

**FOOD SALES TAX MODIFICATIONS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Judy Weeks Rohner**

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

**LONG TITLE**

**General Description:**

This bill reduces the tax imposed on amounts paid or charged for food and food ingredients.

**Highlighted Provisions:**

This bill:

- ▶ removes the state tax imposed on amounts paid or charged for food and food ingredients; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**11-41-102**, as last amended by Laws of Utah 2021, Chapter 367

**59-12-102**, as last amended by Laws of Utah 2021, Chapters 64, 367, 414 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 367

**59-12-103**, as last amended by Laws of Utah 2021, Chapters 367, 387, and 411

**59-12-108**, as last amended by Laws of Utah 2020, Chapters 294 and 407

**63N-7-301**, as last amended by Laws of Utah 2020, Chapter 154



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

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

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

As used in this chapter:

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

(a) (i) county; or

(ii) municipality; and

(b) person.

(2) "Municipality" means a:

(a) city;

(b) town; or

(c) metro township.

(3) "Payment" includes:

(a) a payment;

(b) a rebate;

(c) a refund; or

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

(4) "Regional retail business" means a:

(a) retail business that occupies a floor area of more than 80,000 square feet;

(b) dealer as defined in Section [41-1a-102](#);

(c) retail shopping facility that has at least two anchor tenants if the total number of anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square feet; or

(d) grocery store that occupies a floor area of more than 30,000 square feet.

(5) (a) "Sales and use tax" means a tax:

(i) imposed on transactions within a:

(A) county; or

(B) municipality; and

(ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12, Sales and Use Tax Act.

- 59 (b) "Sales and use tax" does not include a tax authorized under:
- 60 (i) Subsection [59-12-103\(2\)\(a\)\(i\)](#);
- 61 (ii) Subsection [59-12-103\(2\)\(b\)\(i\)](#);
- 62 [~~(iii) Subsection [59-12-103\(2\)\(c\)\(i\)](#);~~
- 63 [~~(iv)~~] (iii) Subsection [59-12-103\(2\)\(d\)](#);
- 64 [~~(v)~~] (iv) Subsection [59-12-103\(2\)\(e\)\(i\)\(A\)](#);
- 65 [~~(vi)~~] (v) Section [59-12-301](#);
- 66 [~~(vii)~~] (vi) Section [59-12-352](#);
- 67 [~~(viii)~~] (vii) Section [59-12-353](#);
- 68 [~~(ix)~~] (viii) Section [59-12-603](#); or
- 69 [~~(x)~~] (ix) Section [59-12-1201](#).
- 70 (6) (a) "Sales and use tax incentive payment" means a payment of revenues:
- 71 (i) to a person;
- 72 (ii) by a:
- 73 (A) county; or
- 74 (B) municipality;
- 75 (iii) to induce the person to locate or relocate a regional retail business within the:
- 76 (A) county; or
- 77 (B) municipality; and
- 78 (iv) that are derived from a sales and use tax.
- 79 (b) "Sales and use tax incentive payment" does not include funding for public
- 80 infrastructure.

81 Section 2. Section **59-12-102** is amended to read:

82 **59-12-102. Definitions.**

83 As used in this chapter:

- 84 (1) "800 service" means a telecommunications service that:
- 85 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
- 86 (b) is typically marketed:
- 87 (i) under the name 800 toll-free calling;
- 88 (ii) under the name 855 toll-free calling;
- 89 (iii) under the name 866 toll-free calling;

- 90 (iv) under the name 877 toll-free calling;
- 91 (v) under the name 888 toll-free calling; or
- 92 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
- 93 Federal Communications Commission.
- 94 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 95 (i) a subscriber purchases;
- 96 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 97 the subscriber's:
- 98 (A) prerecorded announcement; or
- 99 (B) live service; and
- 100 (iii) is typically marketed:
- 101 (A) under the name 900 service; or
- 102 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 103 Communications Commission.
- 104 (b) "900 service" does not include a charge for:
- 105 (i) a collection service a seller of a telecommunications service provides to a
- 106 subscriber; or
- 107 (ii) the following a subscriber sells to the subscriber's customer:
- 108 (A) a product; or
- 109 (B) a service.
- 110 (3) (a) "Admission or user fees" includes season passes.
- 111 (b) "Admission or user fees" does not include:
- 112 (i) annual membership dues to private organizations; or
- 113 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
- 114 facility listed in Subsection [59-12-103\(1\)\(f\)](#).
- 115 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
- 116 person:
- 117 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
- 118 person; or
- 119 (b) is related to the other person because a third person, or a group of third persons who
- 120 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,

121 whether direct or indirect, in the related persons.

122 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on  
123 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax  
124 Agreement after November 12, 2002.

