)]~~ (82)(a), the transmission of a coded radio signal
- 768 includes a transmission by message or sound.
- 769 ~~[(82)]~~ (83) "Pawnbroker" means the same as that term is defined in Section

770 13-32a-102.

771 [~~(83)~~] (84) "Pawn transaction" means the same as that term is defined in Section

772 13-32a-102.

773 [~~(84)~~] (85) (a) "Permanently attached to real property" means that for tangible personal
774 property attached to real property:

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

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

777 (B) suggests that the tangible personal property will remain attached to the real

778 property in the same place over the useful life of the tangible personal property; or

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

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

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

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

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

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

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

788 (ii) a temporary detachment of tangible personal property from real property for a
789 repair or renovation if the repair or renovation is performed where the tangible personal

790 property and real property are located; or

791 (iii) property attached to oil, gas, or water pipelines, except for the property listed in

792 Subsection [~~(84)~~] (85)(c)(iii) or (iv).

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

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

796 (A) convenience;

797 (B) stability; or

798 (C) for an obvious temporary purpose;

799 (ii) the detachment of tangible personal property from real property except for the
800 detachment described in Subsection [~~(84)~~] (85)(b)(ii);

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

805 (A) a computer;

806 (B) a telephone;

807 (C) a television; or

808 (D) tangible personal property similar to Subsections [~~84~~] (85)(c)(iii)(A) through (C)
809 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
810 Administrative Rulemaking Act; or

811 (iv) an item listed in Subsection [~~125~~] (126)(c).

812 [~~85~~] (86) "Person" includes any individual, firm, partnership, joint venture,
813 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
814 city, municipality, district, or other local governmental entity of the state, or any group or
815 combination acting as a unit.

816 [~~86~~] (87) "Place of primary use":

817 (a) for telecommunications service other than mobile telecommunications service,
818 means the street address representative of where the customer's use of the telecommunications
819 service primarily occurs, which shall be:

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

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

822 (b) for mobile telecommunications service, is as defined in the Mobile
823 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

824 [~~87~~] (88) (a) "Postpaid calling service" means a telecommunications service a person
825 obtains by making a payment on a call-by-call basis:

826 (i) through the use of a:

827 (A) bank card;

828 (B) credit card;

829 (C) debit card; or

830 (D) travel card; or

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

832 or termination of the telecommunications service.

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

836 [~~88~~] (89) "Postproduction" means an activity related to the finishing or duplication of
837 a medium described in Subsection 59-12-104(54)(a).

838 [~~89~~] (90) "Prepaid calling service" means a telecommunications service:

839 (a) that allows a purchaser access to telecommunications service that is exclusively
840 telecommunications service;

841 (b) that:

842 (i) is paid for in advance; and

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

844 (A) access number; or

845 (B) authorization code;

846 (c) that is dialed:

847 (i) manually; or

848 (ii) electronically; and

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

850 (i) by a known amount; and

851 (ii) with use.

852 [~~90~~] (91) "Prepaid wireless calling service" means a telecommunications service:

853 (a) that provides the right to utilize:

854 (i) mobile wireless service; and

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

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

857 (B) a content service; or

858 (C) an ancillary service;

859 (b) that:

860 (i) is paid for in advance; and

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

862 (A) access number; or

- 863 (B) authorization code;
- 864 (c) that is dialed:
- 865 (i) manually; or
- 866 (ii) electronically; and
- 867 (d) sold in predetermined units or dollars that decline:
- 868 (i) by a known amount; and
- 869 (ii) with use.
- 870 [~~(91)~~] (92) (a) "Prepared food" means:
- 871 (i) food:
- 872 (A) sold in a heated state; or
- 873 (B) heated by a seller;
- 874 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 875 item; or
- 876 (iii) except as provided in Subsection [~~(91)~~] (92)(c), food sold with an eating utensil
- 877 provided by the seller, including a:
- 878 (A) plate;
- 879 (B) knife;
- 880 (C) fork;
- 881 (D) spoon;
- 882 (E) glass;
- 883 (F) cup;
- 884 (G) napkin; or
- 885 (H) straw.
- 886 (b) "Prepared food" does not include:
- 887 (i) food that a seller only:
- 888 (A) cuts;
- 889 (B) repackages; or
- 890 (C) pasteurizes; or
- 891 (ii) (A) the following:
- 892 (I) raw egg;
- 893 (II) raw fish;

- 894 (III) raw meat;
- 895 (IV) raw poultry; or
- 896 (V) a food containing an item described in Subsections [~~(91)~~] (92)(b)(ii)(A)(I) through
- 897 (IV); and
- 898 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 899 Food and Drug Administration's Food Code that a consumer cook the items described in
- 900 Subsection [~~(91)~~] (92)(b)(ii)(A) to prevent food borne illness; or
- 901 (iii) the following if sold without eating utensils provided by the seller:
- 902 (A) food and food ingredients sold by a seller if the seller's proper primary
- 903 classification under the 2002 North American Industry Classification System of the federal
- 904 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 905 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 906 Manufacturing;
- 907 (B) food and food ingredients sold in an unheated state:
- 908 (I) by weight or volume; and
- 909 (II) as a single item; or
- 910 (C) a bakery item, including:
- 911 (I) a bagel;
- 912 (II) a bar;
- 913 (III) a biscuit;
- 914 (IV) bread;
- 915 (V) a bun;
- 916 (VI) a cake;
- 917 (VII) a cookie;
- 918 (VIII) a croissant;
- 919 (IX) a danish;
- 920 (X) a donut;
- 921 (XI) a muffin;
- 922 (XII) a pastry;
- 923 (XIII) a pie;
- 924 (XIV) a roll;

- 925 (XV) a tart;
- 926 (XVI) a torte; or
- 927 (XVII) a tortilla.
- 928 (c) An eating utensil provided by the seller does not include the following used to
- 929 transport the food:
 - 930 (i) a container; or
 - 931 (ii) packaging.
- 932 ~~[(92)]~~ (93) "Prescription" means an order, formula, or recipe that is issued:
 - 933 (a) (i) orally;
 - 934 (ii) in writing;
 - 935 (iii) electronically; or
 - 936 (iv) by any other manner of transmission; and
 - 937 (b) by a licensed practitioner authorized by the laws of a state.
- 938 ~~[(93)]~~ (94) (a) Except as provided in Subsection ~~[(93)]~~ (94)(b)(ii) or (iii), "prewritten
- 939 computer software" means computer software that is not designed and developed:
 - 940 (i) by the author or other creator of the computer software; and
 - 941 (ii) to the specifications of a specific purchaser.
 - 942 (b) "Prewritten computer software" includes:
 - 943 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
 - 944 software is not designed and developed:
 - 945 (A) by the author or other creator of the computer software; and
 - 946 (B) to the specifications of a specific purchaser;
 - 947 (ii) computer software designed and developed by the author or other creator of the
 - 948 computer software to the specifications of a specific purchaser if the computer software is sold
 - 949 to a person other than the purchaser; or
 - 950 (iii) except as provided in Subsection ~~[(93)]~~ (94)(c), prewritten computer software or a
 - 951 prewritten portion of prewritten computer software:
 - 952 (A) that is modified or enhanced to any degree; and
 - 953 (B) if the modification or enhancement described in Subsection ~~[(93)]~~ (94)(b)(iii)(A) is
 - 954 designed and developed to the specifications of a specific purchaser.
 - 955 (c) "Prewritten computer software" does not include a modification or enhancement

956 described in Subsection [~~93~~] 94(b)(iii) if the charges for the modification or enhancement
957 are:

958 (i) reasonable; and

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

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

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

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

967 [~~94~~] 95 (a) "Private communications service" means a telecommunications service:

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

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

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

974 (i) an extension line;

975 (ii) a station;

976 (iii) switching capacity; or

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

979 [~~95~~] 96 (a) Except as provided in Subsection [~~95~~] 96(b), "product transferred
980 electronically" means a product transferred electronically that would be subject to a tax under
981 this chapter if that product was transferred in a manner other than electronically.

