

**MILITARY INSTALLATION DEVELOPMENT AUTHORITY**

**AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jerry W. Stevenson**

House Sponsor: Val L. Peterson

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to the Military Installation Development Authority.

**Highlighted Provisions:**

This bill:

- ▶ modifies the authority of the State Tax Commission to administer, operate, and enforce sales tax code provisions to include representing the interest of the Military Installation Development Authority in administrative proceedings;
- ▶ includes the Military Installation Development Authority with counties, cities, and towns in provisions relating to the administration of local sales taxes and to sales tax information provided by the State Tax Commission;
- ▶ requires the State Tax Commission to provide certain tax revenue information to the authority;
- ▶ modifies a definition relating to public infrastructure and improvements in the context of code provisions relating to the Military Installation Development Authority;
- ▶ modifies the powers of the Military Installation Development Authority, including relating to facilitating public-private partnerships;
- ▶ makes an exception to a conflict-of-interest provision applicable to a contract involving the authority or a subsidiary as a facilitator of public-private partnerships;
- ▶ provides exceptions to open meetings provisions and government records

30 provisions;

31       ▶ authorizes a subsidiary of the Military Installation Development Authority that is  
32 created as a public infrastructure district to levy a property tax for the operations  
33 and maintenance of the public infrastructure district's financed infrastructure and  
34 related improvements;

35       ▶ modifies a provision relating to the MIDA accommodations tax;

36       ▶ enacts a provision for a former rail line to become part of a project area under  
37 specified circumstances;

38       ▶ modifies a provision relating to the board's delegation of powers to authority staff;

39       ▶ modifies a provision relating to the notice of the board's adoption of a project area  
40 plan;

41       ▶ modifies a provision requiring the authority to make an adopted project area plan  
42 available to the public;

43       ▶ modifies a provision relating to the authority's annual report; and

44       ▶ makes technical changes.

45 **Money Appropriated in this Bill:**

46       None

47 **Other Special Clauses:**

48       This bill provides a special effective date.

49 **Utah Code Sections Affected:**

50 AMENDS:

51       **10-1-304**, as last amended by Laws of Utah 2012, Chapter 410

52       **10-1-403**, as last amended by Laws of Utah 2009, Chapter 92

53       **17B-2a-1206**, as last amended by Laws of Utah 2020, Chapter 282

54       **59-12-102**, as last amended by Laws of Utah 2020, Chapters 354, 365, and 438

55       **59-12-118**, as last amended by Laws of Utah 2020, Chapter 315

56       **59-12-209**, as last amended by Laws of Utah 2009, Chapters 212 and 240

57       **59-12-210**, as last amended by Laws of Utah 2009, Chapter 240

- 58 [59-12-401](#), as last amended by Laws of Utah 2017, Chapter 422
- 59 [63H-1-102](#), as last amended by Laws of Utah 2020, Chapter 282
- 60 [63H-1-201](#), as last amended by Laws of Utah 2020, Chapters 282 and 354
- 61 [63H-1-202](#), as last amended by Laws of Utah 2020, Chapter 282
- 62 [63H-1-205](#), as last amended by Laws of Utah 2019, Chapter 136
- 63 [63H-1-301](#), as last amended by Laws of Utah 2009, Chapter 92
- 64 [63H-1-403](#), as last amended by Laws of Utah 2020, Chapter 282
- 65 [63H-1-502](#), as last amended by Laws of Utah 2020, Chapter 282
- 66 [63H-1-703](#), as last amended by Laws of Utah 2015, Chapter 377
- 67 [63N-13-303](#), as enacted by Laws of Utah 2020, Chapter 446

68 ENACTS:

69 [63H-1-208](#), Utah Code Annotated 1953



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

72 Section 1. Section **10-1-304** is amended to read:

73 **10-1-304. Municipality and military installation development authority may levy**  
74 **tax -- Rate -- Imposition or repeal of tax -- Tax rate change -- Effective date -- Notice**  
75 **requirements -- Exemptions.**

76 (1) (a) Except as provided in Subsections (4) and (5), a municipality may levy a  
77 municipal energy sales and use tax on the sale or use of taxable energy within the municipality:

78 (i) by ordinance as provided in Section [10-1-305](#); and

79 (ii) of up to 6% of the delivered value of the taxable energy.

80 (b) Subject to Section [63H-1-203](#), the military installation development authority  
81 created in Section [63H-1-201](#) may levy a municipal energy sales and use tax under this part  
82 within a project area described in a project area plan adopted by the authority under Title 63H,  
83 Chapter 1, Military Installation Development Authority Act, as though the authority were a  
84 municipality.

85 (2) A municipal energy sales and use tax imposed under this part may be in addition to

86 any sales and use tax imposed by the municipality under Title 59, Chapter 12, Sales and Use  
87 Tax Act.

88 (3) (a) For purposes of this Subsection (3):

89 (i) "Annexation" means an annexation to a municipality under Chapter 2, Part 4,  
90 Annexation.

91 (ii) "Annexing area" means an area that is annexed into a municipality.

92 (b) (i) If, on or after May 1, 2000, a city or town enacts or repeals a tax or changes the  
93 rate of a tax under this part, the enactment, repeal, or change shall take effect:

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

95 (B) after a 90-day period beginning on the date the commission receives notice meeting  
96 the requirements of Subsection (3)(b)(ii) from the municipality.

97 (ii) The notice described in Subsection (3)(b)(i)(B) shall state:

98 (A) that the city or town will enact or repeal a tax or change the rate of a tax under this  
99 part;

100 (B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

101 (C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and

102 (D) if the city or town enacts the tax or changes the rate of the tax described in  
103 Subsection (3)(b)(ii)(A), the new rate of the tax.

104 (c) (i) If, for an annexation that occurs on or after May 1, 2000, the annexation will  
105 result in a change in the rate of a tax under this part for an annexing area, the change shall take  
106 effect:

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

108 (B) after a 90-day period beginning on the date the commission receives notice meeting  
109 the requirements of Subsection (3)(c)(ii) from the municipality that annexes the annexing area.

110 (ii) The notice described in Subsection (3)(c)(i)(B) shall state:

111 (A) that the annexation described in Subsection (3)(c)(i) will result in a change in the  
112 rate of a tax under this part for the annexing area;

113 (B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);

114 (C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and

115 (D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

116 (4) (a) Subject to Subsection (4)(b), a sale or use of electricity within a municipality is  
117 exempt from the tax authorized by this section if the sale or use is made under a tariff adopted  
118 by the Public Service Commission of Utah only for purchase of electricity produced from a  
119 new source of alternative energy, as defined in Section 59-12-102, as designated in the tariff by  
120 the Public Service Commission of Utah.

121 (b) The exemption under Subsection (4)(a) applies to the portion of the tariff rate a  
122 customer pays under the tariff described in Subsection (4)(a) that exceeds the tariff rate under  
123 the tariff described in Subsection (4)(a) that the customer would have paid absent the tariff.

124 (5) (a) A municipality may not levy a municipal energy sales and use tax within any  
125 portion of the municipality that is within a project area described in a project area plan adopted  
126 by the military installation development authority under Title 63H, Chapter 1, Military  
127 Installation Development Authority Act.

128 (b) Subsection (5)(a) does not apply to the military installation development authority's  
129 levy of a municipal energy sales and use tax.

130 (6) (a) The State Tax Commission shall provide to the military installation  
131 development authority the collection data necessary to verify that revenue collected by the State  
132 Tax Commission is distributed to the military installation development authority in accordance  
133 with this part.

134 (b) The data described in Subsection (6)(a) shall include the State Tax Commission's  
135 breakdown of military installation development authority revenue, including reports of  
136 collections and distributions.

137 Section 2. Section 10-1-403 is amended to read:

138 **10-1-403. Municipality and military installation development authority may levy**  
139 **municipal telecommunications license tax -- Recovery from customers -- Enactment,**  
140 **repeal, or change in rate of tax -- Annexation.**

141 (1) (a) (i) Subject to the provisions of this section, beginning July 1, 2004, a

142 municipality may levy on and provide that there is collected from a telecommunications  
143 provider a municipal telecommunications license tax on the telecommunications provider's  
144 gross receipts from telecommunications service that are attributed to the municipality in  
145 accordance with Section 10-1-407.

146 (ii) Subject to Section 63H-1-203, the military installation development authority  
147 created in Section 63H-1-201 may levy and collect a municipal telecommunications license tax  
148 under this part for telecommunications service provided within a project area described in a  
149 project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation  
150 Development Authority Act, as though the authority were a municipality.

151 (b) To levy and provide for the collection of a municipal telecommunications license  
152 tax under this part, the municipality shall adopt an ordinance that complies with the  
153 requirements of Section 10-1-404.

154 (c) Beginning on July 1, 2007, a municipal telecommunications license tax imposed  
155 under this part shall be at a rate of up to 3.5% of the telecommunications provider's gross  
156 receipts from telecommunications service that are attributed to the municipality in accordance  
157 with Section 10-1-407.

158 (2) A telecommunications provider may recover the amounts paid in municipal  
159 telecommunications license taxes from the customers of the telecommunications provider  
160 within the municipality imposing the municipal telecommunications license tax through a  
161 charge that is separately identified in the statement of the transaction with the customer as the  
162 recovery of a tax.

163 (3) (a) For purposes of this Subsection (3):

164 (i) "Annexation" means an annexation to a municipality under Title 10, Chapter 2, Part  
165 4, Annexation.

166 (ii) "Annexing area" means an area that is annexed into a municipality.

167 (b) (i) If, on or after July 1, 2004, a municipality enacts or repeals a tax or changes the  
168 rate of the tax under this part, the enactment, repeal, or change shall take effect:

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

170 (B) after a 90-day period beginning on the date the commission receives notice meeting  
171 the requirements of Subsection (3)(b)(ii) from the municipality.

172 (ii) The notice described in Subsection (3)(b)(i)(B) shall state:

173 (A) that the municipality will enact or repeal a tax under this part or change the rate of  
174 the tax;

175 (B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

176 (C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and

177 (D) if the municipality enacts the municipal telecommunications license tax or changes  
178 the rate of the tax, the new rate of the tax.

179 (c) (i) If, for an annexation that occurs on or after July 1, 2004, the annexation will  
180 result in a change in the rate of the tax under this part for an annexing area, the change shall  
181 take effect:

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

183 (B) after a 90-day period beginning on the date the commission receives notice meeting  
184 the requirements of Subsection (3)(c)(ii) from the municipality that annexes the annexing area.

185 (ii) The notice described in Subsection (3)(c)(i)(B) shall state:

186 (A) that the annexation described in Subsection (3)(c)(i) will result in a change in the  
187 rate of a tax under this part for the annexing area;

188 (B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);

189 (C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and

190 (D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

191 (4) Notwithstanding Subsection (3)(b), for purposes of a change in a municipal  
192 telecommunications license tax rate that takes effect on July 1, 2007, a municipality is not  
193 subject to the notice requirements of Subsection (3)(b) if:

194 (a) on June 30, 2007, the municipality has in effect an ordinance that levies a municipal  
195 telecommunications license tax at a rate that exceeds 3.5%; and

196 (b) on July 1, 2007, the municipality has in effect an ordinance that levies a municipal  
197 telecommunications license tax at a rate of 3.5%.

198 (5) Notwithstanding Subsection (3)(b), for purposes of a change in a municipal  
199 telecommunications license tax rate that takes effect on July 1, 2007, the 90-day period  
200 described in Subsection (3)(b)(i)(B) is considered to be a 30-day period if:

201 (a) on June 30, 2007, the municipality has in effect an ordinance that levies a municipal  
202 telecommunications license tax at a rate that exceeds 3.5%; and

203 (b) on July 1, 2007, the municipality has in effect an ordinance that levies a municipal  
204 telecommunications license tax at a rate that is less than 3.5%.

205 (6) (a) A municipality may not levy or collect a municipal telecommunications license  
206 tax for telecommunications service provided within any portion of the municipality that is  
207 within a project area described in a project area plan adopted by the military installation  
208 development authority under Title 63H, Chapter 1, Military Installation Development  
209 Authority Act.

210 (b) Subsection (6)(a) does not apply to the military installation development authority's  
211 levy of a municipal telecommunications license tax.

212 (7) (a) The State Tax Commission shall provide to the military installation  
213 development authority the collection data necessary to verify that revenue collected by the State  
214 Tax Commission is distributed to the military installation development authority in accordance  
215 with this part.

216 (b) The data described in Subsection (7)(a) shall include the State Tax Commission's  
217 breakdown of military installation development authority revenue, including reports of  
218 collections and distributions.

219 Section 3. Section **17B-2a-1206** is amended to read:

220 **17B-2a-1206. Additional public infrastructure district powers.**

221 In addition to the powers conferred on a public infrastructure district under Section  
222 [17B-1-103](#), a public infrastructure district may:

223 (1) issue negotiable bonds to pay:

224 (a) all or part of the costs of acquiring, acquiring an interest in, improving, or extending  
225 any of the improvements, facilities, or property allowed under Section [11-14-103](#);



226 (b) capital costs of improvements in an energy assessment area, as defined in Section  
227 [11-42a-102](#), and other related costs, against the funds that the public infrastructure district will  
228 receive because of an assessment in an energy assessment area, as defined in Section  
229 [11-42a-102](#);

230 (c) public improvements related to the provision of housing;

231 (d) capital costs related to public transportation; and

232 (e) for a public infrastructure district created by the development authority, the cost of  
233 acquiring or financing [~~publicly owned~~] public infrastructure and improvements, as defined in  
234 Section [63H-1-102](#);

235 (2) enter into an interlocal agreement in accordance with Title 11, Chapter 13,  
236 Interlocal Cooperation Act, provided that the interlocal agreement may not expand the powers  
237 of the public infrastructure district, within the limitations of Title 11, Chapter 13, Interlocal  
238 Cooperation Act, without the consent of the creating entity;

239 (3) acquire completed or partially completed improvements for fair market value as  
240 reasonably determined by:

241 (a) the board;

242 (b) the creating entity, if required in the governing document; or

243 (c) a surveyor or engineer that a public infrastructure district employs or engages to  
244 perform the necessary engineering services for and to supervise the construction or installation  
245 of the improvements;

246 (4) contract with the creating entity for the creating entity to provide administrative  
247 services on behalf of the public infrastructure district, when agreed to by both parties, in order  
248 to achieve cost savings and economic efficiencies, at the discretion of the creating entity; and

249 (5) for a public infrastructure district created by a development authority:

250 (a) (i) operate and maintain publicly owned infrastructure and improvements the  
251 district acquires or finances; and

252 (ii) use fees, assessments, or taxes to pay for the operation and maintenance of those  
253 publicly owned infrastructure and improvements; and

254 (b) issue bonds under Title 11, Chapter 42, Assessment Area Act.

