

1 **RAILROAD AMENDMENTS**

2 2020 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Joel Ferry**

5 Senate Sponsor: \_\_\_\_\_

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7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to railroads.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ repeals the state sales and use tax exemption for sales of fuel to a rail carrier for use  
13 in a locomotive engine;
- 14 ▶ requires an approximate value of the resulting revenue be deposited into the General  
15 Fund;
- 16 ▶ creates the Railroad Crossing Restricted Account;
- 17 ▶ provides that upon appropriation, the Department of Transportation shall use the  
18 money in the Railroad Crossing Restricted Account for construction projects related  
19 to railroad crossings on class B and class C roads; and
- 20 ▶ makes technical changes.

21 **Money Appropriated in this Bill:**

22 This bill appropriates in fiscal year 2021:

- 23 ▶ to General Fund Restricted -- Railroad Crossing Restricted Account
- 24 • from General Fund, \$3,700,000.

25 **Other Special Clauses:**

26 This bill provides a special effective date.

27 **Utah Code Sections Affected:**



28 AMENDS:

- 29 **11-41-102**, as last amended by Laws of Utah 2016, Chapter 176
- 30 **26-36b-208**, as last amended by Laws of Utah 2019, Chapters 1 and 393
- 31 **35A-8-308**, as last amended by Laws of Utah 2017, Chapters 181 and 421
- 32 **35A-8-309**, as last amended by Laws of Utah 2019, Chapter 493
- 33 **59-1-401**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 34 **59-12-102**, as last amended by Laws of Utah 2019, Chapters 325, 481, and 486
- 35 **59-12-103**, as last amended by Laws of Utah 2019, Chapters 1, 136, and 479
- 36 **59-12-104**, as last amended by Laws of Utah 2019, Chapters 136 and 486
- 37 **59-12-108**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6

38 ENACTS:

- 39 **72-2-131**, Utah Code Annotated 1953



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

42 Section 1. Section **11-41-102** is amended to read:

43 **11-41-102. Definitions.**

44 As used in this chapter:

45 (1) "Agreement" means an oral or written agreement between a:

46 (a) (i) county; or

47 (ii) municipality; and

48 (b) person.

49 (2) "Municipality" means a:

50 (a) city;

51 (b) town; or

52 (c) metro township.

53 (3) "Payment" includes:

54 (a) a payment;

55 (b) a rebate;

56 (c) a refund; or

57 (d) an amount similar to Subsections (3)(a) through (c).

58 (4) "Regional retail business" means a:

- 59 (a) retail business that occupies a floor area of more than 80,000 square feet;
- 60 (b) dealer as defined in Section 41-1a-102;
- 61 (c) retail shopping facility that has at least two anchor tenants if the total number of
- 62 anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square
- 63 feet; or
- 64 (d) grocery store that occupies a floor area of more than 30,000 square feet.
- 65 (5) (a) "Sales and use tax" means a tax:
- 66 (i) imposed on transactions within a:
- 67 (A) county; or
- 68 (B) municipality; and
- 69 (ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12,
- 70 Sales and Use Tax Act.
- 71 (b) Notwithstanding Subsection (5)(a)(ii), "sales and use tax" does not include a tax
- 72 authorized under:
- 73 (i) Subsection 59-12-103(2)(a)(i);
- 74 (ii) Subsection 59-12-103(2)(b)(i);
- 75 (iii) Subsection 59-12-103(2)(c)(i);
- 76 (iv) Subsection 59-12-103(2)(d);
- 77 [~~(iv)~~] (v) Subsection 59-12-103(2)[~~(d)~~](e)(i)(A);
- 78 [~~(v)~~] (vi) Section 59-12-301;
- 79 [~~(vi)~~] (vii) Section 59-12-352;
- 80 [~~(vii)~~] (viii) Section 59-12-353;
- 81 [~~(viii)~~] (ix) Section 59-12-603; or
- 82 [~~(ix)~~] (x) Section 59-12-1201.
- 83 (6) (a) "Sales and use tax incentive payment" means a payment of revenues:
- 84 (i) to a person;
- 85 (ii) by a:
- 86 (A) county; or
- 87 (B) municipality;
- 88 (iii) to induce the person to locate or relocate a regional retail business within the:
- 89 (A) county; or

90 (B) municipality; and  
91 (iv) that are derived from a sales and use tax.  
92 (b) "Sales and use tax incentive payment" does not include funding for public  
93 infrastructure.

94 Section 2. Section **26-36b-208** is amended to read:

95 **26-36b-208. Medicaid Expansion Fund.**

96 (1) There is created an expendable special revenue fund known as the Medicaid  
97 Expansion Fund.

98 (2) The fund consists of:

99 (a) assessments collected under this chapter;

100 (b) intergovernmental transfers under Section [26-36b-206](#);

101 (c) savings attributable to the health coverage improvement program as determined by  
102 the department;

103 (d) savings attributable to the enhancement waiver program as determined by the  
104 department;

105 (e) savings attributable to the Medicaid waiver expansion as determined by the  
106 department;

107 (f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list  
108 under Subsection [26-18-2.4\(3\)](#) as determined by the department;

109 (g) revenues collected from the sales tax described in Subsection [59-12-103](#)~~(13)~~(12);

110 (h) gifts, grants, donations, or any other conveyance of money that may be made to the  
111 fund from private sources;

112 (i) interest earned on money in the fund; and

113 (j) additional amounts as appropriated by the Legislature.

114 (3) (a) The fund shall earn interest.

115 (b) All interest earned on fund money shall be deposited into the fund.

116 (4) (a) A state agency administering the provisions of this chapter may use money from  
117 the fund to pay the costs, not otherwise paid for with federal funds or other revenue sources, of:

118 (i) the health coverage improvement program;

119 (ii) the enhancement waiver program;

120 (iii) a Medicaid waiver expansion; and

121 (iv) the outpatient upper payment limit supplemental payments under Section  
122 26-36b-210.

123 (b) A state agency administering the provisions of this chapter may not use:

124 (i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper  
125 payment limit supplemental payments; or

126 (ii) money in the fund for any purpose not described in Subsection (4)(a).

127 Section 3. Section 35A-8-308 is amended to read:

128 **35A-8-308. Throughput Infrastructure Fund.**

129 (1) There is created an enterprise fund known as the Throughput Infrastructure Fund.

130 (2) The fund consists of money generated from the following revenue sources:

131 (a) all amounts transferred to the fund [~~under Subsection 59-12-103(12)~~] in accordance  
132 with statute;

133 (b) any voluntary contributions received;

134 (c) appropriations made to the fund by the Legislature; and

135 (d) all amounts received from the repayment of loans made by the impact board under  
136 Section 35A-8-309.

137 (3) The state treasurer shall:

138 (a) invest the money in the fund by following the procedures and requirements of Title  
139 51, Chapter 7, State Money Management Act; and

140 (b) deposit all interest or other earnings derived from those investments into the fund.

141 Section 4. Section 35A-8-309 is amended to read:

142 **35A-8-309. Throughput Infrastructure Fund administered by impact board --**  
143 **Uses -- Review by board -- Annual report -- First project.**

144 (1) The impact board shall:

145 (a) make grants and loans from the Throughput Infrastructure Fund created in Section  
146 35A-8-308 for a throughput infrastructure project;

147 (b) use money transferred to the Throughput Infrastructure Fund in accordance with  
148 [~~Subsection 59-12-103(12)~~] statute to provide a loan or grant to finance the cost of acquisition  
149 or construction of a throughput infrastructure project to one or more local political  
150 subdivisions, including a Utah interlocal agency created under Title 11, Chapter 13, Interlocal  
151 Cooperation Act;

152 (c) administer the Throughput Infrastructure Fund in a manner that will keep a portion  
153 of the fund revolving;

154 (d) determine provisions for repayment of loans;

155 (e) establish criteria for awarding loans and grants; and

156 (f) establish criteria for determining eligibility for assistance under this section.

157 (2) The cost of acquisition or construction of a throughput infrastructure project  
158 includes amounts for working capital, reserves, transaction costs, and other amounts  
159 determined by the impact board to be allocable to a throughput infrastructure project.

160 (3) The impact board may restructure or forgive all or part of a local political  
161 subdivision's or interlocal agency's obligation to repay loans for extenuating circumstances.

162 (4) To receive assistance under this section, a local political subdivision or an  
163 interlocal agency shall submit a formal application containing the information that the impact  
164 board requires.

165 (5) (a) The impact board shall:

166 (i) review the proposed uses of the Throughput Infrastructure Fund for a loan or grant  
167 before approving the loan or grant and may condition its approval on whatever assurances the  
168 impact board considers necessary to ensure that proceeds of the loan or grant will be used in  
169 accordance with this section;

170 (ii) ensure that each loan specifies terms for interest deferments, accruals, and  
171 scheduled principal repayment; and

172 (iii) ensure that repayment terms are evidenced by bonds, notes, or other obligations of  
173 the appropriate local political subdivision or interlocal agency issued to the impact board and  
174 payable from the net revenues of a throughput infrastructure project.

175 (b) An instrument described in Subsection (5)(a)(iii) may be:

176 (i) non-recourse to the local political subdivision or interlocal agency; and

177 (ii) limited to a pledge of the net revenues from a throughput infrastructure project.

178 (6) (a) Subject to the restriction in Subsection (6)(b), the impact board shall allocate  
179 from the Throughput Infrastructure Fund to the board those amounts that are appropriated by  
180 the Legislature for the administration of the Throughput Infrastructure Fund.

181 (b) The amount described in Subsection (6)(a) may not exceed 2% of the annual  
182 receipts to the fund.

183 (7) The board shall include in the annual written report described in Section  
184 35A-1-109:

- 185 (a) the number and type of loans and grants made under this section; and
- 186 (b) a list of local political subdivisions or interlocal agencies that received assistance  
187 under this section.

188 (8) (a) The first throughput infrastructure project considered by the impact board shall  
189 be a bulk commodities ocean terminal project.

190 (b) Upon receipt of an application from an interlocal agency created for the sole  
191 purpose of undertaking a throughput infrastructure project that is a bulk commodities ocean  
192 terminal project, the impact board shall:

- 193 (i) grant up to 2% of the money in the Throughput Infrastructure Fund to the interlocal  
194 agency to pay or reimburse costs incurred by the interlocal agency preliminary to its acquisition  
195 of the throughput infrastructure project; and
- 196 (ii) fund the interlocal agency's application if the application meets all criteria  
197 established by the impact board.

198 Section 5. Section 59-1-401 is amended to read:

199 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**  
200 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**  
201 **interest.**

202 (1) As used in this section:

203 (a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the  
204 commission:

- 205 (i) has implemented the commission's GenTax system; and
- 206 (ii) at least 30 days before implementing the commission's GenTax system as described  
207 in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website  
208 stating:

209 (A) the date the commission will implement the GenTax system with respect to the tax,  
210 fee, or charge; and

211 (B) that, at the time the commission implements the GenTax system with respect to the  
212 tax, fee, or charge:

213 (I) a person that files a return after the due date as described in Subsection (2)(a) is

214 subject to the penalty described in Subsection (2)(c)(ii); and

215 (II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is  
216 subject to the penalty described in Subsection (3)(b)(ii).

217 (b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or  
218 charge, the later of:

219 (i) the date on which the commission implements the commission's GenTax system  
220 with respect to the tax, fee, or charge; or

221 (ii) 30 days after the date the commission provides the notice described in Subsection  
222 (1)(a)(ii) with respect to the tax, fee, or charge.

223 (c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:

224 (A) a tax, fee, or charge the commission administers under:

225 (I) this title;

226 (II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

227 (III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

228 (IV) Section 19-6-410.5;

229 (V) Section 19-6-714;

230 (VI) Section 19-6-805;

231 (VII) Section 34A-2-202;

232 (VIII) Section 40-6-14; or

233 (IX) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

234 (B) another amount that by statute is subject to a penalty imposed under this section.

235 (ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

236 (A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

237 (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

238 (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;

239 (D) Chapter 3, Tax Equivalent Property Act; or

240 (E) Chapter 4, Privilege Tax.

241 (d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated  
242 tax, fee, or charge.

243 (2) (a) The due date for filing a return is:

244 (i) if the person filing the return is not allowed by law an extension of time for filing



245 the return, the day on which the return is due as provided by law; or  
246 (ii) if the person filing the return is allowed by law an extension of time for filing the  
247 return, the earlier of:  
248 (A) the date the person files the return; or  
249 (B) the last day of that extension of time as allowed by law.  
250 (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a  
251 return after the due date described in Subsection (2)(a).  
252 (c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:  
253 (i) if the return described in Subsection (2)(b) is filed with respect to an unactivated  
254 tax, fee, or charge:  
255 (A) \$20; or  
256 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or  
257 (ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax,  
258 fee, or charge, beginning on the activation date for the tax, fee, or charge:  
259 (A) \$20; or  
260 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is  
261 filed no later than five days after the due date described in Subsection (2)(a);  
262 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed  
263 more than five days after the due date but no later than 15 days after the due date described in  
264 Subsection (2)(a); or  
265 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is  
266 filed more than 15 days after the due date described in Subsection (2)(a).  
267 (d) This Subsection (2) does not apply to:  
268 (i) an amended return; or  
269 (ii) a return with no tax due.  
270 (3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:  
271 (i) the person files a return on or before the due date for filing a return described in  
272 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due  
273 date;  
274 (ii) the person:  
275 (A) is subject to a penalty under Subsection (2)(b); and

276 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the  
277 due date for filing a return described in Subsection (2)(a);  
278 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and  
279 (B) the commission estimates an amount of tax due for that person in accordance with  
280 Subsection 59-1-1406(2);  
281 (iv) the person:  
282 (A) is mailed a notice of deficiency; and  
283 (B) within a 30-day period after the day on which the notice of deficiency described in  
284 Subsection (3)(a)(iv)(A) is mailed:  
285 (I) does not file a petition for redetermination or a request for agency action; and  
286 (II) fails to pay the tax, fee, or charge due on a return;  
287 (v) (A) the commission:  
288 (I) issues an order constituting final agency action resulting from a timely filed petition  
289 for redetermination or a timely filed request for agency action; or  
290 (II) is considered to have denied a request for reconsideration under Subsection  
291 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed  
292 request for agency action; and  
293 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period  
294 after the date the commission:  
295 (I) issues the order constituting final agency action described in Subsection  
296 (3)(a)(v)(A)(I); or  
297 (II) is considered to have denied the request for reconsideration described in  
298 Subsection (3)(a)(v)(A)(II); or  
299 (vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date  
300 of a final judicial decision resulting from a timely filed petition for judicial review.  
301 (b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:  
302 (i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with  
303 respect to an unactivated tax, fee, or charge:  
304 (A) \$20; or  
305 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or  
306 (ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with

307 respect to an activated tax, fee, or charge, beginning on the activation date:

308 (A) \$20; or

309 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated  
310 tax, fee, or charge due on the return is paid no later than five days after the due date for filing a  
311 return described in Subsection (2)(a);

312 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax,  
313 fee, or charge due on the return is paid more than five days after the due date for filing a return  
314 described in Subsection (2)(a) but no later than 15 days after that due date; or

315 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated  
316 tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a  
317 return described in Subsection (2)(a).

318 (4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or  
319 quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there  
320 shall be added a penalty in an amount determined by applying the interest rate provided under  
321 Section 59-1-402 plus four percentage points to the amount of the underpayment for the period  
322 of the underpayment.

323 (b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the  
324 excess of the required installment over the amount, if any, of the installment paid on or before  
325 the due date for the installment.

326 (ii) The period of the underpayment shall run from the due date for the installment to  
327 whichever of the following dates is the earlier:

328 (A) the original due date of the tax return, without extensions, for the taxable year; or

329 (B) with respect to any portion of the underpayment, the date on which that portion is  
330 paid.

331 (iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited  
332 against unpaid required installments in the order in which the installments are required to be  
333 paid.

334 (5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a  
335 person allowed by law an extension of time for filing a corporate franchise or income tax return  
336 under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return  
337 under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in

338 Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not  
339 including the extension of time, the person fails to pay:

340 (i) for a person filing a corporate franchise or income tax return under Chapter 7,  
341 Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

342 (ii) for a person filing an individual income tax return under Chapter 10, Individual  
343 Income Tax Act, the payment required by Subsection 59-10-516(2).

344 (b) For purposes of Subsection (5)(a), the penalty per month during the period of the  
345 extension of time for filing the return is an amount equal to 2% of the tax due on the return,  
346 unpaid as of the day on which the return is due as provided by law.

347 (6) If a person does not file a return within an extension of time allowed by Section  
348 59-7-505 or 59-10-516, the person:

349 (a) is not subject to a penalty in the amount described in Subsection (5)(b); and

350 (b) is subject to a penalty in an amount equal to the sum of:

351 (i) a late file penalty in an amount equal to the greater of:

352 (A) \$20; or

353 (B) 10% of the tax due on the return, unpaid as of the day on which the return is due as  
354 provided by law, not including the extension of time; and

355 (ii) a late pay penalty in an amount equal to the greater of:

356 (A) \$20; or

357 (B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is  
358 due as provided by law, not including the extension of time.

359 (7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided  
360 in this Subsection (7)(a).

361 (i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax,  
362 fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that  
363 is due to negligence.

364 (ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a  
365 tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire  
366 underpayment.

367 (iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge,  
368 the penalty is the greater of \$500 per period or 50% of the entire underpayment.

369 (iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or  
370 charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.

371 (b) If the commission determines that a person is liable for a penalty imposed under  
372 Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed  
373 penalty.

374 (i) The notice of proposed penalty shall:

375 (A) set forth the basis of the assessment; and

376 (B) be mailed by certified mail, postage prepaid, to the person's last-known address.

377 (ii) Upon receipt of the notice of proposed penalty, the person against whom the  
378 penalty is proposed may:

379 (A) pay the amount of the proposed penalty at the place and time stated in the notice;

380 or

381 (B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

382 (iii) A person against whom a penalty is proposed in accordance with this Subsection  
383 (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with  
384 the commission.

385 (iv) (A) If the commission determines that a person is liable for a penalty under this  
386 Subsection (7), the commission shall assess the penalty and give notice and demand for  
387 payment.

388 (B) The commission shall mail the notice and demand for payment described in  
389 Subsection (7)(b)(iv)(A):

390 (I) to the person's last-known address; and

391 (II) in accordance with Section [59-1-1404](#).

392 (c) A seller that voluntarily collects a tax under Subsection [59-12-107\(2\)\(d\)](#) is not  
393 subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

394 (i) a court of competent jurisdiction issues a final unappealable judgment or order  
395 determining that:

396 (A) the seller meets one or more of the criteria described in Subsection [59-12-107\(2\)\(a\)](#)  
397 or is a seller required to pay or collect and remit sales and use taxes under Subsection  
398 [59-12-107\(2\)\(b\)](#) or (2)(c); and

399 (B) the commission or a county, city, or town may require the seller to collect a tax

400 under Subsections 59-12-103(2)(a) through [~~(d)~~] (e); or

401 (ii) the commission issues a final unappealable administrative order determining that:

402 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)

403 or is a seller required to pay or collect and remit sales and use taxes under Subsection

404 59-12-107(2)(b) or (2)(c); and

405 (B) the commission or a county, city, or town may require the seller to collect a tax

406 under Subsections 59-12-103(2)(a) through [~~(d)~~] (e).

407 (d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not

408 subject to the penalty under Subsection (7)(a)(ii) if:

409 (i) (A) a court of competent jurisdiction issues a final unappealable judgment or order

410 determining that:

411 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)

412 or is a seller required to pay or collect and remit sales and use taxes under Subsection

413 59-12-107(2)(b) or (2)(c); and

414 (II) the commission or a county, city, or town may require the seller to collect a tax

415 under Subsections 59-12-103(2)(a) through [~~(d)~~] (e); or

416 (B) the commission issues a final unappealable administrative order determining that:

417 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)

418 or is a seller required to pay or collect and remit sales and use taxes under Subsection

419 59-12-107(2)(b) or (2)(c); and

420 (II) the commission or a county, city, or town may require the seller to collect a tax

421 under Subsections 59-12-103(2)(a) through [~~(d)~~] (e); and

422 (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a

423 nonfrivolous argument for the extension, modification, or reversal of existing law or the

424 establishment of new law.

425 (8) (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an

426 information return, information report, or a complete supporting schedule is \$50 for each

427 information return, information report, or supporting schedule up to a maximum of \$1,000.

428 (b) If an employer is subject to a penalty under Subsection (13), the employer may not

429 be subject to a penalty under Subsection (8)(a).