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

983 (i) an ancillary service;

984 (ii) computer software; or

985 (iii) a telecommunications service.

986 [~~96~~] 97 (a) "Prosthetic device" means a device that is worn on or in the body to:

- 987 (i) artificially replace a missing portion of the body;
- 988 (ii) prevent or correct a physical deformity or physical malfunction; or
- 989 (iii) support a weak or deformed portion of the body.
- 990 (b) "Prosthetic device" includes:
- 991 (i) parts used in the repairs or renovation of a prosthetic device;
- 992 (ii) replacement parts for a prosthetic device;
- 993 (iii) a dental prosthesis; or
- 994 (iv) a hearing aid.
- 995 (c) "Prosthetic device" does not include:
- 996 (i) corrective eyeglasses; or
- 997 (ii) contact lenses.
- 998 [~~97~~] (98) (a) "Protective equipment" means an item:
- 999 (i) for human wear; and
- 1000 (ii) that is:
- 1001 (A) designed as protection:
- 1002 (I) to the wearer against injury or disease; or
- 1003 (II) against damage or injury of other persons or property; and
- 1004 (B) not suitable for general use.
- 1005 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1006 commission shall make rules:
- 1007 (i) listing the items that constitute "protective equipment"; and
- 1008 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1009 under the agreement.
- 1010 [~~98~~] (99) (a) For purposes of Subsection 59-12-104(41), "publication" means any
- 1011 written or printed matter, other than a photocopy:
- 1012 (i) regardless of:
- 1013 (A) characteristics;
- 1014 (B) copyright;
- 1015 (C) form;
- 1016 (D) format;
- 1017 (E) method of reproduction; or

1018 (F) source; and
1019 (ii) made available in printed or electronic format.
1020 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1021 commission may by rule define the term "photocopy."
1022 [~~99~~] (100) (a) "Purchase price" and "sales price" mean the total amount of
1023 consideration:
1024 (i) valued in money; and
1025 (ii) for which tangible personal property, a product transferred electronically, or
1026 services are:
1027 (A) sold;
1028 (B) leased; or
1029 (C) rented.
1030 (b) "Purchase price" and "sales price" include:
1031 (i) the seller's cost of the tangible personal property, a product transferred
1032 electronically, or services sold;
1033 (ii) expenses of the seller, including:
1034 (A) the cost of materials used;
1035 (B) a labor cost;
1036 (C) a service cost;
1037 (D) interest;
1038 (E) a loss;
1039 (F) the cost of transportation to the seller; or
1040 (G) a tax imposed on the seller;
1041 (iii) a charge by the seller for any service necessary to complete the sale; or
1042 (iv) consideration a seller receives from a person other than the purchaser if:
1043 (A) (I) the seller actually receives consideration from a person other than the purchaser;
1044 and
1045 (II) the consideration described in Subsection [~~99~~] (100)(b)(iv)(A)(I) is directly
1046 related to a price reduction or discount on the sale;
1047 (B) the seller has an obligation to pass the price reduction or discount through to the
1048 purchaser;

1049 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1050 the seller at the time of the sale to the purchaser; and

1051 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1052 seller to claim a price reduction or discount; and

1053 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1054 coupon, or other documentation with the understanding that the person other than the seller
1055 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1056 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1057 organization allowed a price reduction or discount, except that a preferred customer card that is
1058 available to any patron of a seller does not constitute membership in a group or organization
1059 allowed a price reduction or discount; or

1060 (III) the price reduction or discount is identified as a third party price reduction or
1061 discount on the:

1062 (Aa) invoice the purchaser receives; or

1063 (Bb) certificate, coupon, or other documentation the purchaser presents.

1064 (c) "Purchase price" and "sales price" do not include:

1065 (i) a discount:

1066 (A) in a form including:

1067 (I) cash;

1068 (II) term; or

1069 (III) coupon;

1070 (B) that is allowed by a seller;

1071 (C) taken by a purchaser on a sale; and

1072 (D) that is not reimbursed by a third party; or

1073 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
1074 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
1075 sale or later, as demonstrated by the books and records the seller keeps at the time of the
1076 transaction in the regular course of business, including books and records the seller keeps at the
1077 time of the transaction in the regular course of business for nontax purposes, by a
1078 preponderance of the facts and circumstances at the time of the transaction, and by the
1079 understanding of all of the parties to the transaction:

1080 (A) the following from credit extended on the sale of tangible personal property or
1081 services:

1082 (I) a carrying charge;

1083 (II) a financing charge; or

1084 (III) an interest charge;

1085 (B) a delivery charge;

1086 (C) an installation charge;

1087 (D) a manufacturer rebate on a motor vehicle; or

1088 (E) a tax or fee legally imposed directly on the consumer.

1089 [~~(100)~~] (101) "Purchaser" means a person to whom:

1090 (a) a sale of tangible personal property is made;

1091 (b) a product is transferred electronically; or

1092 (c) a service is furnished.

1093 [~~(101)~~] (102) "Qualifying enterprise data center" means an establishment that will:

1094 (a) own and operate a data center facility that will house a group of networked server
1095 computers in one physical location in order to centralize the dissemination, management, and
1096 storage of data and information;

1097 (b) be located in the state;

1098 (c) be a new operation constructed on or after July 1, 2016;

1099 (d) consist of one or more buildings that total 150,000 or more square feet;

1100 (e) be owned or leased by:

1101 (i) the establishment; or

1102 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1103 establishment; and

1104 (f) be located on one or more parcels of land that are owned or leased by:

1105 (i) the establishment; or

1106 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1107 establishment.

1108 [~~(102)~~] (103) "Regularly rented" means:

1109 (a) rented to a guest for value three or more times during a calendar year; or

1110 (b) advertised or held out to the public as a place that is regularly rented to guests for

1111 value.

1112 ~~[(103)]~~ (104) "Rental" means the same as that term is defined in Subsection ~~[(59)]~~ (60).