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

256 **59-12-102. Definitions.**

257 As used in this chapter:

258 (1) "800 service" means a telecommunications service that:

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

260 (b) is typically marketed:

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

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

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

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

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

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

267 Federal Communications Commission.

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

269 (i) a subscriber purchases;

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

272 (A) prerecorded announcement; or

273 (B) live service; and

274 (iii) is typically marketed:

275 (A) under the name 900 service; or

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

277 Communications Commission.

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

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

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

- 282 (A) a product; or
- 283 (B) a service.
- 284 (3) (a) "Admission or user fees" includes season passes.
- 285 (b) "Admission or user fees" does not include:
- 286 (i) annual membership dues to private organizations; or
- 287 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
- 288 facility listed in Subsection 59-12-103(1)(f).
- 289 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
- 290 person:
- 291 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
- 292 person; or
- 293 (b) is related to the other person because a third person, or a group of third persons who
- 294 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
- 295 whether direct or indirect, in the related persons.
- 296 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 297 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 298 Agreement after November 12, 2002.
- 299 (6) "Agreement combined tax rate" means the sum of the tax rates:
- 300 (a) listed under Subsection (7); and
- 301 (b) that are imposed within a local taxing jurisdiction.
- 302 (7) "Agreement sales and use tax" means a tax imposed under:
- 303 (a) Subsection 59-12-103(2)(a)(i)(A);
- 304 (b) Subsection 59-12-103(2)(b)(i);
- 305 (c) Subsection 59-12-103(2)(c)(i);
- 306 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 307 (e) Section 59-12-204;
- 308 (f) Section 59-12-401;
- 309 (g) Section 59-12-402;

- 310 (h) Section 59-12-402.1;
- 311 (i) Section 59-12-703;
- 312 (j) Section 59-12-802;
- 313 (k) Section 59-12-804;
- 314 (l) Section 59-12-1102;
- 315 (m) Section 59-12-1302;
- 316 (n) Section 59-12-1402;
- 317 (o) Section 59-12-1802;
- 318 (p) Section 59-12-2003;
- 319 (q) Section 59-12-2103;
- 320 (r) Section 59-12-2213;
- 321 (s) Section 59-12-2214;
- 322 (t) Section 59-12-2215;
- 323 (u) Section 59-12-2216;
- 324 (v) Section 59-12-2217;
- 325 (w) Section 59-12-2218;
- 326 (x) Section 59-12-2219; or
- 327 (y) Section 59-12-2220.
- 328 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 329 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 330 (a) except for:
- 331 (i) an airline as defined in Section 59-2-102; or
- 332 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 333 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 334 state, of an airline; and
- 335 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 336 whether the business entity performs the following in this state:
- 337 (i) check, diagnose, overhaul, and repair:

- 338 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 339 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 340 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 341 engine;
- 342 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 343 aircraft:
  - 344 (A) an inspection;
  - 345 (B) a repair, including a structural repair or modification;
  - 346 (C) changing landing gear; and
  - 347 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 348 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 349 completely apply new paint to the fixed wing turbine powered aircraft; and
- 350 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 351 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 352 authority that certifies the fixed wing turbine powered aircraft.
- 353 (10) "Alcoholic beverage" means a beverage that:
  - 354 (a) is suitable for human consumption; and
  - 355 (b) contains .5% or more alcohol by volume.
- 356 (11) "Alternative energy" means:
  - 357 (a) biomass energy;
  - 358 (b) geothermal energy;
  - 359 (c) hydroelectric energy;
  - 360 (d) solar energy;
  - 361 (e) wind energy; or
  - 362 (f) energy that is derived from:
    - 363 (i) coal-to-liquids;
    - 364 (ii) nuclear fuel;
    - 365 (iii) oil-impregnated diatomaceous earth;

- 366 (iv) oil sands;
- 367 (v) oil shale;
- 368 (vi) petroleum coke; or
- 369 (vii) waste heat from:
  - 370 (A) an industrial facility; or
  - 371 (B) a power station in which an electric generator is driven through a process in which
  - 372 water is heated, turns into steam, and spins a steam turbine.

373 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production  
374 facility" means a facility that:

- 375 (i) uses alternative energy to produce electricity; and
- 376 (ii) has a production capacity of two megawatts or greater.
- 377 (b) A facility is an alternative energy electricity production facility regardless of  
378 whether the facility is:
  - 379 (i) connected to an electric grid; or
  - 380 (ii) located on the premises of an electricity consumer.

381 (13) (a) "Ancillary service" means a service associated with, or incidental to, the  
382 provision of telecommunications service.

- 383 (b) "Ancillary service" includes:
  - 384 (i) a conference bridging service;
  - 385 (ii) a detailed communications billing service;
  - 386 (iii) directory assistance;
  - 387 (iv) a vertical service; or
  - 388 (v) a voice mail service.

389 (14) "Area agency on aging" means the same as that term is defined in Section  
390 [62A-3-101](#).

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

- 393 (a) who is not the purchaser or renter of the right to use or operate the amusement

394 device, skill device, or ride device; and

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

397 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or  
398 washing of tangible personal property if the cleaning or washing labor is primarily performed  
399 by an individual:

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

402 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
403 property.

404 (17) "Authorized carrier" means:

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

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

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

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

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

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

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

418 (B) animal waste;

419 (C) waste vegetable oil;

420 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of  
421 wastewater residuals, or through the conversion of a waste material through a nonincineration,

422 thermal conversion process;

423 (E) aquatic plants; and

424 (F) agricultural products.

425 (b) "Biomass energy" does not include:

426 (i) black liquor; or

427 (ii) treated woods.

428 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal

429 property, products, or services if the tangible personal property, products, or services are:

430 (i) distinct and identifiable; and

431 (ii) sold for one nonitemized price.

432 (b) "Bundled transaction" does not include:

433 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on

434 the basis of the selection by the purchaser of the items of tangible personal property included in

435 the transaction;

436 (ii) the sale of real property;

437 (iii) the sale of services to real property;

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

439 (A) the tangible personal property:

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

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

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

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

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

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

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

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

448 taxation under this chapter and tangible personal property or a product that is not subject to

449 taxation under this chapter if the:



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

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

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

456 (A) that retail sale includes:

457 (I) food and food ingredients;

458 (II) a drug;

459 (III) durable medical equipment;

460 (IV) mobility enhancing equipment;

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

462 (VI) a prosthetic device; or

463 (VII) a medical supply; and

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

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

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

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

471 (A) packaging that:

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

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

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

477 (C) an item of tangible personal property, a product, or a service included in the

478 definition of "purchase price."

479 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a  
480 product, or a service is provided free of charge with the purchase of another item of tangible  
481 personal property, a product, or a service if the sales price of the purchased item of tangible  
482 personal property, product, or service does not vary depending on the inclusion of the tangible  
483 personal property, product, or service provided free of charge.

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

488 (A) a binding sales document; or

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

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

492 (A) a bill of sale;

493 (B) a contract;

494 (C) an invoice;

495 (D) a lease agreement;

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

497 (F) a price list;

498 (G) a rate card;

499 (H) a receipt; or

500 (I) a service agreement.

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

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

505 (B) the seller's sales price of the tangible personal property or product is 10% or less of

506 the seller's total sales price of the bundled transaction.

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

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

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

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

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

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

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

524 (i) on a transaction; and

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

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

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

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

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

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

534 seller's own purchases.

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

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

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

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

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

543 (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
544 fuels that does not constitute industrial use under Subsection (57) or residential use under  
545 Subsection (112).

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

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

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

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

556 (26) "Component part" includes:

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

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

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

- 562 (d) feed, seeds, and seedlings.
- 563 (27) "Computer" means an electronic device that accepts information:
- 564 (a) (i) in digital form; or
- 565 (ii) in a form similar to digital form; and
- 566 (b) manipulates that information for a result based on a sequence of instructions.
- 567 (28) "Computer software" means a set of coded instructions designed to cause:
- 568 (a) a computer to perform a task; or
- 569 (b) automatic data processing equipment to perform a task.
- 570 (29) "Computer software maintenance contract" means a contract that obligates a seller
- 571 of computer software to provide a customer with:
- 572 (a) future updates or upgrades to computer software;
- 573 (b) support services with respect to computer software; or
- 574 (c) a combination of Subsections (29)(a) and (b).
- 575 (30) (a) "Conference bridging service" means an ancillary service that links two or
- 576 more participants of an audio conference call or video conference call.
- 577 (b) "Conference bridging service" may include providing a telephone number as part of
- 578 the ancillary service described in Subsection (30)(a).
- 579 (c) "Conference bridging service" does not include a telecommunications service used
- 580 to reach the ancillary service described in Subsection (30)(a).
- 581 (31) "Construction materials" means any tangible personal property that will be
- 582 converted into real property.
- 583 (32) "Delivered electronically" means delivered to a purchaser by means other than
- 584 tangible storage media.
- 585 (33) (a) "Delivery charge" means a charge:
- 586 (i) by a seller of:
- 587 (A) tangible personal property;
- 588 (B) a product transferred electronically; or
- 589 (C) a service; and

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

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

594 (i) transportation;

595 (ii) shipping;

596 (iii) postage;

597 (iv) handling;

598 (v) crating; or

599 (vi) packing.

600 (34) "Designated political subdivision" means:

601 (a) a county, city, or town; or

602 (b) the military installation development authority created in Section [63H-1-201](#).

603 [~~34~~] (35) "Detailed telecommunications billing service" means an ancillary service of  
604 separately stating information pertaining to individual calls on a customer's billing statement.

605 [~~35~~] (36) "Dietary supplement" means a product, other than tobacco, that:

606 (a) is intended to supplement the diet;

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

608 (i) a vitamin;

609 (ii) a mineral;

610 (iii) an herb or other botanical;

611 (iv) an amino acid;

612 (v) a dietary substance for use by humans to supplement the diet by increasing the total  
613 dietary intake; or

614 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient  
615 described in Subsections [~~35~~] (36)(b)(i) through (v);

616 (c) (i) except as provided in Subsection [~~35~~] (36)(c)(ii), is intended for ingestion in:

617 (A) tablet form;

- 618 (B) capsule form;
- 619 (C) powder form;
- 620 (D) softgel form;
- 621 (E) gelcap form; or
- 622 (F) liquid form; or
- 623 (ii) if the product is not intended for ingestion in a form described in Subsections [~~(35)~~]
- 624 (36)(c)(i)(A) through (F), is not represented:
- 625 (A) as conventional food; and
- 626 (B) for use as a sole item of:
- 627 (I) a meal; or
- 628 (II) the diet; and
- 629 (d) is required to be labeled as a dietary supplement:
- 630 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 631 (ii) as required by 21 C.F.R. Sec. 101.36.
- 632 [~~(36)~~] (37) (a) "Digital audio work" means a work that results from the fixation of a
- 633 series of musical, spoken, or other sounds.
- 634 (b) "Digital audio work" includes a ringtone.
- 635 [~~(37)~~] (38) "Digital audio-visual work" means a series of related images which, when
- 636 shown in succession, imparts an impression of motion, together with accompanying sounds, if
- 637 any.
- 638 [~~(38)~~] (39) "Digital book" means a work that is generally recognized in the ordinary
- 639 and usual sense as a book.
- 640 [~~(39)~~] (40) (a) "Direct mail" means printed material delivered or distributed by United
- 641 States mail or other delivery service:
- 642 (i) to:
- 643 (A) a mass audience; or
- 644 (B) addressees on a mailing list provided:
- 645 (I) by a purchaser of the mailing list; or

- 646 (II) at the discretion of the purchaser of the mailing list; and
- 647 (ii) if the cost of the printed material is not billed directly to the recipients.
- 648 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 649 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 650 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 651 single address.
- 652 ~~[(40)]~~ (41) "Directory assistance" means an ancillary service of providing:
- 653 (a) address information; or
- 654 (b) telephone number information.
- 655 ~~[(41)]~~ (42) (a) "Disposable home medical equipment or supplies" means medical
- 656 equipment or supplies that:
- 657 (i) cannot withstand repeated use; and
- 658 (ii) are purchased by, for, or on behalf of a person other than:
- 659 (A) a health care facility as defined in Section 26-21-2;
- 660 (B) a health care provider as defined in Section 78B-3-403;
- 661 (C) an office of a health care provider described in Subsection ~~[(41)]~~ (42)(a)(ii)(B); or
- 662 (D) a person similar to a person described in Subsections ~~[(41)]~~ (42)(a)(ii)(A) through
- 663 (C).
- 664 (b) "Disposable home medical equipment or supplies" does not include:
- 665 (i) a drug;
- 666 (ii) durable medical equipment;
- 667 (iii) a hearing aid;
- 668 (iv) a hearing aid accessory;
- 669 (v) mobility enhancing equipment; or
- 670 (vi) tangible personal property used to correct impaired vision, including:
- 671 (A) eyeglasses; or
- 672 (B) contact lenses.
- 673 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the



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

675 [~~(42)~~] (43) "Drilling equipment manufacturer" means a facility:

676 (a) located in the state;

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

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

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

683 [~~(43)~~] (44) (a) "Drug" means a compound, substance, or preparation, or a component of  
684 a compound, substance, or preparation that is:

685 (i) recognized in:

686 (A) the official United States Pharmacopoeia;

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

688 (C) the official National Formulary; or

689 (D) a supplement to a publication listed in Subsections [~~(43)~~] (44)(a)(i)(A) through  
690 (C);

691 (ii) intended for use in the:

692 (A) diagnosis of disease;

693 (B) cure of disease;

694 (C) mitigation of disease;

695 (D) treatment of disease; or

696 (E) prevention of disease; or

697 (iii) intended to affect:

698 (A) the structure of the body; or

699 (B) any function of the body.

700 (b) "Drug" does not include:

701 (i) food and food ingredients;

- 702 (ii) a dietary supplement;
- 703 (iii) an alcoholic beverage; or
- 704 (iv) a prosthetic device.
- 705 ~~[(44)]~~ (45) (a) Except as provided in Subsection ~~[(44)]~~ (45)(c), "durable medical
- 706 equipment" means equipment that:
- 707 (i) can withstand repeated use;
- 708 (ii) is primarily and customarily used to serve a medical purpose;
- 709 (iii) generally is not useful to a person in the absence of illness or injury; and
- 710 (iv) is not worn in or on the body.
- 711 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 712 equipment described in Subsection ~~[(44)]~~ (45)(a).
- 713 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 714 ~~[(45)]~~ (46) "Electronic" means:
- 715 (a) relating to technology; and
- 716 (b) having:
- 717 (i) electrical capabilities;
- 718 (ii) digital capabilities;
- 719 (iii) magnetic capabilities;
- 720 (iv) wireless capabilities;
- 721 (v) optical capabilities;
- 722 (vi) electromagnetic capabilities; or
- 723 (vii) capabilities similar to Subsections ~~[(45)]~~ (46)(b)(i) through (vi).
- 724 ~~[(46)]~~ (47) "Electronic financial payment service" means an establishment:
- 725 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 726 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 727 federal Executive Office of the President, Office of Management and Budget; and
- 728 (b) that performs electronic financial payment services.
- 729 ~~[(47)]~~ (48) "Employee" means the same as that term is defined in Section 59-10-401.

- 730            [~~(48)~~] (49) "Fixed guideway" means a public transit facility that uses and occupies:
- 731            (a) rail for the use of public transit; or
- 732            (b) a separate right-of-way for the use of public transit.
- 733            [~~(49)~~] (50) "Fixed wing turbine powered aircraft" means an aircraft that:
- 734            (a) is powered by turbine engines;
- 735            (b) operates on jet fuel; and
- 736            (c) has wings that are permanently attached to the fuselage of the aircraft.
- 737            [~~(50)~~] (51) "Fixed wireless service" means a telecommunications service that provides
- 738 radio communication between fixed points.
- 739            [~~(51)~~] (52) (a) "Food and food ingredients" means substances:
- 740            (i) regardless of whether the substances are in:
- 741            (A) liquid form;
- 742            (B) concentrated form;
- 743            (C) solid form;
- 744            (D) frozen form;
- 745            (E) dried form; or
- 746            (F) dehydrated form; and
- 747            (ii) that are:
- 748            (A) sold for:
- 749            (I) ingestion by humans; or
- 750            (II) chewing by humans; and
- 751            (B) consumed for the substance's:
- 752            (I) taste; or
- 753            (II) nutritional value.
- 754            (b) "Food and food ingredients" includes an item described in Subsection [~~(96)~~]
- 755 (97)(b)(iii).
- 756            (c) "Food and food ingredients" does not include:
- 757            (i) an alcoholic beverage;

758 (ii) tobacco; or  
759 (iii) prepared food.  
760 [~~52~~] (53) (a) "Fundraising sales" means sales:  
761 (i) (A) made by a school; or  
762 (B) made by a school student;  
763 (ii) that are for the purpose of raising funds for the school to purchase equipment,  
764 materials, or provide transportation; and  
765 (iii) that are part of an officially sanctioned school activity.  
766 (b) For purposes of Subsection [~~52~~] (53)(a)(iii), "officially sanctioned school activity"  
767 means a school activity:  
768 (i) that is conducted in accordance with a formal policy adopted by the school or school  
769 district governing the authorization and supervision of fundraising activities;  
770 (ii) that does not directly or indirectly compensate an individual teacher or other  
771 educational personnel by direct payment, commissions, or payment in kind; and  
772 (iii) the net or gross revenues from which are deposited in a dedicated account  
773 controlled by the school or school district.  
774 [~~53~~] (54) "Geothermal energy" means energy contained in heat that continuously  
775 flows outward from the earth that is used as the sole source of energy to produce electricity.  
776 [~~54~~] (55) "Governing board of the agreement" means the governing board of the  
777 agreement that is:  
778 (a) authorized to administer the agreement; and  
779 (b) established in accordance with the agreement.  
780 [~~55~~] (56) (a) For purposes of Subsection 59-12-104(41), "governmental entity"  
781 means:  
782 (i) the executive branch of the state, including all departments, institutions, boards,  
783 divisions, bureaus, offices, commissions, and committees;  
784 (ii) the judicial branch of the state, including the courts, the Judicial Council, the  
785 Administrative Office of the Courts, and similar administrative units in the judicial branch;

786 (iii) the legislative branch of the state, including the House of Representatives, the  
787 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
788 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
789 Analyst;

790 (iv) the National Guard;

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

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

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

795 (i) a school;

796 (ii) the State Board of Education;

797 (iii) the Utah Board of Higher Education; or

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

799 [~~56~~] (57) "Hydroelectric energy" means water used as the sole source of energy to  
800 produce electricity.