430 (c) If an employer is subject to a penalty under this Subsection (8) for failure to file a

431 return in accordance with Subsection 59-10-406(3) on or before the due date described in  
432 Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this  
433 Subsection (8) unless the return is filed more than 14 days after the due date described in  
434 Subsection 59-10-406(3)(b)(ii).

435 (9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay  
436 or impede administration of a law relating to a tax, fee, or charge and files a purported return  
437 that fails to contain information from which the correctness of reported tax, fee, or charge  
438 liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is  
439 substantially incorrect, the penalty is \$500.

440 (10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by  
441 Subsection 59-12-108(1)(a):

442 (i) is subject to a penalty described in Subsection (2); and

443 (ii) may not retain the percentage of sales and use taxes that would otherwise be  
444 allowable under Subsection 59-12-108(2).

445 (b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as  
446 required by Subsection 59-12-108(1)(a)(ii)(B):

447 (i) is subject to a penalty described in Subsection (2); and

448 (ii) may not retain the percentage of sales and use taxes that would otherwise be  
449 allowable under Subsection 59-12-108(2).

450 (11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

451 (i) commits an act described in Subsection (11)(b) with respect to one or more of the  
452 following documents:

453 (A) a return;

454 (B) an affidavit;

455 (C) a claim; or

456 (D) a document similar to Subsections (11)(a)(i)(A) through (C);

457 (ii) knows or has reason to believe that the document described in Subsection (11)(a)(i)  
458 will be used in connection with any material matter administered by the commission; and

459 (iii) knows that the document described in Subsection (11)(a)(i), if used in connection  
460 with any material matter administered by the commission, would result in an understatement of  
461 another person's liability for a tax, fee, or charge.

- 462 (b) The following acts apply to Subsection (11)(a)(i):
- 463 (i) preparing any portion of a document described in Subsection (11)(a)(i);
- 464 (ii) presenting any portion of a document described in Subsection (11)(a)(i);
- 465 (iii) procuring any portion of a document described in Subsection (11)(a)(i);
- 466 (iv) advising in the preparation or presentation of any portion of a document described
- 467 in Subsection (11)(a)(i);
- 468 (v) aiding in the preparation or presentation of any portion of a document described in
- 469 Subsection (11)(a)(i);
- 470 (vi) assisting in the preparation or presentation of any portion of a document described
- 471 in Subsection (11)(a)(i); or
- 472 (vii) counseling in the preparation or presentation of any portion of a document
- 473 described in Subsection (11)(a)(i).
- 474 (c) For purposes of Subsection (11)(a), the penalty:
- 475 (i) shall be imposed by the commission;
- 476 (ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which
- 477 the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and
- 478 (iii) is in addition to any other penalty provided by law.
- 479 (d) The commission may seek a court order to enjoin a person from engaging in
- 480 conduct that is subject to a penalty under this Subsection (11).
- 481 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 482 commission may make rules prescribing the documents that are similar to Subsections
- 483 (11)(a)(i)(A) through (C).
- 484 (12) (a) As provided in Section [76-8-1101](#), criminal offenses and penalties are as
- 485 provided in Subsections (12)(b) through (e).
- 486 (b) (i) A person who is required by this title or any laws the commission administers or
- 487 regulates to register with or obtain a license or permit from the commission, who operates
- 488 without having registered or secured a license or permit, or who operates when the registration,
- 489 license, or permit is expired or not current, is guilty of a class B misdemeanor.
- 490 (ii) Notwithstanding Section [76-3-301](#), for purposes of Subsection (12)(b)(i), the
- 491 penalty may not:
- 492 (A) be less than \$500; or



493 (B) exceed \$1,000.

494 (c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally,  
495 and without a reasonable good faith basis, fails to make, render, sign, or verify a return within  
496 the time required by law or to supply information within the time required by law, or who  
497 makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false  
498 or fraudulent information, is guilty of a third degree felony.

499 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the  
500 penalty may not:

501 (A) be less than \$1,000; or

502 (B) exceed \$5,000.

503 (d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or  
504 charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law,  
505 guilty of a second degree felony.

506 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the  
507 penalty may not:

508 (A) be less than \$1,500; or

509 (B) exceed \$25,000.

510 (e) (i) A person is guilty of a second degree felony if that person commits an act:

511 (A) described in Subsection (12)(e)(ii) with respect to one or more of the following  
512 documents:

513 (I) a return;

514 (II) an affidavit;

515 (III) a claim; or

516 (IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

517 (B) subject to Subsection (12)(e)(iii), with knowledge that the document described in  
518 Subsection (12)(e)(i)(A):

519 (I) is false or fraudulent as to any material matter; and

520 (II) could be used in connection with any material matter administered by the  
521 commission.

522 (ii) The following acts apply to Subsection (12)(e)(i):

523 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

- 524 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);
- 525 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);
- 526 (D) advising in the preparation or presentation of any portion of a document described
- 527 in Subsection (12)(e)(i)(A);
- 528 (E) aiding in the preparation or presentation of any portion of a document described in
- 529 Subsection (12)(e)(i)(A);
- 530 (F) assisting in the preparation or presentation of any portion of a document described
- 531 in Subsection (12)(e)(i)(A); or
- 532 (G) counseling in the preparation or presentation of any portion of a document
- 533 described in Subsection (12)(e)(i)(A).
- 534 (iii) This Subsection (12)(e) applies:
- 535 (A) regardless of whether the person for which the document described in Subsection
- 536 (12)(e)(i)(A) is prepared or presented:
- 537 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or
- 538 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and
- 539 (B) in addition to any other penalty provided by law.
- 540 (iv) Notwithstanding Section [76-3-301](#), for purposes of this Subsection (12)(e), the
- 541 penalty may not:
- 542 (A) be less than \$1,500; or
- 543 (B) exceed \$25,000.
- 544 (v) The commission may seek a court order to enjoin a person from engaging in
- 545 conduct that is subject to a penalty under this Subsection (12)(e).
- 546 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 547 the commission may make rules prescribing the documents that are similar to Subsections
- 548 (12)(e)(i)(A)(I) through (III).
- 549 (f) The statute of limitations for prosecution for a violation of this Subsection (12) is
- 550 the later of six years:
- 551 (i) from the date the tax should have been remitted; or
- 552 (ii) after the day on which the person commits the criminal offense.
- 553 (13) (a) Subject to Subsection (13)(b), an employer that is required to file a form with
- 554 the commission in accordance with Subsection [59-10-406\(8\)](#) is subject to a penalty described

555 in Subsection (13)(b) if the employer:

556 (i) fails to file the form with the commission in an electronic format approved by the  
557 commission as required by Subsection 59-10-406(8);

558 (ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8);

559 (iii) fails to provide accurate information on the form; or

560 (iv) fails to provide all of the information required by the Internal Revenue Service to  
561 be contained on the form.

562 (b) For purposes of Subsection (13)(a), the penalty is:

563 (i) \$30 per form, not to exceed \$75,000 in a calendar year, if the employer files the  
564 form in accordance with Subsection 59-10-406(8), more than 14 days after the due date  
565 provided in Subsection 59-10-406(8) but no later than 30 days after the due date provided in  
566 Subsection 59-10-406(8);

567 (ii) \$60 per form, not to exceed \$200,000 in a calendar year, if the employer files the  
568 form in accordance with Subsection 59-10-406(8), more than 30 days after the due date  
569 provided in Subsection 59-10-406(8) but on or before June 1; or

570 (iii) \$100 per form, not to exceed \$500,000 in a calendar year, if the employer:

571 (A) files the form in accordance with Subsection 59-10-406(8) after June 1; or

572 (B) fails to file the form.

573 (14) Upon making a record of its actions, and upon reasonable cause shown, the  
574 commission may waive, reduce, or compromise any of the penalties or interest imposed under  
575 this part.

576 Section 6. Section 59-12-102 is amended to read:

577 **59-12-102. Definitions.**

578 As used in this chapter:

579 (1) "800 service" means a telecommunications service that:

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

581 (b) is typically marketed:

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

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

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

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

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

589 (2) (a) "900 service" means an inbound toll telecommunications service that:  
590 (i) a subscriber purchases;  
591 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to  
592 the subscriber's:  
593 (A) prerecorded announcement; or  
594 (B) live service; and  
595 (iii) is typically marketed:  
596 (A) under the name 900 service; or  
597 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal  
598 Communications Commission.

599 (b) "900 service" does not include a charge for:  
600 (i) a collection service a seller of a telecommunications service provides to a  
601 subscriber; or  
602 (ii) the following a subscriber sells to the subscriber's customer:  
603 (A) a product; or  
604 (B) a service.

605 (3) (a) "Admission or user fees" includes season passes.  
606 (b) "Admission or user fees" does not include annual membership dues to private  
607 organizations.

608 (4) "Affiliate" or "affiliated person" means a person that, with respect to another  
609 person:  
610 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other  
611 person; or  
612 (b) is related to the other person because a third person, or a group of third persons who  
613 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,  
614 whether direct or indirect, in the related persons.

615 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on  
616 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax

617 Agreement after November 12, 2002.

618 (6) "Agreement combined tax rate" means the sum of the tax rates:

619 (a) listed under Subsection (7); and

620 (b) that are imposed within a local taxing jurisdiction.

621 (7) "Agreement sales and use tax" means a tax imposed under:

622 (a) Subsection [59-12-103\(2\)\(a\)\(i\)\(A\)](#);

623 (b) Subsection [59-12-103\(2\)\(b\)\(i\)](#);

624 (c) Subsection [59-12-103\(2\)\(c\)\(i\)](#);

625 (d) Subsection [59-12-103\(2\)\(d\)](#);

626 [~~(d)~~] (e) Subsection [59-12-103\(2\)](#)[~~(d)~~](e)(i)(A)(I);

627 [~~(e)~~] (f) Section [59-12-204](#);

628 [~~(f)~~] (g) Section [59-12-401](#);

629 [~~(g)~~] (h) Section [59-12-402](#);

630 [~~(h)~~] (i) Section [59-12-402.1](#);

631 [~~(i)~~] (j) Section [59-12-703](#);

632 [~~(j)~~] (k) Section [59-12-802](#);

633 [~~(k)~~] (l) Section [59-12-804](#);

634 [~~(l)~~] (m) Section [59-12-1102](#);

635 [~~(m)~~] (n) Section [59-12-1302](#);

636 [~~(n)~~] (o) Section [59-12-1402](#);

637 [~~(o)~~] (p) Section [59-12-1802](#);

638 [~~(p)~~] (q) Section [59-12-2003](#);

639 [~~(q)~~] (r) Section [59-12-2103](#);

640 [~~(r)~~] (s) Section [59-12-2213](#);

641 [~~(s)~~] (t) Section [59-12-2214](#);

642 [~~(t)~~] (u) Section [59-12-2215](#);

643 [~~(u)~~] (v) Section [59-12-2216](#);

644 [~~(v)~~] (w) Section [59-12-2217](#);

645 [~~(w)~~] (x) Section [59-12-2218](#);

646 [~~(x)~~] (y) Section [59-12-2219](#); or

647 [~~(y)~~] (z) Section [59-12-2220](#).

- 648 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 649 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 650 (a) except for:
- 651 (i) an airline as defined in Section 59-2-102; or
- 652 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 653 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 654 state, of an airline; and
- 655 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 656 whether the business entity performs the following in this state:
- 657 (i) check, diagnose, overhaul, and repair:
- 658 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 659 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 660 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 661 engine;
- 662 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 663 aircraft:
- 664 (A) an inspection;
- 665 (B) a repair, including a structural repair or modification;
- 666 (C) changing landing gear; and
- 667 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 668 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 669 completely apply new paint to the fixed wing turbine powered aircraft; and
- 670 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 671 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 672 authority that certifies the fixed wing turbine powered aircraft.
- 673 (10) "Alcoholic beverage" means a beverage that:
- 674 (a) is suitable for human consumption; and
- 675 (b) contains .5% or more alcohol by volume.
- 676 (11) "Alternative energy" means:
- 677 (a) biomass energy;
- 678 (b) geothermal energy;

- 679 (c) hydroelectric energy;
- 680 (d) solar energy;
- 681 (e) wind energy; or
- 682 (f) energy that is derived from:
  - 683 (i) coal-to-liquids;
  - 684 (ii) nuclear fuel;
  - 685 (iii) oil-impregnated diatomaceous earth;
  - 686 (iv) oil sands;
  - 687 (v) oil shale;
  - 688 (vi) petroleum coke; or
  - 689 (vii) waste heat from:
    - 690 (A) an industrial facility; or
    - 691 (B) a power station in which an electric generator is driven through a process in which
    - 692 water is heated, turns into steam, and spins a steam turbine.
- 693 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
- 694 facility" means a facility that:
  - 695 (i) uses alternative energy to produce electricity; and
  - 696 (ii) has a production capacity of two megawatts or greater.
- 697 (b) A facility is an alternative energy electricity production facility regardless of
- 698 whether the facility is:
  - 699 (i) connected to an electric grid; or
  - 700 (ii) located on the premises of an electricity consumer.
- 701 (13) (a) "Ancillary service" means a service associated with, or incidental to, the
- 702 provision of telecommunications service.
- 703 (b) "Ancillary service" includes:
  - 704 (i) a conference bridging service;
  - 705 (ii) a detailed communications billing service;
  - 706 (iii) directory assistance;
  - 707 (iv) a vertical service; or
  - 708 (v) a voice mail service.
- 709 (14) "Area agency on aging" means the same as that term is defined in Section

710 [62A-3-101](#).

711 (15) "Assisted amusement device" means an amusement device, skill device, or ride  
712 device that is started and stopped by an individual:

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

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

717 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or  
718 washing of tangible personal property if the cleaning or washing labor is primarily performed  
719 by an individual:

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

722 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
723 property.

724 (17) "Authorized carrier" means:

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

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

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

733 (18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the  
734 following that is used as the primary source of energy to produce fuel or electricity:

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

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

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

738 (B) animal waste;

739 (C) waste vegetable oil;

740 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of



741 wastewater residuals, or through the conversion of a waste material through a nonincineration,  
742 thermal conversion process;

743 (E) aquatic plants; and  
744 (F) agricultural products.

745 (b) "Biomass energy" does not include:  
746 (i) black liquor; or  
747 (ii) treated woods.

748 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal  
749 property, products, or services if the tangible personal property, products, or services are:  
750 (i) distinct and identifiable; and  
751 (ii) sold for one nonitemized price.

752 (b) "Bundled transaction" does not include:  
753 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on  
754 the basis of the selection by the purchaser of the items of tangible personal property included in  
755 the transaction;  
756 (ii) the sale of real property;  
757 (iii) the sale of services to real property;  
758 (iv) the retail sale of tangible personal property and a service if:  
759 (A) the tangible personal property:  
760 (I) is essential to the use of the service; and  
761 (II) is provided exclusively in connection with the service; and  
762 (B) the service is the true object of the transaction;  
763 (v) the retail sale of two services if:  
764 (A) one service is provided that is essential to the use or receipt of a second service;  
765 (B) the first service is provided exclusively in connection with the second service; and  
766 (C) the second service is the true object of the transaction;  
767 (vi) a transaction that includes tangible personal property or a product subject to  
768 taxation under this chapter and tangible personal property or a product that is not subject to  
769 taxation under this chapter if the:  
770 (A) seller's purchase price of the tangible personal property or product subject to  
771 taxation under this chapter is de minimis; or

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

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

776 (A) that retail sale includes:

777 (I) food and food ingredients;

778 (II) a drug;

779 (III) durable medical equipment;

780 (IV) mobility enhancing equipment;

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

782 (VI) a prosthetic device; or

783 (VII) a medical supply; and

784 (B) subject to Subsection (19)(f):

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

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

789 (c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a  
790 service that is distinct and identifiable does not include:

791 (A) packaging that:

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

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

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

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

799 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a  
800 product, or a service is provided free of charge with the purchase of another item of tangible  
801 personal property, a product, or a service if the sales price of the purchased item of tangible  
802 personal property, product, or service does not vary depending on the inclusion of the tangible

803 personal property, product, or service provided free of charge.

804 (d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price  
805 does not include a price that is separately identified by tangible personal property, product, or  
806 service on the following, regardless of whether the following is in paper format or electronic  
807 format:

808 (A) a binding sales document; or

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

810 (ii) For purposes of Subsection (19)(d)(i), a binding sales document or another  
811 supporting sales-related document that is available to a purchaser includes:

812 (A) a bill of sale;

813 (B) a contract;

814 (C) an invoice;

815 (D) a lease agreement;

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

817 (F) a price list;

818 (G) a rate card;

819 (H) a receipt; or

820 (I) a service agreement.

821 (e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal  
822 property or a product subject to taxation under this chapter is de minimis if:

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

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

827 (ii) For purposes of Subsection (19)(b)(vi), a seller:

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

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

834 (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service  
835 contract to determine if the sales price of tangible personal property or a product is de minimis.

836 (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of  
837 the seller's purchase price and the seller's sales price to determine if tangible personal property  
838 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales  
839 price of that retail sale.

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

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

844 (i) on a transaction; and

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

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

848 (c) maintains a record of the transaction described in Subsection (20)(a)(i).

849 (21) "Certified service provider" means an agent certified:

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

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

855 (22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel  
856 suitable for general use.

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

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

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

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

863 (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
864 fuels that does not constitute industrial use under Subsection (57) or residential use under

865 Subsection (111).

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

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

871 (ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3,  
872 Utah Administrative Rulemaking Act, the commission may make rules defining what  
873 constitutes a person's place of employment.

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

876 (26) "Component part" includes:

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

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

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

882 (d) feed, seeds, and seedlings.

883 (27) "Computer" means an electronic device that accepts information:

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

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

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

887 (28) "Computer software" means a set of coded instructions designed to cause:

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

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

890 (29) "Computer software maintenance contract" means a contract that obligates a seller  
891 of computer software to provide a customer with:

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

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

894 (c) a combination of Subsections (29)(a) and (b).

895 (30) (a) "Conference bridging service" means an ancillary service that links two or

896 more participants of an audio conference call or video conference call.

897 (b) "Conference bridging service" may include providing a telephone number as part of  
898 the ancillary service described in Subsection (30)(a).

899 (c) "Conference bridging service" does not include a telecommunications service used  
900 to reach the ancillary service described in Subsection (30)(a).

901 (31) "Construction materials" means any tangible personal property that will be  
902 converted into real property.

903 (32) "Delivered electronically" means delivered to a purchaser by means other than  
904 tangible storage media.

905 (33) (a) "Delivery charge" means a charge:

906 (i) by a seller of:

907 (A) tangible personal property;

908 (B) a product transferred electronically; or

909 (C) a service; and

910 (ii) for preparation and delivery of the tangible personal property, product transferred  
911 electronically, or services described in Subsection (33)(a)(i) to a location designated by the  
912 purchaser.

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

914 (i) transportation;

915 (ii) shipping;

916 (iii) postage;

917 (iv) handling;

918 (v) crating; or

919 (vi) packing.

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

922 (35) "Dietary supplement" means a product, other than tobacco, that:

923 (a) is intended to supplement the diet;

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

925 (i) a vitamin;

926 (ii) a mineral;

- 927 (iii) an herb or other botanical;
- 928 (iv) an amino acid;
- 929 (v) a dietary substance for use by humans to supplement the diet by increasing the total  
930 dietary intake; or
- 931 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient  
932 described in Subsections (35)(b)(i) through (v);
- 933 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
- 934 (A) tablet form;
- 935 (B) capsule form;
- 936 (C) powder form;
- 937 (D) softgel form;
- 938 (E) gelcap form; or
- 939 (F) liquid form; or
- 940 (ii) if the product is not intended for ingestion in a form described in Subsections  
941 (35)(c)(i)(A) through (F), is not represented:
- 942 (A) as conventional food; and
- 943 (B) for use as a sole item of:
- 944 (I) a meal; or
- 945 (II) the diet; and
- 946 (d) is required to be labeled as a dietary supplement:
- 947 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 948 (ii) as required by 21 C.F.R. Sec. 101.36.
- 949 (36) (a) "Digital audio work" means a work that results from the fixation of a series of  
950 musical, spoken, or other sounds.
- 951 (b) "Digital audio work" includes a ringtone.
- 952 (37) "Digital audio-visual work" means a series of related images which, when shown  
953 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 954 (38) "Digital book" means a work that is generally recognized in the ordinary and usual  
955 sense as a book.
- 956 (39) (a) "Direct mail" means printed material delivered or distributed by United States  
957 mail or other delivery service:

- 958 (i) to:
- 959 (A) a mass audience; or
- 960 (B) addressees on a mailing list provided:
- 961 (I) by a purchaser of the mailing list; or
- 962 (II) at the discretion of the purchaser of the mailing list; and
- 963 (ii) if the cost of the printed material is not billed directly to the recipients.
- 964 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 965 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 966 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 967 single address.
- 968 (40) "Directory assistance" means an ancillary service of providing:
- 969 (a) address information; or
- 970 (b) telephone number information.
- 971 (41) (a) "Disposable home medical equipment or supplies" means medical equipment
- 972 or supplies that:
- 973 (i) cannot withstand repeated use; and
- 974 (ii) are purchased by, for, or on behalf of a person other than:
- 975 (A) a health care facility as defined in Section [26-21-2](#);
- 976 (B) a health care provider as defined in Section [78B-3-403](#);
- 977 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or
- 978 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).
- 979 (b) "Disposable home medical equipment or supplies" does not include:
- 980 (i) a drug;
- 981 (ii) durable medical equipment;
- 982 (iii) a hearing aid;
- 983 (iv) a hearing aid accessory;
- 984 (v) mobility enhancing equipment; or
- 985 (vi) tangible personal property used to correct impaired vision, including:
- 986 (A) eyeglasses; or
- 987 (B) contact lenses.
- 988 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the



989 commission may by rule define what constitutes medical equipment or supplies.