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

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

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

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

129 (a) Subsection 59-12-103(2)(a)(i)(A);

130 (b) Subsection 59-12-103(2)(b)(i);

131 [~~(c)~~] Subsection 59-12-103(2)(c)(i);

132 [~~(d)~~] (c) Subsection 59-12-103(2)(d);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 152            [~~(x)~~] (w) Section 59-12-2218;
- 153            [~~(y)~~] (x) Section 59-12-2219; or
- 154            [~~(z)~~] (y) Section 59-12-2220.
- 155            (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 156            (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 157            (a) except for:
- 158            (i) an airline as defined in Section 59-2-102; or
- 159            (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 160 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 161 state, of an airline; and
- 162            (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 163 whether the business entity performs the following in this state:
- 164            (i) check, diagnose, overhaul, and repair:
- 165            (A) an onboard system of a fixed wing turbine powered aircraft; and
- 166            (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 167            (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 168 engine;
- 169            (iii) perform at least the following maintenance on a fixed wing turbine powered
- 170 aircraft:
- 171            (A) an inspection;
- 172            (B) a repair, including a structural repair or modification;
- 173            (C) changing landing gear; and
- 174            (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 175            (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 176 completely apply new paint to the fixed wing turbine powered aircraft; and
- 177            (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 178 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 179 authority that certifies the fixed wing turbine powered aircraft.
- 180            (10) "Alcoholic beverage" means a beverage that:
- 181            (a) is suitable for human consumption; and
- 182            (b) contains .5% or more alcohol by volume.

- 183 (11) "Alternative energy" means:
- 184 (a) biomass energy;
- 185 (b) geothermal energy;
- 186 (c) hydroelectric energy;
- 187 (d) solar energy;
- 188 (e) wind energy; or
- 189 (f) energy that is derived from:
- 190 (i) coal-to-liquids;
- 191 (ii) nuclear fuel;
- 192 (iii) oil-impregnated diatomaceous earth;
- 193 (iv) oil sands;
- 194 (v) oil shale;
- 195 (vi) petroleum coke; or
- 196 (vii) waste heat from:
- 197 (A) an industrial facility; or
- 198 (B) a power station in which an electric generator is driven through a process in which
- 199 water is heated, turns into steam, and spins a steam turbine.
- 200 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
- 201 facility" means a facility that:
- 202 (i) uses alternative energy to produce electricity; and
- 203 (ii) has a production capacity of two megawatts or greater.
- 204 (b) A facility is an alternative energy electricity production facility regardless of
- 205 whether the facility is:
- 206 (i) connected to an electric grid; or
- 207 (ii) located on the premises of an electricity consumer.
- 208 (13) (a) "Ancillary service" means a service associated with, or incidental to, the
- 209 provision of telecommunications service.
- 210 (b) "Ancillary service" includes:
- 211 (i) a conference bridging service;
- 212 (ii) a detailed communications billing service;
- 213 (iii) directory assistance;

214 (iv) a vertical service; or

215 (v) a voice mail service.

216 (14) "Area agency on aging" means the same as that term is defined in Section  
217 [62A-3-101](#).

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

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

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

224 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or  
225 washing of tangible personal property if the cleaning or washing labor is primarily performed  
226 by an individual:

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

229 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
230 property.

231 (17) "Authorized carrier" means:

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

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

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

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

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

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

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



- 245 (B) animal waste;
- 246 (C) waste vegetable oil;
- 247 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
- 248 wastewater residuals, or through the conversion of a waste material through a nonincineration,
- 249 thermal conversion process;
- 250 (E) aquatic plants; and
- 251 (F) agricultural products.
- 252 (b) "Biomass energy" does not include:
- 253 (i) black liquor; or
- 254 (ii) treated woods.
- 255 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 256 property, products, or services if the tangible personal property, products, or services are:
- 257 (i) distinct and identifiable; and
- 258 (ii) sold for one nonitemized price.
- 259 (b) "Bundled transaction" does not include:
- 260 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 261 the basis of the selection by the purchaser of the items of tangible personal property included in
- 262 the transaction;
- 263 (ii) the sale of real property;
- 264 (iii) the sale of services to real property;
- 265 (iv) the retail sale of tangible personal property and a service if:
- 266 (A) the tangible personal property:
- 267 (I) is essential to the use of the service; and
- 268 (II) is provided exclusively in connection with the service; and
- 269 (B) the service is the true object of the transaction;
- 270 (v) the retail sale of two services if:
- 271 (A) one service is provided that is essential to the use or receipt of a second service;
- 272 (B) the first service is provided exclusively in connection with the second service; and
- 273 (C) the second service is the true object of the transaction;
- 274 (vi) a transaction that includes tangible personal property or a product subject to
- 275 taxation under this chapter and tangible personal property or a product that is not subject to