801 [~~57~~] (58) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,  
802 or other fuels:

803 (a) in mining or extraction of minerals;

804 (b) in agricultural operations to produce an agricultural product up to the time of  
805 harvest or placing the agricultural product into a storage facility, including:

806 (i) commercial greenhouses;

807 (ii) irrigation pumps;

808 (iii) farm machinery;

809 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered  
810 under Title 41, Chapter 1a, Part 2, Registration; and

811 (v) other farming activities;

812 (c) in manufacturing tangible personal property at an establishment described in:

813 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of

814 the federal Executive Office of the President, Office of Management and Budget; or  
815 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
816 American Industry Classification System of the federal Executive Office of the President,  
817 Office of Management and Budget;

818 (d) by a scrap recycler if:  
819 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
820 one or more of the following items into prepared grades of processed materials for use in new  
821 products:  
822 (A) iron;  
823 (B) steel;  
824 (C) nonferrous metal;  
825 (D) paper;  
826 (E) glass;  
827 (F) plastic;  
828 (G) textile; or  
829 (H) rubber; and  
830 (ii) the new products under Subsection [~~(57)~~] (58)(d)(i) would otherwise be made with  
831 nonrecycled materials; or  
832 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a  
833 cogeneration facility as defined in Section 54-2-1.

834 [~~(58)~~] (59) (a) Except as provided in Subsection [~~(58)~~] (59)(b), "installation charge"  
835 means a charge for installing:  
836 (i) tangible personal property; or  
837 (ii) a product transferred electronically.  
838 (b) "Installation charge" does not include a charge for:  
839 (i) repairs or renovations of:  
840 (A) tangible personal property; or  
841 (B) a product transferred electronically; or

- 842 (ii) attaching tangible personal property or a product transferred electronically:  
843 (A) to other tangible personal property; and  
844 (B) as part of a manufacturing or fabrication process.
- 845 [~~59~~] (60) "Institution of higher education" means an institution of higher education  
846 listed in Section 53B-2-101.
- 847 [~~60~~] (61) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
848 personal property or a product transferred electronically for:  
849 (i) (A) a fixed term; or  
850 (B) an indeterminate term; and  
851 (ii) consideration.
- 852 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the  
853 amount of consideration may be increased or decreased by reference to the amount realized  
854 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue  
855 Code.
- 856 (c) "Lease" or "rental" does not include:  
857 (i) a transfer of possession or control of property under a security agreement or  
858 deferred payment plan that requires the transfer of title upon completion of the required  
859 payments;  
860 (ii) a transfer of possession or control of property under an agreement that requires the  
861 transfer of title:  
862 (A) upon completion of required payments; and  
863 (B) if the payment of an option price does not exceed the greater of:  
864 (I) \$100; or  
865 (II) 1% of the total required payments; or  
866 (iii) providing tangible personal property along with an operator for a fixed period of  
867 time or an indeterminate period of time if the operator is necessary for equipment to perform as  
868 designed.
- 869 (d) For purposes of Subsection [~~60~~] (61)(c)(iii), an operator is necessary for

870 equipment to perform as designed if the operator's duties exceed the:

- 871 (i) set-up of tangible personal property;
- 872 (ii) maintenance of tangible personal property; or
- 873 (iii) inspection of tangible personal property.

874 ~~[(61)]~~ (62) "Lesson" means a fixed period of time for the duration of which a trained  
875 instructor:

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

878 ~~[(62)]~~ (63) "Life science establishment" means an establishment in this state that is  
879 classified under the following NAICS codes of the 2007 North American Industry  
880 Classification System of the federal Executive Office of the President, Office of Management  
881 and Budget:

- 882 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 883 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus  
884 Manufacturing; or
- 885 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

886 ~~[(63)]~~ (64) "Life science research and development facility" means a facility owned,  
887 leased, or rented by a life science establishment if research and development is performed in  
888 51% or more of the total area of the facility.

889 ~~[(64)]~~ (65) "Load and leave" means delivery to a purchaser by use of a tangible storage  
890 media if the tangible storage media is not physically transferred to the purchaser.

891 ~~[(65)]~~ (66) "Local taxing jurisdiction" means a:

- 892 (a) county that is authorized to impose an agreement sales and use tax;
- 893 (b) city that is authorized to impose an agreement sales and use tax; or
- 894 (c) town that is authorized to impose an agreement sales and use tax.

895 ~~[(66)]~~ (67) "Manufactured home" means the same as that term is defined in Section  
896 [15A-1-302](#).

897 ~~[(67)]~~ (68) "Manufacturing facility" means:



- 898 (a) an establishment described in:
- 899 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
900 the federal Executive Office of the President, Office of Management and Budget; or  
901 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
902 American Industry Classification System of the federal Executive Office of the President,  
903 Office of Management and Budget;
- 904 (b) a scrap recycler if:
- 905 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
906 one or more of the following items into prepared grades of processed materials for use in new  
907 products:
- 908 (A) iron;
  - 909 (B) steel;
  - 910 (C) nonferrous metal;
  - 911 (D) paper;
  - 912 (E) glass;
  - 913 (F) plastic;
  - 914 (G) textile; or
  - 915 (H) rubber; and
- 916 (ii) the new products under Subsection [~~(67)~~] (68)(b)(i) would otherwise be made with  
917 nonrecycled materials; or
- 918 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is  
919 placed in service on or after May 1, 2006.
- 920 [~~(68)~~] (69) (a) "Marketplace" means a physical or electronic place, platform, or forum  
921 where tangible personal property, a product transferred electronically, or a service is offered for  
922 sale.
- 923 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a  
924 dedicated sales software application.
- 925 [~~(69)~~] (70) (a) "Marketplace facilitator" means a person, including an affiliate of the

926 person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to  
927 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or  
928 controls and that directly or indirectly:

929 (i) does any of the following:

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

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

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

941 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible  
942 personal property, a product transferred electronically, or a service, regardless of ownership or  
943 control of the tangible personal property, the product transferred electronically, or the service  
944 that is the subject of the retail sale;

945 (E) provides software development or research and development activities related to  
946 any activity described in this Subsection [~~(69)~~] (70)(a)(i), if the software development or  
947 research and development activity is directly related to the person's marketplace;

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

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

951 (H) provides or offers customer service to a marketplace seller or a marketplace seller's  
952 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal  
953 property, a product transferred electronically, or a service sold by a marketplace seller on the

954 person's marketplace; or

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

956 (ii) does any of the following:

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

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

961 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing  
962 fee, a fee for inserting or making available tangible personal property, a product transferred  
963 electronically, or a service on the person's marketplace, or other consideration for the  
964 facilitation of a retail sale of tangible personal property, a product transferred electronically, or  
965 a service, regardless of ownership or control of the tangible personal property, the product  
966 transferred electronically, or the service that is the subject of the retail sale;

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

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

974 (b) "Marketplace facilitator" does not include:

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

976 (ii) a person described in Subsection ~~[(69)]~~ (70)(a) to the extent the person is  
977 facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.

978 ~~[(70)]~~ (71) "Marketplace seller" means a seller that makes one or more retail sales  
979 through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of  
980 whether the seller is required to be registered to collect and remit the tax under this part.

981 ~~[(71)]~~ (72) "Member of the immediate family of the producer" means a person who is

982 related to a producer described in Subsection 59-12-104(20)(a) as a:

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

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

985 (ii) a foster child or foster stepchild;

986 (b) grandchild or stepgrandchild;

987 (c) grandparent or stepgrandparent;

988 (d) nephew or stepnephew;

989 (e) niece or stepniece;

990 (f) parent or stepparent;

991 (g) sibling or stepsibling;

992 (h) spouse;

993 (i) person who is the spouse of a person described in Subsections ~~[(71)]~~ (72)(a) through

994 (g); or

995 (j) person similar to a person described in Subsections ~~[(71)]~~ (72)(a) through (i) as

996 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

997 Administrative Rulemaking Act.

998 ~~[(72)]~~ (73) "Mobile home" means the same as that term is defined in Section

999 15A-1-302.

1000 ~~[(73)]~~ (74) "Mobile telecommunications service" means the same as that term is

1001 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1002 ~~[(74)]~~ (75) (a) "Mobile wireless service" means a telecommunications service,

1003 regardless of the technology used, if:

1004 (i) the origination point of the conveyance, routing, or transmission is not fixed;

1005 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

1006 (iii) the origination point described in Subsection ~~[(74)]~~ (75)(a)(i) and the termination

1007 point described in Subsection ~~[(74)]~~ (75)(a)(ii) are not fixed.

1008 (b) "Mobile wireless service" includes a telecommunications service that is provided

1009 by a commercial mobile radio service provider.

1010 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1011 commission may by rule define "commercial mobile radio service provider."

1012 ~~[(75)]~~ (76) (a) Except as provided in Subsection ~~[(75)]~~ (76)(c), "mobility enhancing  
1013 equipment" means equipment that is:

1014 (i) primarily and customarily used to provide or increase the ability to move from one  
1015 place to another;

1016 (ii) appropriate for use in a:

1017 (A) home; or

1018 (B) motor vehicle; and

1019 (iii) not generally used by persons with normal mobility.

1020 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
1021 the equipment described in Subsection ~~[(75)]~~ (76)(a).

1022 (c) "Mobility enhancing equipment" does not include:

1023 (i) a motor vehicle;

1024 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
1025 vehicle manufacturer;

1026 (iii) durable medical equipment; or

1027 (iv) a prosthetic device.

1028 ~~[(76)]~~ (77) "Model 1 seller" means a seller registered under the agreement that has  
1029 selected a certified service provider as the seller's agent to perform the seller's sales and use tax  
1030 functions for agreement sales and use taxes, as outlined in the contract between the governing  
1031 board of the agreement and the certified service provider, other than the seller's obligation  
1032 under Section 59-12-124 to remit a tax on the seller's own purchases.

1033 ~~[(77)]~~ (78) "Model 2 seller" means a seller registered under the agreement that:

1034 (a) except as provided in Subsection ~~[(77)]~~ (78)(b), has selected a certified automated  
1035 system to perform the seller's sales tax functions for agreement sales and use taxes; and

1036 (b) retains responsibility for remitting all of the sales tax:

1037 (i) collected by the seller; and

1038 (ii) to the appropriate local taxing jurisdiction.

1039 [~~(78)~~] (79) (a) Subject to Subsection [~~(78)~~] (79)(b), "model 3 seller" means a seller  
1040 registered under the agreement that has:

1041 (i) sales in at least five states that are members of the agreement;

1042 (ii) total annual sales revenues of at least \$500,000,000;

1043 (iii) a proprietary system that calculates the amount of tax:

1044 (A) for an agreement sales and use tax; and

1045 (B) due to each local taxing jurisdiction; and

1046 (iv) entered into a performance agreement with the governing board of the agreement.

1047 (b) For purposes of Subsection [~~(78)~~] (79)(a), "model 3 seller" includes an affiliated  
1048 group of sellers using the same proprietary system.

1049 [~~(79)~~] (80) "Model 4 seller" means a seller that is registered under the agreement and is  
1050 not a model 1 seller, model 2 seller, or model 3 seller.

1051 [~~(80)~~] (81) "Modular home" means a modular unit as defined in Section 15A-1-302.

1052 [~~(81)~~] (82) "Motor vehicle" means the same as that term is defined in Section  
1053 41-1a-102.

1054 [~~(82)~~] (83) "Oil sands" means impregnated bituminous sands that:

1055 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with  
1056 other hydrocarbons, or otherwise treated;

1057 (b) yield mixtures of liquid hydrocarbon; and

1058 (c) require further processing other than mechanical blending before becoming finished  
1059 petroleum products.

1060 [~~(83)~~] (84) "Oil shale" means a group of fine black to dark brown shales containing  
1061 kerogen material that yields petroleum upon heating and distillation.

1062 [~~(84)~~] (85) "Optional computer software maintenance contract" means a computer  
1063 software maintenance contract that a customer is not obligated to purchase as a condition to the  
1064 retail sale of computer software.

1065 [~~(85)~~] (86) (a) "Other fuels" means products that burn independently to produce heat or

1066 energy.

1067 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
1068 personal property.

1069 ~~[(86)]~~ (87) (a) "Paging service" means a telecommunications service that provides  
1070 transmission of a coded radio signal for the purpose of activating a specific pager.

1071 (b) For purposes of Subsection ~~[(86)]~~ (87)(a), the transmission of a coded radio signal  
1072 includes a transmission by message or sound.

1073 ~~[(87)]~~ (88) "Pawnbroker" means the same as that term is defined in Section  
1074 13-32a-102.

1075 ~~[(88)]~~ (89) "Pawn transaction" means the same as that term is defined in Section  
1076 13-32a-102.

1077 ~~[(89)]~~ (90) (a) "Permanently attached to real property" means that for tangible personal  
1078 property attached to real property:

1079 (i) the attachment of the tangible personal property to the real property:

1080 (A) is essential to the use of the tangible personal property; and

1081 (B) suggests that the tangible personal property will remain attached to the real  
1082 property in the same place over the useful life of the tangible personal property; or

1083 (ii) if the tangible personal property is detached from the real property, the detachment  
1084 would:

1085 (A) cause substantial damage to the tangible personal property; or

1086 (B) require substantial alteration or repair of the real property to which the tangible  
1087 personal property is attached.

1088 (b) "Permanently attached to real property" includes:

1089 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1090 (A) essential to the operation of the tangible personal property; and

1091 (B) attached only to facilitate the operation of the tangible personal property;

1092 (ii) a temporary detachment of tangible personal property from real property for a  
1093 repair or renovation if the repair or renovation is performed where the tangible personal

1094 property and real property are located; or

1095 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
1096 Subsection [~~89~~] (90)(c)(iii) or (iv).

1097 (c) "Permanently attached to real property" does not include:

1098 (i) the attachment of portable or movable tangible personal property to real property if  
1099 that portable or movable tangible personal property is attached to real property only for:

1100 (A) convenience;

1101 (B) stability; or

1102 (C) for an obvious temporary purpose;

1103 (ii) the detachment of tangible personal property from real property except for the  
1104 detachment described in Subsection [~~89~~] (90)(b)(ii);

1105 (iii) an attachment of the following tangible personal property to real property if the  
1106 attachment to real property is only through a line that supplies water, electricity, gas,  
1107 telecommunications, cable, or supplies a similar item as determined by the commission by rule  
1108 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

1109 (A) a computer;

1110 (B) a telephone;

1111 (C) a television; or

1112 (D) tangible personal property similar to Subsections [~~89~~] (90)(c)(iii)(A) through (C)  
1113 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
1114 Administrative Rulemaking Act; or

1115 (iv) an item listed in Subsection [~~130~~] (131)(c).

1116 [~~90~~] (91) "Person" includes any individual, firm, partnership, joint venture,  
1117 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,  
1118 city, municipality, district, or other local governmental entity of the state, or any group or  
1119 combination acting as a unit.