990 (42) "Drilling equipment manufacturer" means a facility:

991 (a) located in the state;

992 (b) with respect to which 51% or more of the manufacturing activities of the facility

993 consist of manufacturing component parts of drilling equipment;

994 (c) that uses pressure of 800,000 or more pounds per square inch as part of the

995 manufacturing process; and

996 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the

997 manufacturing process.

998 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a

999 compound, substance, or preparation that is:

1000 (i) recognized in:

1001 (A) the official United States Pharmacopoeia;

1002 (B) the official Homeopathic Pharmacopoeia of the United States;

1003 (C) the official National Formulary; or

1004 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);

1005 (ii) intended for use in the:

1006 (A) diagnosis of disease;

1007 (B) cure of disease;

1008 (C) mitigation of disease;

1009 (D) treatment of disease; or

1010 (E) prevention of disease; or

1011 (iii) intended to affect:

1012 (A) the structure of the body; or

1013 (B) any function of the body.

1014 (b) "Drug" does not include:

1015 (i) food and food ingredients;

1016 (ii) a dietary supplement;

1017 (iii) an alcoholic beverage; or

1018 (iv) a prosthetic device.

1019 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means

- 1020 equipment that:
- 1021 (i) can withstand repeated use;
  - 1022 (ii) is primarily and customarily used to serve a medical purpose;
  - 1023 (iii) generally is not useful to a person in the absence of illness or injury; and
  - 1024 (iv) is not worn in or on the body.
- 1025 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 1026 equipment described in Subsection (44)(a).
- 1027 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 1028 (45) "Electronic" means:
- 1029 (a) relating to technology; and
  - 1030 (b) having:
    - 1031 (i) electrical capabilities;
    - 1032 (ii) digital capabilities;
    - 1033 (iii) magnetic capabilities;
    - 1034 (iv) wireless capabilities;
    - 1035 (v) optical capabilities;
    - 1036 (vi) electromagnetic capabilities; or
    - 1037 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).
- 1038 (46) "Electronic financial payment service" means an establishment:
- 1039 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
  - 1040 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
  - 1041 federal Executive Office of the President, Office of Management and Budget; and
  - 1042 (b) that performs electronic financial payment services.
- 1043 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 1044 (48) "Fixed guideway" means a public transit facility that uses and occupies:
- 1045 (a) rail for the use of public transit; or
  - 1046 (b) a separate right-of-way for the use of public transit.
- 1047 (49) "Fixed wing turbine powered aircraft" means an aircraft that:
- 1048 (a) is powered by turbine engines;
  - 1049 (b) operates on jet fuel; and
  - 1050 (c) has wings that are permanently attached to the fuselage of the aircraft.

1051 (50) "Fixed wireless service" means a telecommunications service that provides radio  
1052 communication between fixed points.

1053 (51) (a) "Food and food ingredients" means substances:

1054 (i) regardless of whether the substances are in:

1055 (A) liquid form;

1056 (B) concentrated form;

1057 (C) solid form;

1058 (D) frozen form;

1059 (E) dried form; or

1060 (F) dehydrated form; and

1061 (ii) that are:

1062 (A) sold for:

1063 (I) ingestion by humans; or

1064 (II) chewing by humans; and

1065 (B) consumed for the substance's:

1066 (I) taste; or

1067 (II) nutritional value.

1068 (b) "Food and food ingredients" includes an item described in Subsection (95)(b)(iii).

1069 (c) "Food and food ingredients" does not include:

1070 (i) an alcoholic beverage;

1071 (ii) tobacco; or

1072 (iii) prepared food.

1073 (52) (a) "Fundraising sales" means sales:

1074 (i) (A) made by a school; or

1075 (B) made by a school student;

1076 (ii) that are for the purpose of raising funds for the school to purchase equipment,

1077 materials, or provide transportation; and

1078 (iii) that are part of an officially sanctioned school activity.

1079 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"

1080 means a school activity:

1081 (i) that is conducted in accordance with a formal policy adopted by the school or school

1082 district governing the authorization and supervision of fundraising activities;

1083 (ii) that does not directly or indirectly compensate an individual teacher or other  
1084 educational personnel by direct payment, commissions, or payment in kind; and

1085 (iii) the net or gross revenues from which are deposited in a dedicated account  
1086 controlled by the school or school district.

1087 (53) "Geothermal energy" means energy contained in heat that continuously flows  
1088 outward from the earth that is used as the sole source of energy to produce electricity.

1089 (54) "Governing board of the agreement" means the governing board of the agreement  
1090 that is:

1091 (a) authorized to administer the agreement; and

1092 (b) established in accordance with the agreement.

1093 (55) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

1094 (i) the executive branch of the state, including all departments, institutions, boards,  
1095 divisions, bureaus, offices, commissions, and committees;

1096 (ii) the judicial branch of the state, including the courts, the Judicial Council, the  
1097 Administrative Office of the Courts, and similar administrative units in the judicial branch;

1098 (iii) the legislative branch of the state, including the House of Representatives, the  
1099 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
1100 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
1101 Analyst;

1102 (iv) the National Guard;

1103 (v) an independent entity as defined in Section 63E-1-102; or

1104 (vi) a political subdivision as defined in Section 17B-1-102.

1105 (b) "Governmental entity" does not include the state systems of public and higher  
1106 education, including:

1107 (i) a school;

1108 (ii) the State Board of Education;

1109 (iii) the State Board of Regents; or

1110 (iv) an institution of higher education described in Section 53B-1-102.

1111 (56) "Hydroelectric energy" means water used as the sole source of energy to produce  
1112 electricity.

1113 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or  
1114 other fuels:

- 1115 (a) in mining or extraction of minerals;
- 1116 (b) in agricultural operations to produce an agricultural product up to the time of  
1117 harvest or placing the agricultural product into a storage facility, including:
  - 1118 (i) commercial greenhouses;
  - 1119 (ii) irrigation pumps;
  - 1120 (iii) farm machinery;
  - 1121 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered  
1122 under Title 41, Chapter 1a, Part 2, Registration; and
  - 1123 (v) other farming activities;
- 1124 (c) in manufacturing tangible personal property at an establishment described in:
  - 1125 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
1126 the federal Executive Office of the President, Office of Management and Budget; or
  - 1127 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
1128 American Industry Classification System of the federal Executive Office of the President,  
1129 Office of Management and Budget;
- 1130 (d) by a scrap recycler if:
  - 1131 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
1132 one or more of the following items into prepared grades of processed materials for use in new  
1133 products:
    - 1134 (A) iron;
    - 1135 (B) steel;
    - 1136 (C) nonferrous metal;
    - 1137 (D) paper;
    - 1138 (E) glass;
    - 1139 (F) plastic;
    - 1140 (G) textile; or
    - 1141 (H) rubber; and
  - 1142 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with  
1143 nonrecycled materials; or

1144 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a  
1145 cogeneration facility as defined in Section 54-2-1.

1146 (58) (a) Except as provided in Subsection (58)(b), "installation charge" means a charge  
1147 for installing:

1148 (i) tangible personal property; or

1149 (ii) a product transferred electronically.

1150 (b) "Installation charge" does not include a charge for:

1151 (i) repairs or renovations of:

1152 (A) tangible personal property; or

1153 (B) a product transferred electronically; or

1154 (ii) attaching tangible personal property or a product transferred electronically:

1155 (A) to other tangible personal property; and

1156 (B) as part of a manufacturing or fabrication process.

1157 (59) "Institution of higher education" means an institution of higher education listed in  
1158 Section 53B-2-101.

1159 (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
1160 personal property or a product transferred electronically for:

1161 (i) (A) a fixed term; or

1162 (B) an indeterminate term; and

1163 (ii) consideration.

1164 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the  
1165 amount of consideration may be increased or decreased by reference to the amount realized  
1166 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue  
1167 Code.

1168 (c) "Lease" or "rental" does not include:

1169 (i) a transfer of possession or control of property under a security agreement or  
1170 deferred payment plan that requires the transfer of title upon completion of the required  
1171 payments;

1172 (ii) a transfer of possession or control of property under an agreement that requires the  
1173 transfer of title:

1174 (A) upon completion of required payments; and

- 1175 (B) if the payment of an option price does not exceed the greater of:
- 1176 (I) \$100; or
- 1177 (II) 1% of the total required payments; or
- 1178 (iii) providing tangible personal property along with an operator for a fixed period of
- 1179 time or an indeterminate period of time if the operator is necessary for equipment to perform as
- 1180 designed.
- 1181 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to
- 1182 perform as designed if the operator's duties exceed the:
- 1183 (i) set-up of tangible personal property;
- 1184 (ii) maintenance of tangible personal property; or
- 1185 (iii) inspection of tangible personal property.
- 1186 (61) "Life science establishment" means an establishment in this state that is classified
- 1187 under the following NAICS codes of the 2007 North American Industry Classification System
- 1188 of the federal Executive Office of the President, Office of Management and Budget:
- 1189 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 1190 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
- 1191 Manufacturing; or
- 1192 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 1193 (62) "Life science research and development facility" means a facility owned, leased,
- 1194 or rented by a life science establishment if research and development is performed in 51% or
- 1195 more of the total area of the facility.
- 1196 (63) "Load and leave" means delivery to a purchaser by use of a tangible storage media
- 1197 if the tangible storage media is not physically transferred to the purchaser.
- 1198 (64) "Local taxing jurisdiction" means a:
- 1199 (a) county that is authorized to impose an agreement sales and use tax;
- 1200 (b) city that is authorized to impose an agreement sales and use tax; or
- 1201 (c) town that is authorized to impose an agreement sales and use tax.
- 1202 (65) "Manufactured home" means the same as that term is defined in Section
- 1203 [15A-1-302](#).
- 1204 (66) "Manufacturing facility" means:
- 1205 (a) an establishment described in:

1206 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
1207 the federal Executive Office of the President, Office of Management and Budget; or

1208 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
1209 American Industry Classification System of the federal Executive Office of the President,  
1210 Office of Management and Budget;

1211 (b) a scrap recycler if:

1212 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
1213 one or more of the following items into prepared grades of processed materials for use in new  
1214 products:

1215 (A) iron;

1216 (B) steel;

1217 (C) nonferrous metal;

1218 (D) paper;

1219 (E) glass;

1220 (F) plastic;

1221 (G) textile; or

1222 (H) rubber; and

1223 (ii) the new products under Subsection (66)(b)(i) would otherwise be made with  
1224 nonrecycled materials; or

1225 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is  
1226 placed in service on or after May 1, 2006.

1227 (67) (a) "Marketplace" means a physical or electronic place, platform, or forum where  
1228 tangible personal property, a product transferred electronically, or a service is offered for sale.

1229 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a  
1230 dedicated sales software application.

1231 (68) (a) "Marketplace facilitator" means a person, including an affiliate of the person,  
1232 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to  
1233 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or  
1234 controls and that directly or indirectly:

1235 (i) does any of the following:

1236 (A) lists, makes available, or advertises tangible personal property, a product



1237 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the  
1238 person owns, operates, or controls;

1239 (B) facilitates the sale of a marketplace seller's tangible personal property, product  
1240 transferred electronically, or service by transmitting or otherwise communicating an offer or  
1241 acceptance of a retail sale between the marketplace seller and a purchaser using the  
1242 marketplace;

1243 (C) owns, rents, licenses, makes available, or operates any electronic or physical  
1244 infrastructure or any property, process, method, copyright, trademark, or patent that connects a  
1245 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal  
1246 property, a product transferred electronically, or a service;

1247 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible  
1248 personal property, a product transferred electronically, or a service, regardless of ownership or  
1249 control of the tangible personal property, the product transferred electronically, or the service  
1250 that is the subject of the retail sale;

1251 (E) provides software development or research and development activities related to  
1252 any activity described in this Subsection (68)(a)(i), if the software development or research and  
1253 development activity is directly related to the person's marketplace;

1254 (F) provides or offers fulfillment or storage services for a marketplace seller;

1255 (G) sets prices for the sale of tangible personal property, a product transferred  
1256 electronically, or a service by a marketplace seller;

1257 (H) provides or offers customer service to a marketplace seller or a marketplace seller's  
1258 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal  
1259 property, a product transferred electronically, or a service sold by a marketplace seller on the  
1260 person's marketplace; or

1261 (I) brands or otherwise identifies sales as those of the person; and

1262 (ii) does any of the following:

1263 (A) collects the sales price or purchase price of a retail sale of tangible personal  
1264 property, a product transferred electronically, or a service;

1265 (B) provides payment processing services for a retail sale of tangible personal property,  
1266 a product transferred electronically, or a service;

1267 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing

1268 fee, a fee for inserting or making available tangible personal property, a product transferred  
1269 electronically, or a service on the person's marketplace, or other consideration for the  
1270 facilitation of a retail sale of tangible personal property, a product transferred electronically, or  
1271 a service, regardless of ownership or control of the tangible personal property, the product  
1272 transferred electronically, or the service that is the subject of the retail sale;

1273 (D) through terms and conditions, an agreement, or another arrangement with a third  
1274 person, collects payment from a purchase for a retail sale of tangible personal property, a  
1275 product transferred electronically, or a service and transmits that payment to the marketplace  
1276 seller, regardless of whether the third person receives compensation or other consideration in  
1277 exchange for the service; or

1278 (E) provides a virtual currency for a purchaser to use to purchase tangible personal  
1279 property, a product transferred electronically, or service offered for sale.

1280 (b) "Marketplace facilitator" does not include a person that only provides payment  
1281 processing services.

1282 (69) "Marketplace seller" means a seller that makes one or more retail sales through a  
1283 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the  
1284 seller is required to be registered to collect and remit the tax under this part.

1285 (70) "Member of the immediate family of the producer" means a person who is related  
1286 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:

1287 (a) child or stepchild, regardless of whether the child or stepchild is:

1288 (i) an adopted child or adopted stepchild; or

1289 (ii) a foster child or foster stepchild;

1290 (b) grandchild or stepgrandchild;

1291 (c) grandparent or stepgrandparent;

1292 (d) nephew or stepnephew;

1293 (e) niece or stepniece;

1294 (f) parent or stepparent;

1295 (g) sibling or stepsibling;

1296 (h) spouse;

1297 (i) person who is the spouse of a person described in Subsections (70)(a) through (g);

1298 or

1299 (j) person similar to a person described in Subsections (70)(a) through (i) as  
1300 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
1301 Administrative Rulemaking Act.

1302 (71) "Mobile home" means the same as that term is defined in Section 15A-1-302.

1303 (72) "Mobile telecommunications service" means the same as that term is defined in  
1304 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1305 (73) (a) "Mobile wireless service" means a telecommunications service, regardless of  
1306 the technology used, if:

1307 (i) the origination point of the conveyance, routing, or transmission is not fixed;

1308 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

1309 (iii) the origination point described in Subsection (73)(a)(i) and the termination point  
1310 described in Subsection (73)(a)(ii) are not fixed.

1311 (b) "Mobile wireless service" includes a telecommunications service that is provided  
1312 by a commercial mobile radio service provider.

1313 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1314 commission may by rule define "commercial mobile radio service provider."

1315 (74) (a) Except as provided in Subsection (74)(c), "mobility enhancing equipment"  
1316 means equipment that is:

1317 (i) primarily and customarily used to provide or increase the ability to move from one  
1318 place to another;

1319 (ii) appropriate for use in a:

1320 (A) home; or

1321 (B) motor vehicle; and

1322 (iii) not generally used by persons with normal mobility.

1323 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
1324 the equipment described in Subsection (74)(a).

1325 (c) "Mobility enhancing equipment" does not include:

1326 (i) a motor vehicle;

1327 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
1328 vehicle manufacturer;

1329 (iii) durable medical equipment; or

1330 (iv) a prosthetic device.

1331 (75) "Model 1 seller" means a seller registered under the agreement that has selected a  
1332 certified service provider as the seller's agent to perform the seller's sales and use tax functions  
1333 for agreement sales and use taxes, as outlined in the contract between the governing board of  
1334 the agreement and the certified service provider, other than the seller's obligation under Section  
1335 [59-12-124](#) to remit a tax on the seller's own purchases.

1336 (76) "Model 2 seller" means a seller registered under the agreement that:

1337 (a) except as provided in Subsection (76)(b), has selected a certified automated system  
1338 to perform the seller's sales tax functions for agreement sales and use taxes; and

1339 (b) retains responsibility for remitting all of the sales tax:

1340 (i) collected by the seller; and

1341 (ii) to the appropriate local taxing jurisdiction.

1342 (77) (a) Subject to Subsection (77)(b), "model 3 seller" means a seller registered under  
1343 the agreement that has:

1344 (i) sales in at least five states that are members of the agreement;

1345 (ii) total annual sales revenues of at least \$500,000,000;

1346 (iii) a proprietary system that calculates the amount of tax:

1347 (A) for an agreement sales and use tax; and

1348 (B) due to each local taxing jurisdiction; and

1349 (iv) entered into a performance agreement with the governing board of the agreement.

1350 (b) For purposes of Subsection (77)(a), "model 3 seller" includes an affiliated group of  
1351 sellers using the same proprietary system.

1352 (78) "Model 4 seller" means a seller that is registered under the agreement and is not a  
1353 model 1 seller, model 2 seller, or model 3 seller.

1354 (79) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

1355 (80) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

1356 (81) "Oil sands" means impregnated bituminous sands that:

1357 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with  
1358 other hydrocarbons, or otherwise treated;

1359 (b) yield mixtures of liquid hydrocarbon; and

1360 (c) require further processing other than mechanical blending before becoming finished

1361 petroleum products.

1362 (82) "Oil shale" means a group of fine black to dark brown shales containing kerogen  
1363 material that yields petroleum upon heating and distillation.

1364 (83) "Optional computer software maintenance contract" means a computer software  
1365 maintenance contract that a customer is not obligated to purchase as a condition to the retail  
1366 sale of computer software.

1367 (84) (a) "Other fuels" means products that burn independently to produce heat or  
1368 energy.

1369 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
1370 personal property.

1371 (85) (a) "Paging service" means a telecommunications service that provides  
1372 transmission of a coded radio signal for the purpose of activating a specific pager.

1373 (b) For purposes of Subsection (85)(a), the transmission of a coded radio signal  
1374 includes a transmission by message or sound.

1375 (86) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).

1376 (87) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

1377 (88) (a) "Permanently attached to real property" means that for tangible personal  
1378 property attached to real property:

1379 (i) the attachment of the tangible personal property to the real property:

1380 (A) is essential to the use of the tangible personal property; and

1381 (B) suggests that the tangible personal property will remain attached to the real  
1382 property in the same place over the useful life of the tangible personal property; or

1383 (ii) if the tangible personal property is detached from the real property, the detachment  
1384 would:

1385 (A) cause substantial damage to the tangible personal property; or

1386 (B) require substantial alteration or repair of the real property to which the tangible  
1387 personal property is attached.

1388 (b) "Permanently attached to real property" includes:

1389 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1390 (A) essential to the operation of the tangible personal property; and

1391 (B) attached only to facilitate the operation of the tangible personal property;

1392 (ii) a temporary detachment of tangible personal property from real property for a  
1393 repair or renovation if the repair or renovation is performed where the tangible personal  
1394 property and real property are located; or

1395 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
1396 Subsection (88)(c)(iii) or (iv).