276 taxation under this chapter if the:

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

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

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

283 (A) that retail sale includes:

284 (I) food and food ingredients;

285 (II) a drug;

286 (III) durable medical equipment;

287 (IV) mobility enhancing equipment;

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

289 (VI) a prosthetic device; or

290 (VII) a medical supply; and

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

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

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

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

298 (A) packaging that:

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

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

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

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

306 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a

307 product, or a service is provided free of charge with the purchase of another item of tangible  
308 personal property, a product, or a service if the sales price of the purchased item of tangible  
309 personal property, product, or service does not vary depending on the inclusion of the tangible  
310 personal property, product, or service provided free of charge.

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

315 (A) a binding sales document; or

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

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

319 (A) a bill of sale;

320 (B) a contract;

321 (C) an invoice;

322 (D) a lease agreement;

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

324 (F) a price list;

325 (G) a rate card;

326 (H) a receipt; or

327 (I) a service agreement.

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

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

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

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

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

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

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

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

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

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

351 (i) on a transaction; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

383 (26) "Component part" includes:

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

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

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

389 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

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

402 (30) (a) "Conference bridging service" means an ancillary service that links two or  
403 more participants of an audio conference call or video conference call.

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

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

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

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

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

413 (i) by a seller of:

414 (A) tangible personal property;

415 (B) a product transferred electronically; or

416 (C) a service; and

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

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

421 (i) transportation;

422 (ii) shipping;

423 (iii) postage;

424 (iv) handling;

425 (v) crating; or

426 (vi) packing.

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

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

430 (a) is intended to supplement the diet;

- 431 (b) contains one or more of the following dietary ingredients:
- 432 (i) a vitamin;
- 433 (ii) a mineral;
- 434 (iii) an herb or other botanical;
- 435 (iv) an amino acid;
- 436 (v) a dietary substance for use by humans to supplement the diet by increasing the total  
437 dietary intake; or
- 438 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient  
439 described in Subsections (35)(b)(i) through (v);
- 440 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
- 441 (A) tablet form;
- 442 (B) capsule form;
- 443 (C) powder form;
- 444 (D) softgel form;
- 445 (E) gelcap form; or
- 446 (F) liquid form; or
- 447 (ii) if the product is not intended for ingestion in a form described in Subsections  
448 (35)(c)(i)(A) through (F), is not represented:
- 449 (A) as conventional food; and
- 450 (B) for use as a sole item of:
- 451 (I) a meal; or
- 452 (II) the diet; and
- 453 (d) is required to be labeled as a dietary supplement:
- 454 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 455 (ii) as required by 21 C.F.R. Sec. 101.36.
- 456 (36) (a) "Digital audio work" means a work that results from the fixation of a series of  
457 musical, spoken, or other sounds.
- 458 (b) "Digital audio work" includes a ringtone.
- 459 (37) "Digital audio-visual work" means a series of related images which, when shown  
460 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 461 (38) "Digital book" means a work that is generally recognized in the ordinary and usual

462 sense as a book.

463 (39) (a) "Direct mail" means printed material delivered or distributed by United States  
464 mail or other delivery service:

465 (i) to:

466 (A) a mass audience; or

467 (B) addressees on a mailing list provided:

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

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

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

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

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

475 (40) "Directory assistance" means an ancillary service of providing:

476 (a) address information; or

477 (b) telephone number information.

478 (41) (a) "Disposable home medical equipment or supplies" means medical equipment  
479 or supplies that:

480 (i) cannot withstand repeated use; and

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

482 (A) a health care facility as defined in Section [26-21-2](#);

483 (B) a health care provider as defined in Section [78B-3-403](#);

484 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

485 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

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

487 (i) a drug;

488 (ii) durable medical equipment;

489 (iii) a hearing aid;

490 (iv) a hearing aid accessory;

491 (v) mobility enhancing equipment; or

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



- 493 (A) eyeglasses; or
- 494 (B) contact lenses.
- 495 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 496 commission may by rule define what constitutes medical equipment or supplies.
- 497 (42) "Drilling equipment manufacturer" means a facility:
- 498 (a) located in the state;
- 499 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 500 consist of manufacturing component parts of drilling equipment;
- 501 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 502 manufacturing process; and
- 503 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 504 manufacturing process.
- 505 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 506 compound, substance, or preparation that is:
- 507 (i) recognized in:
- 508 (A) the official United States Pharmacopoeia;
- 509 (B) the official Homeopathic Pharmacopoeia of the United States;
- 510 (C) the official National Formulary; or
- 511 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);
- 512 (ii) intended for use in the:
- 513 (A) diagnosis of disease;
- 514 (B) cure of disease;
- 515 (C) mitigation of disease;
- 516 (D) treatment of disease; or
- 517 (E) prevention of disease; or
- 518 (iii) intended to affect:
- 519 (A) the structure of the body; or
- 520 (B) any function of the body.
- 521 (b) "Drug" does not include:
- 522 (i) food and food ingredients;
- 523 (ii) a dietary supplement;