1120 [~~91~~] (92) "Place of primary use":

1121 (a) for telecommunications service other than mobile telecommunications service,



1122 means the street address representative of where the customer's use of the telecommunications  
1123 service primarily occurs, which shall be:

1124 (i) the residential street address of the customer; or

1125 (ii) the primary business street address of the customer; or

1126 (b) for mobile telecommunications service, means the same as that term is defined in  
1127 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1128 [~~92~~] (93) (a) "Postpaid calling service" means a telecommunications service a person  
1129 obtains by making a payment on a call-by-call basis:

1130 (i) through the use of a:

1131 (A) bank card;

1132 (B) credit card;

1133 (C) debit card; or

1134 (D) travel card; or

1135 (ii) by a charge made to a telephone number that is not associated with the origination  
1136 or termination of the telecommunications service.

1137 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
1138 service, that would be a prepaid wireless calling service if the service were exclusively a  
1139 telecommunications service.

1140 [~~93~~] (94) "Postproduction" means an activity related to the finishing or duplication of  
1141 a medium described in Subsection 59-12-104(54)(a).

1142 [~~94~~] (95) "Prepaid calling service" means a telecommunications service:

1143 (a) that allows a purchaser access to telecommunications service that is exclusively  
1144 telecommunications service;

1145 (b) that:

1146 (i) is paid for in advance; and

1147 (ii) enables the origination of a call using an:

1148 (A) access number; or

1149 (B) authorization code;

- 1150 (c) that is dialed:
- 1151 (i) manually; or
- 1152 (ii) electronically; and
- 1153 (d) sold in predetermined units or dollars that decline:
- 1154 (i) by a known amount; and
- 1155 (ii) with use.
- 1156 [~~95~~] (96) "Prepaid wireless calling service" means a telecommunications service:
- 1157 (a) that provides the right to utilize:
- 1158 (i) mobile wireless service; and
- 1159 (ii) other service that is not a telecommunications service, including:
- 1160 (A) the download of a product transferred electronically;
- 1161 (B) a content service; or
- 1162 (C) an ancillary service;
- 1163 (b) that:
- 1164 (i) is paid for in advance; and
- 1165 (ii) enables the origination of a call using an:
- 1166 (A) access number; or
- 1167 (B) authorization code;
- 1168 (c) that is dialed:
- 1169 (i) manually; or
- 1170 (ii) electronically; and
- 1171 (d) sold in predetermined units or dollars that decline:
- 1172 (i) by a known amount; and
- 1173 (ii) with use.
- 1174 [~~96~~] (97) (a) "Prepared food" means:
- 1175 (i) food:
- 1176 (A) sold in a heated state; or
- 1177 (B) heated by a seller;

1178 (ii) two or more food ingredients mixed or combined by the seller for sale as a single  
1179 item; or

1180 (iii) except as provided in Subsection [~~96~~] (97)(c), food sold with an eating utensil  
1181 provided by the seller, including a:

1182 (A) plate;

1183 (B) knife;

1184 (C) fork;

1185 (D) spoon;

1186 (E) glass;

1187 (F) cup;

1188 (G) napkin; or

1189 (H) straw.

1190 (b) "Prepared food" does not include:

1191 (i) food that a seller only:

1192 (A) cuts;

1193 (B) repackages; or

1194 (C) pasteurizes; or

1195 (ii) (A) the following:

1196 (I) raw egg;

1197 (II) raw fish;

1198 (III) raw meat;

1199 (IV) raw poultry; or

1200 (V) a food containing an item described in Subsections [~~96~~] (97)(b)(ii)(A)(I) through  
1201 (IV); and

1202 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the  
1203 Food and Drug Administration's Food Code that a consumer cook the items described in  
1204 Subsection [~~96~~] (97)(b)(ii)(A) to prevent food borne illness; or

1205 (iii) the following if sold without eating utensils provided by the seller:

1206 (A) food and food ingredients sold by a seller if the seller's proper primary  
1207 classification under the 2002 North American Industry Classification System of the federal  
1208 Executive Office of the President, Office of Management and Budget, is manufacturing in  
1209 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla

1210 Manufacturing;

1211 (B) food and food ingredients sold in an unheated state:

1212 (I) by weight or volume; and

1213 (II) as a single item; or

1214 (C) a bakery item, including:

1215 (I) a bagel;

1216 (II) a bar;

1217 (III) a biscuit;

1218 (IV) bread;

1219 (V) a bun;

1220 (VI) a cake;

1221 (VII) a cookie;

1222 (VIII) a croissant;

1223 (IX) a danish;

1224 (X) a donut;

1225 (XI) a muffin;

1226 (XII) a pastry;

1227 (XIII) a pie;

1228 (XIV) a roll;

1229 (XV) a tart;

1230 (XVI) a torte; or

1231 (XVII) a tortilla.

1232 (c) An eating utensil provided by the seller does not include the following used to  
1233 transport the food:

1234 (i) a container; or  
1235 (ii) packaging.  
1236 ~~[(97)]~~ (98) "Prescription" means an order, formula, or recipe that is issued:  
1237 (a) (i) orally;  
1238 (ii) in writing;  
1239 (iii) electronically; or  
1240 (iv) by any other manner of transmission; and  
1241 (b) by a licensed practitioner authorized by the laws of a state.  
1242 ~~[(98)]~~ (99) (a) Except as provided in Subsection ~~[(98)]~~ (99)(b)(ii) or (iii), "prewritten  
1243 computer software" means computer software that is not designed and developed:  
1244 (i) by the author or other creator of the computer software; and  
1245 (ii) to the specifications of a specific purchaser.  
1246 (b) "Prewritten computer software" includes:  
1247 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer  
1248 software is not designed and developed:  
1249 (A) by the author or other creator of the computer software; and  
1250 (B) to the specifications of a specific purchaser;  
1251 (ii) computer software designed and developed by the author or other creator of the  
1252 computer software to the specifications of a specific purchaser if the computer software is sold  
1253 to a person other than the purchaser; or  
1254 (iii) except as provided in Subsection ~~[(98)]~~ (99)(c), prewritten computer software or a  
1255 prewritten portion of prewritten computer software:  
1256 (A) that is modified or enhanced to any degree; and  
1257 (B) if the modification or enhancement described in Subsection ~~[(98)]~~ (99)(b)(iii)(A) is  
1258 designed and developed to the specifications of a specific purchaser.  
1259 (c) "Prewritten computer software" does not include a modification or enhancement  
1260 described in Subsection ~~[(98)]~~ (99)(b)(iii) if the charges for the modification or enhancement  
1261 are:

1262 (i) reasonable; and

1263 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the  
1264 invoice or other statement of price provided to the purchaser at the time of sale or later, as  
1265 demonstrated by:

1266 (A) the books and records the seller keeps at the time of the transaction in the regular  
1267 course of business, including books and records the seller keeps at the time of the transaction in  
1268 the regular course of business for nontax purposes;

1269 (B) a preponderance of the facts and circumstances at the time of the transaction; and

1270 (C) the understanding of all of the parties to the transaction.

1271 ~~[(99)]~~ (100) (a) "Private communications service" means a telecommunications  
1272 service:

1273 (i) that entitles a customer to exclusive or priority use of one or more communications  
1274 channels between or among termination points; and

1275 (ii) regardless of the manner in which the one or more communications channels are  
1276 connected.

1277 (b) "Private communications service" includes the following provided in connection  
1278 with the use of one or more communications channels:

1279 (i) an extension line;

1280 (ii) a station;

1281 (iii) switching capacity; or

1282 (iv) another associated service that is provided in connection with the use of one or  
1283 more communications channels as defined in Section 59-12-215.

1284 ~~[(100)]~~ (101) (a) Except as provided in Subsection ~~[(100)]~~ (101)(b), "product  
1285 transferred electronically" means a product transferred electronically that would be subject to a  
1286 tax under this chapter if that product was transferred in a manner other than electronically.

1287 (b) "Product transferred electronically" does not include:

1288 (i) an ancillary service;

1289 (ii) computer software; or

- 1290 (iii) a telecommunications service.
- 1291 [~~(101)~~] (102) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 1292 (i) artificially replace a missing portion of the body;
- 1293 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1294 (iii) support a weak or deformed portion of the body.
- 1295 (b) "Prosthetic device" includes:
- 1296 (i) parts used in the repairs or renovation of a prosthetic device;
- 1297 (ii) replacement parts for a prosthetic device;
- 1298 (iii) a dental prosthesis; or
- 1299 (iv) a hearing aid.
- 1300 (c) "Prosthetic device" does not include:
- 1301 (i) corrective eyeglasses; or
- 1302 (ii) contact lenses.
- 1303 [~~(102)~~] (103) (a) "Protective equipment" means an item:
- 1304 (i) for human wear; and
- 1305 (ii) that is:
- 1306 (A) designed as protection:
- 1307 (I) to the wearer against injury or disease; or
- 1308 (II) against damage or injury of other persons or property; and
- 1309 (B) not suitable for general use.
- 1310 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1311 commission shall make rules:
- 1312 (i) listing the items that constitute "protective equipment"; and
- 1313 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1314 under the agreement.
- 1315 [~~(103)~~] (104) (a) For purposes of Subsection 59-12-104(41), "publication" means any
- 1316 written or printed matter, other than a photocopy:
- 1317 (i) regardless of:

- 1318 (A) characteristics;
- 1319 (B) copyright;
- 1320 (C) form;
- 1321 (D) format;
- 1322 (E) method of reproduction; or
- 1323 (F) source; and
- 1324 (ii) made available in printed or electronic format.
- 1325 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1326 commission may by rule define the term "photocopy."
- 1327 [~~(104)~~] (105) (a) "Purchase price" and "sales price" mean the total amount of
- 1328 consideration:
- 1329 (i) valued in money; and
- 1330 (ii) for which tangible personal property, a product transferred electronically, or
- 1331 services are:
- 1332 (A) sold;
- 1333 (B) leased; or
- 1334 (C) rented.
- 1335 (b) "Purchase price" and "sales price" include:
- 1336 (i) the seller's cost of the tangible personal property, a product transferred
- 1337 electronically, or services sold;
- 1338 (ii) expenses of the seller, including:
- 1339 (A) the cost of materials used;
- 1340 (B) a labor cost;
- 1341 (C) a service cost;
- 1342 (D) interest;
- 1343 (E) a loss;
- 1344 (F) the cost of transportation to the seller; or
- 1345 (G) a tax imposed on the seller;



- 1346 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1347 (iv) consideration a seller receives from a person other than the purchaser if:
- 1348 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 1349 and
- 1350 (II) the consideration described in Subsection [~~(104)~~] (105)(b)(iv)(A)(I) is directly
- 1351 related to a price reduction or discount on the sale;
- 1352 (B) the seller has an obligation to pass the price reduction or discount through to the
- 1353 purchaser;
- 1354 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 1355 the seller at the time of the sale to the purchaser; and
- 1356 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 1357 seller to claim a price reduction or discount; and
- 1358 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 1359 coupon, or other documentation with the understanding that the person other than the seller
- 1360 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 1361 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 1362 organization allowed a price reduction or discount, except that a preferred customer card that is
- 1363 available to any patron of a seller does not constitute membership in a group or organization
- 1364 allowed a price reduction or discount; or
- 1365 (III) the price reduction or discount is identified as a third party price reduction or
- 1366 discount on the:
  - 1367 (Aa) invoice the purchaser receives; or
  - 1368 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1369 (c) "Purchase price" and "sales price" do not include:
  - 1370 (i) a discount:
    - 1371 (A) in a form including:
      - 1372 (I) cash;
      - 1373 (II) term; or

- 1374 (III) coupon;
- 1375 (B) that is allowed by a seller;
- 1376 (C) taken by a purchaser on a sale; and
- 1377 (D) that is not reimbursed by a third party; or
- 1378 (ii) subject to Subsections [59-12-103\(2\)\(e\)\(ii\)](#) and [\(2\)\(f\)\(i\)](#), the following if separately
- 1379 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
- 1380 sale or later, as demonstrated by the books and records the seller keeps at the time of the
- 1381 transaction in the regular course of business, including books and records the seller keeps at the
- 1382 time of the transaction in the regular course of business for nontax purposes, by a
- 1383 preponderance of the facts and circumstances at the time of the transaction, and by the
- 1384 understanding of all of the parties to the transaction:
- 1385 (A) the following from credit extended on the sale of tangible personal property or
- 1386 services:
- 1387 (I) a carrying charge;
- 1388 (II) a financing charge; or
- 1389 (III) an interest charge;
- 1390 (B) a delivery charge;
- 1391 (C) an installation charge;
- 1392 (D) a manufacturer rebate on a motor vehicle; or
- 1393 (E) a tax or fee legally imposed directly on the consumer.
- 1394 [~~(105)~~] [\(106\)](#) "Purchaser" means a person to whom:
- 1395 (a) a sale of tangible personal property is made;
- 1396 (b) a product is transferred electronically; or
- 1397 (c) a service is furnished.
- 1398 [~~(106)~~] [\(107\)](#) "Qualifying data center" means a data center facility that:
- 1399 (a) houses a group of networked server computers in one physical location in order to
- 1400 disseminate, manage, and store data and information;
- 1401 (b) is located in the state;

- 1402 (c) is a new operation constructed on or after July 1, 2016;
- 1403 (d) consists of one or more buildings that total 150,000 or more square feet;
- 1404 (e) is owned or leased by:
  - 1405 (i) the operator of the data center facility; or
  - 1406 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
  - 1407 of the data center facility; and
- 1408 (f) is located on one or more parcels of land that are owned or leased by:
  - 1409 (i) the operator of the data center facility; or
  - 1410 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
  - 1411 of the data center facility.
- 1412 ~~[(107)]~~ (108) "Regularly rented" means:
  - 1413 (a) rented to a guest for value three or more times during a calendar year; or
  - 1414 (b) advertised or held out to the public as a place that is regularly rented to guests for
  - 1415 value.-
- 1416 ~~[(108)]~~ (109) "Rental" means the same as that term is defined in Subsection ~~[(60)]~~ (61).
- 1417 ~~[(109)]~~ (110) (a) Except as provided in Subsection ~~[(109)]~~ (110)(b), "repairs or
- 1418 renovations of tangible personal property" means:
  - 1419 (i) a repair or renovation of tangible personal property that is not permanently attached
  - 1420 to real property; or
  - 1421 (ii) attaching tangible personal property or a product transferred electronically to other
  - 1422 tangible personal property or detaching tangible personal property or a product transferred
  - 1423 electronically from other tangible personal property if:
    - 1424 (A) the other tangible personal property to which the tangible personal property or
    - 1425 product transferred electronically is attached or from which the tangible personal property or
    - 1426 product transferred electronically is detached is not permanently attached to real property; and
    - 1427 (B) the attachment of tangible personal property or a product transferred electronically
    - 1428 to other tangible personal property or detachment of tangible personal property or a product
    - 1429 transferred electronically from other tangible personal property is made in conjunction with a

1430 repair or replacement of tangible personal property or a product transferred electronically.

1431 (b) "Repairs or renovations of tangible personal property" does not include:

1432 (i) attaching prewritten computer software to other tangible personal property if the  
1433 other tangible personal property to which the prewritten computer software is attached is not  
1434 permanently attached to real property; or

1435 (ii) detaching prewritten computer software from other tangible personal property if the  
1436 other tangible personal property from which the prewritten computer software is detached is  
1437 not permanently attached to real property.

1438 [~~(110)~~] (111) "Research and development" means the process of inquiry or  
1439 experimentation aimed at the discovery of facts, devices, technologies, or applications and the  
1440 process of preparing those devices, technologies, or applications for marketing.

1441 [~~(111)~~] (112) (a) "Residential telecommunications services" means a  
1442 telecommunications service or an ancillary service that is provided to an individual for personal  
1443 use:

1444 (i) at a residential address; or

1445 (ii) at an institution, including a nursing home or a school, if the telecommunications  
1446 service or ancillary service is provided to and paid for by the individual residing at the  
1447 institution rather than the institution.

1448 (b) For purposes of Subsection [~~(111)~~] (112)(a)(i), a residential address includes an:

1449 (i) apartment; or

1450 (ii) other individual dwelling unit.

1451 [~~(112)~~] (113) "Residential use" means the use in or around a home, apartment building,  
1452 sleeping quarters, and similar facilities or accommodations.

1453 [~~(113)~~] (114) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose  
1454 other than:

1455 (a) resale;

1456 (b) sublease; or

1457 (c) subrent.