1397 (c) "Permanently attached to real property" does not include:

1398 (i) the attachment of portable or movable tangible personal property to real property if  
1399 that portable or movable tangible personal property is attached to real property only for:

1400 (A) convenience;

1401 (B) stability; or

1402 (C) for an obvious temporary purpose;

1403 (ii) the detachment of tangible personal property from real property except for the  
1404 detachment described in Subsection (88)(b)(ii);

1405 (iii) an attachment of the following tangible personal property to real property if the  
1406 attachment to real property is only through a line that supplies water, electricity, gas,  
1407 telecommunications, cable, or supplies a similar item as determined by the commission by rule  
1408 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

1409 (A) a computer;

1410 (B) a telephone;

1411 (C) a television; or

1412 (D) tangible personal property similar to Subsections (88)(c)(iii)(A) through (C) as  
1413 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
1414 Administrative Rulemaking Act; or

1415 (iv) an item listed in Subsection (129)(c).

1416 (89) "Person" includes any individual, firm, partnership, joint venture, association,  
1417 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
1418 municipality, district, or other local governmental entity of the state, or any group or  
1419 combination acting as a unit.

1420 (90) "Place of primary use":

1421 (a) for telecommunications service other than mobile telecommunications service,  
1422 means the street address representative of where the customer's use of the telecommunications

1423 service primarily occurs, which shall be:

1424 (i) the residential street address of the customer; or

1425 (ii) the primary business street address of the customer; or

1426 (b) for mobile telecommunications service, means the same as that term is defined in

1427 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1428 (91) (a) "Postpaid calling service" means a telecommunications service a person

1429 obtains by making a payment on a call-by-call basis:

1430 (i) through the use of a:

1431 (A) bank card;

1432 (B) credit card;

1433 (C) debit card; or

1434 (D) travel card; or

1435 (ii) by a charge made to a telephone number that is not associated with the origination

1436 or termination of the telecommunications service.

1437 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling

1438 service, that would be a prepaid wireless calling service if the service were exclusively a

1439 telecommunications service.

1440 (92) "Postproduction" means an activity related to the finishing or duplication of a

1441 medium described in Subsection [59-12-104\(54\)\(a\)](#).

1442 (93) "Prepaid calling service" means a telecommunications service:

1443 (a) that allows a purchaser access to telecommunications service that is exclusively

1444 telecommunications service;

1445 (b) that:

1446 (i) is paid for in advance; and

1447 (ii) enables the origination of a call using an:

1448 (A) access number; or

1449 (B) authorization code;

1450 (c) that is dialed:

1451 (i) manually; or

1452 (ii) electronically; and

1453 (d) sold in predetermined units or dollars that decline:

- 1454 (i) by a known amount; and
- 1455 (ii) with use.
- 1456 (94) "Prepaid wireless calling service" means a telecommunications service:
- 1457 (a) that provides the right to utilize:
- 1458 (i) mobile wireless service; and
- 1459 (ii) other service that is not a telecommunications service, including:
- 1460 (A) the download of a product transferred electronically;
- 1461 (B) a content service; or
- 1462 (C) an ancillary service;
- 1463 (b) that:
- 1464 (i) is paid for in advance; and
- 1465 (ii) enables the origination of a call using an:
- 1466 (A) access number; or
- 1467 (B) authorization code;
- 1468 (c) that is dialed:
- 1469 (i) manually; or
- 1470 (ii) electronically; and
- 1471 (d) sold in predetermined units or dollars that decline:
- 1472 (i) by a known amount; and
- 1473 (ii) with use.
- 1474 (95) (a) "Prepared food" means:
- 1475 (i) food:
- 1476 (A) sold in a heated state; or
- 1477 (B) heated by a seller;
- 1478 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 1479 item; or
- 1480 (iii) except as provided in Subsection (95)(c), food sold with an eating utensil provided
- 1481 by the seller, including a:
- 1482 (A) plate;
- 1483 (B) knife;
- 1484 (C) fork;



- 1485 (D) spoon;
- 1486 (E) glass;
- 1487 (F) cup;
- 1488 (G) napkin; or
- 1489 (H) straw.
- 1490 (b) "Prepared food" does not include:
- 1491 (i) food that a seller only:
- 1492 (A) cuts;
- 1493 (B) repackages; or
- 1494 (C) pasteurizes; or
- 1495 (ii) (A) the following:
- 1496 (I) raw egg;
- 1497 (II) raw fish;
- 1498 (III) raw meat;
- 1499 (IV) raw poultry; or
- 1500 (V) a food containing an item described in Subsections (95)(b)(ii)(A)(I) through (IV);
- 1501 and
- 1502 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1503 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1504 Subsection (95)(b)(ii)(A) to prevent food borne illness; or
- 1505 (iii) the following if sold without eating utensils provided by the seller:
- 1506 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1507 classification under the 2002 North American Industry Classification System of the federal
- 1508 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1509 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1510 Manufacturing;
- 1511 (B) food and food ingredients sold in an unheated state:
- 1512 (I) by weight or volume; and
- 1513 (II) as a single item; or
- 1514 (C) a bakery item, including:
- 1515 (I) a bagel;

- 1516 (II) a bar;
- 1517 (III) a biscuit;
- 1518 (IV) bread;
- 1519 (V) a bun;
- 1520 (VI) a cake;
- 1521 (VII) a cookie;
- 1522 (VIII) a croissant;
- 1523 (IX) a danish;
- 1524 (X) a donut;
- 1525 (XI) a muffin;
- 1526 (XII) a pastry;
- 1527 (XIII) a pie;
- 1528 (XIV) a roll;
- 1529 (XV) a tart;
- 1530 (XVI) a torte; or
- 1531 (XVII) a tortilla.
- 1532 (c) An eating utensil provided by the seller does not include the following used to
- 1533 transport the food:
  - 1534 (i) a container; or
  - 1535 (ii) packaging.
- 1536 (96) "Prescription" means an order, formula, or recipe that is issued:
  - 1537 (a) (i) orally;
  - 1538 (ii) in writing;
  - 1539 (iii) electronically; or
  - 1540 (iv) by any other manner of transmission; and
  - 1541 (b) by a licensed practitioner authorized by the laws of a state.
- 1542 (97) (a) Except as provided in Subsection (97)(b)(ii) or (iii), "prewritten computer
- 1543 software" means computer software that is not designed and developed:
  - 1544 (i) by the author or other creator of the computer software; and
  - 1545 (ii) to the specifications of a specific purchaser.
  - 1546 (b) "Prewritten computer software" includes:

1547 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer  
1548 software is not designed and developed:

1549 (A) by the author or other creator of the computer software; and

1550 (B) to the specifications of a specific purchaser;

1551 (ii) computer software designed and developed by the author or other creator of the  
1552 computer software to the specifications of a specific purchaser if the computer software is sold  
1553 to a person other than the purchaser; or

1554 (iii) except as provided in Subsection (97)(c), prewritten computer software or a  
1555 prewritten portion of prewritten computer software:

1556 (A) that is modified or enhanced to any degree; and

1557 (B) if the modification or enhancement described in Subsection (97)(b)(iii)(A) is  
1558 designed and developed to the specifications of a specific purchaser.

1559 (c) "Prewritten computer software" does not include a modification or enhancement  
1560 described in Subsection (97)(b)(iii) if the charges for the modification or enhancement are:

1561 (i) reasonable; and

1562 (ii) subject to Subsections 59-12-103(2)~~(e)~~(f)(ii) and (2)~~(f)~~(g)(i), separately stated  
1563 on the invoice or other statement of price provided to the purchaser at the time of sale or later,  
1564 as demonstrated by:

1565 (A) the books and records the seller keeps at the time of the transaction in the regular  
1566 course of business, including books and records the seller keeps at the time of the transaction in  
1567 the regular course of business for nontax purposes;

1568 (B) a preponderance of the facts and circumstances at the time of the transaction; and

1569 (C) the understanding of all of the parties to the transaction.

1570 (98) (a) "Private communications service" means a telecommunications service:

1571 (i) that entitles a customer to exclusive or priority use of one or more communications  
1572 channels between or among termination points; and

1573 (ii) regardless of the manner in which the one or more communications channels are  
1574 connected.

1575 (b) "Private communications service" includes the following provided in connection  
1576 with the use of one or more communications channels:

1577 (i) an extension line;

- 1578 (ii) a station;
- 1579 (iii) switching capacity; or
- 1580 (iv) another associated service that is provided in connection with the use of one or
- 1581 more communications channels as defined in Section 59-12-215.
- 1582 (99) (a) Except as provided in Subsection (99)(b), "product transferred electronically"
- 1583 means a product transferred electronically that would be subject to a tax under this chapter if
- 1584 that product was transferred in a manner other than electronically.
- 1585 (b) "Product transferred electronically" does not include:
- 1586 (i) an ancillary service;
- 1587 (ii) computer software; or
- 1588 (iii) a telecommunications service.
- 1589 (100) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 1590 (i) artificially replace a missing portion of the body;
- 1591 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1592 (iii) support a weak or deformed portion of the body.
- 1593 (b) "Prosthetic device" includes:
- 1594 (i) parts used in the repairs or renovation of a prosthetic device;
- 1595 (ii) replacement parts for a prosthetic device;
- 1596 (iii) a dental prosthesis; or
- 1597 (iv) a hearing aid.
- 1598 (c) "Prosthetic device" does not include:
- 1599 (i) corrective eyeglasses; or
- 1600 (ii) contact lenses.
- 1601 (101) (a) "Protective equipment" means an item:
- 1602 (i) for human wear; and
- 1603 (ii) that is:
- 1604 (A) designed as protection:
- 1605 (I) to the wearer against injury or disease; or
- 1606 (II) against damage or injury of other persons or property; and
- 1607 (B) not suitable for general use.
- 1608 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1609 commission shall make rules:

1610 (i) listing the items that constitute "protective equipment"; and

1611 (ii) that are consistent with the list of items that constitute "protective equipment"

1612 under the agreement.

1613 (102) (a) For purposes of Subsection 59-12-104(41), "publication" means any written  
1614 or printed matter, other than a photocopy:

1615 (i) regardless of:

1616 (A) characteristics;

1617 (B) copyright;

1618 (C) form;

1619 (D) format;

1620 (E) method of reproduction; or

1621 (F) source; and

1622 (ii) made available in printed or electronic format.

1623 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1624 commission may by rule define the term "photocopy."

1625 (103) (a) "Purchase price" and "sales price" mean the total amount of consideration:

1626 (i) valued in money; and

1627 (ii) for which tangible personal property, a product transferred electronically, or  
1628 services are:

1629 (A) sold;

1630 (B) leased; or

1631 (C) rented.

1632 (b) "Purchase price" and "sales price" include:

1633 (i) the seller's cost of the tangible personal property, a product transferred  
1634 electronically, or services sold;

1635 (ii) expenses of the seller, including:

1636 (A) the cost of materials used;

1637 (B) a labor cost;

1638 (C) a service cost;

1639 (D) interest;

- 1640 (E) a loss;
- 1641 (F) the cost of transportation to the seller; or
- 1642 (G) a tax imposed on the seller;
- 1643 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1644 (iv) consideration a seller receives from a person other than the purchaser if:
  - 1645 (A) (I) the seller actually receives consideration from a person other than the purchaser;
  - 1646 and
  - 1647 (II) the consideration described in Subsection (103)(b)(iv)(A)(I) is directly related to a
  - 1648 price reduction or discount on the sale;
  - 1649 (B) the seller has an obligation to pass the price reduction or discount through to the
  - 1650 purchaser;
  - 1651 (C) the amount of the consideration attributable to the sale is fixed and determinable by
  - 1652 the seller at the time of the sale to the purchaser; and
  - 1653 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
  - 1654 seller to claim a price reduction or discount; and
  - 1655 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
  - 1656 coupon, or other documentation with the understanding that the person other than the seller
  - 1657 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
  - 1658 (II) the purchaser identifies that purchaser to the seller as a member of a group or
  - 1659 organization allowed a price reduction or discount, except that a preferred customer card that is
  - 1660 available to any patron of a seller does not constitute membership in a group or organization
  - 1661 allowed a price reduction or discount; or
  - 1662 (III) the price reduction or discount is identified as a third party price reduction or
  - 1663 discount on the:
    - 1664 (Aa) invoice the purchaser receives; or
    - 1665 (Bb) certificate, coupon, or other documentation the purchaser presents.
  - 1666 (c) "Purchase price" and "sales price" do not include:
    - 1667 (i) a discount:
      - 1668 (A) in a form including:
        - 1669 (I) cash;
        - 1670 (II) term; or

- 1671 (III) coupon;
- 1672 (B) that is allowed by a seller;
- 1673 (C) taken by a purchaser on a sale; and
- 1674 (D) that is not reimbursed by a third party; or
- 1675 (ii) subject to Subsections 59-12-103(2)[~~(e)~~](f)(ii) and (2)[~~(f)~~](g)(i), the following if
- 1676 separately stated on an invoice, bill of sale, or similar document provided to the purchaser at
- 1677 the time of sale or later, as demonstrated by the books and records the seller keeps at the time
- 1678 of the transaction in the regular course of business, including books and records the seller
- 1679 keeps at the time of the transaction in the regular course of business for nontax purposes, by a
- 1680 preponderance of the facts and circumstances at the time of the transaction, and by the
- 1681 understanding of all of the parties to the transaction:
- 1682 (A) the following from credit extended on the sale of tangible personal property or
- 1683 services:
- 1684 (I) a carrying charge;
- 1685 (II) a financing charge; or
- 1686 (III) an interest charge;
- 1687 (B) a delivery charge;
- 1688 (C) an installation charge;
- 1689 (D) a manufacturer rebate on a motor vehicle; or
- 1690 (E) a tax or fee legally imposed directly on the consumer.
- 1691 (104) "Purchaser" means a person to whom:
- 1692 (a) a sale of tangible personal property is made;
- 1693 (b) a product is transferred electronically; or
- 1694 (c) a service is furnished.
- 1695 (105) "Qualifying enterprise data center" means an establishment that will:
- 1696 (a) own and operate a data center facility that will house a group of networked server
- 1697 computers in one physical location in order to centralize the dissemination, management, and
- 1698 storage of data and information;
- 1699 (b) be located in the state;
- 1700 (c) be a new operation constructed on or after July 1, 2016;
- 1701 (d) consist of one or more buildings that total 150,000 or more square feet;

- 1702 (e) be owned or leased by:
- 1703 (i) the establishment; or
- 1704 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 1705 establishment; and
- 1706 (f) be located on one or more parcels of land that are owned or leased by:
- 1707 (i) the establishment; or
- 1708 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 1709 establishment.
- 1710 (106) "Regularly rented" means:
- 1711 (a) rented to a guest for value three or more times during a calendar year; or
- 1712 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1713 value.
- 1714 (107) "Rental" means the same as that term is defined in Subsection (60).
- 1715 (108) (a) Except as provided in Subsection (108)(b), "repairs or renovations of tangible
- 1716 personal property" means:
- 1717 (i) a repair or renovation of tangible personal property that is not permanently attached
- 1718 to real property; or
- 1719 (ii) attaching tangible personal property or a product transferred electronically to other
- 1720 tangible personal property or detaching tangible personal property or a product transferred
- 1721 electronically from other tangible personal property if:
- 1722 (A) the other tangible personal property to which the tangible personal property or
- 1723 product transferred electronically is attached or from which the tangible personal property or
- 1724 product transferred electronically is detached is not permanently attached to real property; and
- 1725 (B) the attachment of tangible personal property or a product transferred electronically
- 1726 to other tangible personal property or detachment of tangible personal property or a product
- 1727 transferred electronically from other tangible personal property is made in conjunction with a
- 1728 repair or replacement of tangible personal property or a product transferred electronically.
- 1729 (b) "Repairs or renovations of tangible personal property" does not include:
- 1730 (i) attaching prewritten computer software to other tangible personal property if the
- 1731 other tangible personal property to which the prewritten computer software is attached is not
- 1732 permanently attached to real property; or



1733 (ii) detaching prewritten computer software from other tangible personal property if the  
1734 other tangible personal property from which the prewritten computer software is detached is  
1735 not permanently attached to real property.

1736 (109) "Research and development" means the process of inquiry or experimentation  
1737 aimed at the discovery of facts, devices, technologies, or applications and the process of  
1738 preparing those devices, technologies, or applications for marketing.

1739 (110) (a) "Residential telecommunications services" means a telecommunications  
1740 service or an ancillary service that is provided to an individual for personal use:

1741 (i) at a residential address; or

1742 (ii) at an institution, including a nursing home or a school, if the telecommunications  
1743 service or ancillary service is provided to and paid for by the individual residing at the  
1744 institution rather than the institution.

1745 (b) For purposes of Subsection (110)(a)(i), a residential address includes an:

1746 (i) apartment; or

1747 (ii) other individual dwelling unit.

1748 (111) "Residential use" means the use in or around a home, apartment building,  
1749 sleeping quarters, and similar facilities or accommodations.

1750 (112) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
1751 than:

1752 (a) resale;

1753 (b) sublease; or

1754 (c) subrent.

1755 (113) (a) "Retailer" means any person, unless prohibited by the Constitution of the  
1756 United States or federal law, that is engaged in a regularly organized business in tangible  
1757 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is  
1758 selling to the user or consumer and not for resale.

1759 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1760 engaged in the business of selling to users or consumers within the state.

1761 (114) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1762 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1763 Subsection 59-12-103(1), for consideration.

- 1764 (b) "Sale" includes:
- 1765 (i) installment and credit sales;
- 1766 (ii) any closed transaction constituting a sale;
- 1767 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 1768 chapter;
- 1769 (iv) any transaction if the possession of property is transferred but the seller retains the
- 1770 title as security for the payment of the price; and
- 1771 (v) any transaction under which right to possession, operation, or use of any article of
- 1772 tangible personal property is granted under a lease or contract and the transfer of possession
- 1773 would be taxable if an outright sale were made.
- 1774 (115) "Sale at retail" means the same as that term is defined in Subsection (112).
- 1775 (116) "Sale-leaseback transaction" means a transaction by which title to tangible
- 1776 personal property or a product transferred electronically that is subject to a tax under this
- 1777 chapter is transferred:
- 1778 (a) by a purchaser-lessee;
- 1779 (b) to a lessor;
- 1780 (c) for consideration; and
- 1781 (d) if:
- 1782 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
- 1783 of the tangible personal property or product transferred electronically;
- 1784 (ii) the sale of the tangible personal property or product transferred electronically to the
- 1785 lessor is intended as a form of financing:
- 1786 (A) for the tangible personal property or product transferred electronically; and
- 1787 (B) to the purchaser-lessee; and
- 1788 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
- 1789 is required to:
- 1790 (A) capitalize the tangible personal property or product transferred electronically for
- 1791 financial reporting purposes; and
- 1792 (B) account for the lease payments as payments made under a financing arrangement.
- 1793 (117) "Sales price" means the same as that term is defined in Subsection (103).
- 1794 (118) (a) "Sales relating to schools" means the following sales by, amounts paid to, or

1795 amounts charged by a school:

1796 (i) sales that are directly related to the school's educational functions or activities

1797 including:

1798 (A) the sale of:

1799 (I) textbooks;

1800 (II) textbook fees;

1801 (III) laboratory fees;

1802 (IV) laboratory supplies; or

1803 (V) safety equipment;

1804 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1805 that:

1806 (I) a student is specifically required to wear as a condition of participation in a

1807 school-related event or school-related activity; and

1808 (II) is not readily adaptable to general or continued usage to the extent that it takes the

1809 place of ordinary clothing;

1810 (C) sales of the following if the net or gross revenues generated by the sales are

1811 deposited into a school district fund or school fund dedicated to school meals:

1812 (I) food and food ingredients; or

1813 (II) prepared food; or

1814 (D) transportation charges for official school activities; or

1815 (ii) amounts paid to or amounts charged by a school for admission to a school-related

1816 event or school-related activity.