- 524 (iii) an alcoholic beverage; or
- 525 (iv) a prosthetic device.
- 526 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means
- 527 equipment that:
  - 528 (i) can withstand repeated use;
  - 529 (ii) is primarily and customarily used to serve a medical purpose;
  - 530 (iii) generally is not useful to a person in the absence of illness or injury; and
  - 531 (iv) is not worn in or on the body.
- 532 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 533 equipment described in Subsection (44)(a).
- 534 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 535 (45) "Electronic" means:
  - 536 (a) relating to technology; and
  - 537 (b) having:
    - 538 (i) electrical capabilities;
    - 539 (ii) digital capabilities;
    - 540 (iii) magnetic capabilities;
    - 541 (iv) wireless capabilities;
    - 542 (v) optical capabilities;
    - 543 (vi) electromagnetic capabilities; or
    - 544 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).
- 545 (46) "Electronic financial payment service" means an establishment:
  - 546 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
  - 547 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
  - 548 federal Executive Office of the President, Office of Management and Budget; and
  - 549 (b) that performs electronic financial payment services.
- 550 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 551 (48) "Fixed guideway" means a public transit facility that uses and occupies:
  - 552 (a) rail for the use of public transit; or
  - 553 (b) a separate right-of-way for the use of public transit.
- 554 (49) "Fixed wing turbine powered aircraft" means an aircraft that:

- 555 (a) is powered by turbine engines;
- 556 (b) operates on jet fuel; and
- 557 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 558 (50) "Fixed wireless service" means a telecommunications service that provides radio
- 559 communication between fixed points.
- 560 (51) (a) "Food and food ingredients" means substances:
- 561 (i) regardless of whether the substances are in:
- 562 (A) liquid form;
- 563 (B) concentrated form;
- 564 (C) solid form;
- 565 (D) frozen form;
- 566 (E) dried form; or
- 567 (F) dehydrated form; and
- 568 (ii) that are:
- 569 (A) sold for:
- 570 (I) ingestion by humans; or
- 571 (II) chewing by humans; and
- 572 (B) consumed for the substance's:
- 573 (I) taste; or
- 574 (II) nutritional value.
- 575 (b) "Food and food ingredients" includes an item described in Subsection (96)(b)(iii).
- 576 (c) "Food and food ingredients" does not include:
- 577 (i) an alcoholic beverage;
- 578 (ii) tobacco; or
- 579 (iii) prepared food.
- 580 (52) (a) "Fundraising sales" means sales:
- 581 (i) (A) made by a school; or
- 582 (B) made by a school student;
- 583 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 584 materials, or provide transportation; and
- 585 (iii) that are part of an officially sanctioned school activity.

586 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"  
587 means a school activity:

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

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

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

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

596 (54) "Governing board of the agreement" means the governing board of the agreement  
597 that is:

598 (a) authorized to administer the agreement; and

599 (b) established in accordance with the agreement.

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

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

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

605 (iii) the legislative branch of the state, including the House of Representatives, the  
606 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
607 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
608 Analyst;

609 (iv) the National Guard;

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

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

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

614 (i) a school;

615 (ii) the State Board of Education;

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

- 617 (iv) an institution of higher education described in Section [53B-1-102](#).
- 618 (56) "Hydroelectric energy" means water used as the sole source of energy to produce  
619 electricity.
- 620 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or  
621 other fuels:
- 622 (a) in mining or extraction of minerals;
- 623 (b) in agricultural operations to produce an agricultural product up to the time of  
624 harvest or placing the agricultural product into a storage facility, including:
- 625 (i) commercial greenhouses;
- 626 (ii) irrigation pumps;
- 627 (iii) farm machinery;
- 628 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered  
629 under Title 41, Chapter 1a, Part 2, Registration; and
- 630 (v) other farming activities;
- 631 (c) in manufacturing tangible personal property at an establishment described in:
- 632 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
633 the federal Executive Office of the President, Office of Management and Budget; or
- 634 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
635 American Industry Classification System of the federal Executive Office of the President,  
636 Office of Management and Budget;
- 637 (d) by a scrap recycler if:
- 638 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
639 one or more of the following items into prepared grades of processed materials for use in new  
640 products:
- 641 (A) iron;
- 642 (B) steel;
- 643 (C) nonferrous metal;
- 644 (D) paper;
- 645 (E) glass;
- 646 (F) plastic;
- 647 (G) textile; or

648 (H) rubber; and  
649 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with  
650 nonrecycled materials; or

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

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

655 (i) tangible personal property; or

656 (ii) a product transferred electronically.