1458            [~~(H4)~~] (115) (a) "Retailer" means any person, unless prohibited by the Constitution of  
1459 the United States or federal law, that is engaged in a regularly organized business in tangible  
1460 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is  
1461 selling to the user or consumer and not for resale.

1462            (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1463 engaged in the business of selling to users or consumers within the state.

1464            [~~(H5)~~] (116) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1465 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1466 Subsection 59-12-103(1), for consideration.

1467            (b) "Sale" includes:

1468            (i) installment and credit sales;

1469            (ii) any closed transaction constituting a sale;

1470            (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
1471 chapter;

1472            (iv) any transaction if the possession of property is transferred but the seller retains the  
1473 title as security for the payment of the price; and

1474            (v) any transaction under which right to possession, operation, or use of any article of  
1475 tangible personal property is granted under a lease or contract and the transfer of possession  
1476 would be taxable if an outright sale were made.

1477            [~~(H6)~~] (117) "Sale at retail" means the same as that term is defined in Subsection  
1478 [~~(H3)~~] (114).

1479            [~~(H7)~~] (118) "Sale-leaseback transaction" means a transaction by which title to  
1480 tangible personal property or a product transferred electronically that is subject to a tax under  
1481 this chapter is transferred:

1482            (a) by a purchaser-lessee;

1483            (b) to a lessor;

1484            (c) for consideration; and

1485            (d) if:

1486 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
1487 of the tangible personal property or product transferred electronically;

1488 (ii) the sale of the tangible personal property or product transferred electronically to the  
1489 lessor is intended as a form of financing:

1490 (A) for the tangible personal property or product transferred electronically; and

1491 (B) to the purchaser-lessee; and

1492 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
1493 is required to:

1494 (A) capitalize the tangible personal property or product transferred electronically for  
1495 financial reporting purposes; and

1496 (B) account for the lease payments as payments made under a financing arrangement.

1497 [~~(118)~~] (119) "Sales price" means the same as that term is defined in Subsection  
1498 [~~(104)~~] (105).

1499 [~~(119)~~] (120) (a) "Sales relating to schools" means the following sales by, amounts  
1500 paid to, or amounts charged by a school:

1501 (i) sales that are directly related to the school's educational functions or activities  
1502 including:

1503 (A) the sale of:

1504 (I) textbooks;

1505 (II) textbook fees;

1506 (III) laboratory fees;

1507 (IV) laboratory supplies; or

1508 (V) safety equipment;

1509 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1510 that:

1511 (I) a student is specifically required to wear as a condition of participation in a  
1512 school-related event or school-related activity; and

1513 (II) is not readily adaptable to general or continued usage to the extent that it takes the

1514 place of ordinary clothing;

1515 (C) sales of the following if the net or gross revenues generated by the sales are

1516 deposited into a school district fund or school fund dedicated to school meals:

1517 (I) food and food ingredients; or

1518 (II) prepared food; or

1519 (D) transportation charges for official school activities; or

1520 (ii) amounts paid to or amounts charged by a school for admission to a school-related

1521 event or school-related activity.

1522 (b) "Sales relating to schools" does not include:

1523 (i) bookstore sales of items that are not educational materials or supplies;

1524 (ii) except as provided in Subsection [~~(119)~~] (120)(a)(i)(B):

1525 (A) clothing;

1526 (B) clothing accessories or equipment;

1527 (C) protective equipment; or

1528 (D) sports or recreational equipment; or

1529 (iii) amounts paid to or amounts charged by a school for admission to a school-related

1530 event or school-related activity if the amounts paid or charged are passed through to a person:

1531 (A) other than a:

1532 (I) school;

1533 (II) nonprofit organization authorized by a school board or a governing body of a

1534 private school to organize and direct a competitive secondary school activity; or

1535 (III) nonprofit association authorized by a school board or a governing body of a

1536 private school to organize and direct a competitive secondary school activity; and

1537 (B) that is required to collect sales and use taxes under this chapter.

1538 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1539 commission may make rules defining the term "passed through."

1540 [~~(120)~~] (121) For purposes of this section and Section [59-12-104](#), "school" means:

1541 (a) an elementary school or a secondary school that:

- 1542 (i) is a:
- 1543 (A) public school; or
- 1544 (B) private school; and
- 1545 (ii) provides instruction for one or more grades kindergarten through 12; or
- 1546 (b) a public school district.
- 1547 [~~(121)~~] (122) (a) "Seller" means a person that makes a sale, lease, or rental of:
- 1548 (i) tangible personal property;
- 1549 (ii) a product transferred electronically; or
- 1550 (iii) a service.
- 1551 (b) "Seller" includes a marketplace facilitator.
- 1552 [~~(122)~~] (123) (a) "Semiconductor fabricating, processing, research, or development
- 1553 materials" means tangible personal property or a product transferred electronically if the
- 1554 tangible personal property or product transferred electronically is:
- 1555 (i) used primarily in the process of:
- 1556 (A) (I) manufacturing a semiconductor;
- 1557 (II) fabricating a semiconductor; or
- 1558 (III) research or development of a:
- 1559 (Aa) semiconductor; or
- 1560 (Bb) semiconductor manufacturing process; or
- 1561 (B) maintaining an environment suitable for a semiconductor; or
- 1562 (ii) consumed primarily in the process of:
- 1563 (A) (I) manufacturing a semiconductor;
- 1564 (II) fabricating a semiconductor; or
- 1565 (III) research or development of a:
- 1566 (Aa) semiconductor; or
- 1567 (Bb) semiconductor manufacturing process; or
- 1568 (B) maintaining an environment suitable for a semiconductor.
- 1569 (b) "Semiconductor fabricating, processing, research, or development materials"



1570 includes:

1571 (i) parts used in the repairs or renovations of tangible personal property or a product  
1572 transferred electronically described in Subsection [~~(122)~~] (123)(a); or

1573 (ii) a chemical, catalyst, or other material used to:

1574 (A) produce or induce in a semiconductor a:

1575 (I) chemical change; or

1576 (II) physical change;

1577 (B) remove impurities from a semiconductor; or

1578 (C) improve the marketable condition of a semiconductor.

1579 [~~(123)~~] (124) "Senior citizen center" means a facility having the primary purpose of  
1580 providing services to the aged as defined in Section 62A-3-101.

1581 [~~(124)~~] (125) (a) Subject to Subsections [~~(124)~~] (125)(b) and (c), "short-term lodging  
1582 consumable" means tangible personal property that:

1583 (i) a business that provides accommodations and services described in Subsection  
1584 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services  
1585 to a purchaser;

1586 (ii) is intended to be consumed by the purchaser; and

1587 (iii) is:

1588 (A) included in the purchase price of the accommodations and services; and

1589 (B) not separately stated on an invoice, bill of sale, or other similar document provided  
1590 to the purchaser.

1591 (b) "Short-term lodging consumable" includes:

1592 (i) a beverage;

1593 (ii) a brush or comb;

1594 (iii) a cosmetic;

1595 (iv) a hair care product;

1596 (v) lotion;

1597 (vi) a magazine;

- 1598 (vii) makeup;
- 1599 (viii) a meal;
- 1600 (ix) mouthwash;
- 1601 (x) nail polish remover;
- 1602 (xi) a newspaper;
- 1603 (xii) a notepad;
- 1604 (xiii) a pen;
- 1605 (xiv) a pencil;
- 1606 (xv) a razor;
- 1607 (xvi) saline solution;
- 1608 (xvii) a sewing kit;
- 1609 (xviii) shaving cream;
- 1610 (xix) a shoe shine kit;
- 1611 (xx) a shower cap;
- 1612 (xxi) a snack item;
- 1613 (xxii) soap;
- 1614 (xxiii) toilet paper;
- 1615 (xxiv) a toothbrush;
- 1616 (xxv) toothpaste; or
- 1617 (xxvi) an item similar to Subsections [~~(124)~~] (125)(b)(i) through (xxv) as the
- 1618 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah
- 1619 Administrative Rulemaking Act.
- 1620 (c) "Short-term lodging consumable" does not include:
- 1621 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1622 property to be reused; or
- 1623 (ii) a product transferred electronically.
- 1624 [~~(125)~~] (126) "Simplified electronic return" means the electronic return:
- 1625 (a) described in Section 318(C) of the agreement; and

- 1626 (b) approved by the governing board of the agreement.
- 1627 [~~(126)~~] (127) "Solar energy" means the sun used as the sole source of energy for
- 1628 producing electricity.
- 1629 [~~(127)~~] (128) (a) "Sports or recreational equipment" means an item:
- 1630 (i) designed for human use; and
- 1631 (ii) that is:
- 1632 (A) worn in conjunction with:
- 1633 (I) an athletic activity; or
- 1634 (II) a recreational activity; and
- 1635 (B) not suitable for general use.
- 1636 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1637 commission shall make rules:
- 1638 (i) listing the items that constitute "sports or recreational equipment"; and
- 1639 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1640 equipment" under the agreement.
- 1641 [~~(128)~~] (129) "State" means the state of Utah, its departments, and agencies.
- 1642 [~~(129)~~] (130) "Storage" means any keeping or retention of tangible personal property or
- 1643 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 1644 except sale in the regular course of business.
- 1645 [~~(130)~~] (131) (a) Except as provided in Subsection [~~(130)~~] (131)(d) or (e), "tangible
- 1646 personal property" means personal property that:
- 1647 (i) may be:
- 1648 (A) seen;
- 1649 (B) weighed;
- 1650 (C) measured;
- 1651 (D) felt; or
- 1652 (E) touched; or
- 1653 (ii) is in any manner perceptible to the senses.

1654 (b) "Tangible personal property" includes:

1655 (i) electricity;

1656 (ii) water;

1657 (iii) gas;

1658 (iv) steam; or

1659 (v) prewritten computer software, regardless of the manner in which the prewritten  
1660 computer software is transferred.

1661 (c) "Tangible personal property" includes the following regardless of whether the item  
1662 is attached to real property:

1663 (i) a dishwasher;

1664 (ii) a dryer;

1665 (iii) a freezer;

1666 (iv) a microwave;

1667 (v) a refrigerator;

1668 (vi) a stove;

1669 (vii) a washer; or

1670 (viii) an item similar to Subsections [~~130~~] (131)(c)(i) through (vii) as determined by  
1671 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1672 Rulemaking Act.

1673 (d) "Tangible personal property" does not include a product that is transferred  
1674 electronically.

1675 (e) "Tangible personal property" does not include the following if attached to real  
1676 property, regardless of whether the attachment to real property is only through a line that  
1677 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the  
1678 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1679 Rulemaking Act:

1680 (i) a hot water heater;

1681 (ii) a water filtration system; or

1682 (iii) a water softener system.

1683 [~~(131)~~] (132) (a) "Telecommunications enabling or facilitating equipment, machinery,  
1684 or software" means an item listed in Subsection [~~(131)~~] (132)(b) if that item is purchased or  
1685 leased primarily to enable or facilitate one or more of the following to function:

1686 (i) telecommunications switching or routing equipment, machinery, or software; or

1687 (ii) telecommunications transmission equipment, machinery, or software.

1688 (b) The following apply to Subsection [~~(131)~~] (132)(a):

1689 (i) a pole;

1690 (ii) software;

1691 (iii) a supplementary power supply;

1692 (iv) temperature or environmental equipment or machinery;

1693 (v) test equipment;

1694 (vi) a tower; or

1695 (vii) equipment, machinery, or software that functions similarly to an item listed in  
1696 Subsections [~~(131)~~] (132)(b)(i) through (vi) as determined by the commission by rule made in  
1697 accordance with Subsection [~~(131)~~] (132)(c).

1698 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1699 commission may by rule define what constitutes equipment, machinery, or software that  
1700 functions similarly to an item listed in Subsections [~~(131)~~] (132)(b)(i) through (vi).

1701 [~~(132)~~] (133) "Telecommunications equipment, machinery, or software required for  
1702 911 service" means equipment, machinery, or software that is required to comply with 47  
1703 C.F.R. Sec. 20.18.

1704 [~~(133)~~] (134) "Telecommunications maintenance or repair equipment, machinery, or  
1705 software" means equipment, machinery, or software purchased or leased primarily to maintain  
1706 or repair one or more of the following, regardless of whether the equipment, machinery, or  
1707 software is purchased or leased as a spare part or as an upgrade or modification to one or more  
1708 of the following:

1709 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1710 (b) telecommunications switching or routing equipment, machinery, or software; or

1711 (c) telecommunications transmission equipment, machinery, or software.

1712 [~~(134)~~] (135) (a) "Telecommunications service" means the electronic conveyance,  
1713 routing, or transmission of audio, data, video, voice, or any other information or signal to a  
1714 point, or among or between points.

1715 (b) "Telecommunications service" includes:

1716 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
1717 processing application is used to act:

1718 (A) on the code, form, or protocol of the content;

1719 (B) for the purpose of electronic conveyance, routing, or transmission; and

1720 (C) regardless of whether the service:

1721 (I) is referred to as voice over Internet protocol service; or

1722 (II) is classified by the Federal Communications Commission as enhanced or value  
1723 added;

1724 (ii) an 800 service;

1725 (iii) a 900 service;

1726 (iv) a fixed wireless service;

1727 (v) a mobile wireless service;

1728 (vi) a postpaid calling service;

1729 (vii) a prepaid calling service;

1730 (viii) a prepaid wireless calling service; or

1731 (ix) a private communications service.

1732 (c) "Telecommunications service" does not include:

1733 (i) advertising, including directory advertising;

1734 (ii) an ancillary service;

1735 (iii) a billing and collection service provided to a third party;

1736 (iv) a data processing and information service if:

1737 (A) the data processing and information service allows data to be:

- 1738 (I) (Aa) acquired;
- 1739 (Bb) generated;
- 1740 (Cc) processed;
- 1741 (Dd) retrieved; or
- 1742 (Ee) stored; and
- 1743 (II) delivered by an electronic transmission to a purchaser; and
- 1744 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1745 or information;
- 1746 (v) installation or maintenance of the following on a customer's premises:
- 1747 (A) equipment; or
- 1748 (B) wiring;
- 1749 (vi) Internet access service;
- 1750 (vii) a paging service;
- 1751 (viii) a product transferred electronically, including:
- 1752 (A) music;
- 1753 (B) reading material;
- 1754 (C) a ring tone;
- 1755 (D) software; or
- 1756 (E) video;
- 1757 (ix) a radio and television audio and video programming service:
- 1758 (A) regardless of the medium; and
- 1759 (B) including:
- 1760 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1761 programming service by a programming service provider;
- 1762 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1763 (III) audio and video programming services delivered by a commercial mobile radio
- 1764 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1765 (x) a value-added nonvoice data service; or

- 1766 (xi) tangible personal property.
- 1767 [~~(135)~~] (136) (a) "Telecommunications service provider" means a person that:
- 1768 (i) owns, controls, operates, or manages a telecommunications service; and
- 1769 (ii) engages in an activity described in Subsection [~~(135)~~] (136)(a)(i) for the shared use
- 1770 with or resale to any person of the telecommunications service.
- 1771 (b) A person described in Subsection [~~(135)~~] (136)(a) is a telecommunications service
- 1772 provider whether or not the Public Service Commission of Utah regulates:
- 1773 (i) that person; or
- 1774 (ii) the telecommunications service that the person owns, controls, operates, or
- 1775 manages.
- 1776 [~~(136)~~] (137) (a) "Telecommunications switching or routing equipment, machinery, or
- 1777 software" means an item listed in Subsection [~~(136)~~] (137)(b) if that item is purchased or
- 1778 leased primarily for switching or routing:
- 1779 (i) an ancillary service;
- 1780 (ii) data communications;
- 1781 (iii) voice communications; or
- 1782 (iv) telecommunications service.
- 1783 (b) The following apply to Subsection [~~(136)~~] (137)(a):
- 1784 (i) a bridge;
- 1785 (ii) a computer;
- 1786 (iii) a cross connect;
- 1787 (iv) a modem;
- 1788 (v) a multiplexer;
- 1789 (vi) plug in circuitry;
- 1790 (vii) a router;
- 1791 (viii) software;
- 1792 (ix) a switch; or
- 1793 (x) equipment, machinery, or software that functions similarly to an item listed in



1794 Subsections [~~(136)~~] (137)(b)(i) through (ix) as determined by the commission by rule made in  
1795 accordance with Subsection [~~(136)~~] (137)(c).