1817 (b) "Sales relating to schools" does not include:

1818 (i) bookstore sales of items that are not educational materials or supplies;

1819 (ii) except as provided in Subsection (118)(a)(i)(B):

1820 (A) clothing;

1821 (B) clothing accessories or equipment;

1822 (C) protective equipment; or

1823 (D) sports or recreational equipment; or

1824 (iii) amounts paid to or amounts charged by a school for admission to a school-related

1825 event or school-related activity if the amounts paid or charged are passed through to a person:

- 1826 (A) other than a:
- 1827 (I) school;
- 1828 (II) nonprofit organization authorized by a school board or a governing body of a
- 1829 private school to organize and direct a competitive secondary school activity; or
- 1830 (III) nonprofit association authorized by a school board or a governing body of a
- 1831 private school to organize and direct a competitive secondary school activity; and
- 1832 (B) that is required to collect sales and use taxes under this chapter.
- 1833 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1834 commission may make rules defining the term "passed through."
- 1835 (119) For purposes of this section and Section 59-12-104, "school" means:
- 1836 (a) an elementary school or a secondary school that:
- 1837 (i) is a:
- 1838 (A) public school; or
- 1839 (B) private school; and
- 1840 (ii) provides instruction for one or more grades kindergarten through 12; or
- 1841 (b) a public school district.
- 1842 (120) (a) "Seller" means a person that makes a sale, lease, or rental of:
- 1843 (i) tangible personal property;
- 1844 (ii) a product transferred electronically; or
- 1845 (iii) a service.
- 1846 (b) "Seller" includes a marketplace facilitator.
- 1847 (121) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1848 means tangible personal property or a product transferred electronically if the tangible personal
- 1849 property or product transferred electronically is:
- 1850 (i) used primarily in the process of:
- 1851 (A) (I) manufacturing a semiconductor;
- 1852 (II) fabricating a semiconductor; or
- 1853 (III) research or development of a:
- 1854 (Aa) semiconductor; or
- 1855 (Bb) semiconductor manufacturing process; or
- 1856 (B) maintaining an environment suitable for a semiconductor; or

- 1857 (ii) consumed primarily in the process of:
- 1858 (A) (I) manufacturing a semiconductor;
- 1859 (II) fabricating a semiconductor; or
- 1860 (III) research or development of a:
- 1861 (Aa) semiconductor; or
- 1862 (Bb) semiconductor manufacturing process; or
- 1863 (B) maintaining an environment suitable for a semiconductor.
- 1864 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1865 includes:
- 1866 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1867 transferred electronically described in Subsection (121)(a); or
- 1868 (ii) a chemical, catalyst, or other material used to:
- 1869 (A) produce or induce in a semiconductor a:
- 1870 (I) chemical change; or
- 1871 (II) physical change;
- 1872 (B) remove impurities from a semiconductor; or
- 1873 (C) improve the marketable condition of a semiconductor.
- 1874 (122) "Senior citizen center" means a facility having the primary purpose of providing
- 1875 services to the aged as defined in Section [62A-3-101](#).
- 1876 (123) (a) Subject to Subsections (123)(b) and (c), "short-term lodging consumable"
- 1877 means tangible personal property that:
- 1878 (i) a business that provides accommodations and services described in Subsection
- 1879 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services
- 1880 to a purchaser;
- 1881 (ii) is intended to be consumed by the purchaser; and
- 1882 (iii) is:
- 1883 (A) included in the purchase price of the accommodations and services; and
- 1884 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 1885 to the purchaser.
- 1886 (b) "Short-term lodging consumable" includes:
- 1887 (i) a beverage;

- 1888 (ii) a brush or comb;
- 1889 (iii) a cosmetic;
- 1890 (iv) a hair care product;
- 1891 (v) lotion;
- 1892 (vi) a magazine;
- 1893 (vii) makeup;
- 1894 (viii) a meal;
- 1895 (ix) mouthwash;
- 1896 (x) nail polish remover;
- 1897 (xi) a newspaper;
- 1898 (xii) a notepad;
- 1899 (xiii) a pen;
- 1900 (xiv) a pencil;
- 1901 (xv) a razor;
- 1902 (xvi) saline solution;
- 1903 (xvii) a sewing kit;
- 1904 (xviii) shaving cream;
- 1905 (xix) a shoe shine kit;
- 1906 (xx) a shower cap;
- 1907 (xxi) a snack item;
- 1908 (xxii) soap;
- 1909 (xxiii) toilet paper;
- 1910 (xxiv) a toothbrush;
- 1911 (xxv) toothpaste; or
- 1912 (xxvi) an item similar to Subsections (123)(b)(i) through (xxv) as the commission may
- 1913 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1914 Rulemaking Act.
- 1915 (c) "Short-term lodging consumable" does not include:
- 1916 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1917 property to be reused; or
- 1918 (ii) a product transferred electronically.

- 1919 (124) "Simplified electronic return" means the electronic return:
- 1920 (a) described in Section 318(C) of the agreement; and
- 1921 (b) approved by the governing board of the agreement.
- 1922 (125) "Solar energy" means the sun used as the sole source of energy for producing
- 1923 electricity.
- 1924 (126) (a) "Sports or recreational equipment" means an item:
- 1925 (i) designed for human use; and
- 1926 (ii) that is:
- 1927 (A) worn in conjunction with:
- 1928 (I) an athletic activity; or
- 1929 (II) a recreational activity; and
- 1930 (B) not suitable for general use.
- 1931 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1932 commission shall make rules:
- 1933 (i) listing the items that constitute "sports or recreational equipment"; and
- 1934 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1935 equipment" under the agreement.
- 1936 (127) "State" means the state of Utah, its departments, and agencies.
- 1937 (128) "Storage" means any keeping or retention of tangible personal property or any
- 1938 other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose except
- 1939 sale in the regular course of business.
- 1940 (129) (a) Except as provided in Subsection (129)(d) or (e), "tangible personal property"
- 1941 means personal property that:
- 1942 (i) may be:
- 1943 (A) seen;
- 1944 (B) weighed;
- 1945 (C) measured;
- 1946 (D) felt; or
- 1947 (E) touched; or
- 1948 (ii) is in any manner perceptible to the senses.
- 1949 (b) "Tangible personal property" includes:

1950 (i) electricity;  
1951 (ii) water;  
1952 (iii) gas;  
1953 (iv) steam; or  
1954 (v) prewritten computer software, regardless of the manner in which the prewritten  
1955 computer software is transferred.

1956 (c) "Tangible personal property" includes the following regardless of whether the item  
1957 is attached to real property:

1958 (i) a dishwasher;  
1959 (ii) a dryer;  
1960 (iii) a freezer;  
1961 (iv) a microwave;  
1962 (v) a refrigerator;  
1963 (vi) a stove;  
1964 (vii) a washer; or  
1965 (viii) an item similar to Subsections (129)(c)(i) through (vii) as determined by the  
1966 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1967 Rulemaking Act.

1968 (d) "Tangible personal property" does not include a product that is transferred  
1969 electronically.

1970 (e) "Tangible personal property" does not include the following if attached to real  
1971 property, regardless of whether the attachment to real property is only through a line that  
1972 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the  
1973 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1974 Rulemaking Act:

1975 (i) a hot water heater;  
1976 (ii) a water filtration system; or  
1977 (iii) a water softener system.

1978 (130) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
1979 software" means an item listed in Subsection (130)(b) if that item is purchased or leased  
1980 primarily to enable or facilitate one or more of the following to function:



1981 (i) telecommunications switching or routing equipment, machinery, or software; or  
1982 (ii) telecommunications transmission equipment, machinery, or software.

1983 (b) The following apply to Subsection (130)(a):

1984 (i) a pole;

1985 (ii) software;

1986 (iii) a supplementary power supply;

1987 (iv) temperature or environmental equipment or machinery;

1988 (v) test equipment;

1989 (vi) a tower; or

1990 (vii) equipment, machinery, or software that functions similarly to an item listed in

1991 Subsections (130)(b)(i) through (vi) as determined by the commission by rule made in  
1992 accordance with Subsection (130)(c).

1993 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1994 commission may by rule define what constitutes equipment, machinery, or software that  
1995 functions similarly to an item listed in Subsections (130)(b)(i) through (vi).

1996 (131) "Telecommunications equipment, machinery, or software required for 911  
1997 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
1998 Sec. 20.18.

1999 (132) "Telecommunications maintenance or repair equipment, machinery, or software"  
2000 means equipment, machinery, or software purchased or leased primarily to maintain or repair  
2001 one or more of the following, regardless of whether the equipment, machinery, or software is  
2002 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
2003 following:

2004 (a) telecommunications enabling or facilitating equipment, machinery, or software;

2005 (b) telecommunications switching or routing equipment, machinery, or software; or

2006 (c) telecommunications transmission equipment, machinery, or software.

2007 (133) (a) "Telecommunications service" means the electronic conveyance, routing, or  
2008 transmission of audio, data, video, voice, or any other information or signal to a point, or  
2009 among or between points.

2010 (b) "Telecommunications service" includes:

2011 (i) an electronic conveyance, routing, or transmission with respect to which a computer

2012 processing application is used to act:

2013 (A) on the code, form, or protocol of the content;

2014 (B) for the purpose of electronic conveyance, routing, or transmission; and

2015 (C) regardless of whether the service:

2016 (I) is referred to as voice over Internet protocol service; or

2017 (II) is classified by the Federal Communications Commission as enhanced or value

2018 added;

2019 (ii) an 800 service;

2020 (iii) a 900 service;

2021 (iv) a fixed wireless service;

2022 (v) a mobile wireless service;

2023 (vi) a postpaid calling service;

2024 (vii) a prepaid calling service;

2025 (viii) a prepaid wireless calling service; or

2026 (ix) a private communications service.

2027 (c) "Telecommunications service" does not include:

2028 (i) advertising, including directory advertising;

2029 (ii) an ancillary service;

2030 (iii) a billing and collection service provided to a third party;

2031 (iv) a data processing and information service if:

2032 (A) the data processing and information service allows data to be:

2033 (I) (Aa) acquired;

2034 (Bb) generated;

2035 (Cc) processed;

2036 (Dd) retrieved; or

2037 (Ee) stored; and

2038 (II) delivered by an electronic transmission to a purchaser; and

2039 (B) the purchaser's primary purpose for the underlying transaction is the processed data

2040 or information;

2041 (v) installation or maintenance of the following on a customer's premises:

2042 (A) equipment; or

- 2043 (B) wiring;
- 2044 (vi) Internet access service;
- 2045 (vii) a paging service;
- 2046 (viii) a product transferred electronically, including:
  - 2047 (A) music;
  - 2048 (B) reading material;
  - 2049 (C) a ring tone;
  - 2050 (D) software; or
  - 2051 (E) video;
- 2052 (ix) a radio and television audio and video programming service:
  - 2053 (A) regardless of the medium; and
  - 2054 (B) including:
    - 2055 (I) furnishing conveyance, routing, or transmission of a television audio and video
    - 2056 programming service by a programming service provider;
    - 2057 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
    - 2058 (III) audio and video programming services delivered by a commercial mobile radio
    - 2059 service provider as defined in 47 C.F.R. Sec. 20.3;
    - 2060 (x) a value-added nonvoice data service; or
    - 2061 (xi) tangible personal property.
- 2062 (134) (a) "Telecommunications service provider" means a person that:
  - 2063 (i) owns, controls, operates, or manages a telecommunications service; and
  - 2064 (ii) engages in an activity described in Subsection (134)(a)(i) for the shared use with or
  - 2065 resale to any person of the telecommunications service.
- 2066 (b) A person described in Subsection (134)(a) is a telecommunications service provider
- 2067 whether or not the Public Service Commission of Utah regulates:
  - 2068 (i) that person; or
  - 2069 (ii) the telecommunications service that the person owns, controls, operates, or
  - 2070 manages.
- 2071 (135) (a) "Telecommunications switching or routing equipment, machinery, or
- 2072 software" means an item listed in Subsection (135)(b) if that item is purchased or leased
- 2073 primarily for switching or routing;

- 2074 (i) an ancillary service;
- 2075 (ii) data communications;
- 2076 (iii) voice communications; or
- 2077 (iv) telecommunications service.
- 2078 (b) The following apply to Subsection (135)(a):
- 2079 (i) a bridge;
- 2080 (ii) a computer;
- 2081 (iii) a cross connect;
- 2082 (iv) a modem;
- 2083 (v) a multiplexer;
- 2084 (vi) plug in circuitry;
- 2085 (vii) a router;
- 2086 (viii) software;
- 2087 (ix) a switch; or
- 2088 (x) equipment, machinery, or software that functions similarly to an item listed in
- 2089 Subsections (135)(b)(i) through (ix) as determined by the commission by rule made in
- 2090 accordance with Subsection (135)(c).
- 2091 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2092 commission may by rule define what constitutes equipment, machinery, or software that
- 2093 functions similarly to an item listed in Subsections (135)(b)(i) through (ix).
- 2094 (136) (a) "Telecommunications transmission equipment, machinery, or software"
- 2095 means an item listed in Subsection (136)(b) if that item is purchased or leased primarily for
- 2096 sending, receiving, or transporting:
- 2097 (i) an ancillary service;
- 2098 (ii) data communications;
- 2099 (iii) voice communications; or
- 2100 (iv) telecommunications service.
- 2101 (b) The following apply to Subsection (136)(a):
- 2102 (i) an amplifier;
- 2103 (ii) a cable;
- 2104 (iii) a closure;

- 2105 (iv) a conduit;
- 2106 (v) a controller;
- 2107 (vi) a duplexer;
- 2108 (vii) a filter;
- 2109 (viii) an input device;
- 2110 (ix) an input/output device;
- 2111 (x) an insulator;
- 2112 (xi) microwave machinery or equipment;
- 2113 (xii) an oscillator;
- 2114 (xiii) an output device;
- 2115 (xiv) a pedestal;
- 2116 (xv) a power converter;
- 2117 (xvi) a power supply;
- 2118 (xvii) a radio channel;
- 2119 (xviii) a radio receiver;
- 2120 (xix) a radio transmitter;
- 2121 (xx) a repeater;
- 2122 (xxi) software;
- 2123 (xxii) a terminal;
- 2124 (xxiii) a timing unit;
- 2125 (xxiv) a transformer;
- 2126 (xxv) a wire; or

2127 (xxvi) equipment, machinery, or software that functions similarly to an item listed in  
2128 Subsections (136)(b)(i) through (xxv) as determined by the commission by rule made in  
2129 accordance with Subsection (136)(c).

2130 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2131 commission may by rule define what constitutes equipment, machinery, or software that  
2132 functions similarly to an item listed in Subsections (136)(b)(i) through (xxv).

2133 (137) (a) "Textbook for a higher education course" means a textbook or other printed  
2134 material that is required for a course:

- 2135 (i) offered by an institution of higher education; and

2136 (ii) that the purchaser of the textbook or other printed material attends or will attend.

2137 (b) "Textbook for a higher education course" includes a textbook in electronic format.

2138 (138) "Tobacco" means:

2139 (a) a cigarette;

2140 (b) a cigar;

2141 (c) chewing tobacco;

2142 (d) pipe tobacco; or

2143 (e) any other item that contains tobacco.

2144 (139) "Unassisted amusement device" means an amusement device, skill device, or  
2145 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
2146 the amusement device, skill device, or ride device.

2147 (140) (a) "Use" means the exercise of any right or power over tangible personal  
2148 property, a product transferred electronically, or a service under Subsection 59-12-103(1),  
2149 incident to the ownership or the leasing of that tangible personal property, product transferred  
2150 electronically, or service.

2151 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
2152 property, a product transferred electronically, or a service in the regular course of business and  
2153 held for resale.

2154 (141) "Value-added nonvoice data service" means a service:

2155 (a) that otherwise meets the definition of a telecommunications service except that a  
2156 computer processing application is used to act primarily for a purpose other than conveyance,  
2157 routing, or transmission; and

2158 (b) with respect to which a computer processing application is used to act on data or  
2159 information:

2160 (i) code;

2161 (ii) content;

2162 (iii) form; or

2163 (iv) protocol.

2164 (142) (a) Subject to Subsection (142)(b), "vehicle" means the following that are  
2165 required to be titled, registered, or titled and registered:

2166 (i) an aircraft as defined in Section 72-10-102;

- 2167 (ii) a vehicle as defined in Section 41-1a-102;
- 2168 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 2169 (iv) a vessel as defined in Section 41-1a-102.
- 2170 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 2171 (i) a vehicle described in Subsection (142)(a); or
- 2172 (ii) (A) a locomotive;
- 2173 (B) a freight car;
- 2174 (C) railroad work equipment; or
- 2175 (D) other railroad rolling stock.
- 2176 (143) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 2177 exchanging a vehicle as defined in Subsection (142).
- 2178 (144) (a) "Vertical service" means an ancillary service that:
- 2179 (i) is offered in connection with one or more telecommunications services; and
- 2180 (ii) offers an advanced calling feature that allows a customer to:
- 2181 (A) identify a caller; and
- 2182 (B) manage multiple calls and call connections.
- 2183 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 2184 conference bridging service.
- 2185 (145) (a) "Voice mail service" means an ancillary service that enables a customer to
- 2186 receive, send, or store a recorded message.
- 2187 (b) "Voice mail service" does not include a vertical service that a customer is required
- 2188 to have in order to utilize a voice mail service.
- 2189 (146) (a) Except as provided in Subsection (146)(b), "waste energy facility" means a
- 2190 facility that generates electricity:
- 2191 (i) using as the primary source of energy waste materials that would be placed in a
- 2192 landfill or refuse pit if it were not used to generate electricity, including:
- 2193 (A) tires;
- 2194 (B) waste coal;
- 2195 (C) oil shale; or
- 2196 (D) municipal solid waste; and
- 2197 (ii) in amounts greater than actually required for the operation of the facility.

- 2198 (b) "Waste energy facility" does not include a facility that incinerates:
- 2199 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 2200 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 2201 (147) "Watercraft" means a vessel as defined in Section [73-18-2](#).
- 2202 (148) "Wind energy" means wind used as the sole source of energy to produce
- 2203 electricity.
- 2204 (149) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
- 2205 location by the United States Postal Service.
- 2206 Section 7. Section **59-12-103** is amended to read:
- 2207 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
- 2208 **tax revenues.**
- 2209 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
- 2210 sales price for amounts paid or charged for the following transactions:
- 2211 (a) retail sales of tangible personal property made within the state;
- 2212 (b) amounts paid for:
- 2213 (i) telecommunications service, other than mobile telecommunications service, that
- 2214 originates and terminates within the boundaries of this state;
- 2215 (ii) mobile telecommunications service that originates and terminates within the
- 2216 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 2217 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 2218 (iii) an ancillary service associated with a:
- 2219 (A) telecommunications service described in Subsection (1)(b)(i); or
- 2220 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 2221 (c) sales of the following for commercial use:
- 2222 (i) gas;
- 2223 (ii) electricity;
- 2224 (iii) heat;
- 2225 (iv) coal;
- 2226 (v) fuel oil; or
- 2227 (vi) other fuels;
- 2228 (d) sales of the following for residential use:



- 2229 (i) gas;
- 2230 (ii) electricity;
- 2231 (iii) heat;
- 2232 (iv) coal;
- 2233 (v) fuel oil; or
- 2234 (vi) other fuels;
- 2235 (e) sales of prepared food;
- 2236 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 2237 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 2238 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 2239 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 2240 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 2241 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 2242 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 2243 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 2244 exhibition, cultural, or athletic activity;
- 2245 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 2246 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 2247 (i) the tangible personal property; and
- 2248 (ii) parts used in the repairs or renovations of the tangible personal property described
- 2249 in Subsection (1)(g)(i), regardless of whether:
- 2250 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 2251 property; or
- 2252 (B) the particular parts used in the repairs or renovations of that tangible personal
- 2253 property are exempt from a tax under this chapter;
- 2254 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 2255 assisted cleaning or washing of tangible personal property;
- 2256 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 2257 accommodations and services that are regularly rented for less than 30 consecutive days;
- 2258 (j) amounts paid or charged for laundry or dry cleaning services;
- 2259 (k) amounts paid or charged for leases or rentals of tangible personal property if within

2260 this state the tangible personal property is:

2261 (i) stored;

2262 (ii) used; or

2263 (iii) otherwise consumed;

2264 (l) amounts paid or charged for tangible personal property if within this state the  
2265 tangible personal property is:

2266 (i) stored;

2267 (ii) used; or

2268 (iii) consumed; and

2269 (m) amounts paid or charged for a sale:

2270 (i) (A) of a product transferred electronically; or

2271 (B) of a repair or renovation of a product transferred electronically; and

2272 (ii) regardless of whether the sale provides:

2273 (A) a right of permanent use of the product; or

2274 (B) a right to use the product that is less than a permanent use, including a right:

2275 (I) for a definite or specified length of time; and

2276 (II) that terminates upon the occurrence of a condition.

2277 (2) (a) Except as provided in Subsections (2)(b) through ~~[(e)]~~ (f), a state tax and a local  
2278 tax are imposed on a transaction described in Subsection (1) equal to the sum of:

2279 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

2280 ~~[(A) (I) through March 31, 2019, 4.70%; and]~~

2281 ~~[(H) beginning on April 1, 2019;]~~ (A) 4.70% plus the rate specified in Subsection

2282 ~~[(13)]~~ (12)(a); and

2283 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales  
2284 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
2285 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional  
2286 State Sales and Use Tax Act; and

2287 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
2288 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
2289 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state  
2290 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2291 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
2292 transaction under this chapter other than this part.