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

658 (i) repairs or renovations of:

659 (A) tangible personal property; or

660 (B) a product transferred electronically; or

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

662 (A) to other tangible personal property; and

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

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

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

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

669 (B) an indeterminate term; and

670 (ii) consideration.

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

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

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

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

681 (A) upon completion of required payments; and

682 (B) if the payment of an option price does not exceed the greater of:

683 (I) \$100; or

684 (II) 1% of the total required payments; or

685 (iii) providing tangible personal property along with an operator for a fixed period of  
686 time or an indeterminate period of time if the operator is necessary for equipment to perform as  
687 designed.

688 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to  
689 perform as designed if the operator's duties exceed the:

690 (i) set-up of tangible personal property;

691 (ii) maintenance of tangible personal property; or

692 (iii) inspection of tangible personal property.

693 (61) "Lesson" means a fixed period of time for the duration of which a trained  
694 instructor:

695 (a) is present with a student in person or by video; and

696 (b) actively instructs the student, including by providing observation or feedback.

697 (62) "Life science establishment" means an establishment in this state that is classified  
698 under the following NAICS codes of the 2007 North American Industry Classification System  
699 of the federal Executive Office of the President, Office of Management and Budget:

700 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

701 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

702 Manufacturing; or

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

704 (63) "Life science research and development facility" means a facility owned, leased,  
705 or rented by a life science establishment if research and development is performed in 51% or  
706 more of the total area of the facility.

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

709 (65) "Local taxing jurisdiction" means a:

- 710 (a) county that is authorized to impose an agreement sales and use tax;
- 711 (b) city that is authorized to impose an agreement sales and use tax; or
- 712 (c) town that is authorized to impose an agreement sales and use tax.
- 713 (66) "Manufactured home" means the same as that term is defined in Section
- 714 [15A-1-302](#).
- 715 (67) "Manufacturing facility" means:
- 716 (a) an establishment described in:
- 717 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 718 the federal Executive Office of the President, Office of Management and Budget; or
- 719 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 720 American Industry Classification System of the federal Executive Office of the President,
- 721 Office of Management and Budget;
- 722 (b) a scrap recycler if:
- 723 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 724 one or more of the following items into prepared grades of processed materials for use in new
- 725 products:
- 726 (A) iron;
- 727 (B) steel;
- 728 (C) nonferrous metal;
- 729 (D) paper;
- 730 (E) glass;
- 731 (F) plastic;
- 732 (G) textile; or
- 733 (H) rubber; and
- 734 (ii) the new products under Subsection (67)(b)(i) would otherwise be made with
- 735 nonrecycled materials; or
- 736 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is
- 737 placed in service on or after May 1, 2006.
- 738 (68) (a) "Marketplace" means a physical or electronic place, platform, or forum where
- 739 tangible personal property, a product transferred electronically, or a service is offered for sale.
- 740 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a



741 dedicated sales software application.

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

746 (i) does any of the following:

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

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

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

758 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible  
759 personal property, a product transferred electronically, or a service, regardless of ownership or  
760 control of the tangible personal property, the product transferred electronically, or the service  
761 that is the subject of the retail sale;

762 (E) provides software development or research and development activities related to  
763 any activity described in this Subsection (69)(a)(i), if the software development or research and  
764 development activity is directly related to the person's marketplace;

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

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

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

- 772 (I) brands or otherwise identifies sales as those of the person; and  
773 (ii) does any of the following:  
774 (A) collects the sales price or purchase price of a retail sale of tangible personal  
775 property, a product transferred electronically, or a service;  
776 (B) provides payment processing services for a retail sale of tangible personal property,  
777 a product transferred electronically, or a service;  
778 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing  
779 fee, a fee for inserting or making available tangible personal property, a product transferred  
780 electronically, or a service on the person's marketplace, or other consideration for the  
781 facilitation of a retail sale of tangible personal property, a product transferred electronically, or  
782 a service, regardless of ownership or control of the tangible personal property, the product  
783 transferred electronically, or the service that is the subject of the retail sale;  
784 (D) through terms and conditions, an agreement, or another arrangement with a third  
785 person, collects payment from a purchase for a retail sale of tangible personal property, a  
786 product transferred electronically, or a service and transmits that payment to the marketplace  
787 seller, regardless of whether the third person receives compensation or other consideration in  
788 exchange for the service; or  
789 (E) provides a virtual currency for a purchaser to use to purchase tangible personal  
790 property, a product transferred electronically, or service offered for sale.  
791 (b) "Marketplace facilitator" does not include:  
792 (i) a person that only provides payment processing services; or  
793 (ii) a person described in Subsection (69)(a) to the extent the person is facilitating a  
794 sale for a seller that is a restaurant as defined in Section [59-12-602](#).  
795 (70) "Marketplace seller" means a seller that makes one or more retail sales through a  
796 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the  
797 seller is required to be registered to collect and remit the tax under this part.  
798 (71) "Member of the immediate family of the producer" means a person who is related  
799 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:  
800 (a) child or stepchild, regardless of whether the child or stepchild is:  
801 (i) an adopted child or adopted stepchild; or  
802 (ii) a foster child or foster stepchild;