1796 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1797 commission may by rule define what constitutes equipment, machinery, or software that  
1798 functions similarly to an item listed in Subsections [~~(136)~~] (137)(b)(i) through (ix).

1799 [~~(137)~~] (138) (a) "Telecommunications transmission equipment, machinery, or  
1800 software" means an item listed in Subsection [~~(137)~~] (138)(b) if that item is purchased or  
1801 leased primarily for sending, receiving, or transporting:

- 1802 (i) an ancillary service;
  - 1803 (ii) data communications;
  - 1804 (iii) voice communications; or
  - 1805 (iv) telecommunications service.
- 1806 (b) The following apply to Subsection [~~(137)~~] (138)(a):
- 1807 (i) an amplifier;
  - 1808 (ii) a cable;
  - 1809 (iii) a closure;
  - 1810 (iv) a conduit;
  - 1811 (v) a controller;
  - 1812 (vi) a duplexer;
  - 1813 (vii) a filter;
  - 1814 (viii) an input device;
  - 1815 (ix) an input/output device;
  - 1816 (x) an insulator;
  - 1817 (xi) microwave machinery or equipment;
  - 1818 (xii) an oscillator;
  - 1819 (xiii) an output device;
  - 1820 (xiv) a pedestal;
  - 1821 (xv) a power converter;

- 1822 (xvi) a power supply;
- 1823 (xvii) a radio channel;
- 1824 (xviii) a radio receiver;
- 1825 (xix) a radio transmitter;
- 1826 (xx) a repeater;
- 1827 (xxi) software;
- 1828 (xxii) a terminal;
- 1829 (xxiii) a timing unit;
- 1830 (xxiv) a transformer;
- 1831 (xxv) a wire; or
- 1832 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1833 Subsections [~~(137)~~] (138)(b)(i) through (xxv) as determined by the commission by rule made in
- 1834 accordance with Subsection [~~(137)~~] (138)(c).
- 1835 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1836 commission may by rule define what constitutes equipment, machinery, or software that
- 1837 functions similarly to an item listed in Subsections [~~(137)~~] (138)(b)(i) through (xxv).
- 1838 [~~(138)~~] (139) (a) "Textbook for a higher education course" means a textbook or other
- 1839 printed material that is required for a course:
- 1840 (i) offered by an institution of higher education; and
- 1841 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1842 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 1843 [~~(139)~~] (140) "Tobacco" means:
- 1844 (a) a cigarette;
- 1845 (b) a cigar;
- 1846 (c) chewing tobacco;
- 1847 (d) pipe tobacco; or
- 1848 (e) any other item that contains tobacco.
- 1849 [~~(140)~~] (141) "Unassisted amusement device" means an amusement device, skill

1850 device, or ride device that is started and stopped by the purchaser or renter of the right to use or  
1851 operate the amusement device, skill device, or ride device.

1852 ~~[(141)]~~ (142) (a) "Use" means the exercise of any right or power over tangible personal  
1853 property, a product transferred electronically, or a service under Subsection 59-12-103(1),  
1854 incident to the ownership or the leasing of that tangible personal property, product transferred  
1855 electronically, or service.

1856 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
1857 property, a product transferred electronically, or a service in the regular course of business and  
1858 held for resale.

1859 ~~[(142)]~~ (143) "Value-added nonvoice data service" means a service:

1860 (a) that otherwise meets the definition of a telecommunications service except that a  
1861 computer processing application is used to act primarily for a purpose other than conveyance,  
1862 routing, or transmission; and

1863 (b) with respect to which a computer processing application is used to act on data or  
1864 information:

- 1865 (i) code;
- 1866 (ii) content;
- 1867 (iii) form; or
- 1868 (iv) protocol.

1869 ~~[(143)]~~ (144) (a) Subject to Subsection ~~[(143)]~~ (144)(b), "vehicle" means the following  
1870 that are required to be titled, registered, or titled and registered:

- 1871 (i) an aircraft as defined in Section 72-10-102;
- 1872 (ii) a vehicle as defined in Section 41-1a-102;
- 1873 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1874 (iv) a vessel as defined in Section 41-1a-102.

1875 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1876 (i) a vehicle described in Subsection ~~[(143)]~~ (144)(a); or
- 1877 (ii) (A) a locomotive;

- 1878 (B) a freight car;
- 1879 (C) railroad work equipment; or
- 1880 (D) other railroad rolling stock.
- 1881 ~~[(144)]~~ (145) "Vehicle dealer" means a person engaged in the business of buying,
- 1882 selling, or exchanging a vehicle as defined in Subsection ~~[(143)]~~ (144).
- 1883 ~~[(145)]~~ (146) (a) "Vertical service" means an ancillary service that:
- 1884 (i) is offered in connection with one or more telecommunications services; and
- 1885 (ii) offers an advanced calling feature that allows a customer to:
- 1886 (A) identify a caller; and
- 1887 (B) manage multiple calls and call connections.
- 1888 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 1889 conference bridging service.
- 1890 ~~[(146)]~~ (147) (a) "Voice mail service" means an ancillary service that enables a
- 1891 customer to receive, send, or store a recorded message.
- 1892 (b) "Voice mail service" does not include a vertical service that a customer is required
- 1893 to have in order to utilize a voice mail service.
- 1894 ~~[(147)]~~ (148) (a) Except as provided in Subsection ~~[(147)]~~ (148)(b), "waste energy
- 1895 facility" means a facility that generates electricity:
- 1896 (i) using as the primary source of energy waste materials that would be placed in a
- 1897 landfill or refuse pit if it were not used to generate electricity, including:
- 1898 (A) tires;
- 1899 (B) waste coal;
- 1900 (C) oil shale; or
- 1901 (D) municipal solid waste; and
- 1902 (ii) in amounts greater than actually required for the operation of the facility.
- 1903 (b) "Waste energy facility" does not include a facility that incinerates:
- 1904 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1905 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1906            [(148)] (149) "Watercraft" means a vessel as defined in Section 73-18-2.

1907            [(149)] (150) "Wind energy" means wind used as the sole source of energy to produce  
1908 electricity.

1909            [(150)] (151) "ZIP Code" means a Zoning Improvement Plan Code assigned to a  
1910 geographic location by the United States Postal Service.

1911            Section 5. Section 59-12-118 is amended to read:

1912            **59-12-118. Commission's authority to administer sales and use tax.**

1913            Except as provided in Sections 59-12-209 and 59-12-302, the commission shall have  
1914 exclusive authority to administer, operate, and enforce the provisions of this chapter including:

1915            (1) determining, assessing, and collecting any sales and use tax imposed pursuant to  
1916 this chapter;

1917            (2) representing each ~~[county, city, and town's]~~ designated political subdivision's  
1918 interest in any administrative proceeding involving the state or local option sales and use tax;

1919            (3) adjudicating any administrative proceedings involving the state or local option sales  
1920 and use tax;

1921            (4) waiving, reducing, or compromising any penalty and interest imposed in connection  
1922 with any determination of state or local option sales or use tax; and

1923            (5) prescribing forms and rules to conform with this chapter for the making of returns  
1924 and for the ascertainment, assessment, and collection of the taxes imposed under this chapter.

1925            Section 6. Section 59-12-209 is amended to read:

1926            **59-12-209. Participation of designated political subdivisions in administration**  
1927 **and enforcement of certain local sales and use taxes -- Petition for reconsideration**  
1928 **relating to the redistribution of certain sales and use tax revenues.**

1929            (1) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, a ~~[county,~~  
1930 ~~city, or town]~~ designated political subdivision does not have the right to any of the following,  
1931 except as specifically allowed by Subsection (2) and Section 59-12-210:

1932            (a) to inspect, review, or have access to any taxpayer sales and use tax records; or

1933            (b) to be informed of, participate in, intervene in, or appeal from any adjudicative

1934 proceeding commenced pursuant to Section 63G-4-201 to determine the liability of any  
1935 taxpayer for sales and use taxes imposed pursuant to this chapter.

1936 (2) (a) [~~Counties, cities, and towns~~] A designated political subdivision shall have  
1937 access to records and information on file with the commission, and shall have the right to  
1938 notice of, and rights to intervene in or to appeal from, a proposed final agency action of the  
1939 commission as provided in this Subsection (2).

1940 (b) If the commission, following a formal adjudicative proceeding commenced  
1941 pursuant to Title 63G, Chapter 4, Administrative Procedures Act, proposes to take final agency  
1942 action that would reduce the amount of sales and use tax liability alleged in the notice of  
1943 deficiency, the commission shall provide notice of a proposed agency action to each qualified  
1944 [~~county, city, and town~~] political subdivision.

1945 (c) For purposes of this Subsection (2), a [~~county, city, or town~~] designated political  
1946 subdivision is a qualified [~~county, city, or town~~] political subdivision if a proposed final agency  
1947 action reduces a tax under this chapter distributable to that [~~county, city, or town~~] designated  
1948 political subdivision by more than \$10,000 below the amount of the tax that would have been  
1949 distributable to that [~~county, city, or town~~] designated political subdivision had a notice of  
1950 deficiency, as described in Section 59-1-1405, not been reduced.

1951 (d) A qualified [~~county, city, or town~~] political subdivision may designate a  
1952 representative who shall have the right to review the record of the formal hearing and any other  
1953 commission records relating to a proposed final agency action subject to the confidentiality  
1954 provisions of Section 59-1-403.

1955 (e) No later than 10 days after receiving the notice of the commission's proposed final  
1956 agency action, a qualified [~~county, city, or town~~] political subdivision may file a notice of  
1957 intervention with the commission.

1958 (f) No later than 20 days after filing a notice of intervention, if a qualified [~~county, city,~~  
1959 ~~or town~~] political subdivision objects to the proposed final agency action, that qualified  
1960 [~~county, city, or town~~] political subdivision may file a petition for reconsideration with the  
1961 commission and shall serve copies of the petition on the taxpayer and the appropriate division

1962 in the commission.

1963 (g) The taxpayer and appropriate division in the commission may each file a response  
1964 to the petition for reconsideration within 20 days of receipt of the petition for reconsideration.

1965 (h) (i) After consideration of the petition for reconsideration and any response, and any  
1966 additional proceeding the commission considers appropriate, the commission may affirm,  
1967 modify, or amend its proposed final agency action.

1968 (ii) A taxpayer and any qualified [~~county, city, or town~~] political subdivision that has  
1969 filed a petition for reconsideration may appeal the final agency action.

1970 (i) (i) Notwithstanding Subsections (2)(a) through (h) and subject to Subsection  
1971 (2)(i)(ii), the following may file a petition for reconsideration with the commission:

1972 (A) an original recipient political subdivision as defined in Section 59-12-210.1 that  
1973 receives a notice from the commission in accordance with Subsection 59-12-210.1(2); or

1974 (B) a secondary recipient political subdivision as defined in Section 59-12-210.1 that  
1975 receives a notice from the commission in accordance with Subsection 59-12-210.1(2).

1976 (ii) An original recipient political subdivision or secondary recipient political  
1977 subdivision that files a petition for reconsideration with the commission under Subsection  
1978 (2)(i)(i) shall file the petition no later than 20 days after the later of:

1979 (A) the date the original recipient political subdivision or secondary recipient political  
1980 subdivision receives the notice described in Subsection (2)(i)(i) from the commission; or

1981 (B) the date the commission makes the redistribution as defined in Section 59-12-210.1  
1982 that is the subject of the notice described in Subsection (2)(i)(i).

1983 Section 7. Section 59-12-210 is amended to read:

1984 **59-12-210. Commission to provide data to designated political subdivisions.**

1985 (1) (a) The commission shall provide to each county the sales and use tax collection  
1986 data necessary to verify that sales and use tax revenues collected by the commission are  
1987 distributed to each [~~county, city, and town~~] designated political subdivision in accordance with  
1988 Sections 59-12-211 through 59-12-215.

1989 (b) The data described in Subsection (1)(a) shall include the commission's reports of

1990 seller sales, sales and use tax distribution reports, and a breakdown of local revenues.

1991 (2) (a) In addition to the access to information provided in Subsection (1) and Section  
1992 59-12-109, the commission shall provide a [~~county, city, or town~~] designated political  
1993 subdivision with copies of returns and other information required by this chapter relating to a  
1994 tax under this chapter.

1995 (b) The information described in Subsection (2)(a) is available only in official matters  
1996 and must be requested in writing by the chief executive officer or the chief executive officer's  
1997 designee.

1998 (c) The request described in Subsection (2)(b) shall specifically indicate the  
1999 information being sought and how the information will be used.

2000 (d) Information received pursuant to the request described in Subsection (2)(b) shall  
2001 be:

2002 (i) classified as private or protected under Section 63G-2-302 or 63G-2-305; and

2003 (ii) subject to the confidentiality provisions of Section 59-1-403.

2004 Section 8. Section 59-12-401 is amended to read:

2005 **59-12-401. Resort communities tax authority for cities, towns, and military**  
2006 **installation development authority -- Base -- Rate -- Collection fees.**

2007 (1) (a) In addition to other sales and use taxes, a city or town in which the transient  
2008 room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the  
2009 municipality's permanent census population may impose a sales and use tax of up to 1.1% on  
2010 the transactions described in Subsection 59-12-103(1) located within the city or town.

2011 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this  
2012 section on:

2013 (i) the sale of:

2014 (A) a motor vehicle;

2015 (B) an aircraft;

2016 (C) a watercraft;

2017 (D) a modular home;



2018 (E) a manufactured home; or  
2019 (F) a mobile home;  
2020 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
2021 are exempt from taxation under Section 59-12-104; and

2022 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and  
2023 food ingredients.

2024 (c) For purposes of this Subsection (1), the location of a transaction shall be  
2025 determined in accordance with Sections 59-12-211 through 59-12-215.

2026 (d) A city or town imposing a tax under this section shall impose the tax on the  
2027 purchase price or the sales price for amounts paid or charged for food and food ingredients if  
2028 the food and food ingredients are sold as part of a bundled transaction attributable to food and  
2029 food ingredients and tangible personal property other than food and food ingredients.

2030 (2) (a) An amount equal to the total of any costs incurred by the state in connection  
2031 with the implementation of Subsection (1) which exceed, in any year, the revenues received by  
2032 the state from its collection fees received in connection with the implementation of Subsection  
2033 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax  
2034 provided for in Subsection (1).

2035 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among  
2036 those cities and towns according to the amount of revenue the respective cities and towns  
2037 generate in that year through imposition of that tax.

2038 (3) (a) Subject to Section 63H-1-203, the military installation development authority  
2039 created in Section 63H-1-201 may impose a tax under this section on the transactions described  
2040 in Subsection 59-12-103(1) located within a project area described in a project area plan  
2041 adopted by the authority under Title 63H, Chapter 1, Military Installation Development  
2042 Authority Act, as though the authority were a city or a town.

2043 (b) For purposes of calculating the permanent census population within a project area,  
2044 the board, as defined in Section 63H-1-102, shall:

2045 (i) use the actual number of permanent residents within the project area as determined

2046 by the board;

2047 (ii) include in the calculation of transient room capacity the number, as determined by  
2048 the board, of approved high-occupancy lodging units, recreational lodging units, special  
2049 lodging units, and standard lodging units, even if the units are not constructed;

2050 [~~ii~~] (iii) adopt a resolution verifying the population number; and

2051 [~~iii~~] (iv) provide the commission any information required in Section 59-12-405.

2052 (c) Notwithstanding Subsection (1)(a), a board as defined in Section 63H-1-102 may  
2053 impose the sales and use tax under this section if there are no permanent residents.

2054 Section 9. Section 63H-1-102 is amended to read:

2055 **63H-1-102. Definitions.**

2056 As used in this chapter:

2057 (1) "Authority" means the Military Installation Development Authority, created under  
2058 Section 63H-1-201.

2059 (2) "Base taxable value" means:

2060 (a) for military land or other land that was exempt from a property tax at the time that a  
2061 project area was created that included the military land or other land, a taxable value of zero; or

2062 (b) for private property that is included in a project area, the taxable value of the  
2063 property within any portion of the project area, as designated by board resolution, from which  
2064 the property tax allocation will be collected, as shown upon the assessment roll last equalized:

2065 (i) before the year in which the authority creates the project area; or

2066 (ii) before the year in which the project area plan is amended, for property added to a  
2067 project area by an amendment to a project area plan.