2293 (b) Except as provided in Subsection [~~(2)(d) or (e)~~] (2)(e) or (f), a state tax and a local  
2294 tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

2295 (i) a state tax imposed on the transaction at a tax rate of 2%; and

2296 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
2297 transaction under this chapter other than this part.

2298 (c) Except as provided in Subsection [~~(2)(d) or (e)~~] (2)(e) or (f), a state tax and a local  
2299 tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

2300 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at  
2301 a tax rate of 1.75%; and

2302 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
2303 amounts paid or charged for food and food ingredients under this chapter other than this part.

2304 (d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts  
2305 paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at  
2306 a rate of 4.85%.

2307 [~~(d)~~] (e) (i) For a bundled transaction that is attributable to food and food ingredients  
2308 and tangible personal property other than food and food ingredients, a state tax and a local tax  
2309 is imposed on the entire bundled transaction equal to the sum of:

2310 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

2311 (I) the tax rate described in Subsection (2)(a)(i)(A); and

2312 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
2313 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
2314 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
2315 Additional State Sales and Use Tax Act; and

2316 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
2317 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
2318 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which  
2319 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2320 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates  
2321 described in Subsection (2)(a)(ii).

2322 (ii) If an optional computer software maintenance contract is a bundled transaction that  
2323 consists of taxable and nontaxable products that are not separately itemized on an invoice or  
2324 similar billing document, the purchase of the optional computer software maintenance contract  
2325 is 40% taxable under this chapter and 60% nontaxable under this chapter.

2326 (iii) Subject to Subsection (2)~~(f)~~(e)(iv), for a bundled transaction other than a  
2327 bundled transaction described in Subsection (2)~~(f)~~(e)(i) or (ii):

2328 (A) if the sales price of the bundled transaction is attributable to tangible personal  
2329 property, a product, or a service that is subject to taxation under this chapter and tangible  
2330 personal property, a product, or service that is not subject to taxation under this chapter, the  
2331 entire bundled transaction is subject to taxation under this chapter unless:

2332 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
2333 personal property, product, or service that is not subject to taxation under this chapter from the  
2334 books and records the seller keeps in the seller's regular course of business; or

2335 (II) state or federal law provides otherwise; or

2336 (B) if the sales price of a bundled transaction is attributable to two or more items of  
2337 tangible personal property, products, or services that are subject to taxation under this chapter  
2338 at different rates, the entire bundled transaction is subject to taxation under this chapter at the  
2339 higher tax rate unless:

2340 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
2341 personal property, product, or service that is subject to taxation under this chapter at the lower  
2342 tax rate from the books and records the seller keeps in the seller's regular course of business; or

2343 (II) state or federal law provides otherwise.

2344 (iv) For purposes of Subsection (2)~~(f)~~(e)(iii), books and records that a seller keeps in  
2345 the seller's regular course of business includes books and records the seller keeps in the regular  
2346 course of business for nontax purposes.

2347 ~~(e)~~ (f) (i) Except as otherwise provided in this chapter and subject to Subsections  
2348 (2)~~(e)~~(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal  
2349 property, a product, or a service that is subject to taxation under this chapter, and the sale,  
2350 lease, or rental of tangible personal property, other property, a product, or a service that is not  
2351 subject to taxation under this chapter, the entire transaction is subject to taxation under this  
2352 chapter unless the seller, at the time of the transaction:

2353 (A) separately states the portion of the transaction that is not subject to taxation under  
2354 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

2355 (B) is able to identify by reasonable and verifiable standards, from the books and  
2356 records the seller keeps in the seller's regular course of business, the portion of the transaction  
2357 that is not subject to taxation under this chapter.

2358 (ii) A purchaser and a seller may correct the taxability of a transaction if:

2359 (A) after the transaction occurs, the purchaser and the seller discover that the portion of  
2360 the transaction that is not subject to taxation under this chapter was not separately stated on an  
2361 invoice, bill of sale, or similar document provided to the purchaser because of an error or  
2362 ignorance of the law; and

2363 (B) the seller is able to identify by reasonable and verifiable standards, from the books  
2364 and records the seller keeps in the seller's regular course of business, the portion of the  
2365 transaction that is not subject to taxation under this chapter.

2366 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps  
2367 in the seller's regular course of business includes books and records the seller keeps in the  
2368 regular course of business for nontax purposes.

2369 ~~(f)~~ (g) (i) If the sales price of a transaction is attributable to two or more items of  
2370 tangible personal property, products, or services that are subject to taxation under this chapter  
2371 at different rates, the entire purchase is subject to taxation under this chapter at the higher tax  
2372 rate unless the seller, at the time of the transaction:

2373 (A) separately states the items subject to taxation under this chapter at each of the  
2374 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

2375 (B) is able to identify by reasonable and verifiable standards the tangible personal  
2376 property, product, or service that is subject to taxation under this chapter at the lower tax rate  
2377 from the books and records the seller keeps in the seller's regular course of business.

2378 (ii) For purposes of Subsection (2)~~(f)~~(g)(i), books and records that a seller keeps in  
2379 the seller's regular course of business includes books and records the seller keeps in the regular  
2380 course of business for nontax purposes.

2381 ~~(g)~~ (h) Subject to Subsections (2)~~(f) and~~ (i) and (j), a tax rate repeal or tax rate  
2382 change for a tax rate imposed under the following shall take effect on the first day of a calendar  
2383 quarter:

- 2384 (i) Subsection (2)(a)(i)(A);
- 2385 (ii) Subsection (2)(b)(i);
- 2386 (iii) Subsection (2)(c)(i); or
- 2387 (iv) Subsection (2)[~~(d)~~](e)(i)(A)(I).
- 2388 [~~(h)~~] (i) (i) A tax rate increase takes effect on the first day of the first billing period that
- 2389 begins on or after the effective date of the tax rate increase if the billing period for the
- 2390 transaction begins before the effective date of a tax rate increase imposed under:
- 2391 (A) Subsection (2)(a)(i)(A);
- 2392 (B) Subsection (2)(b)(i);
- 2393 (C) Subsection (2)(c)(i); or
- 2394 (D) Subsection (2)[~~(d)~~](e)(i)(A)(I).
- 2395 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
- 2396 statement for the billing period is rendered on or after the effective date of the repeal of the tax
- 2397 or the tax rate decrease imposed under:
- 2398 (A) Subsection (2)(a)(i)(A);
- 2399 (B) Subsection (2)(b)(i);
- 2400 (C) Subsection (2)(c)(i); or
- 2401 (D) Subsection (2)[~~(d)~~](e)(i)(A)(I).
- 2402 [~~(h)~~] (j) (i) For a tax rate described in Subsection (2)[~~(h)~~](j)(ii), if a tax due on a
- 2403 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a
- 2404 tax rate repeal or change in a tax rate takes effect:
- 2405 (A) on the first day of a calendar quarter; and
- 2406 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 2407 (ii) Subsection (2)[~~(h)~~](j)(i) applies to the tax rates described in the following:
- 2408 (A) Subsection (2)(a)(i)(A);
- 2409 (B) Subsection (2)(b)(i);
- 2410 (C) Subsection (2)(c)(i); or
- 2411 (D) Subsection (2)[~~(d)~~](e)(i)(A)(I).
- 2412 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 2413 the commission may by rule define the term "catalogue sale."
- 2414 (3) (a) The following state taxes shall be deposited into the General Fund:

- 2415 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 2416 (ii) the tax imposed by Subsection (2)(b)(i);
- 2417 (iii) the tax imposed by Subsection (2)(c)(i); ~~[or]~~ and
- 2418 (iv) the tax imposed by Subsection (2)~~(f)~~(e)(i)(A)(I).
- 2419 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 2420 in this chapter:
- 2421 (i) the tax imposed by Subsection (2)(a)(ii);
- 2422 (ii) the tax imposed by Subsection (2)(b)(ii);
- 2423 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 2424 (iv) the tax imposed by Subsection (2)~~(f)~~(e)(i)(B).
- 2425 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General
- 2426 Fund.
- 2427 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 2428 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
- 2429 through (g):
- 2430 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 2431 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 2432 (B) for the fiscal year; or
- 2433 (ii) \$17,500,000.
- 2434 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
- 2435 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
- 2436 Department of Natural Resources to:
- 2437 (A) implement the measures described in Subsections [79-2-303\(3\)\(a\)](#) through (d) to
- 2438 protect sensitive plant and animal species; or
- 2439 (B) award grants, up to the amount authorized by the Legislature in an appropriations
- 2440 act, to political subdivisions of the state to implement the measures described in Subsections
- 2441 [79-2-303\(3\)\(a\)](#) through (d) to protect sensitive plant and animal species.
- 2442 (ii) Money transferred to the Department of Natural Resources under Subsection
- 2443 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
- 2444 person to list or attempt to have listed a species as threatened or endangered under the
- 2445 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

2446 (iii) At the end of each fiscal year:  
2447 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
2448 Conservation and Development Fund created in Section 73-10-24;  
2449 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
2450 Program Subaccount created in Section 73-10c-5; and  
2451 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
2452 Program Subaccount created in Section 73-10c-5.  
2453 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
2454 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund  
2455 created in Section 4-18-106.  
2456 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described  
2457 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water  
2458 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of  
2459 water rights.  
2460 (ii) At the end of each fiscal year:  
2461 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
2462 Conservation and Development Fund created in Section 73-10-24;  
2463 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
2464 Program Subaccount created in Section 73-10c-5; and  
2465 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
2466 Program Subaccount created in Section 73-10c-5.  
2467 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described  
2468 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and  
2469 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.  
2470 (ii) In addition to the uses allowed of the Water Resources Conservation and  
2471 Development Fund under Section 73-10-24, the Water Resources Conservation and  
2472 Development Fund may also be used to:  
2473 (A) conduct hydrologic and geotechnical investigations by the Division of Water  
2474 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
2475 quantifying surface and ground water resources and describing the hydrologic systems of an  
2476 area in sufficient detail so as to enable local and state resource managers to plan for and



2477 accommodate growth in water use without jeopardizing the resource;

2478 (B) fund state required dam safety improvements; and

2479 (C) protect the state's interest in interstate water compact allocations, including the  
2480 hiring of technical and legal staff.

2481 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
2482 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount  
2483 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2484 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
2485 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount  
2486 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2487 (i) provide for the installation and repair of collection, treatment, storage, and  
2488 distribution facilities for any public water system, as defined in Section 19-4-102;

2489 (ii) develop underground sources of water, including springs and wells; and

2490 (iii) develop surface water sources.

2491 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
2492 2006, the difference between the following amounts shall be expended as provided in this  
2493 Subsection (5), if that difference is greater than \$1:

2494 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
2495 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

2496 (ii) \$17,500,000.

2497 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

2498 (A) transferred each fiscal year to the Department of Natural Resources as dedicated  
2499 credits; and

2500 (B) expended by the Department of Natural Resources for watershed rehabilitation or  
2501 restoration.

2502 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
2503 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund  
2504 created in Section 73-10-24.

2505 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
2506 remaining difference described in Subsection (5)(a) shall be:

2507 (A) transferred each fiscal year to the Division of Water Resources as dedicated

2508 credits; and

2509 (B) expended by the Division of Water Resources for cloud-seeding projects  
2510 authorized by Title 73, Chapter 15, Modification of Weather.

2511 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
2512 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund  
2513 created in Section 73-10-24.

2514 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the  
2515 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
2516 Resources Conservation and Development Fund created in Section 73-10-24 for use by the  
2517 Division of Water Resources for:

2518 (i) preconstruction costs:

2519 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
2520 26, Bear River Development Act; and

2521 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project  
2522 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2523 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
2524 Chapter 26, Bear River Development Act;

2525 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
2526 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2527 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and  
2528 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2529 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to  
2530 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be  
2531 transferred each year as dedicated credits to the Division of Water Rights to cover the costs  
2532 incurred for employing additional technical staff for the administration of water rights.

2533 (f) At the end of each fiscal year, any unexpended dedicated credits described in  
2534 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development  
2535 Fund created in Section 73-10-24.

2536 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the  
2537 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection  
2538 (1) for the fiscal year shall be deposited as follows:

2539           ~~[(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)~~  
2540 ~~shall be deposited into the Transportation Investment Fund of 2005 created by Section~~  
2541 ~~72-2-124;]~~

2542           ~~[(b) for fiscal year 2017-18 only:]~~

2543           ~~[(i) 80% of the revenue described in this Subsection (6) shall be deposited into the~~  
2544 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

2545           ~~[(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the~~  
2546 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;]~~

2547           ~~[(c) for fiscal year 2018-19 only:]~~

2548           ~~[(i) 60% of the revenue described in this Subsection (6) shall be deposited into the~~  
2549 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

2550           ~~[(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the~~  
2551 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;]~~

2552           ~~[(d) for fiscal year 2019-20 only:]~~

2553           ~~[(i) 40% of the revenue described in this Subsection (6) shall be deposited into the~~  
2554 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

2555           ~~[(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the~~  
2556 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;]~~

2557           ~~[(e)]~~ (a) for fiscal year 2020-21 only:

2558           (i) 20% of the revenue described in this Subsection (6) shall be deposited into the  
2559 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2560           (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the  
2561 Water Infrastructure Restricted Account created by Section 73-10g-103; and

2562           ~~[(f)]~~ (b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue  
2563 described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted  
2564 Account created by Section 73-10g-103.

2565           (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in  
2566 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,  
2567 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005  
2568 created by Section 72-2-124:

2569           (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of

2570 the revenues collected from the following taxes, which represents a portion of the  
2571 approximately 17% of sales and use tax revenues generated annually by the sales and use tax  
2572 on vehicles and vehicle-related products:

2573 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2574 (B) the tax imposed by Subsection (2)(b)(i);

2575 (C) the tax imposed by Subsection (2)(c)(i); and

2576 (D) the tax imposed by Subsection (2)~~(d)~~(e)(i)(A)(I); plus

2577 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the  
2578 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through  
2579 (D) that exceeds the amount collected from the sales and use taxes described in Subsections  
2580 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

2581 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of  
2582 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total  
2583 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)  
2584 generated in the current fiscal year than the total percentage of sales and use taxes deposited in  
2585 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection  
2586 (7)(a) equal to the product of:

2587 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the  
2588 previous fiscal year; and

2589 (B) the total sales and use tax revenue generated by the taxes described in Subsections  
2590 (7)(a)(i)(A) through (D) in the current fiscal year.

2591 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under  
2592 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes  
2593 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of  
2594 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in  
2595 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

2596 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected  
2597 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited  
2598 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues  
2599 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the  
2600 current fiscal year under Subsection (7)(a).

2601 ~~[(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited~~  
 2602 ~~under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall~~  
 2603 ~~deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into~~  
 2604 ~~the Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

2605 ~~[(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under~~  
 2606 ~~Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit~~  
 2607 ~~\$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the~~  
 2608 ~~Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

2609 ~~[(c)(i)]~~ (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited  
 2610 under Subsections (6) and (7), and subject to Subsection (8)~~[(c)(ii)](b)~~, for a fiscal year  
 2611 beginning on or after July 1, 2018, the commission shall annually deposit into the  
 2612 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes  
 2613 listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the  
 2614 following taxes:

2615 ~~[(A)]~~ (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2616 ~~[(B)]~~ (ii) the tax imposed by Subsection (2)(b)(i);

2617 ~~[(C)]~~ (iii) the tax imposed by Subsection (2)(c)(i); and

2618 ~~[(D)]~~ (iv) the tax imposed by Subsection (2)~~[(d)](e)~~(i)(A)(I).

2619 ~~[(ii)]~~ (b) For a fiscal year beginning on or after July 1, 2019, the commission shall  
 2620 annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection  
 2621 (8)(c)~~[(f)]~~ by an amount that is equal to 35% of the amount of revenue generated in the current  
 2622 fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or  
 2623 received for sale or use in this state that exceeds 29.4 cents per gallon.

2624 ~~[(iii)]~~ (c) The commission shall annually deposit the amount described in Subsection  
 2625 (8)~~[(e)(ii)](b)~~ into the Transit and Transportation Investment Fund created in Section 72-2-124.

2626 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
 2627 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund  
 2628 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

2629 ~~[(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),~~  
 2630 ~~in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17~~  
 2631 ~~fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund~~

2632 of 2005 created by Section ~~72-2-124~~ the amount of tax revenue generated by a .05% tax rate on  
2633 the transactions described in Subsection (1).]

2634 ~~[(b)]~~ (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection  
2635 (10)~~[(c)]~~(b), and in addition to any amounts deposited under Subsections (6), (7), and (8), the  
2636 Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by  
2637 Section ~~72-2-124~~ the amount of revenue described as follows:

2638 ~~[(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%~~  
2639 ~~tax rate on the transactions described in Subsection (1);]~~

2640 ~~[(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a~~  
2641 ~~.05% tax rate on the transactions described in Subsection (1);]~~

2642 ~~[(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%~~  
2643 ~~tax rate on the transactions described in Subsection (1);]~~

2644 ~~[(iv)]~~ (i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a  
2645 .05% tax rate on the transactions described in Subsection (1); and

2646 ~~[(v)]~~ (ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a  
2647 .05% tax rate on the transactions described in Subsection (1).

2648 ~~[(c)]~~ (b) For purposes of ~~[Subsections (10)(a) and (b)]~~ Subsection (10)(a), the Division  
2649 of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue  
2650 generated by amounts paid or charged for food and food ingredients, except for tax revenue  
2651 generated by a bundled transaction attributable to food and food ingredients and tangible  
2652 personal property other than food and food ingredients described in Subsection (2)~~[(d)]~~(e).

2653 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the  
2654 fiscal year during which the Division of Finance receives notice under Section ~~63N-2-510~~ that  
2655 construction on a qualified hotel, as defined in Section ~~63N-2-502~~, has begun, the Division of  
2656 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue  
2657 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,  
2658 created in Section ~~63N-2-512~~.

2659 ~~[(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the~~  
2660 ~~Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed~~  
2661 ~~under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section~~  
2662 ~~35A-8-308;]~~

2663 ~~[(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division~~  
 2664 ~~of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under~~  
 2665 ~~Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.]~~

2666 ~~[(13)]~~ (12) (a) The rate specified in this subsection is 0.15%.

2667 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall~~[-(i) on or before~~  
 2668 ~~September 30, 2019, transfer the amount of revenue collected from the rate described in~~  
 2669 ~~Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the~~  
 2670 ~~transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the~~  
 2671 ~~Medicaid Expansion Fund created in Section 26-36b-208; and (ii)]~~, for a fiscal year beginning  
 2672 on or after July 1, 2019, annually transfer the amount of revenue collected from the rate  
 2673 described in Subsection ~~[(13)]~~ (12)(a) on the transactions that are subject to the sales and use  
 2674 tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section  
 2675 26-36b-208.