- 803 (b) grandchild or stepgrandchild;
- 804 (c) grandparent or stepgrandparent;
- 805 (d) nephew or stepnephew;
- 806 (e) niece or stepniece;
- 807 (f) parent or stepparent;
- 808 (g) sibling or stepsibling;
- 809 (h) spouse;
- 810 (i) person who is the spouse of a person described in Subsections (71)(a) through (g);

811 or

812 (j) person similar to a person described in Subsections (71)(a) through (i) as  
813 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
814 Administrative Rulemaking Act.

815 (72) "Mobile home" means the same as that term is defined in Section [15A-1-302](#).

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

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

- 820 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 821 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 822 (iii) the origination point described in Subsection (74)(a)(i) and the termination point  
823 described in Subsection (74)(a)(ii) are not fixed.

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

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

828 (75) (a) Except as provided in Subsection (75)(c), "mobility enhancing equipment"  
829 means equipment that is:

- 830 (i) primarily and customarily used to provide or increase the ability to move from one  
831 place to another;
- 832 (ii) appropriate for use in a:  
833 (A) home; or

834 (B) motor vehicle; and  
835 (iii) not generally used by persons with normal mobility.  
836 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
837 the equipment described in Subsection (75)(a).  
838 (c) "Mobility enhancing equipment" does not include:  
839 (i) a motor vehicle;  
840 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
841 vehicle manufacturer;  
842 (iii) durable medical equipment; or  
843 (iv) a prosthetic device.  
844 (76) "Model 1 seller" means a seller registered under the agreement that has selected a  
845 certified service provider as the seller's agent to perform the seller's sales and use tax functions  
846 for agreement sales and use taxes, as outlined in the contract between the governing board of  
847 the agreement and the certified service provider, other than the seller's obligation under Section  
848 [59-12-124](#) to remit a tax on the seller's own purchases.  
849 (77) "Model 2 seller" means a seller registered under the agreement that:  
850 (a) except as provided in Subsection (77)(b), has selected a certified automated system  
851 to perform the seller's sales tax functions for agreement sales and use taxes; and  
852 (b) retains responsibility for remitting all of the sales tax:  
853 (i) collected by the seller; and  
854 (ii) to the appropriate local taxing jurisdiction.  
855 (78) (a) Subject to Subsection (78)(b), "model 3 seller" means a seller registered under  
856 the agreement that has:  
857 (i) sales in at least five states that are members of the agreement;  
858 (ii) total annual sales revenues of at least \$500,000,000;  
859 (iii) a proprietary system that calculates the amount of tax:  
860 (A) for an agreement sales and use tax; and  
861 (B) due to each local taxing jurisdiction; and  
862 (iv) entered into a performance agreement with the governing board of the agreement.  
863 (b) For purposes of Subsection (78)(a), "model 3 seller" includes an affiliated group of  
864 sellers using the same proprietary system.

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

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

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

869 (82) "Oil sands" means impregnated bituminous sands that:

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

872 (b) yield mixtures of liquid hydrocarbon; and

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

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

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

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

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

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

886 (b) For purposes of Subsection (86)(a), the transmission of a coded radio signal  
887 includes a transmission by message or sound.

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

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

890 (89) (a) "Permanently attached to real property" means that for tangible personal  
891 property attached to real property:

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

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

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

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

- 898 (A) cause substantial damage to the tangible personal property; or
- 899 (B) require substantial alteration or repair of the real property to which the tangible  
900 personal property is attached.

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

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

- 903 (A) essential to the operation of the tangible personal property; and
- 904 (B) attached only to facilitate the operation of the tangible personal property;

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

908 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
909 Subsection (89)(c)(iii) or (iv).