2068 (3) "Board" means the governing body of the authority created under Section  
2069 63H-1-301.

2070 (4) (a) "Dedicated tax collections" means the property tax that remains after the  
2071 authority is paid the property tax allocation the authority is entitled to receive under Subsection  
2072 63H-1-501(1), for a property tax levied by:

2073 (i) a county, including a district the county has established under Subsection 17-34-3(2)

2074 to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated  
2075 Areas; or

2076 (ii) an included municipality.

2077 (b) "Dedicated tax collections" does not include a county additional property tax or  
2078 multicounty assessing and collecting levy imposed in accordance with Section [59-2-1602](#).

2079 (5) "Develop" means to engage in development.

2080 [~~(5)~~] (6) (a) "Development" means an activity occurring:

2081 (i) on land within a project area that is owned or operated by the military, the authority,  
2082 another public entity, or a private entity; or

2083 (ii) on military land associated with a project area.

2084 (b) "Development" includes the demolition, construction, reconstruction, modification,  
2085 expansion, maintenance, operation, or improvement of a building, facility, utility, landscape,  
2086 parking lot, park, trail, or recreational amenity.

2087 [~~(6)~~] (7) "Development project" means a project to develop land within a project area.

2088 [~~(7)~~] (8) "Elected member" means a member of the authority board who:

2089 (a) is a mayor or member of a legislative body appointed under Subsection

2090 [63H-1-302\(2\)\(b\)](#); or

2091 (b) (i) is appointed to the authority board under Subsection [63H-1-302\(2\)\(a\)](#) or (3); and

2092 (ii) concurrently serves in an elected state, county, or municipal office.

2093 [~~(8)~~] (9) "Included municipality" means a municipality, some or all of which is  
2094 included within a project area.

2095 [~~(9)~~] (10) (a) "Military" means a branch of the armed forces of the United States,  
2096 including the Utah National Guard.

2097 (b) "Military" includes, in relation to property, property that is occupied by the military  
2098 and is owned by the government of the United States or the state.

2099 [~~(10)~~] (11) "Military Installation Development Authority accommodations tax" or  
2100 "MIDA accommodations tax" means the tax imposed under Section [63H-1-205](#).

2101 [~~(11)~~] (12) "Military Installation Development Authority energy tax" or "MIDA energy

2102 tax" means the tax levied under Section [63H-1-204](#).

2103           ~~[(12)]~~ (13) "Military land" means land or a facility, including leased land or a leased  
2104 facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation  
2105 under the jurisdiction of the United States Department of Defense, the United States  
2106 Department of Veterans Affairs, or the Utah National Guard.

2107           ~~[(13)]~~ (14) "Municipal energy tax" means a municipal energy sales and use tax under  
2108 Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

2109           ~~[(14)]~~ (15) "Municipal services revenue" means revenue that the authority:

2110           (a) collects from the authority's:

2111           (i) levy of a municipal energy tax;

2112           (ii) levy of a MIDA energy tax;

2113           (iii) levy of a telecommunications tax;

2114           (iv) imposition of a transient room tax; and

2115           (v) imposition of a resort communities tax;

2116           (b) receives under Subsection [59-12-205\(2\)\(b\)\(ii\)](#); and

2117           (c) receives as dedicated tax collections.

2118           ~~[(15)]~~ (16) "Municipal tax" means a municipal energy tax, MIDA energy tax, MIDA  
2119 accommodations tax, telecommunications tax, transient room tax, or resort communities tax.

2120           ~~[(16)]~~ (17) "Project area" means the land, including military land, whether consisting  
2121 of a single contiguous area or multiple noncontiguous areas, described in a project area plan or  
2122 draft project area plan, where the development project set forth in the project area plan or draft  
2123 project area plan takes place or is proposed to take place.

2124           ~~[(17)]~~ (18) "Project area budget" means a multiyear projection of annual or cumulative  
2125 revenues and expenses and other fiscal matters pertaining to a project area that includes:

2126           (a) the base taxable value of property in the project area;

2127           (b) the projected property tax allocation expected to be generated within the project  
2128 area;

2129           (c) the amount of the property tax allocation expected to be shared with other taxing

2130 entities;

2131 (d) the amount of the property tax allocation expected to be used to implement the  
2132 project area plan, including the estimated amount of the property tax allocation to be used for  
2133 land acquisition, public improvements, infrastructure improvements, and loans, grants, or other  
2134 incentives to private and public entities;

2135 (e) the property tax allocation expected to be used to cover the cost of administering  
2136 the project area plan;

2137 (f) if the property tax allocation is to be collected at different times or from different  
2138 portions of the project area, or both:

2139 (i) (A) the tax identification numbers of the parcels from which the property tax  
2140 allocation will be collected; or

2141 (B) a legal description of the portion of the project area from which the property tax  
2142 allocation will be collected; and

2143 (ii) an estimate of when other portions of the project area will become subject to  
2144 collection of the property tax allocation; and

2145 (g) for property that the authority owns or leases and expects to sell or sublease, the  
2146 expected total cost of the property to the authority and the expected selling price or lease  
2147 payments.

2148 [~~(18)~~] (19) "Project area plan" means a written plan that, after the plan's effective date,  
2149 guides and controls the development within a project area.

2150 [~~(19)~~] (20) (a) "Property tax" includes a privilege tax imposed under Title 59, Chapter  
2151 4, Privilege Tax, except as described in Subsection [~~(19)~~] (20)(b), and each levy on an ad  
2152 valorem basis on tangible or intangible personal or real property.

2153 (b) "Property tax" does not include a privilege tax on the taxable value:

2154 (i) attributable to a portion of a facility leased to the military for a calendar year when:

2155 (A) a lessee of military land has constructed a facility on the military land that is part of  
2156 a project area;

2157 (B) the lessee leases space in the facility to the military for the entire calendar year; and

2158 (C) the lease rate paid by the military for the space is \$1 or less for the entire calendar  
2159 year, not including any common charges that are reimbursements for actual expenses; or

2160 (ii) of the following property owned by the authority, regardless of whether the  
2161 authority enters into a long-term operating agreement with a privately owned entity under  
2162 which the privately owned entity agrees to operate the property:

2163 (A) a hotel;

2164 (B) a hotel condominium unit in a condominium project, as defined in Section 57-8-3;

2165 and

2166 (C) a commercial condominium unit in a condominium project, as defined in Section  
2167 57-8-3.

2168 ~~[(20)]~~ (21) "Property tax allocation" means the difference between:

2169 (a) the amount of property tax revenues generated each tax year by all taxing entities  
2170 from the area within a project area designated in the project area plan as the area from which  
2171 the property tax allocation is to be collected, using the current assessed value of the property;  
2172 and

2173 (b) the amount of property tax revenues that would be generated from that same area  
2174 using the base taxable value of the property.

2175 ~~[(21)]~~ (22) "Public entity" means:

2176 (a) the state, including each department or agency of the state; or

2177 (b) a political subdivision of the state, including a county, city, town, school district,  
2178 local district, special service district, or interlocal cooperation entity.

2179 ~~[(22)]~~ (23) (a) "~~Publicly owned~~ Public infrastructure and improvements" means  
2180 infrastructure, improvements, facilities, or buildings that:

2181 (i) benefit the public, the authority, the military, or military-related entities; and ~~[are:]~~

2182 ~~[(i)]~~ (ii) (A) are publicly owned by the military, the authority, a public infrastructure  
2183 district under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act, or another  
2184 public entity;

2185 ~~[(ii)]~~ (B) are owned by a utility; or

2186            ~~[(iii)]~~ (C) are publicly maintained or operated by the military, the authority, or another  
2187 public entity.

2188            (b) "Public infrastructure and improvements" also means infrastructure, improvements,  
2189 facilities, or buildings that:

2190            (i) are privately owned; and

2191            (ii) provide a substantial benefit, as determined by the board, to the development and  
2192 operation of a project area.

2193            ~~[(b) "Publicly owned"]~~ (c) "Public infrastructure and improvements" includes:

2194            (i) facilities, lines, or systems that harness geothermal energy or provide water, chilled  
2195 water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications;

2196            (ii) streets, roads, curb, gutter, sidewalk, walkways, tunnels, solid waste facilities,  
2197 parking facilities, public transportation facilities, and parks, trails, and other recreational  
2198 facilities;

2199            (iii) snowmaking equipment and related improvements that can also be used for water  
2200 storage or fire suppression purposes; and

2201            (iv) a building and related improvements for occupancy by the public, the authority, the  
2202 military, or military-related entities.

2203            ~~[(23)]~~ (24) "Remaining municipal services revenue" means municipal services revenue  
2204 that the authority has not:

2205            (a) spent during the authority's fiscal year for municipal services as provided in  
2206 Subsection [63H-1-503\(1\)](#); or

2207            (b) redirected to use in accordance with Subsection [63H-1-502\(3\)](#).

2208            ~~[(24)]~~ (25) "Resort communities tax" means a sales and use tax imposed under Section  
2209 [59-12-401](#).

2210            ~~[(25)]~~ (26) "Taxable value" means the value of property as shown on the last equalized  
2211 assessment roll.

2212            ~~[(26)]~~ (27) "Taxing entity":

2213            (a) means a public entity that levies a tax on property within a project area; and

2214 (b) does not include a public infrastructure district that the authority creates under Title  
2215 17B, Chapter 2a, Part 12, Public Infrastructure District Act.

2216 [(27)] (28) "Telecommunications tax" means a telecommunications license tax under  
2217 Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

2218 [(28)] (29) "Transient room tax" means a tax under Section 59-12-352.

2219 Section 10. Section 63H-1-201 is amended to read:

2220 **63H-1-201. Creation of military installation development authority -- Status and**  
2221 **powers of authority -- Limitation.**

2222 (1) There is created a military installation development authority.

2223 (2) The authority is:

2224 (a) an independent, nonprofit, separate body corporate and politic, with perpetual  
2225 succession and statewide jurisdiction, whose purpose is to facilitate the development of land  
2226 within a project area or on military land associated with a project area;

2227 (b) a political subdivision of the state; and

2228 (c) a public corporation, as defined in Section 63E-1-102.

2229 (3) The authority may:

2230 (a) ~~[as provided in this chapter,]~~ facilitate the development of land within one or more  
2231 project areas, including the ongoing operation of facilities within a project area, or  
2232 development of military land associated with a project area;

2233 (b) sue and be sued;

2234 (c) enter into contracts generally;

2235 (d) by itself or through a subsidiary, buy, obtain an option upon, or otherwise acquire  
2236 any interest in real or personal property:

2237 (i) in a project area; or

2238 (ii) outside a project area for ~~[publicly owned]~~ public infrastructure and improvements,  
2239 if the board considers the purchase, option, or other interest acquisition to be necessary for  
2240 fulfilling the authority's development objectives;

2241 (e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or



- 2242 personal property;
- 2243 (f) enter into a lease agreement on real or personal property, either as lessee or lessor:
- 2244 (i) in a project area; or
- 2245 (ii) outside a project area, if the board considers the lease to be necessary for fulfilling
- 2246 the authority's development objectives;
- 2247 (g) provide for the development of land within a project area or military land
- 2248 associated with the project area under one or more contracts;
- 2249 (h) exercise powers and perform functions under a contract, as authorized in the
- 2250 contract;
- 2251 (i) exercise exclusive police power within a project area to the same extent as though
- 2252 the authority were a municipality, including the collection of regulatory fees;
- 2253 (j) receive the property tax allocation and other taxes and fees as provided in this
- 2254 chapter;
- 2255 (k) accept financial or other assistance from any public or private source for the
- 2256 authority's activities, powers, and duties, and expend any funds so received for any of the
- 2257 purposes of this chapter;
- 2258 (l) borrow money, contract with, or accept financial or other assistance from the federal
- 2259 government, a public entity, or any other source for any of the purposes of this chapter and
- 2260 comply with any conditions of the loan, contract, or assistance;
- 2261 (m) issue bonds to finance the undertaking of any development objectives of the
- 2262 authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and
- 2263 Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;
- 2264 (n) hire employees, including contract employees;
- 2265 (o) transact other business and exercise all other powers provided for in this chapter;
- 2266 (p) enter into a development agreement with a developer of land within a project area;
- 2267 (q) enter into an agreement with a political subdivision of the state under which the
- 2268 political subdivision provides one or more municipal services within a project area;
- 2269 (r) enter into an agreement with a private contractor to provide one or more municipal

2270 services within a project area;

2271 (s) provide for or finance an energy efficiency upgrade, a renewable energy system, or  
2272 electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with  
2273 Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act;

2274 (t) exercise powers and perform functions that the authority is authorized by statute to  
2275 exercise or perform;

2276 (u) enter into an agreement with the federal government or an agency of the federal  
2277 government under which the federal government or agency:

2278 (i) provides law enforcement services only to military land within a project area; and

2279 (ii) may enter into a mutual aid or other cooperative agreement with a law enforcement  
2280 agency of the state or a political subdivision of the state; [~~and~~]

2281 (v) by itself or through a subsidiary, act as a facilitator under Title 63N, Chapter 13,  
2282 Part 3, Facilitating Public-private Partnerships Act, to provide expertise and knowledge to  
2283 another governmental entity interested in public-private partnerships[-];

2284 (w) enter into an intergovernmental support agreement under Title 10, U.S.C. Sec.  
2285 2679 with the military to provide support services to the military in accordance with the  
2286 agreement;

2287 (x) act as a developer, or assist a developer chosen by the military, to develop military  
2288 land as part of an enhanced use lease under Title 10, U.S.C. Sec. 2667; and

2289 (y) develop public infrastructure and improvements.

2290 (4) The authority may not itself provide law enforcement service or fire protection  
2291 service within a project area but may enter into an agreement for one or both of those services,  
2292 as provided in Subsection (3)(q).

2293 (5) The authority shall provide support to a subsidiary that enters into an agreement  
2294 under Subsection (3)(v) that the authority determines necessary for the subsidiary to fulfill the  
2295 requirements of the agreement.

2296 [~~(5)~~] (6) Because providing procurement, utility, construction, and other services for  
2297 use by a military installation, including providing [~~publicly owned~~] public infrastructure and

2298 improvements for use or occupancy by the military, are core functions of the authority and are  
2299 typically provided by a local government for the local government's own needs or use, these  
2300 services provided by the authority for the military under this chapter are considered to be for  
2301 the authority's own needs and use.

2302 (7) A public infrastructure district created by the authority under Title 17B, Chapter 2a,  
2303 Part 12, Public Infrastructure District Act, is a subsidiary of the authority.

2304 Section 11. Section **63H-1-202** is amended to read:

2305 **63H-1-202. Applicability of other law.**

2306 (1) As used in this section:

2307 (a) "Subsidiary" means an authority subsidiary that is a public body as defined in  
2308 Section [52-4-103](#).

2309 (b) "Subsidiary board" means the governing body of a subsidiary.

2310 ~~[(1)]~~ (2) The authority or land within a project area is not subject to:

2311 (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

2312 (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

2313 (c) ordinances or regulations of a county or municipality, including those relating to  
2314 land use, health, business license, or franchise; or

2315 (d) the jurisdiction of a local district under Title 17B, Limited Purpose Local  
2316 Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1,  
2317 Special Service District Act.

2318 ~~[(2)]~~ (3) The authority is subject to and governed by Sections [63E-2-106](#), [63E-2-107](#),  
2319 [63E-2-108](#), [63E-2-109](#), [63E-2-110](#), and [63E-2-111](#), but is not otherwise subject to or governed  
2320 by Title 63E, Independent Entities Code.

2321 ~~[(3)]~~ (4) (a) The definitions in Section [57-8-3](#) apply to this Subsection ~~[(3)]~~ (4).