1113 ~~[(104)]~~ (105) (a) Except as provided in Subsection ~~[(104)]~~ (105)(b), "repairs or

1114 renovations of tangible personal property" means:

1115 (i) a repair or renovation of tangible personal property that is not permanently attached
1116 to real property; or

1117 (ii) attaching tangible personal property or a product transferred electronically to other
1118 tangible personal property or detaching tangible personal property or a product transferred
1119 electronically from other tangible personal property if:

1120 (A) the other tangible personal property to which the tangible personal property or
1121 product transferred electronically is attached or from which the tangible personal property or
1122 product transferred electronically is detached is not permanently attached to real property; and

1123 (B) the attachment of tangible personal property or a product transferred electronically
1124 to other tangible personal property or detachment of tangible personal property or a product
1125 transferred electronically from other tangible personal property is made in conjunction with a
1126 repair or replacement of tangible personal property or a product transferred electronically.

1127 (b) "Repairs or renovations of tangible personal property" does not include:

1128 (i) attaching prewritten computer software to other tangible personal property if the
1129 other tangible personal property to which the prewritten computer software is attached is not
1130 permanently attached to real property; or

1131 (ii) detaching prewritten computer software from other tangible personal property if the
1132 other tangible personal property from which the prewritten computer software is detached is
1133 not permanently attached to real property.

1134 ~~[(105)]~~ (106) "Research and development" means the process of inquiry or
1135 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
1136 process of preparing those devices, technologies, or applications for marketing.

1137 ~~[(106)]~~ (107) (a) "Residential telecommunications services" means a
1138 telecommunications service or an ancillary service that is provided to an individual for personal
1139 use:

1140 (i) at a residential address; or

1141 (ii) at an institution, including a nursing home or a school, if the telecommunications

1142 service or ancillary service is provided to and paid for by the individual residing at the
1143 institution rather than the institution.

1144 (b) For purposes of Subsection [~~(106)~~] (107)(a)(i), a residential address includes an:

1145 (i) apartment; or

1146 (ii) other individual dwelling unit.

1147 [~~(107)~~] (108) "Residential use" means the use in or around a home, apartment building,
1148 sleeping quarters, and similar facilities or accommodations.

1149 [~~(108)~~] (109) (a) "Retailer" means any person engaged in a regularly organized
1150 business in tangible personal property or any other taxable transaction under Subsection
1151 59-12-103(1), and who is selling to the user or consumer and not for resale.

1152 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1153 engaged in the business of selling to users or consumers within the state.

1154 [~~(109)~~] (110) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
1155 other than:

1156 (a) resale;

1157 (b) sublease; or

1158 (c) subrent.

1159 [~~(110)~~] (111) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1160 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1161 Subsection 59-12-103(1), for consideration.

1162 (b) "Sale" includes:

1163 (i) installment and credit sales;

1164 (ii) any closed transaction constituting a sale;

1165 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1166 chapter;

1167 (iv) any transaction if the possession of property is transferred but the seller retains the
1168 title as security for the payment of the price; and

1169 (v) any transaction under which right to possession, operation, or use of any article of
1170 tangible personal property is granted under a lease or contract and the transfer of possession
1171 would be taxable if an outright sale were made.

1172 [~~(111)~~] (112) "Sale at retail" means the same as that term is defined in Subsection

- 1173 [~~(109)~~] (110).
- 1174 [~~(112)~~] (113) "Sale-leaseback transaction" means a transaction by which title to
1175 tangible personal property or a product transferred electronically that is subject to a tax under
1176 this chapter is transferred:
- 1177 (a) by a purchaser-lessee;
 - 1178 (b) to a lessor;
 - 1179 (c) for consideration; and
 - 1180 (d) if:
 - 1181 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1182 of the tangible personal property or product transferred electronically;
 - 1183 (ii) the sale of the tangible personal property or product transferred electronically to the
1184 lessor is intended as a form of financing:
 - 1185 (A) for the tangible personal property or product transferred electronically; and
 - 1186 (B) to the purchaser-lessee; and
 - 1187 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1188 is required to:
 - 1189 (A) capitalize the tangible personal property or product transferred electronically for
1190 financial reporting purposes; and
 - 1191 (B) account for the lease payments as payments made under a financing arrangement.
- 1192 [~~(113)~~] (114) "Sales price" means the same as that term is defined in Subsection (99).
- 1193 [~~(114)~~] (115) (a) "Sales relating to schools" means the following sales by, amounts
1194 paid to, or amounts charged by a school:
- 1195 (i) sales that are directly related to the school's educational functions or activities
1196 including:
 - 1197 (A) the sale of:
 - 1198 (I) textbooks;
 - 1199 (II) textbook fees;
 - 1200 (III) laboratory fees;
 - 1201 (IV) laboratory supplies; or
 - 1202 (V) safety equipment;
 - 1203 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1204 that:

1205 (I) a student is specifically required to wear as a condition of participation in a
1206 school-related event or school-related activity; and

1207 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1208 place of ordinary clothing;

1209 (C) sales of the following if the net or gross revenues generated by the sales are
1210 deposited into a school district fund or school fund dedicated to school meals:

1211 (I) food and food ingredients; or

1212 (II) prepared food; or

1213 (D) transportation charges for official school activities; or

1214 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1215 event or school-related activity.

1216 (b) "Sales relating to schools" does not include:

1217 (i) bookstore sales of items that are not educational materials or supplies;

1218 (ii) except as provided in Subsection [~~(114)~~] (115)(a)(i)(B):

1219 (A) clothing;

1220 (B) clothing accessories or equipment;

1221 (C) protective equipment; or

1222 (D) sports or recreational equipment; or

1223 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1224 event or school-related activity if the amounts paid or charged are passed through to a person:

1225 (A) other than a:

1226 (I) school;

1227 (II) nonprofit organization authorized by a school board or a governing body of a
1228 private school to organize and direct a competitive secondary school activity; or

1229 (III) nonprofit association authorized by a school board or a governing body of a
1230 private school to organize and direct a competitive secondary school activity; and

1231 (B) that is required to collect sales and use taxes under this chapter.

1232 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1233 commission may make rules defining the term "passed through."

1234 [~~(115)~~] (116) For purposes of this section and Section [59-12-104](#), "school":

- 1235 (a) means:
- 1236 (i) an elementary school or a secondary school that:
- 1237 (A) is a:
- 1238 (I) public school; or
- 1239 (II) private school; and
- 1240 (B) provides instruction for one or more grades kindergarten through 12; or
- 1241 (ii) a public school district; and
- 1242 (b) includes the Electronic High School as defined in Section [53A-15-1002](#).
- 1243 [~~(H6)~~] (117) "Seller" means a person that makes a sale, lease, or rental of:
- 1244 (a) tangible personal property;
- 1245 (b) a product transferred electronically; or
- 1246 (c) a service.
- 1247 [~~(H7)~~] (118) (a) "Semiconductor fabricating, processing, research, or development
- 1248 materials" means tangible personal property or a product transferred electronically if the
- 1249 tangible personal property or product transferred electronically is:
- 1250 (i) used primarily in the process of:
- 1251 (A) (I) manufacturing a semiconductor;
- 1252 (II) fabricating a semiconductor; or
- 1253 (III) research or development of a:
- 1254 (Aa) semiconductor; or
- 1255 (Bb) semiconductor manufacturing process; or
- 1256 (B) maintaining an environment suitable for a semiconductor; or
- 1257 (ii) consumed primarily in the process of:
- 1258 (A) (I) manufacturing a semiconductor;
- 1259 (II) fabricating a semiconductor; or
- 1260 (III) research or development of a:
- 1261 (Aa) semiconductor; or
- 1262 (Bb) semiconductor manufacturing process; or
- 1263 (B) maintaining an environment suitable for a semiconductor.
- 1264 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1265 includes:

1266 (i) parts used in the repairs or renovations of tangible personal property or a product
1267 transferred electronically described in Subsection [~~(117)~~] (118)(a); or

1268 (ii) a chemical, catalyst, or other material used to:

1269 (A) produce or induce in a semiconductor a:

1270 (I) chemical change; or

1271 (II) physical change;

1272 (B) remove impurities from a semiconductor; or

1273 (C) improve the marketable condition of a semiconductor.