2676 Section 8. Section 59-12-104 is amended to read:

2677 **59-12-104. Exemptions.**

2678 Exemptions from the taxes imposed by this chapter are as follows:

2679 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax  
 2680 under Chapter 13, Motor and Special Fuel Tax Act;

2681 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political  
 2682 subdivisions; however, this exemption does not apply to sales of:

2683 (a) construction materials except:

2684 (i) construction materials purchased by or on behalf of institutions of the public  
 2685 education system as defined in Utah Constitution, Article X, Section 2, provided the  
 2686 construction materials are clearly identified and segregated and installed or converted to real  
 2687 property which is owned by institutions of the public education system; and

2688 (ii) construction materials purchased by the state, its institutions, or its political  
 2689 subdivisions which are installed or converted to real property by employees of the state, its  
 2690 institutions, or its political subdivisions; or

2691 (b) tangible personal property in connection with the construction, operation,  
 2692 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities  
 2693 providing additional project capacity, as defined in Section 11-13-103;

- 2694 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
- 2695 (i) the proceeds of each sale do not exceed \$1; and
- 2696 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
- 2697 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 2698 (b) Subsection (3)(a) applies to:
- 2699 (i) food and food ingredients; or
- 2700 (ii) prepared food;
- 2701 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
- 2702 (i) alcoholic beverages;
- 2703 (ii) food and food ingredients; or
- 2704 (iii) prepared food;
- 2705 (b) sales of tangible personal property or a product transferred electronically:
- 2706 (i) to a passenger;
- 2707 (ii) by a commercial airline carrier; and
- 2708 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 2709 (c) services related to Subsection (4)(a) or (b);
- 2710 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
- 2711 and equipment:
- 2712 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
- 2713 North American Industry Classification System of the federal Executive Office of the
- 2714 President, Office of Management and Budget; and
- 2715 (II) for:
- 2716 (Aa) installation in an aircraft, including services relating to the installation of parts or
- 2717 equipment in the aircraft;
- 2718 (Bb) renovation of an aircraft; or
- 2719 (Cc) repair of an aircraft; or
- 2720 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
- 2721 commerce; or
- 2722 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
- 2723 aircraft operated by a common carrier in interstate or foreign commerce; and
- 2724 (b) notwithstanding the time period of Subsection [59-1-1410\(8\)](#) for filing for a refund,



2725 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a  
2726 refund:

2727 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

2728 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

2729 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for  
2730 the sale prior to filing for the refund;

2731 (iv) for sales and use taxes paid under this chapter on the sale;

2732 (v) in accordance with Section 59-1-1410; and

2733 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if  
2734 the person files for the refund on or before September 30, 2011;

2735 (6) sales of commercials, motion picture films, prerecorded audio program tapes or  
2736 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture  
2737 exhibitor, distributor, or commercial television or radio broadcaster;

2738 (7) (a) except as provided in Subsection [~~(85)~~] (84) and subject to Subsection (7)(b),  
2739 sales of cleaning or washing of tangible personal property if the cleaning or washing of the  
2740 tangible personal property is not assisted cleaning or washing of tangible personal property;

2741 (b) if a seller that sells at the same business location assisted cleaning or washing of  
2742 tangible personal property and cleaning or washing of tangible personal property that is not  
2743 assisted cleaning or washing of tangible personal property, the exemption described in  
2744 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning  
2745 or washing of the tangible personal property; and

2746 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,  
2747 Utah Administrative Rulemaking Act, the commission may make rules:

2748 (i) governing the circumstances under which sales are at the same business location;  
2749 and

2750 (ii) establishing the procedures and requirements for a seller to separately account for  
2751 sales of assisted cleaning or washing of tangible personal property;

2752 (8) sales made to or by religious or charitable institutions in the conduct of their regular  
2753 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are  
2754 fulfilled;

2755 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of

2756 this state if the vehicle is:

2757 (a) not registered in this state; and

2758 (b) (i) not used in this state; or

2759 (ii) used in this state:

2760 (A) if the vehicle is not used to conduct business, for a time period that does not

2761 exceed the longer of:

2762 (I) 30 days in any calendar year; or

2763 (II) the time period necessary to transport the vehicle to the borders of this state; or

2764 (B) if the vehicle is used to conduct business, for the time period necessary to transport

2765 the vehicle to the borders of this state;

2766 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

2767 (i) the item is intended for human use; and

2768 (ii) (A) a prescription was issued for the item; or

2769 (B) the item was purchased by a hospital or other medical facility; and

2770 (b) (i) Subsection (10)(a) applies to:

2771 (A) a drug;

2772 (B) a syringe; or

2773 (C) a stoma supply; and

2774 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2775 commission may by rule define the terms:

2776 (A) "syringe"; or

2777 (B) "stoma supply";

2778 (11) purchases or leases exempt under Section [19-12-201](#);

2779 (12) (a) sales of an item described in Subsection (12)(c) served by:

2780 (i) the following if the item described in Subsection (12)(c) is not available to the

2781 general public:

2782 (A) a church; or

2783 (B) a charitable institution; or

2784 (ii) an institution of higher education if:

2785 (A) the item described in Subsection (12)(c) is not available to the general public; or

2786 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan

2787 offered by the institution of higher education; or

2788 (b) sales of an item described in Subsection (12)(c) provided for a patient by:

2789 (i) a medical facility; or

2790 (ii) a nursing facility; and

2791 (c) Subsections (12)(a) and (b) apply to:

2792 (i) food and food ingredients;

2793 (ii) prepared food; or

2794 (iii) alcoholic beverages;

2795 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property

2796 or a product transferred electronically by a person:

2797 (i) regardless of the number of transactions involving the sale of that tangible personal

2798 property or product transferred electronically by that person; and

2799 (ii) not regularly engaged in the business of selling that type of tangible personal

2800 property or product transferred electronically;

2801 (b) this Subsection (13) does not apply if:

2802 (i) the sale is one of a series of sales of a character to indicate that the person is

2803 regularly engaged in the business of selling that type of tangible personal property or product

2804 transferred electronically;

2805 (ii) the person holds that person out as regularly engaged in the business of selling that

2806 type of tangible personal property or product transferred electronically;

2807 (iii) the person sells an item of tangible personal property or product transferred

2808 electronically that the person purchased as a sale that is exempt under Subsection (25); or

2809 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of

2810 this state in which case the tax is based upon:

2811 (A) the bill of sale or other written evidence of value of the vehicle or vessel being

2812 sold; or

2813 (B) in the absence of a bill of sale or other written evidence of value, the fair market

2814 value of the vehicle or vessel being sold at the time of the sale as determined by the

2815 commission; and

2816 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2817 commission shall make rules establishing the circumstances under which:

2818 (i) a person is regularly engaged in the business of selling a type of tangible personal  
2819 property or product transferred electronically;

2820 (ii) a sale of tangible personal property or a product transferred electronically is one of  
2821 a series of sales of a character to indicate that a person is regularly engaged in the business of  
2822 selling that type of tangible personal property or product transferred electronically; or

2823 (iii) a person holds that person out as regularly engaged in the business of selling a type  
2824 of tangible personal property or product transferred electronically;

2825 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal  
2826 operating repair or replacement parts, or materials, except for office equipment or office  
2827 supplies, by:

2828 (a) a manufacturing facility that:

2829 (i) is located in the state; and

2830 (ii) uses or consumes the machinery, equipment, normal operating repair or  
2831 replacement parts, or materials:

2832 (A) in the manufacturing process to manufacture an item sold as tangible personal  
2833 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,  
2834 Utah Administrative Rulemaking Act; or

2835 (B) for a scrap recycler, to process an item sold as tangible personal property, as the  
2836 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah  
2837 Administrative Rulemaking Act;

2838 (b) an establishment, as the commission defines that term in accordance with Title  
2839 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

2840 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS  
2841 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal  
2842 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the  
2843 2002 North American Industry Classification System of the federal Executive Office of the  
2844 President, Office of Management and Budget;

2845 (ii) is located in the state; and

2846 (iii) uses or consumes the machinery, equipment, normal operating repair or  
2847 replacement parts, or materials in:

2848 (A) the production process to produce an item sold as tangible personal property, as the

2849 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah  
2850 Administrative Rulemaking Act;

2851 (B) research and development, as the commission may define that phrase in accordance  
2852 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2853 (C) transporting, storing, or managing tailings, overburden, or similar waste materials  
2854 produced from mining;

2855 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in  
2856 mining; or

2857 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

2858 (c) an establishment, as the commission defines that term in accordance with Title 63G,  
2859 Chapter 3, Utah Administrative Rulemaking Act, that:

2860 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North  
2861 American Industry Classification System of the federal Executive Office of the President,  
2862 Office of Management and Budget;

2863 (ii) is located in the state; and

2864 (iii) uses or consumes the machinery, equipment, normal operating repair or  
2865 replacement parts, or materials in the operation of the web search portal;

2866 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

2867 (i) tooling;

2868 (ii) special tooling;

2869 (iii) support equipment;

2870 (iv) special test equipment; or

2871 (v) parts used in the repairs or renovations of tooling or equipment described in  
2872 Subsections (15)(a)(i) through (iv); and

2873 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

2874 (i) the tooling, equipment, or parts are used or consumed exclusively in the  
2875 performance of any aerospace or electronics industry contract with the United States  
2876 government or any subcontract under that contract; and

2877 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),  
2878 title to the tooling, equipment, or parts is vested in the United States government as evidenced  
2879 by:

2880 (A) a government identification tag placed on the tooling, equipment, or parts; or  
2881 (B) listing on a government-approved property record if placing a government  
2882 identification tag on the tooling, equipment, or parts is impractical;  
2883 (16) sales of newspapers or newspaper subscriptions;  
2884 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a  
2885 product transferred electronically traded in as full or part payment of the purchase price, except  
2886 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,  
2887 trade-ins are limited to other vehicles only, and the tax is based upon:  
2888 (i) the bill of sale or other written evidence of value of the vehicle being sold and the  
2889 vehicle being traded in; or  
2890 (ii) in the absence of a bill of sale or other written evidence of value, the then existing  
2891 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the  
2892 commission; and  
2893 (b) Subsection (17)(a) does not apply to the following items of tangible personal  
2894 property or products transferred electronically traded in as full or part payment of the purchase  
2895 price:  
2896 (i) money;  
2897 (ii) electricity;  
2898 (iii) water;  
2899 (iv) gas; or  
2900 (v) steam;  
2901 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property  
2902 or a product transferred electronically used or consumed primarily and directly in farming  
2903 operations, regardless of whether the tangible personal property or product transferred  
2904 electronically:  
2905 (A) becomes part of real estate; or  
2906 (B) is installed by a:  
2907 (I) farmer;  
2908 (II) contractor; or  
2909 (III) subcontractor; or  
2910 (ii) sales of parts used in the repairs or renovations of tangible personal property or a

2911 product transferred electronically if the tangible personal property or product transferred  
2912 electronically is exempt under Subsection (18)(a)(i); and  
2913 (b) amounts paid or charged for the following are subject to the taxes imposed by this  
2914 chapter:

2915 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or  
2916 supplies if used in a manner that is incidental to farming; and  
2917 (B) tangible personal property that is considered to be used in a manner that is  
2918 incidental to farming includes:

2919 (I) hand tools; or  
2920 (II) maintenance and janitorial equipment and supplies;

2921 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product  
2922 transferred electronically if the tangible personal property or product transferred electronically  
2923 is used in an activity other than farming; and  
2924 (B) tangible personal property or a product transferred electronically that is considered  
2925 to be used in an activity other than farming includes:

2926 (I) office equipment and supplies; or  
2927 (II) equipment and supplies used in:

2928 (Aa) the sale or distribution of farm products;  
2929 (Bb) research; or  
2930 (Cc) transportation; or  
2931 (iii) a vehicle required to be registered by the laws of this state during the period  
2932 ending two years after the date of the vehicle's purchase;

2933 (19) sales of hay;  
2934 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or  
2935 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or  
2936 garden, farm, or other agricultural produce is sold by:

2937 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other  
2938 agricultural produce;  
2939 (b) an employee of the producer described in Subsection (20)(a); or  
2940 (c) a member of the immediate family of the producer described in Subsection (20)(a);  
2941 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued

2942 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

2943 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,

2944 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,

2945 wholesaler, or retailer for use in packaging tangible personal property to be sold by that

2946 manufacturer, processor, wholesaler, or retailer;

2947 (23) a product stored in the state for resale;

2948 (24) (a) purchases of a product if:

2949 (i) the product is:

2950 (A) purchased outside of this state;

2951 (B) brought into this state:

2952 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

2953 (II) by a nonresident person who is not living or working in this state at the time of the

2954 purchase;

2955 (C) used for the personal use or enjoyment of the nonresident person described in

2956 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

2957 (D) not used in conducting business in this state; and

2958 (ii) for:

2959 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of

2960 the product for a purpose for which the product is designed occurs outside of this state;

2961 (B) a boat, the boat is registered outside of this state; or

2962 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

2963 outside of this state;

2964 (b) the exemption provided for in Subsection (24)(a) does not apply to:

2965 (i) a lease or rental of a product; or

2966 (ii) a sale of a vehicle exempt under Subsection (33); and

2967 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

2968 purposes of Subsection (24)(a), the commission may by rule define what constitutes the

2969 following:

2970 (i) conducting business in this state if that phrase has the same meaning in this

2971 Subsection (24) as in Subsection (63);

2972 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)



2973 as in Subsection (63); or

2974 (iii) a purpose for which a product is designed if that phrase has the same meaning in  
2975 this Subsection (24) as in Subsection (63);

2976 (25) a product purchased for resale in the regular course of business, either in its  
2977 original form or as an ingredient or component part of a manufactured or compounded product;

2978 (26) a product upon which a sales or use tax was paid to some other state, or one of its  
2979 subdivisions, except that the state shall be paid any difference between the tax paid and the tax  
2980 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if  
2981 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax  
2982 Act;

2983 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a  
2984 person for use in compounding a service taxable under the subsections;

2985 (28) purchases made in accordance with the special supplemental nutrition program for  
2986 women, infants, and children established in 42 U.S.C. Sec. 1786;

2987 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other  
2988 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code  
2989 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of  
2990 the President, Office of Management and Budget;

2991 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State  
2992 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

2993 (a) not registered in this state; and

2994 (b) (i) not used in this state; or

2995 (ii) used in this state:

2996 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a  
2997 time period that does not exceed the longer of:

2998 (I) 30 days in any calendar year; or

2999 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to  
3000 the borders of this state; or

3001 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time  
3002 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this  
3003 state;

- 3004 (31) sales of aircraft manufactured in Utah;
- 3005 (32) amounts paid for the purchase of telecommunications service for purposes of
- 3006 providing telecommunications service;
- 3007 (33) sales, leases, or uses of the following:
- 3008 (a) a vehicle by an authorized carrier; or
- 3009 (b) tangible personal property that is installed on a vehicle:
- 3010 (i) sold or leased to or used by an authorized carrier; and
- 3011 (ii) before the vehicle is placed in service for the first time;
- 3012 (34) (a) 45% of the sales price of any new manufactured home; and
- 3013 (b) 100% of the sales price of any used manufactured home;
- 3014 (35) sales relating to schools and fundraising sales;
- 3015 (36) sales or rentals of durable medical equipment if:
- 3016 (a) a person presents a prescription for the durable medical equipment; and
- 3017 (b) the durable medical equipment is used for home use only;
- 3018 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 3019 Section [72-11-102](#); and
- 3020 (b) the commission shall by rule determine the method for calculating sales exempt
- 3021 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 3022 (38) sales to a ski resort of:
- 3023 (a) snowmaking equipment;
- 3024 (b) ski slope grooming equipment;
- 3025 (c) passenger ropeways as defined in Section [72-11-102](#); or
- 3026 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 3027 described in Subsections (38)(a) through (c);
- 3028 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 3029 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 3030 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 3031 [59-12-102](#);
- 3032 (b) if a seller that sells or rents at the same business location the right to use or operate
- 3033 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 3034 one or more assisted amusement devices, the exemption described in Subsection (40)(a)

3035 applies if the seller separately accounts for the sales or rentals of the right to use or operate for  
3036 amusement, entertainment, or recreation for the assisted amusement devices; and

3037 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,  
3038 Utah Administrative Rulemaking Act, the commission may make rules:

3039 (i) governing the circumstances under which sales are at the same business location;  
3040 and

3041 (ii) establishing the procedures and requirements for a seller to separately account for  
3042 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for  
3043 assisted amusement devices;

3044 (41) (a) sales of photocopies by:

3045 (i) a governmental entity; or

3046 (ii) an entity within the state system of public education, including:

3047 (A) a school; or

3048 (B) the State Board of Education; or

3049 (b) sales of publications by a governmental entity;

3050 (42) amounts paid for admission to an athletic event at an institution of higher  
3051 education that is subject to the provisions of Title IX of the Education Amendments of 1972,  
3052 20 U.S.C. Sec. 1681 et seq.;

3053 (43) (a) sales made to or by:

3054 (i) an area agency on aging; or

3055 (ii) a senior citizen center owned by a county, city, or town; or

3056 (b) sales made by a senior citizen center that contracts with an area agency on aging;

3057 (44) sales or leases of semiconductor fabricating, processing, research, or development  
3058 materials regardless of whether the semiconductor fabricating, processing, research, or  
3059 development materials:

3060 (a) actually come into contact with a semiconductor; or

3061 (b) ultimately become incorporated into real property;

3062 (45) an amount paid by or charged to a purchaser for accommodations and services  
3063 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section  
3064 59-12-104.2;

3065 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary

3066 sports event registration certificate in accordance with Section 41-3-306 for the event period  
3067 specified on the temporary sports event registration certificate;

3068 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff  
3069 adopted by the Public Service Commission only for purchase of electricity produced from a  
3070 new alternative energy source built after January 1, 2016, as designated in the tariff by the  
3071 Public Service Commission; and

3072 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies  
3073 only to the portion of the tariff rate a customer pays under the tariff described in Subsection  
3074 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the  
3075 customer would have paid absent the tariff;

3076 (48) sales or rentals of mobility enhancing equipment if a person presents a  
3077 prescription for the mobility enhancing equipment;

3078 (49) sales of water in a:

3079 (a) pipe;

3080 (b) conduit;

3081 (c) ditch; or

3082 (d) reservoir;

3083 (50) sales of currency or coins that constitute legal tender of a state, the United States,  
3084 or a foreign nation;

3085 (51) (a) sales of an item described in Subsection (51)(b) if the item:

3086 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

3087 (ii) has a gold, silver, or platinum content of 50% or more; and

3088 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

3089 (i) ingot;

3090 (ii) bar;

3091 (iii) medallion; or

3092 (iv) decorative coin;

3093 (52) amounts paid on a sale-leaseback transaction;

3094 (53) sales of a prosthetic device:

3095 (a) for use on or in a human; and

3096 (b) (i) for which a prescription is required; or

3097 (ii) if the prosthetic device is purchased by a hospital or other medical facility;  
3098 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of  
3099 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery  
3100 or equipment is primarily used in the production or postproduction of the following media for  
3101 commercial distribution:  
3102 (i) a motion picture;  
3103 (ii) a television program;  
3104 (iii) a movie made for television;  
3105 (iv) a music video;  
3106 (v) a commercial;  
3107 (vi) a documentary; or  
3108 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the  
3109 commission by administrative rule made in accordance with Subsection (54)(d); or  
3110 (b) purchases, leases, or rentals of machinery or equipment by an establishment  
3111 described in Subsection (54)(c) that is used for the production or postproduction of the  
3112 following are subject to the taxes imposed by this chapter:  
3113 (i) a live musical performance;  
3114 (ii) a live news program; or  
3115 (iii) a live sporting event;  
3116 (c) the following establishments listed in the 1997 North American Industry  
3117 Classification System of the federal Executive Office of the President, Office of Management  
3118 and Budget, apply to Subsections (54)(a) and (b):  
3119 (i) NAICS Code 512110; or  
3120 (ii) NAICS Code 51219; and  
3121 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3122 commission may by rule:  
3123 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);  
3124 or  
3125 (ii) define:  
3126 (A) "commercial distribution";  
3127 (B) "live musical performance";

3128 (C) "live news program"; or  
3129 (D) "live sporting event";  
3130 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but  
3131 on or before June 30, 2027, of tangible personal property that:  
3132 (i) is leased or purchased for or by a facility that:  
3133 (A) is an alternative energy electricity production facility;  
3134 (B) is located in the state; and  
3135 (C) (I) becomes operational on or after July 1, 2004; or  
3136 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
3137 2004, as a result of the use of the tangible personal property;  
3138 (ii) has an economic life of five or more years; and  
3139 (iii) is used to make the facility or the increase in capacity of the facility described in  
3140 Subsection (55)(a)(i) operational up to the point of interconnection with an existing  
3141 transmission grid including:  
3142 (A) a wind turbine;  
3143 (B) generating equipment;  
3144 (C) a control and monitoring system;  
3145 (D) a power line;  
3146 (E) substation equipment;  
3147 (F) lighting;  
3148 (G) fencing;  
3149 (H) pipes; or  
3150 (I) other equipment used for locating a power line or pole; and  
3151 (b) this Subsection (55) does not apply to:  
3152 (i) tangible personal property used in construction of:  
3153 (A) a new alternative energy electricity production facility; or  
3154 (B) the increase in the capacity of an alternative energy electricity production facility;  
3155 (ii) contracted services required for construction and routine maintenance activities;  
3156 and  
3157 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
3158 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or

3159 acquired after:

3160 (A) the alternative energy electricity production facility described in Subsection

3161 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

3162 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described

3163 in Subsection (55)(a)(iii);

3164 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but

3165 on or before June 30, 2027, of tangible personal property that:

3166 (i) is leased or purchased for or by a facility that:

3167 (A) is a waste energy production facility;

3168 (B) is located in the state; and

3169 (C) (I) becomes operational on or after July 1, 2004; or

3170 (II) has its generation capacity increased by one or more megawatts on or after July 1,

3171 2004, as a result of the use of the tangible personal property;

3172 (ii) has an economic life of five or more years; and

3173 (iii) is used to make the facility or the increase in capacity of the facility described in

3174 Subsection (56)(a)(i) operational up to the point of interconnection with an existing

3175 transmission grid including:

3176 (A) generating equipment;

3177 (B) a control and monitoring system;

3178 (C) a power line;

3179 (D) substation equipment;

3180 (E) lighting;

3181 (F) fencing;