2322 (b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership  
2323 Act, or any other provision of law:

2324 (i) if the military is the owner of land in a project area on which a condominium project  
2325 is constructed, the military is not required to sign, execute, or record a declaration of a

2326 condominium project; and

2327 (ii) if a condominium unit in a project area is owned by the military or owned by the  
2328 authority and leased to the military for \$1 or less per calendar year, not including any common  
2329 charges that are reimbursements for actual expenses:

2330 (A) the condominium unit is not subject to any liens under Title 57, Chapter 8,  
2331 Condominium Ownership Act;

2332 (B) condominium unit owners within the same building or commercial condominium  
2333 project may agree on any method of allocation and payment of common area expenses,  
2334 regardless of the size or par value of each unit; and

2335 (C) the condominium project may not be dissolved without the consent of all the  
2336 condominium unit owners.

2337 ~~[(4)]~~ (5) Notwithstanding any other provision, when a law requires the consent of a  
2338 local government, the authority is the consenting entity for a project area.

2339 ~~[(5)]~~ (6) (a) A department, division, or other agency of the state and a political  
2340 subdivision of the state shall cooperate with the authority to the fullest extent possible to  
2341 provide whatever support, information, or other assistance the authority requests that is  
2342 reasonably necessary to help the authority fulfill the authority's duties and responsibilities  
2343 under this chapter.

2344 (b) Subsection ~~[(5)]~~ (6)(a) does not apply to a political subdivision that does not have  
2345 any of a project area located within the boundary of the political subdivision.

2346 (7) The authority and a subsidiary are subject to Title 52, Chapter 4, Open and Public  
2347 Meetings Act, except that:

2348 (a) notwithstanding Section 54-2-104, the timing and nature of training to authority  
2349 board members or subsidiary board members on the requirements of Title 52, Chapter 4, Open  
2350 and Public Meetings Act, may be determined by:

2351 (i) the board chair, for the authority board; or

2352 (ii) the subsidiary board chair, for a subsidiary board;

2353 (b) authority staff may adopt a rule governing the use of electronic meetings under

2354 Section 52-4-207, if, under Subsection 63H-1-301(3), the board delegates to authority staff the  
2355 power to adopt the rule; and

2356 (c) for an electronic meeting of the authority board or subsidiary board that otherwise  
2357 complies with Section 52-4-207, the authority board or subsidiary board, respectively:

2358 (i) is not required to establish an anchor location; and

2359 (ii) may convene and conduct the meeting without the written determination otherwise  
2360 required under Subsection 52-4-207(4).

2361 (8) The authority and a subsidiary are subject to Title 63G, Chapter 2, Government  
2362 Records Access and Management Act, except that:

2363 (a) notwithstanding Section 63G-2-701:

2364 (i) the authority may establish an appeals board consisting of at least three members;

2365 (ii) an appeals board established under Subsection (8)(a)(i) shall include:

2366 (A) one of the authority board members appointed by the governor;

2367 (B) the authority board member appointed by the president of the Senate; and

2368 (C) the authority board member appointed by the speaker of the House of

2369 Representatives; and

2370 (iii) an appeal of a decision of an appeals board is to district court, as provided in

2371 Section 63G-2-404, except that the State Records Committee is not a party; and

2372 (b) a record created or retained by the authority or a subsidiary acting in the role of a  
2373 facilitator under Subsection 63H-1-201(3)(v) is a protected record under Title 63G, Chapter 2,  
2374 Government Records Access and Management Act.

2375 (9) The authority or a subsidiary acting in the role of a facilitator under Subsection  
2376 63H-1-201(3)(v) is not prohibited from receiving a benefit from a public-private partnership  
2377 that results from the facilitator's work as a facilitator.

2378 (10) (a) (i) A subsidiary created as a public infrastructure district under Title 17B,  
2379 Chapter 2a, Part 12, Public Infrastructure District Act, may, subject to limitations of Title 17B,  
2380 Chapter 2a, Part 12, Public Infrastructure District Act, levy a property tax for the operations  
2381 and maintenance of the public infrastructure district's financed infrastructure and related

2382 improvements, subject to a maximum rate of .015.

2383 (ii) A levy under Subsection (10)(a)(i) may be separate from a public infrastructure  
2384 district property tax levy for a bond.

2385 (b) If a subsidiary created as a public infrastructure district issues a bond:

2386 (i) the subsidiary may:

2387 (A) delay the effective date of the property tax levy for the bond until after the period  
2388 of capitalized interest payments; and

2389 (B) covenant with bondholders not to reduce or impair the property tax levy; and

2390 (ii) notwithstanding a provision to the contrary in Title 17B, Chapter 2a, Part 12,  
2391 Public Infrastructure District Act, the tax rate for the property tax levy for the bond may not  
2392 exceed a rate that generates more revenue than required to pay the annual debt service of the  
2393 bond plus administrative costs, subject to a maximum of .02.

2394 Section 12. Section **63H-1-205** is amended to read:

2395 **63H-1-205. MIDA accommodations tax.**

2396 (1) As used in this section:

2397 (a) "Accommodations and services" means an accommodation or service described in  
2398 Subsection [59-12-103\(1\)\(i\)](#).

2399 (b) "Accommodations and services" does not include amounts paid or charged that are  
2400 not part of a rental room rate.

2401 (2) By ordinance, the authority board may impose a MIDA accommodations tax on a  
2402 provider for amounts paid or charged for accommodations and services, if the place of  
2403 accommodation is located on:

2404 (a) authority-owned or other government-owned property within the project area; or

2405 (b) privately owned property on which the authority owns a condominium unit that is  
2406 part of the place of accommodation.

2407 (3) The maximum rate of the MIDA accommodations tax is 15% of the amounts paid  
2408 to or charged by the provider for accommodations and services.

2409 (4) A provider may recover an amount equal to the MIDA accommodations tax from

2410 customers, if the provider includes the amount as a separate billing line item.

2411 (5) If the authority imposes the tax described in this section, neither the authority nor a  
2412 public entity may impose, on the amounts paid or charged for accommodations and services,  
2413 any other tax described in:

2414 (a) Title 59, Chapter 12, Sales and Use Tax Act; or

2415 (b) Title 59, Chapter 28, State Transient Room Tax Act.

2416 (6) Except as provided in Subsection (7) or (8), the tax imposed under this section shall  
2417 be administered, collected, and enforced in accordance with:

2418 (a) the same procedures used to administer, collect, and enforce the tax under:

2419 (i) Title 59, Chapter 12, Part 1, Tax Collection; or

2420 (ii) Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and

2421 (b) Title 59, Chapter 1, General Taxation Policies.

2422 (7) The location of a transaction shall be determined in accordance with Sections  
2423 [59-12-211](#) through [59-12-215](#).

2424 (8) (a) A tax under this section is not subject to Section [59-12-107.1](#) or [59-12-123](#) or  
2425 Subsections [59-12-205](#)(2) through (5).

2426 (b) The exemptions described in Sections [59-12-104](#), [59-12-104.1](#), and [59-12-104.6](#) do  
2427 not apply to a tax imposed under this section.

2428 (9) The State Tax Commission shall:

2429 (a) except as provided in Subsection (9)(b), distribute the revenue collected from the  
2430 tax to the authority; and

2431 (b) retain and deposit an administrative charge in accordance with Section [59-1-306](#)  
2432 from revenue the commission collects from a tax under this section.

2433 (10) (a) If the authority imposes, repeals, or changes the rate of tax under this section,  
2434 the implementation, repeal, or change shall take effect:

2435 (i) on the first day of a calendar quarter; and

2436 (ii) after a 90-day period beginning on the date the State Tax Commission receives the  
2437 notice described in Subsection (10)(b) from the authority.

- 2438 (b) The notice required in Subsection (10)(a)(ii) shall state:
- 2439 (i) that the authority will impose, repeal, or change the rate of a tax under this section;
- 2440 (ii) the effective date of the implementation, repeal, or change of the tax; and
- 2441 (iii) the rate of the tax.

2442 (11) In addition to the uses permitted under Section 63H-1-502, the authority may

2443 allocate revenue from the MIDA accommodations tax to a county in which a place of

2444 accommodation that is subject to the MIDA accommodations tax is located, if:

2445 (a) the county had a transient room tax described in Section 59-12-301 in effect at the

2446 time the authority board imposed a MIDA accommodations tax by ordinance; and

2447 (b) the revenue replaces revenue that the county received from a county transient room

2448 tax described in Section 59-12-301 for the county's general operations and administrative

2449 expenses.

2450 Section 13. Section 63H-1-208 is enacted to read:

2451 **63H-1-208. Former rail line.**

2452 (1) A former rail line automatically becomes included within a project area located at

2453 an air force base if:

2454 (a) the authority acquires title to the former rail line; and

2455 (b) a portion of the former rail line is adjacent to the project area.

2456 (2) The authority may:

2457 (a) develop the former rail line; or

2458 (b) transfer title of all or part of the former rail line to another governmental entity or

2459 nonprofit entity.

2460 Section 14. Section 63H-1-301 is amended to read:

2461 **63H-1-301. Authority board -- Delegation of power.**

2462 (1) The authority shall be governed by a board which shall manage and conduct the

2463 business and affairs of the authority and shall determine all questions of authority policy.

2464 (2) All powers of the authority are exercised through the board.

2465 (3) The board may by resolution delegate powers to authority staff, including the power



2466 to adopt a rule governing the use of electronic meetings under Section 54-2-207.

2467 Section 15. Section **63H-1-403** is amended to read:

2468 **63H-1-403. Notice of project area plan adoption -- Effective date of plan --**  
2469 **Contesting the formation of the plan.**

2470 (1) Upon the [~~board's adoption~~] effective date of a project area plan, the board shall  
2471 provide notice as provided in Subsection (1)(b) by publishing or causing to be published legal  
2472 notice:

2473 (a) in a newspaper of general circulation within or near the project area; and

2474 (b) as required by Section 45-1-101.

2475 (2) (a) Each notice under Subsection (1) shall include:

2476 (i) the board resolution adopting the project area plan or a summary of the resolution;  
2477 [~~and~~]

2478 (ii) a statement that the project area plan is available for general public inspection [~~and~~  
2479 ~~the hours for inspection.~~] as provided in Subsection (4); and

2480 (iii) an email address to which a person may send an email requesting an electronic  
2481 copy of the project area plan.

2482 (b) The statement required under Subsection (2)(a)(ii) may be included in the board  
2483 resolution or summary described in Subsection (2)(a)(i).

2484 (3) The project area plan becomes effective on the date designated in the board  
2485 resolution adopting the project area plan.

2486 (4) The authority shall make the adopted project area plan available to the general  
2487 public [~~at its offices during normal business hours.~~] by:

2488 (a) providing an electronic link to the project area plan on the authority's website, if the  
2489 authority has a website; and

2490 (b) sending an email free of charge with an electronic copy of the project area plan to  
2491 any person who submits an email to the authority at an email address identified in the notice  
2492 under Subsection (2).

2493 (5) Within 10 days after the [~~day on which~~] effective date of a project area plan [~~is~~

2494 ~~adopted~~] that establishes a project area, or after an amendment to a project area plan is adopted  
2495 under which the boundary of a project area is modified, the authority shall send notice of the  
2496 establishment or modification of the project area and an accurate map or plat of the project area  
2497 to:

2498 (a) the State Tax Commission;

2499 (b) the Automated Geographic Reference Center created in Section 63F-1-506; and

2500 (c) the assessor and recorder of each county where the project area is located.

2501 (6) (a) A legal action or other challenge to a project area plan or a project area  
2502 described in a project area plan is barred unless brought within 30 days after the effective date  
2503 of the project area plan.

2504 (b) For a project area created before December 1, 2018, a legal action or other  
2505 challenge is barred.

2506 (c) For a project area created after December 1, 2018, and before May 14, 2019, a legal  
2507 action or other challenge is barred after July 1, 2019.

2508 Section 16. Section 63H-1-502 is amended to read:

2509 **63H-1-502. Allowable uses of property tax allocation and other funds.**

2510 (1) Other than municipal services revenue, the authority may use the property tax  
2511 allocation and other funds available to the authority:

2512 (a) for any purpose authorized under this chapter;

2513 (b) for administrative, overhead, legal, and other operating expenses of the authority;

2514 (c) to pay for, including financing or refinancing, all or part of the development of land  
2515 within the project area from which the property tax allocation or other funds were collected,  
2516 including assisting the ongoing operation of a development or facility within the project area;

2517 (d) to pay the cost of the installation and construction of ~~[publicly-owned]~~ public  
2518 infrastructure and improvements within the project area from which the property tax allocation  
2519 funds were collected;

2520 (e) to pay the cost of the installation ~~[of publicly-owned]~~ and construction of public  
2521 infrastructure and improvements, including a passenger ropeway, as defined in Section

2522 72-11-102, outside the project area if:

2523 (i) the authority board determines by resolution that the infrastructure and  
2524 improvements are of benefit to the project area; and

2525 (ii) for a passenger ropeway, at least one end of the ropeway is located within the  
2526 project area;

2527 (f) to pay the principal and interest on bonds issued by the authority;

2528 (g) to pay for a morale, welfare, and recreation program of a United States Air Force  
2529 base in Utah, affiliated with the project area from which the funds were collected; or

2530 (h) to pay for the promotion of:

2531 (i) a development within the project area; or

2532 (ii) amenities outside of the project area that are associated with a development within  
2533 the project area.

2534 (2) The authority may use revenue generated from the authority's operation of [~~publicly~~  
2535 ~~owned~~] public infrastructure [~~operated by the authority or~~] and improvements [~~operated by the~~  
2536 ~~authority~~] to:

2537 (a) operate and maintain the public infrastructure [~~or~~] and improvements; and

2538 (b) pay for authority operating expenses, including administrative, overhead, and legal  
2539 expenses.

2540 (3) For purposes of Subsection (1), the authority may use:

2541 (a) tax revenue received under Subsection 59-12-205(2)(b)(ii);

2542 (b) resort communities tax revenue;

2543 (c) MIDA energy tax revenue, received under Section 63H-1-204, which does not have  
2544 to be used in the project area where the revenue was generated;

2545 (d) MIDA accommodations tax revenue, received under Section 63H-1-205;

2546 (e) transient room tax revenue generated from hotels located on authority-owned or  
2547 other public-entity-owned property;

2548 (f) municipal energy tax revenue generated from hotels located on authority-owned or  
2549 other public-entity-owned property; or

2550 (g) payments received under Subsection 63H-1-501(4).

2551 (4) The determination of the authority board under Subsection (1)(e) regarding benefit  
2552 to the project area is final.

2553 Section 17. Section 63H-1-703 is amended to read:

2554 **63H-1-703. Authority report.**

2555 (1) (a) On or before November 1 of each year, the authority shall prepare and file a  
2556 report with the county auditor of each county in which a project area of the authority is located,  
2557 the State Tax Commission, the State Board of Education, and each taxing entity that levies a  
2558 tax on property from which the authority collects property tax allocation.

2559 (b) The requirement of Subsection (1)(a) to file a copy of the report with the state as a  
2560 taxing entity is met if the authority files a copy with the State Tax Commission [~~and the state~~  
2561 ~~auditor~~].

2562 (2) Each report under Subsection (1) shall contain:

2563 (a) an estimate of the property tax allocation to be paid to the authority for the calendar  
2564 year ending December 31; and

2565 (b) an estimate of the property tax allocation to be paid to the authority for the calendar  
2566 year beginning the next January 1.

2567 Section 18. Section 63N-13-303 is amended to read:

2568 **63N-13-303. Contract with facilitator.**

2569 (1) Within legislative appropriations, the office shall enter into a contract with a  
2570 nonprofit entity or government entity to act as a facilitator.

2571 (2) The office shall use a request for proposals process under Title 63G, Chapter 6a,  
2572 Utah Procurement Code, to select a qualified person to act as facilitator.

2573 (3) The term of a contract under Subsection (1) may not exceed three years.

2574 (4) ~~The~~ Except as provided in Subsection 63H-1-202(9), the office shall ensure that  
2575 the contract with the facilitator includes a conflict-of-interest provision prohibiting the  
2576 facilitator, or a principal, officer, or employee of the facilitator, from receiving a direct or  
2577 indirect financial benefit from any public-private partnership that results from the facilitator's

2578 work under the contract.

2579           Section 19. **Effective date.**

2580           If approved by two-thirds of all the members elected to each house, this bill takes effect

2581 upon approval by the governor, or the day following the constitutional time limit of Utah

2582 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,

2583 the date of veto override.