1274 [~~(118)~~] (119) "Senior citizen center" means a facility having the primary purpose of
1275 providing services to the aged as defined in Section 62A-3-101.

1276 [~~(119)~~] (120) (a) Subject to Subsections [~~(119)~~] (120)(b) and (c), "short-term lodging
1277 consumable" means tangible personal property that:

1278 (i) a business that provides accommodations and services described in Subsection
1279 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
1280 to a purchaser;

1281 (ii) is intended to be consumed by the purchaser; and

1282 (iii) is:

1283 (A) included in the purchase price of the accommodations and services; and

1284 (B) not separately stated on an invoice, bill of sale, or other similar document provided
1285 to the purchaser.

1286 (b) "Short-term lodging consumable" includes:

1287 (i) a beverage;

1288 (ii) a brush or comb;

1289 (iii) a cosmetic;

1290 (iv) a hair care product;

1291 (v) lotion;

1292 (vi) a magazine;

1293 (vii) makeup;

1294 (viii) a meal;

1295 (ix) mouthwash;

1296 (x) nail polish remover;

- 1297 (xi) a newspaper;
- 1298 (xii) a notepad;
- 1299 (xiii) a pen;
- 1300 (xiv) a pencil;
- 1301 (xv) a razor;
- 1302 (xvi) saline solution;
- 1303 (xvii) a sewing kit;
- 1304 (xviii) shaving cream;
- 1305 (xix) a shoe shine kit;
- 1306 (xx) a shower cap;
- 1307 (xxi) a snack item;
- 1308 (xxii) soap;
- 1309 (xxiii) toilet paper;
- 1310 (xxiv) a toothbrush;
- 1311 (xxv) toothpaste; or
- 1312 (xxvi) an item similar to Subsections [~~(119)~~] (120)(b)(i) through (xxv) as the
- 1313 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah
- 1314 Administrative Rulemaking Act.
- 1315 (c) "Short-term lodging consumable" does not include:
- 1316 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1317 property to be reused; or
- 1318 (ii) a product transferred electronically.
- 1319 [~~(120)~~] (121) "Simplified electronic return" means the electronic return:
- 1320 (a) described in Section 318(C) of the agreement; and
- 1321 (b) approved by the governing board of the agreement.
- 1322 [~~(121)~~] (122) "Solar energy" means the sun used as the sole source of energy for
- 1323 producing electricity.
- 1324 [~~(122)~~] (123) (a) "Sports or recreational equipment" means an item:
- 1325 (i) designed for human use; and
- 1326 (ii) that is:
- 1327 (A) worn in conjunction with:

- 1328 (I) an athletic activity; or
- 1329 (II) a recreational activity; and
- 1330 (B) not suitable for general use.
- 1331 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1332 commission shall make rules:
 - 1333 (i) listing the items that constitute "sports or recreational equipment"; and
 - 1334 (ii) that are consistent with the list of items that constitute "sports or recreational
 - 1335 equipment" under the agreement.
- 1336 [~~(123)~~] (124) "State" means the state of Utah, its departments, and agencies.
- 1337 [~~(124)~~] (125) "Storage" means any keeping or retention of tangible personal property or
- 1338 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 1339 except sale in the regular course of business.
- 1340 [~~(125)~~] (126) (a) Except as provided in Subsection [~~(125)~~] (126)(d) or (e), "tangible
- 1341 personal property" means personal property that:
 - 1342 (i) may be:
 - 1343 (A) seen;
 - 1344 (B) weighed;
 - 1345 (C) measured;
 - 1346 (D) felt; or
 - 1347 (E) touched; or
 - 1348 (ii) is in any manner perceptible to the senses.
- 1349 (b) "Tangible personal property" includes:
 - 1350 (i) electricity;
 - 1351 (ii) water;
 - 1352 (iii) gas;
 - 1353 (iv) steam; or
 - 1354 (v) prewritten computer software, regardless of the manner in which the prewritten
 - 1355 computer software is transferred.
- 1356 (c) "Tangible personal property" includes the following regardless of whether the item
- 1357 is attached to real property:
 - 1358 (i) a dishwasher;

1359 (ii) a dryer;
1360 (iii) a freezer;
1361 (iv) a microwave;
1362 (v) a refrigerator;
1363 (vi) a stove;
1364 (vii) a washer; or
1365 (viii) an item similar to Subsections [~~(125)~~] (126)(c)(i) through (vii) as determined by
1366 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1367 Rulemaking Act.

1368 (d) "Tangible personal property" does not include a product that is transferred
1369 electronically.

1370 (e) "Tangible personal property" does not include the following if attached to real
1371 property, regardless of whether the attachment to real property is only through a line that
1372 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1373 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1374 Rulemaking Act:

- 1375 (i) a hot water heater;
- 1376 (ii) a water filtration system; or
- 1377 (iii) a water softener system.

1378 [~~(126)~~] (127) (a) "Telecommunications enabling or facilitating equipment, machinery,
1379 or software" means an item listed in Subsection [~~(126)~~] (127)(b) if that item is purchased or
1380 leased primarily to enable or facilitate one or more of the following to function:

- 1381 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1382 (ii) telecommunications transmission equipment, machinery, or software.

1383 (b) The following apply to Subsection [~~(126)~~] (127)(a):

- 1384 (i) a pole;
- 1385 (ii) software;
- 1386 (iii) a supplementary power supply;
- 1387 (iv) temperature or environmental equipment or machinery;
- 1388 (v) test equipment;
- 1389 (vi) a tower; or

1390 (vii) equipment, machinery, or software that functions similarly to an item listed in
1391 Subsections [~~(126)~~] (127)(b)(i) through (vi) as determined by the commission by rule made in
1392 accordance with Subsection [~~(126)~~] (127)(c).

1393 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1394 commission may by rule define what constitutes equipment, machinery, or software that
1395 functions similarly to an item listed in Subsections [~~(126)~~] (127)(b)(i) through (vi).

1396 [~~(127)~~] (128) "Telecommunications equipment, machinery, or software required for
1397 911 service" means equipment, machinery, or software that is required to comply with 47
1398 C.F.R. Sec. 20.18.