3182 (G) pipes; or

3183 (H) other equipment used for locating a power line or pole; and

3184 (b) this Subsection (56) does not apply to:

3185 (i) tangible personal property used in construction of:

3186 (A) a new waste energy facility; or

3187 (B) the increase in the capacity of a waste energy facility;

3188 (ii) contracted services required for construction and routine maintenance activities;

3189 and

3190 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
3191 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

3192 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as  
3193 described in Subsection (56)(a)(iii); or

3194 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described  
3195 in Subsection (56)(a)(iii);

3196 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on  
3197 or before June 30, 2027, of tangible personal property that:

3198 (i) is leased or purchased for or by a facility that:

3199 (A) is located in the state;

3200 (B) produces fuel from alternative energy, including:

3201 (I) methanol; or

3202 (II) ethanol; and

3203 (C) (I) becomes operational on or after July 1, 2004; or

3204 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as  
3205 a result of the installation of the tangible personal property;

3206 (ii) has an economic life of five or more years; and

3207 (iii) is installed on the facility described in Subsection (57)(a)(i);

3208 (b) this Subsection (57) does not apply to:

3209 (i) tangible personal property used in construction of:

3210 (A) a new facility described in Subsection (57)(a)(i); or

3211 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

3212 (ii) contracted services required for construction and routine maintenance activities;

3213 and

3214 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
3215 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

3216 (A) the facility described in Subsection (57)(a)(i) is operational; or

3217 (B) the increased capacity described in Subsection (57)(a)(i) is operational;

3218 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a  
3219 product transferred electronically to a person within this state if that tangible personal property  
3220 or product transferred electronically is subsequently shipped outside the state and incorporated



3221 pursuant to contract into and becomes a part of real property located outside of this state;

3222 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other  
3223 state or political entity to which the tangible personal property is shipped imposes a sales, use,  
3224 gross receipts, or other similar transaction excise tax on the transaction against which the other  
3225 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

3226 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,  
3227 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a  
3228 refund:

3229 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

3230 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on  
3231 which the sale is made;

3232 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the  
3233 sale prior to filing for the refund;

3234 (iv) for sales and use taxes paid under this chapter on the sale;

3235 (v) in accordance with Section 59-1-1410; and

3236 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if  
3237 the person files for the refund on or before June 30, 2011;

3238 (59) purchases:

3239 (a) of one or more of the following items in printed or electronic format:

3240 (i) a list containing information that includes one or more:

3241 (A) names; or

3242 (B) addresses; or

3243 (ii) a database containing information that includes one or more:

3244 (A) names; or

3245 (B) addresses; and

3246 (b) used to send direct mail;

3247 (60) redemptions or repurchases of a product by a person if that product was:

3248 (a) delivered to a pawnbroker as part of a pawn transaction; and

3249 (b) redeemed or repurchased within the time period established in a written agreement  
3250 between the person and the pawnbroker for redeeming or repurchasing the product;

3251 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

3252 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

3253 and

3254 (ii) has a useful economic life of one or more years; and

3255 (b) the following apply to Subsection (61)(a):

3256 (i) telecommunications enabling or facilitating equipment, machinery, or software;

3257 (ii) telecommunications equipment, machinery, or software required for 911 service;

3258 (iii) telecommunications maintenance or repair equipment, machinery, or software;

3259 (iv) telecommunications switching or routing equipment, machinery, or software; or

3260 (v) telecommunications transmission equipment, machinery, or software;

3261 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible

3262 personal property or a product transferred electronically that are used in the research and

3263 development of alternative energy technology; and

3264 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3265 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes

3266 purchases of tangible personal property or a product transferred electronically that are used in

3267 the research and development of alternative energy technology;

3268 (63) (a) purchases of tangible personal property or a product transferred electronically

3269 if:

3270 (i) the tangible personal property or product transferred electronically is:

3271 (A) purchased outside of this state;

3272 (B) brought into this state at any time after the purchase described in Subsection

3273 (63)(a)(i)(A); and

3274 (C) used in conducting business in this state; and

3275 (ii) for:

3276 (A) tangible personal property or a product transferred electronically other than the

3277 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property

3278 for a purpose for which the property is designed occurs outside of this state; or

3279 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

3280 outside of this state;

3281 (b) the exemption provided for in Subsection (63)(a) does not apply to:

3282 (i) a lease or rental of tangible personal property or a product transferred electronically;

3283 or

3284 (ii) a sale of a vehicle exempt under Subsection (33); and

3285 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

3286 purposes of Subsection (63)(a), the commission may by rule define what constitutes the

3287 following:

3288 (i) conducting business in this state if that phrase has the same meaning in this

3289 Subsection (63) as in Subsection (24);

3290 (ii) the first use of tangible personal property or a product transferred electronically if

3291 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

3292 (iii) a purpose for which tangible personal property or a product transferred

3293 electronically is designed if that phrase has the same meaning in this Subsection (63) as in

3294 Subsection (24);

3295 (64) sales of disposable home medical equipment or supplies if:

3296 (a) a person presents a prescription for the disposable home medical equipment or

3297 supplies;

3298 (b) the disposable home medical equipment or supplies are used exclusively by the

3299 person to whom the prescription described in Subsection (64)(a) is issued; and

3300 (c) the disposable home medical equipment and supplies are listed as eligible for

3301 payment under:

3302 (i) Title XVIII, federal Social Security Act; or

3303 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

3304 (65) sales:

3305 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

3306 District Act; or

3307 (b) of tangible personal property to a subcontractor of a public transit district, if the

3308 tangible personal property is:

3309 (i) clearly identified; and

3310 (ii) installed or converted to real property owned by the public transit district;

3311 (66) sales of construction materials:

3312 (a) purchased on or after July 1, 2010;

3313 (b) purchased by, on behalf of, or for the benefit of an international airport:

- 3314 (i) located within a county of the first class; and
- 3315 (ii) that has a United States customs office on its premises; and
- 3316 (c) if the construction materials are:
  - 3317 (i) clearly identified;
  - 3318 (ii) segregated; and
  - 3319 (iii) installed or converted to real property:
    - 3320 (A) owned or operated by the international airport described in Subsection (66)(b); and
    - 3321 (B) located at the international airport described in Subsection (66)(b);
- 3322 (67) sales of construction materials:
  - 3323 (a) purchased on or after July 1, 2008;
  - 3324 (b) purchased by, on behalf of, or for the benefit of a new airport:
    - 3325 (i) located within a county of the second class; and
    - 3326 (ii) that is owned or operated by a city in which an airline as defined in Section
    - 3327 [59-2-102](#) is headquartered; and
- 3328 (c) if the construction materials are:
  - 3329 (i) clearly identified;
  - 3330 (ii) segregated; and
  - 3331 (iii) installed or converted to real property:
    - 3332 (A) owned or operated by the new airport described in Subsection (67)(b);
    - 3333 (B) located at the new airport described in Subsection (67)(b); and
    - 3334 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 3335 [~~(68) sales of fuel to a common carrier that is a railroad for use in a locomotive~~
- 3336 ~~engine;~~]
- 3337 [~~(69)~~] (68) purchases and sales described in Section [63H-4-111](#);
- 3338 [~~(70)~~] (69) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 3339 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 3340 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 3341 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 3342 powered aircraft; or
- 3343 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 3344 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of

3345 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration  
3346 lists a state or country other than this state as the location of registry of the fixed wing turbine  
3347 powered aircraft;

3348 ~~[(71)]~~ (70) subject to Section 59-12-104.4, sales of a textbook for a higher education  
3349 course:

3350 (a) to a person admitted to an institution of higher education; and

3351 (b) by a seller, other than a bookstore owned by an institution of higher education, if  
3352 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a  
3353 textbook for a higher education course;

3354 ~~[(72)]~~ (71) a license fee or tax a municipality imposes in accordance with Subsection  
3355 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced  
3356 level of municipal services;

3357 ~~[(73)]~~ (72) amounts paid or charged for construction materials used in the construction  
3358 of a new or expanding life science research and development facility in the state, if the  
3359 construction materials are:

3360 (a) clearly identified;

3361 (b) segregated; and

3362 (c) installed or converted to real property;

3363 ~~[(74)]~~ (73) amounts paid or charged for:

3364 (a) a purchase or lease of machinery and equipment that:

3365 (i) are used in performing qualified research:

3366 (A) as defined in Section 41(d), Internal Revenue Code; and

3367 (B) in the state; and

3368 (ii) have an economic life of three or more years; and

3369 (b) normal operating repair or replacement parts:

3370 (i) for the machinery and equipment described in Subsection ~~[(74)]~~ (73)(a); and

3371 (ii) that have an economic life of three or more years;

3372 ~~[(75)]~~ (74) a sale or lease of tangible personal property used in the preparation of  
3373 prepared food if:

3374 (a) for a sale:

3375 (i) the ownership of the seller and the ownership of the purchaser are identical; and

3376 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that  
3377 tangible personal property prior to making the sale; or  
3378 (b) for a lease:  
3379 (i) the ownership of the lessor and the ownership of the lessee are identical; and  
3380 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible  
3381 personal property prior to making the lease;  
3382 [~~76~~] (75) (a) purchases of machinery or equipment if:  
3383 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,  
3384 Gambling, and Recreation Industries, of the 2012 North American Industry Classification  
3385 System of the federal Executive Office of the President, Office of Management and Budget;  
3386 (ii) the machinery or equipment:  
3387 (A) has an economic life of three or more years; and  
3388 (B) is used by one or more persons who pay admission or user fees described in  
3389 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and  
3390 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:  
3391 (A) amounts paid or charged as admission or user fees described in Subsection  
3392 59-12-103(1)(f); and  
3393 (B) subject to taxation under this chapter; and  
3394 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3395 commission may make rules for verifying that 51% of a purchaser's sales revenue for the  
3396 previous calendar quarter is:  
3397 (i) amounts paid or charged as admission or user fees described in Subsection  
3398 59-12-103(1)(f); and  
3399 (ii) subject to taxation under this chapter;  
3400 [~~77~~] (76) purchases of a short-term lodging consumable by a business that provides  
3401 accommodations and services described in Subsection 59-12-103(1)(i);  
3402 [~~78~~] (77) amounts paid or charged to access a database:  
3403 (a) if the primary purpose for accessing the database is to view or retrieve information  
3404 from the database; and  
3405 (b) not including amounts paid or charged for a:  
3406 (i) digital audiowork;

- 3407 (ii) digital audio-visual work; or  
 3408 (iii) digital book;  
 3409 [~~(79)~~] (78) amounts paid or charged for a purchase or lease made by an electronic  
 3410 financial payment service, of:  
 3411 (a) machinery and equipment that:  
 3412 (i) are used in the operation of the electronic financial payment service; and  
 3413 (ii) have an economic life of three or more years; and  
 3414 (b) normal operating repair or replacement parts that:  
 3415 (i) are used in the operation of the electronic financial payment service; and  
 3416 (ii) have an economic life of three or more years;  
 3417 [~~(80)~~] (79) beginning on April 1, 2013, sales of a fuel cell as defined in Section  
 3418 [54-15-102](#);  
 3419 [~~(81)~~] (80) amounts paid or charged for a purchase or lease of tangible personal  
 3420 property or a product transferred electronically if the tangible personal property or product  
 3421 transferred electronically:  
 3422 (a) is stored, used, or consumed in the state; and  
 3423 (b) is temporarily brought into the state from another state:  
 3424 (i) during a disaster period as defined in Section [53-2a-1202](#);  
 3425 (ii) by an out-of-state business as defined in Section [53-2a-1202](#);  
 3426 (iii) for a declared state disaster or emergency as defined in Section [53-2a-1202](#); and  
 3427 (iv) for disaster- or emergency-related work as defined in Section [53-2a-1202](#);  
 3428 [~~(82)~~] (81) sales of goods and services at a morale, welfare, and recreation facility, as  
 3429 defined in Section [39-9-102](#), made pursuant to Title 39, Chapter 9, State Morale, Welfare, and  
 3430 Recreation Program;  
 3431 [~~(83)~~] (82) amounts paid or charged for a purchase or lease of molten magnesium;  
 3432 [~~(84)~~] (83) amounts paid or charged for a purchase or lease made by a qualifying  
 3433 enterprise data center of machinery, equipment, or normal operating repair or replacement  
 3434 parts, if the machinery, equipment, or normal operating repair or replacement parts:  
 3435 (a) are used in the operation of the establishment; and  
 3436 (b) have an economic life of one or more years;  
 3437 [~~(85)~~] (84) sales of cleaning or washing of a vehicle, except for cleaning or washing of

3438 a vehicle that includes cleaning or washing of the interior of the vehicle;

3439        ~~[(86)]~~ (85) amounts paid or charged for a purchase or lease of machinery, equipment,

3440 normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or

3441 supplies used or consumed:

3442        (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined

3443 in Section [63M-4-701](#) located in the state;

3444        (b) if the machinery, equipment, normal operating repair or replacement parts,

3445 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

3446           (i) the production process to produce gasoline or diesel fuel, or at which blendstock is

3447 added to gasoline or diesel fuel;

3448           (ii) research and development;

3449           (iii) transporting, storing, or managing raw materials, work in process, finished

3450 products, and waste materials produced from refining gasoline or diesel fuel, or adding

3451 blendstock to gasoline or diesel fuel;

3452           (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in

3453 refining; or

3454           (v) preventing, controlling, or reducing pollutants from refining; and

3455        (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office

3456 of Energy Development under Subsection [63M-4-702\(2\)](#);

3457        ~~[(87)]~~ (86) amounts paid to or charged by a proprietor for accommodations and

3458 services, as defined in Section [63H-1-205](#), if the proprietor is subject to the MIDA

3459 accommodations tax imposed under Section [63H-1-205](#);

3460        ~~[(88)]~~ (87) amounts paid or charged for a purchase or lease of machinery, equipment,

3461 normal operating repair or replacement parts, or materials, except for office equipment or

3462 office supplies, by an establishment, as the commission defines that term in accordance with

3463 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

3464           (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North

3465 American Industry Classification System of the federal Executive Office of the President,

3466 Office of Management and Budget;

3467           (b) is located in this state; and

3468           (c) uses the machinery, equipment, normal operating repair or replacement parts, or



3469 materials in the operation of the establishment; and

3470 [~~(89)~~] (88) amounts paid or charged for an item exempt under Section 59-12-104.10.

3471 Section 9. Section 59-12-108 is amended to read:

3472 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**

3473 **Certain amounts allocated to local taxing jurisdictions.**

3474 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this  
3475 chapter of \$50,000 or more for the previous calendar year shall:

3476 (i) file a return with the commission:

3477 (A) monthly on or before the last day of the month immediately following the month  
3478 for which the seller collects a tax under this chapter; and

3479 (B) for the month for which the seller collects a tax under this chapter; and

3480 (ii) except as provided in Subsection (1)(b), remit with the return required by  
3481 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,  
3482 fee, or charge described in Subsection (1)(c):

3483 (A) if that seller's tax liability under this chapter for the previous calendar year is less  
3484 than \$96,000, by any method permitted by the commission; or

3485 (B) if that seller's tax liability under this chapter for the previous calendar year is  
3486 \$96,000 or more, by electronic funds transfer.

3487 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)  
3488 the amount the seller is required to remit to the commission for each tax, fee, or charge  
3489 described in Subsection (1)(c) if that seller:

3490 (i) is required by Section 59-12-107 to file the return electronically; or

3491 (ii) (A) is required to collect and remit a tax under Section 59-12-107; and

3492 (B) files a simplified electronic return.

3493 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

3494 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

3495 (ii) a fee under Section 19-6-714;

3496 (iii) a fee under Section 19-6-805;

3497 (iv) a charge under Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

3498 (v) a tax under this chapter.

3499 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,

3500 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method  
3501 for making same-day payments other than by electronic funds transfer if making payments by  
3502 electronic funds transfer fails.

3503 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3504 commission shall establish by rule procedures and requirements for determining the amount a  
3505 seller is required to remit to the commission under this Subsection (1).

3506 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a  
3507 seller described in Subsection (4) may retain each month the amount allowed by this  
3508 Subsection (2).

3509 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain  
3510 each month 1.31% of any amounts the seller is required to remit to the commission:

3511 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax  
3512 and a local tax imposed in accordance with the following, for the month for which the seller is  
3513 filing a return in accordance with Subsection (1):

3514 (A) Subsection 59-12-103(2)(a);

3515 (B) Subsection 59-12-103(2)(b); [~~and~~]

3516 (C) Subsection 59-12-103(2)(d); and

3517 (D) Subsection 59-12-103(2)(e); and

3518 (ii) for an agreement sales and use tax.

3519 (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may  
3520 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described  
3521 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in  
3522 accordance with Subsection 59-12-103(2)(c).

3523 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount  
3524 equal to the sum of:

3525 (A) 1.31% of any amounts the seller is required to remit to the commission for:

3526 (I) the state tax and the local tax imposed in accordance with Subsection

3527 59-12-103(2)(c);

3528 (II) the month for which the seller is filing a return in accordance with Subsection (1);

3529 and

3530 (III) an agreement sales and use tax; and

3531 (B) 1.31% of the difference between:  
3532 (I) the amounts the seller would have been required to remit to the commission:  
3533 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject  
3534 to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);  
3535 (Bb) for the month for which the seller is filing a return in accordance with Subsection  
3536 (1); and  
3537 (Cc) for an agreement sales and use tax; and  
3538 (II) the amounts the seller is required to remit to the commission for:  
3539 (Aa) the state tax and the local tax imposed in accordance with Subsection  
3540 59-12-103(2)(c);  
3541 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);  
3542 and  
3543 (Cc) an agreement sales and use tax.  
3544 (d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain  
3545 each month 1% of any amounts the seller is required to remit to the commission:  
3546 (i) for the month for which the seller is filing a return in accordance with Subsection  
3547 (1); and  
3548 (ii) under:  
3549 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;  
3550 (B) Subsection 59-12-603(1)(a)(i)(A); or  
3551 (C) Subsection 59-12-603(1)(a)(i)(B).  
3552 (3) A state government entity that is required to remit taxes monthly in accordance  
3553 with Subsection (1) may not retain any amount under Subsection (2).  
3554 (4) A seller that has a tax liability under this chapter for the previous calendar year of  
3555 less than \$50,000 may:  
3556 (a) voluntarily meet the requirements of Subsection (1); and  
3557 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the  
3558 amounts allowed by Subsection (2).  
3559 (5) Penalties for late payment shall be as provided in Section 59-1-401.  
3560 (6) (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted  
3561 to the commission under this part, the commission shall each month calculate an amount equal

3562 to the difference between:

3563 (i) the total amount retained for that month by all sellers had the percentages listed  
3564 under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and

3565 (ii) the total amount retained for that month by all sellers at the percentages listed  
3566 under Subsections (2)(b) and (2)(c)(ii).

3567 (b) The commission shall each month allocate the amount calculated under Subsection  
3568 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use  
3569 tax that the commission distributes to each county, city, and town for that month compared to  
3570 the total agreement sales and use tax that the commission distributes for that month to all  
3571 counties, cities, and towns.

3572 (c) The amount the commission calculates under Subsection (6)(a) may not include an  
3573 amount collected from a tax that:

3574 (i) the state imposes within a county, city, or town, including the unincorporated area  
3575 of a county; and

3576 (ii) is not imposed within the entire state.

3577 Section 10. Section **72-2-131** is enacted to read:

3578 **72-2-131. Railroad Crossing Restricted Account.**

3579 (1) There is created in the General Fund the Railroad Crossing Restricted Account.

3580 (2) The account shall be funded by:

3581 (a) appropriations to the account by the Legislature;

3582 (b) private contributions;

3583 (c) donations or grants from public or private entities; and

3584 (d) interest earned on money in the account.

3585 (3) The Legislature shall appropriate funds in the account to the department.

3586 (4) Upon appropriation, the department shall use the money in the account for  
3587 construction, reconstruction, or renovation projects related to railroad crossings on class B or  
3588 class C roads.

3589 Section 11. **Appropriation.**

3590 The following sums of money are appropriated for the fiscal year beginning July 1,  
3591 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for  
3592 fiscal year 2021. The Legislature authorizes the State Division of Finance to transfer the

3593 following amounts between the following funds or accounts as indicated. Expenditures and  
3594 outlays from the funds or accounts to which the money is transferred must be authorized by an  
3595 appropriation.

3596 ITEM 1

3597 To General Fund Restricted - Railroad Crossing Restricted Account

3598 From General Fund \$3,700,000

3599 Schedule of Programs:

3600 Railroad Crossing Restricted Account \$3,700,000

3601 Section 12. **Effective date.**

3602 This bill takes effect on July 1, 2020.