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

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

- 913 (A) convenience;
- 914 (B) stability; or
- 915 (C) for an obvious temporary purpose;

916 (ii) the detachment of tangible personal property from real property except for the  
917 detachment described in Subsection (89)(b)(ii);

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

- 922 (A) a computer;
- 923 (B) a telephone;
- 924 (C) a television; or
- 925 (D) tangible personal property similar to Subsections (89)(c)(iii)(A) through (C) as  
926 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

927 Administrative Rulemaking Act; or  
928 (iv) an item listed in Subsection (130)(c).  
929 (90) "Person" includes any individual, firm, partnership, joint venture, association,  
930 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
931 municipality, district, or other local governmental entity of the state, or any group or  
932 combination acting as a unit.  
933 (91) "Place of primary use":  
934 (a) for telecommunications service other than mobile telecommunications service,  
935 means the street address representative of where the customer's use of the telecommunications  
936 service primarily occurs, which shall be:  
937 (i) the residential street address of the customer; or  
938 (ii) the primary business street address of the customer; or  
939 (b) for mobile telecommunications service, means the same as that term is defined in  
940 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.  
941 (92) (a) "Postpaid calling service" means a telecommunications service a person  
942 obtains by making a payment on a call-by-call basis:  
943 (i) through the use of a:  
944 (A) bank card;  
945 (B) credit card;  
946 (C) debit card; or  
947 (D) travel card; or  
948 (ii) by a charge made to a telephone number that is not associated with the origination  
949 or termination of the telecommunications service.  
950 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
951 service, that would be a prepaid wireless calling service if the service were exclusively a  
952 telecommunications service.  
953 (93) "Postproduction" means an activity related to the finishing or duplication of a  
954 medium described in Subsection [59-12-104\(54\)\(a\)](#).  
955 (94) "Prepaid calling service" means a telecommunications service:  
956 (a) that allows a purchaser access to telecommunications service that is exclusively  
957 telecommunications service;

- 958 (b) that:
- 959 (i) is paid for in advance; and
- 960 (ii) enables the origination of a call using an:
  - 961 (A) access number; or
  - 962 (B) authorization code;
- 963 (c) that is dialed:
  - 964 (i) manually; or
  - 965 (ii) electronically; and
- 966 (d) sold in predetermined units or dollars that decline:
  - 967 (i) by a known amount; and
  - 968 (ii) with use.
- 969 (95) "Prepaid wireless calling service" means a telecommunications service:
  - 970 (a) that provides the right to utilize:
    - 971 (i) mobile wireless service; and
    - 972 (ii) other service that is not a telecommunications service, including:
      - 973 (A) the download of a product transferred electronically;
      - 974 (B) a content service; or
      - 975 (C) an ancillary service;
  - 976 (b) that:
    - 977 (i) is paid for in advance; and
    - 978 (ii) enables the origination of a call using an:
      - 979 (A) access number; or
      - 980 (B) authorization code;
    - 981 (c) that is dialed:
      - 982 (i) manually; or
      - 983 (ii) electronically; and
    - 984 (d) sold in predetermined units or dollars that decline:
      - 985 (i) by a known amount; and
      - 986 (ii) with use.
  - 987 (96) (a) "Prepared food" means:
    - 988 (i) food:



- 989 (A) sold in a heated state; or
- 990 (B) heated by a seller;
- 991 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 992 item; or
- 993 (iii) except as provided in Subsection (96)(c), food sold with an eating utensil provided
- 994 by the seller, including a:
  - 995 (A) plate;
  - 996 (B) knife;
  - 997 (C) fork;
  - 998 (D) spoon;
  - 999 (E) glass;
  - 1000 (F) cup;
  - 1001 (G) napkin; or
  - 1002 (H) straw.
- 1003 (b) "Prepared food" does not include:
  - 1004 (i) food that a seller only:
    - 1005 (A) cuts;
    - 1006 (B) repackages; or
    - 1007 (C) pasteurizes; or
    - 1008 (ii) (A) the following:
      - 1009 (I) raw egg;
      - 1010 (II) raw fish;
      - 1011 (III) raw meat;
      - 1012 (IV) raw poultry; or
      - 1013 (V) a food containing an item described in Subsections (96)(b)(ii)(A)(I) through (IV);
      - 1014 and
      - 1015 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
      - 1016 Food and Drug Administration's Food Code that a consumer cook the items described in
      - 1017 Subsection (96)(b)(ii)(A) to prevent food borne illness; or
      - 1018 (iii) the following if sold without eating utensils provided by the seller:
        - 1019 (A) food and food ingredients sold by a seller if the seller's proper primary

1020 classification under the 2002 North American Industry Classification System of the federal  
1021 Executive Office of the President, Office of Management and Budget, is manufacturing in  
1022 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla

1023 Manufacturing;

1024 (B) food and food ingredients sold in an unheated state:

1025 (I) by weight or volume; and

1026 (II) as a single item; or

1027 (C) a bakery item, including:

1028 (I) a bagel;

1029 (II) a bar;

1030 (III) a biscuit;

1031 (IV) bread;

1032 (V) a bun;

1033 (VI) a cake;

1034 (VII) a cookie;

1035 (VIII) a croissant;

1036 (IX) a danish;

1037 (X) a donut;

1038 (XI) a muffin;

1039 (XII) a pastry;

1040 (XIII) a pie;

1041 (XIV) a roll;

1042 (XV) a tart;

1043 (XVI) a torte; or

1044 (XVII) a tortilla.