1399 [~~(128)~~] (129) "Telecommunications maintenance or repair equipment, machinery, or
1400 software" means equipment, machinery, or software purchased or leased primarily to maintain
1401 or repair one or more of the following, regardless of whether the equipment, machinery, or
1402 software is purchased or leased as a spare part or as an upgrade or modification to one or more
1403 of the following:

1404 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1405 (b) telecommunications switching or routing equipment, machinery, or software; or

1406 (c) telecommunications transmission equipment, machinery, or software.

1407 [~~(129)~~] (130) (a) "Telecommunications service" means the electronic conveyance,
1408 routing, or transmission of audio, data, video, voice, or any other information or signal to a
1409 point, or among or between points.

1410 (b) "Telecommunications service" includes:

1411 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1412 processing application is used to act:

1413 (A) on the code, form, or protocol of the content;

1414 (B) for the purpose of electronic conveyance, routing, or transmission; and

1415 (C) regardless of whether the service:

1416 (I) is referred to as voice over Internet protocol service; or

1417 (II) is classified by the Federal Communications Commission as enhanced or value
1418 added;

1419 (ii) an 800 service;

1420 (iii) a 900 service;

- 1421 (iv) a fixed wireless service;
- 1422 (v) a mobile wireless service;
- 1423 (vi) a postpaid calling service;
- 1424 (vii) a prepaid calling service;
- 1425 (viii) a prepaid wireless calling service; or
- 1426 (ix) a private communications service.
- 1427 (c) "Telecommunications service" does not include:
- 1428 (i) advertising, including directory advertising;
- 1429 (ii) an ancillary service;
- 1430 (iii) a billing and collection service provided to a third party;
- 1431 (iv) a data processing and information service if:
- 1432 (A) the data processing and information service allows data to be:
- 1433 (I) (Aa) acquired;
- 1434 (Bb) generated;
- 1435 (Cc) processed;
- 1436 (Dd) retrieved; or
- 1437 (Ee) stored; and
- 1438 (II) delivered by an electronic transmission to a purchaser; and
- 1439 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1440 or information;
- 1441 (v) installation or maintenance of the following on a customer's premises:
- 1442 (A) equipment; or
- 1443 (B) wiring;
- 1444 (vi) Internet access service;
- 1445 (vii) a paging service;
- 1446 (viii) a product transferred electronically, including:
- 1447 (A) music;
- 1448 (B) reading material;
- 1449 (C) a ring tone;
- 1450 (D) software; or
- 1451 (E) video;

- 1452 (ix) a radio and television audio and video programming service:
1453 (A) regardless of the medium; and
1454 (B) including:
1455 (I) furnishing conveyance, routing, or transmission of a television audio and video
1456 programming service by a programming service provider;
1457 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
1458 (III) audio and video programming services delivered by a commercial mobile radio
1459 service provider as defined in 47 C.F.R. Sec. 20.3;
1460 (x) a value-added nonvoice data service; or
1461 (xi) tangible personal property.
1462 [~~(130)~~] (131) (a) "Telecommunications service provider" means a person that:
1463 (i) owns, controls, operates, or manages a telecommunications service; and
1464 (ii) engages in an activity described in Subsection [~~(130)~~] (131)(a)(i) for the shared use
1465 with or resale to any person of the telecommunications service.
1466 (b) A person described in Subsection [~~(130)~~] (131)(a) is a telecommunications service
1467 provider whether or not the Public Service Commission of Utah regulates:
1468 (i) that person; or
1469 (ii) the telecommunications service that the person owns, controls, operates, or
1470 manages.
1471 [~~(131)~~] (132) (a) "Telecommunications switching or routing equipment, machinery, or
1472 software" means an item listed in Subsection [~~(131)~~] (132)(b) if that item is purchased or
1473 leased primarily for switching or routing:
1474 (i) an ancillary service;
1475 (ii) data communications;
1476 (iii) voice communications; or
1477 (iv) telecommunications service.
1478 (b) The following apply to Subsection [~~(131)~~] (132)(a):
1479 (i) a bridge;
1480 (ii) a computer;
1481 (iii) a cross connect;
1482 (iv) a modem;

- 1483 (v) a multiplexer;
- 1484 (vi) plug in circuitry;
- 1485 (vii) a router;
- 1486 (viii) software;
- 1487 (ix) a switch; or
- 1488 (x) equipment, machinery, or software that functions similarly to an item listed in
- 1489 Subsections [~~(131)~~] (132)(b)(i) through (ix) as determined by the commission by rule made in
- 1490 accordance with Subsection [~~(131)~~] (132)(c).

1491 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1492 commission may by rule define what constitutes equipment, machinery, or software that

1493 functions similarly to an item listed in Subsections [~~(131)~~] (132)(b)(i) through (ix).

1494 [~~(132)~~] (133) (a) "Telecommunications transmission equipment, machinery, or

1495 software" means an item listed in Subsection [~~(132)~~] (133)(b) if that item is purchased or

1496 leased primarily for sending, receiving, or transporting:

- 1497 (i) an ancillary service;
- 1498 (ii) data communications;
- 1499 (iii) voice communications; or
- 1500 (iv) telecommunications service.
- 1501 (b) The following apply to Subsection [~~(132)~~] (133)(a):
- 1502 (i) an amplifier;
- 1503 (ii) a cable;
- 1504 (iii) a closure;
- 1505 (iv) a conduit;
- 1506 (v) a controller;
- 1507 (vi) a duplexer;
- 1508 (vii) a filter;
- 1509 (viii) an input device;
- 1510 (ix) an input/output device;
- 1511 (x) an insulator;
- 1512 (xi) microwave machinery or equipment;
- 1513 (xii) an oscillator;

- 1514 (xiii) an output device;
- 1515 (xiv) a pedestal;
- 1516 (xv) a power converter;
- 1517 (xvi) a power supply;
- 1518 (xvii) a radio channel;
- 1519 (xviii) a radio receiver;
- 1520 (xix) a radio transmitter;
- 1521 (xx) a repeater;
- 1522 (xxi) software;
- 1523 (xxii) a terminal;
- 1524 (xxiii) a timing unit;
- 1525 (xxiv) a transformer;
- 1526 (xxv) a wire; or
- 1527 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1528 Subsections [~~(132)~~] (133)(b)(i) through (xxv) as determined by the commission by rule made in
- 1529 accordance with Subsection [~~(132)~~] (133)(c).

1530 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1531 commission may by rule define what constitutes equipment, machinery, or software that

1532 functions similarly to an item listed in Subsections [~~(132)~~] (133)(b)(i) through (xxv).

1533 [~~(133)~~] (134) (a) "Textbook for a higher education course" means a textbook or other

1534 printed material that is required for a course:

- 1535 (i) offered by an institution of higher education; and
- 1536 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1537 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1538 [~~(134)~~] (135) "Tobacco" means:

- 1539 (a) a cigarette;
- 1540 (b) a cigar;
- 1541 (c) chewing tobacco;
- 1542 (d) pipe tobacco; or
- 1543 (e) any other item that contains tobacco.

1544 [~~(135)~~] (136) "Unassisted amusement device" means an amusement device, skill

1545 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
1546 operate the amusement device, skill device, or ride device.

1547 ~~[(136)]~~ (137) (a) "Use" means the exercise of any right or power over tangible personal
1548 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1549 incident to the ownership or the leasing of that tangible personal property, product transferred
1550 electronically, or service.

1551 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1552 property, a product transferred electronically, or a service in the regular course of business and
1553 held for resale.

1554 ~~[(137)]~~ (138) "Value-added nonvoice data service" means a service:

1555 (a) that otherwise meets the definition of a telecommunications service except that a
1556 computer processing application is used to act primarily for a purpose other than conveyance,
1557 routing, or transmission; and

1558 (b) with respect to which a computer processing application is used to act on data or
1559 information:

- 1560 (i) code;
- 1561 (ii) content;
- 1562 (iii) form; or
- 1563 (iv) protocol.

1564 ~~[(138)]~~ (139) (a) Subject to Subsection ~~[(138)]~~ (139)(b), "vehicle" means the following
1565 that are required to be titled, registered, or titled and registered:

- 1566 (i) an aircraft as defined in Section 72-10-102;
- 1567 (ii) a vehicle as defined in Section 41-1a-102;
- 1568 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1569 (iv) a vessel as defined in Section 41-1a-102.

1570 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1571 (i) a vehicle described in Subsection ~~[(138)]~~ (139)(a); or
- 1572 (ii) (A) a locomotive;
- 1573 (B) a freight car;
- 1574 (C) railroad work equipment; or
- 1575 (D) other railroad rolling stock.

1576 [~~(139)~~] (140) "Vehicle dealer" means a person engaged in the business of buying,
1577 selling, or exchanging a vehicle as defined in Subsection [~~(138)~~] (139).

1578 [~~(140)~~] (141) (a) "Vertical service" means an ancillary service that:

1579 (i) is offered in connection with one or more telecommunications services; and

1580 (ii) offers an advanced calling feature that allows a customer to:

1581 (A) identify a caller; and

1582 (B) manage multiple calls and call connections.

1583 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1584 conference bridging service.

1585 [~~(141)~~] (142) (a) "Voice mail service" means an ancillary service that enables a
1586 customer to receive, send, or store a recorded message.

1587 (b) "Voice mail service" does not include a vertical service that a customer is required
1588 to have in order to utilize a voice mail service.

1589 [~~(142)~~] (143) (a) Except as provided in Subsection [~~(142)~~] (143)(b), "waste energy
1590 facility" means a facility that generates electricity:

1591 (i) using as the primary source of energy waste materials that would be placed in a
1592 landfill or refuse pit if it were not used to generate electricity, including:

1593 (A) tires;

1594 (B) waste coal;

1595 (C) oil shale; or

1596 (D) municipal solid waste; and

1597 (ii) in amounts greater than actually required for the operation of the facility.

1598 (b) "Waste energy facility" does not include a facility that incinerates:

1599 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1600 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1601 [~~(143)~~] (144) "Watercraft" means a vessel as defined in Section [73-18-2](#).

1602 [~~(144)~~] (145) "Wind energy" means wind used as the sole source of energy to produce
1603 electricity.

1604 [~~(145)~~] (146) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
1605 geographic location by the United States Postal Service.

1606 Section 2. Section **59-12-103** is amended to read:

1607 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
1608 **tax revenues.**

1609 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
1610 sales price for amounts paid or charged for the following transactions:

1611 (a) retail sales of tangible personal property made within the state;

1612 (b) amounts paid for:

1613 (i) telecommunications service, other than mobile telecommunications service, that
1614 originates and terminates within the boundaries of this state;

1615 (ii) mobile telecommunications service that originates and terminates within the
1616 boundaries of one state only to the extent permitted by the Mobile Telecommunications
1617 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

1618 (iii) an ancillary service associated with a:

1619 (A) telecommunications service described in Subsection (1)(b)(i); or

1620 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

1621 (c) sales of the following for commercial use:

1622 (i) gas;

1623 (ii) electricity;

1624 (iii) heat;

1625 (iv) coal;

1626 (v) fuel oil; or

1627 (vi) other fuels;

1628 (d) sales of the following for residential use:

1629 (i) gas;

1630 (ii) electricity;

1631 (iii) heat;

1632 (iv) coal;

1633 (v) fuel oil; or

1634 (vi) other fuels;

1635 (e) sales of prepared food;

1636 (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or
1637 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,

1638 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
1639 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
1640 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
1641 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
1642 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
1643 horseback rides, sports activities, or any other amusement, entertainment, recreation,
1644 exhibition, cultural, or athletic activity;

1645 (g) amounts paid or charged for services for repairs or renovations of tangible personal
1646 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

1647 (i) the tangible personal property; and

1648 (ii) parts used in the repairs or renovations of the tangible personal property described
1649 in Subsection (1)(g)(i), regardless of whether:

1650 (A) any parts are actually used in the repairs or renovations of that tangible personal
1651 property; or

1652 (B) the particular parts used in the repairs or renovations of that tangible personal
1653 property are exempt from a tax under this chapter;

1654 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
1655 assisted cleaning or washing of tangible personal property;

1656 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
1657 accommodations and services that are regularly rented for less than 30 consecutive days;

1658 (j) amounts paid or charged for laundry or dry cleaning services;

1659 (k) amounts paid or charged for leases or rentals of tangible personal property if within
1660 this state the tangible personal property is:

1661 (i) stored;

1662 (ii) used; or

1663 (iii) otherwise consumed;

1664 (l) amounts paid or charged for tangible personal property if within this state the
1665 tangible personal property is:

1666 (i) stored;

1667 (ii) used; or

1668 (iii) consumed; and

- 1669 (m) amounts paid or charged for a sale:
- 1670 (i) (A) of a product transferred electronically; or
- 1671 (B) of a repair or renovation of a product transferred electronically; and
- 1672 (ii) regardless of whether the sale provides:
- 1673 (A) a right of permanent use of the product; or
- 1674 (B) a right to use the product that is less than a permanent use, including a right:
- 1675 (I) for a definite or specified length of time; and
- 1676 (II) that terminates upon the occurrence of a condition.
- 1677 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
- 1678 is imposed on a transaction described in Subsection (1) equal to the sum of:
- 1679 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
- 1680 (A) [~~4.70%~~] 4.92%; and
- 1681 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
- 1682 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)
- 1683 through [59-12-215](#) is in a county in which the state imposes the tax under Part 18, Additional
- 1684 State Sales and Use Tax Act; and
- 1685 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
- 1686 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)
- 1687 through [59-12-215](#) is in a city, town, or the unincorporated area of a county in which the state
- 1688 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
- 1689 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 1690 transaction under this chapter other than this part.
- 1691 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
- 1692 on a transaction described in Subsection (1)(d) equal to the sum of:
- 1693 (i) a state tax imposed on the transaction at a tax rate of 2%; and
- 1694 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 1695 transaction under this chapter other than this part.
- 1696 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
- 1697 on amounts paid or charged for food and food ingredients equal to the sum of:
- 1698 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
- 1699 a tax rate of [~~1.75%~~] 0%; and

1700 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1701 amounts paid or charged for food and food ingredients under this chapter other than this part.

1702 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
1703 tangible personal property other than food and food ingredients, a state tax and a local tax is
1704 imposed on the entire bundled transaction equal to the sum of:

1705 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

1706 (I) the tax rate described in Subsection (2)(a)(i)(A); and

1707 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
1708 Sales and Use Tax Act, if the location of the transaction as determined under Sections
1709 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
1710 Additional State Sales and Use Tax Act; and

1711 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
1712 Sales and Use Tax Act, if the location of the transaction as determined under Sections
1713 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
1714 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1715 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
1716 described in Subsection (2)(a)(ii).

1717 (ii) If an optional computer software maintenance contract is a bundled transaction that
1718 consists of taxable and nontaxable products that are not separately itemized on an invoice or
1719 similar billing document, the purchase of the optional computer software maintenance contract
1720 is 40% taxable under this chapter and 60% nontaxable under this chapter.

1721 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
1722 transaction described in Subsection (2)(d)(i) or (ii):

1723 (A) if the sales price of the bundled transaction is attributable to tangible personal
1724 property, a product, or a service that is subject to taxation under this chapter and tangible
1725 personal property, a product, or service that is not subject to taxation under this chapter, the
1726 entire bundled transaction is subject to taxation under this chapter unless:

1727 (I) the seller is able to identify by reasonable and verifiable standards the tangible
1728 personal property, product, or service that is not subject to taxation under this chapter from the
1729 books and records the seller keeps in the seller's regular course of business; or

1730 (II) state or federal law provides otherwise; or

1731 (B) if the sales price of a bundled transaction is attributable to two or more items of
1732 tangible personal property, products, or services that are subject to taxation under this chapter
1733 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
1734 higher tax rate unless:

1735 (I) the seller is able to identify by reasonable and verifiable standards the tangible
1736 personal property, product, or service that is subject to taxation under this chapter at the lower
1737 tax rate from the books and records the seller keeps in the seller's regular course of business; or

1738 (II) state or federal law provides otherwise.

1739 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
1740 seller's regular course of business includes books and records the seller keeps in the regular
1741 course of business for nontax purposes.

1742 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
1743 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
1744 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
1745 of tangible personal property, other property, a product, or a service that is not subject to
1746 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
1747 the seller, at the time of the transaction:

1748 (A) separately states the portion of the transaction that is not subject to taxation under
1749 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

1750 (B) is able to identify by reasonable and verifiable standards, from the books and
1751 records the seller keeps in the seller's regular course of business, the portion of the transaction
1752 that is not subject to taxation under this chapter.

1753 (ii) A purchaser and a seller may correct the taxability of a transaction if:

1754 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
1755 the transaction that is not subject to taxation under this chapter was not separately stated on an
1756 invoice, bill of sale, or similar document provided to the purchaser because of an error or
1757 ignorance of the law; and

1758 (B) the seller is able to identify by reasonable and verifiable standards, from the books
1759 and records the seller keeps in the seller's regular course of business, the portion of the
1760 transaction that is not subject to taxation under this chapter.

1761 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps

1762 in the seller's regular course of business includes books and records the seller keeps in the
1763 regular course of business for nontax purposes.

1764 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
1765 personal property, products, or services that are subject to taxation under this chapter at
1766 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
1767 unless the seller, at the time of the transaction:

1768 (A) separately states the items subject to taxation under this chapter at each of the
1769 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

1770 (B) is able to identify by reasonable and verifiable standards the tangible personal
1771 property, product, or service that is subject to taxation under this chapter at the lower tax rate
1772 from the books and records the seller keeps in the seller's regular course of business.

1773 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
1774 seller's regular course of business includes books and records the seller keeps in the regular
1775 course of business for nontax purposes.

1776 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
1777 rate imposed under the following shall take effect on the first day of a calendar quarter:

1778 (i) Subsection (2)(a)(i)(A);

1779 (ii) Subsection (2)(b)(i);

1780 (iii) Subsection (2)(c)(i); or

1781 (iv) Subsection (2)(d)(i)(A)(I).

1782 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
1783 begins on or after the effective date of the tax rate increase if the billing period for the
1784 transaction begins before the effective date of a tax rate increase imposed under:

1785 (A) Subsection (2)(a)(i)(A);

1786 (B) Subsection (2)(b)(i);

1787 (C) Subsection (2)(c)(i); or

1788 (D) Subsection (2)(d)(i)(A)(I).

1789 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
1790 statement for the billing period is rendered on or after the effective date of the repeal of the tax
1791 or the tax rate decrease imposed under:

1792 (A) Subsection (2)(a)(i)(A);

- 1793 (B) Subsection (2)(b)(i);
- 1794 (C) Subsection (2)(c)(i); or
- 1795 (D) Subsection (2)(d)(i)(A)(I).
- 1796 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
- 1797 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
- 1798 change in a tax rate takes effect:
- 1799 (A) on the first day of a calendar quarter; and
- 1800 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 1801 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
- 1802 (A) Subsection (2)(a)(i)(A);
- 1803 (B) Subsection (2)(b)(i);
- 1804 (C) Subsection (2)(c)(i); or
- 1805 (D) Subsection (2)(d)(i)(A)(I).
- 1806 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 1807 the commission may by rule define the term "catalogue sale."
- 1808 (3) (a) The following state taxes shall be deposited into the General Fund:
- 1809 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 1810 (ii) the tax imposed by Subsection (2)(b)(i);
- 1811 (iii) the tax imposed by Subsection (2)(c)(i); or
- 1812 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
- 1813 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 1814 in this chapter:
- 1815 (i) the tax imposed by Subsection (2)(a)(ii);
- 1816 (ii) the tax imposed by Subsection (2)(b)(ii);
- 1817 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 1818 (iv) the tax imposed by Subsection (2)(d)(i)(B).
- 1819 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 1820 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
- 1821 through (g):
- 1822 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 1823 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

1824 (B) for the fiscal year; or

1825 (ii) \$17,500,000.

1826 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

1827 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the

1828 Department of Natural Resources to:

1829 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to

1830 protect sensitive plant and animal species; or

1831 (B) award grants, up to the amount authorized by the Legislature in an appropriations

1832 act, to political subdivisions of the state to implement the measures described in Subsections

1833 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

1834 (ii) Money transferred to the Department of Natural Resources under Subsection

1835 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other

1836 person to list or attempt to have listed a species as threatened or endangered under the

1837 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1838 (iii) At the end of each fiscal year:

1839 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

1840 Conservation and Development Fund created in Section 73-10-24;

1841 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

1842 Program Subaccount created in Section 73-10c-5; and

1843 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

1844 Program Subaccount created in Section 73-10c-5.

1845 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in

1846 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund

1847 created in Section 4-18-106.

1848 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described

1849 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water

1850 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of

1851 water rights.

1852 (ii) At the end of each fiscal year:

1853 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

1854 Conservation and Development Fund created in Section 73-10-24;

1855 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1856 Program Subaccount created in Section 73-10c-5; and

1857 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1858 Program Subaccount created in Section 73-10c-5.

1859 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
1860 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
1861 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

1862 (ii) In addition to the uses allowed of the Water Resources Conservation and
1863 Development Fund under Section 73-10-24, the Water Resources Conservation and
1864 Development Fund may also be used to:

1865 (A) conduct hydrologic and geotechnical investigations by the Division of Water
1866 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1867 quantifying surface and ground water resources and describing the hydrologic systems of an
1868 area in sufficient detail so as to enable local and state resource managers to plan for and
1869 accommodate growth in water use without jeopardizing the resource;

1870 (B) fund state required dam safety improvements; and

1871 (C) protect the state's interest in interstate water compact allocations, including the
1872 hiring of technical and legal staff.

1873 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1874 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
1875 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1876 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1877 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
1878 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1879 (i) provide for the installation and repair of collection, treatment, storage, and
1880 distribution facilities for any public water system, as defined in Section 19-4-102;

1881 (ii) develop underground sources of water, including springs and wells; and

1882 (iii) develop surface water sources.

1883 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1884 2006, the difference between the following amounts shall be expended as provided in this
1885 Subsection (5), if that difference is greater than \$1:

1886 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
1887 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

1888 (ii) \$17,500,000.

1889 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

1890 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
1891 credits; and

1892 (B) expended by the Department of Natural Resources for watershed rehabilitation or
1893 restoration.

1894 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1895 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
1896 created in Section 73-10-24.

1897 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
1898 remaining difference described in Subsection (5)(a) shall be:

1899 (A) transferred each fiscal year to the Division of Water Resources as dedicated
1900 credits; and

1901 (B) expended by the Division of Water Resources for cloud-seeding projects
1902 authorized by Title 73, Chapter 15, Modification of Weather.

1903 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1904 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
1905 created in Section 73-10-24.

1906 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
1907 remaining difference described in Subsection (5)(a) shall be deposited into the Water
1908 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
1909 Division of Water Resources for:

1910 (i) preconstruction costs:

1911 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
1912 26, Bear River Development Act; and

1913 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
1914 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

1915 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
1916 Chapter 26, Bear River Development Act;

1917 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
1918 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

1919 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
1920 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

1921 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
1922 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
1923 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
1924 incurred for employing additional technical staff for the administration of water rights.

1925 (f) At the end of each fiscal year, any unexpended dedicated credits described in
1926 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
1927 Fund created in Section 73-10-24.

1928 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
1929 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
1930 (1) for the fiscal year shall be deposited as follows:

1931 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
1932 shall be deposited into the Transportation Investment Fund of 2005 created by Section
1933 72-2-124;

1934 (b) for fiscal year 2017-18 only:

1935 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
1936 Transportation Investment Fund of 2005 created by Section 72-2-124; and

1937 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
1938 Water Infrastructure Restricted Account created by Section 73-10g-103;

1939 (c) for fiscal year 2018-19 only:

1940 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
1941 Transportation Investment Fund of 2005 created by Section 72-2-124; and

1942 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
1943 Water Infrastructure Restricted Account created by Section 73-10g-103;

1944 (d) for fiscal year 2019-20 only:

1945 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
1946 Transportation Investment Fund of 2005 created by Section 72-2-124; and

1947 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the

1948 Water Infrastructure Restricted Account created by Section 73-10g-103;
1949 (e) for fiscal year 2020-21 only:
1950 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
1951 Transportation Investment Fund of 2005 created by Section 72-2-124; and
1952 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
1953 Water Infrastructure Restricted Account created by Section 73-10g-103; and
1954 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
1955 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
1956 created by Section 73-10g-103.
1957 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
1958 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
1959 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
1960 created by Section 72-2-124:
1961 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
1962 the revenues collected from the following taxes, which represents a portion of the
1963 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
1964 on vehicles and vehicle-related products:
1965 (A) the tax imposed by Subsection (2)(a)(i)(A);
1966 (B) the tax imposed by Subsection (2)(b)(i);
1967 (C) the tax imposed by Subsection (2)(c)(i); and
1968 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus
1969 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
1970 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
1971 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
1972 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.
1973 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
1974 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
1975 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
1976 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
1977 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
1978 (7)(a) equal to the product of:

1979 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
1980 previous fiscal year; and

1981 (B) the total sales and use tax revenue generated by the taxes described in Subsections
1982 (7)(a)(i)(A) through (D) in the current fiscal year.

1983 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
1984 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
1985 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of
1986 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
1987 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

1988 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
1989 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited
1990 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues
1991 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the
1992 current fiscal year under Subsection (7)(a).

1993 (8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited
1994 under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall
1995 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into
1996 the Transportation Investment Fund of 2005 created by Section [72-2-124](#).

1997 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
1998 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit
1999 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
2000 Transportation Investment Fund of 2005 created by Section [72-2-124](#).

2001 (c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
2002 Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or
2003 after July 1, 2018, the commission shall annually deposit into the Transportation Investment
2004 Fund of 2005 created by Section [72-2-124](#) a portion of the taxes listed under Subsection (3)(a)
2005 in an amount equal to 3.68% of the revenues collected from the following taxes:

2006 (A) the tax imposed by Subsection (2)(a)(i)(A);

2007 (B) the tax imposed by Subsection (2)(b)(i);

2008 (C) the tax imposed by Subsection (2)(c)(i); and

2009 (D) the tax imposed by Subsection (2)(d)(i)(A)(I).

2010 (ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
2011 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)
2012 by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year
2013 by the portion of the tax imposed on motor and special fuel that is sold, used, or received for
2014 sale or use in this state that exceeds 29.4 cents per gallon.

2015 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2016 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
2017 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

2018 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
2019 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
2020 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
2021 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on
2022 the transactions described in Subsection (1).

2023 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
2024 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
2025 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
2026 amount of revenue described as follows:

2027 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
2028 tax rate on the transactions described in Subsection (1);

2029 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
2030 tax rate on the transactions described in Subsection (1);

2031 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
2032 tax rate on the transactions described in Subsection (1);

2033 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
2034 .05% tax rate on the transactions described in Subsection (1); and

2035 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
2036 tax rate on the transactions described in Subsection (1).

2037 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
2038 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts
2039 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
2040 transaction attributable to food and food ingredients and tangible personal property other than

2041 food and food ingredients described in Subsection (2)(d).

2042 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
2043 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
2044 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
2045 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
2046 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
2047 created in Section 63N-2-512.

2048 (12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the
2049 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed
2050 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

2051 (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of
2052 Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under
2053 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

2054 (13) Notwithstanding Subsections (4) through (12), an amount required to be expended
2055 or deposited in accordance with Subsections (4) through (12) may not include an amount the
2056 Division of Finance deposits in accordance with Section 59-12-103.2.

2057 Section 3. **Effective date.**

2058 This bill takes effect on July 1, 2018.