1045 (c) An eating utensil provided by the seller does not include the following used to  
1046 transport the food:

1047 (i) a container; or

1048 (ii) packaging.

1049 (97) "Prescription" means an order, formula, or recipe that is issued:

1050 (a) (i) orally;

- 1051 (ii) in writing;
- 1052 (iii) electronically; or
- 1053 (iv) by any other manner of transmission; and
- 1054 (b) by a licensed practitioner authorized by the laws of a state.
- 1055 (98) (a) Except as provided in Subsection (98)(b)(ii) or (iii), "prewritten computer
- 1056 software" means computer software that is not designed and developed:
- 1057 (i) by the author or other creator of the computer software; and
- 1058 (ii) to the specifications of a specific purchaser.
- 1059 (b) "Prewritten computer software" includes:
- 1060 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 1061 software is not designed and developed:
- 1062 (A) by the author or other creator of the computer software; and
- 1063 (B) to the specifications of a specific purchaser;
- 1064 (ii) computer software designed and developed by the author or other creator of the
- 1065 computer software to the specifications of a specific purchaser if the computer software is sold
- 1066 to a person other than the purchaser; or
- 1067 (iii) except as provided in Subsection (98)(c), prewritten computer software or a
- 1068 prewritten portion of prewritten computer software:
- 1069 (A) that is modified or enhanced to any degree; and
- 1070 (B) if the modification or enhancement described in Subsection (98)(b)(iii)(A) is
- 1071 designed and developed to the specifications of a specific purchaser.
- 1072 (c) "Prewritten computer software" does not include a modification or enhancement
- 1073 described in Subsection (98)(b)(iii) if the charges for the modification or enhancement are:
- 1074 (i) reasonable; and
- 1075 (ii) subject to Subsections [59-12-103\(2\)\(f\)\(ii\)](#) and [\(2\)\(g\)\(i\)](#), separately stated on the
- 1076 invoice or other statement of price provided to the purchaser at the time of sale or later, as
- 1077 demonstrated by:
- 1078 (A) the books and records the seller keeps at the time of the transaction in the regular
- 1079 course of business, including books and records the seller keeps at the time of the transaction in
- 1080 the regular course of business for nontax purposes;
- 1081 (B) a preponderance of the facts and circumstances at the time of the transaction; and

- 1082 (C) the understanding of all of the parties to the transaction.
- 1083 (99) (a) "Private communications service" means a telecommunications service:
- 1084 (i) that entitles a customer to exclusive or priority use of one or more communications
- 1085 channels between or among termination points; and
- 1086 (ii) regardless of the manner in which the one or more communications channels are
- 1087 connected.
- 1088 (b) "Private communications service" includes the following provided in connection
- 1089 with the use of one or more communications channels:
- 1090 (i) an extension line;
- 1091 (ii) a station;
- 1092 (iii) switching capacity; or
- 1093 (iv) another associated service that is provided in connection with the use of one or
- 1094 more communications channels as defined in Section [59-12-215](#).
- 1095 (100) (a) Except as provided in Subsection (100)(b), "product transferred
- 1096 electronically" means a product transferred electronically that would be subject to a tax under
- 1097 this chapter if that product was transferred in a manner other than electronically.
- 1098 (b) "Product transferred electronically" does not include:
- 1099 (i) an ancillary service;
- 1100 (ii) computer software; or
- 1101 (iii) a telecommunications service.
- 1102 (101) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 1103 (i) artificially replace a missing portion of the body;
- 1104 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1105 (iii) support a weak or deformed portion of the body.
- 1106 (b) "Prosthetic device" includes:
- 1107 (i) parts used in the repairs or renovation of a prosthetic device;
- 1108 (ii) replacement parts for a prosthetic device;
- 1109 (iii) a dental prosthesis; or
- 1110 (iv) a hearing aid.
- 1111 (c) "Prosthetic device" does not include:
- 1112 (i) corrective eyeglasses; or

- 1113 (ii) contact lenses.
- 1114 (102) (a) "Protective equipment" means an item:
- 1115 (i) for human wear; and
- 1116 (ii) that is:
- 1117 (A) designed as protection:
- 1118 (I) to the wearer against injury or disease; or
- 1119 (II) against damage or injury of other persons or property; and
- 1120 (B) not suitable for general use.
- 1121 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1122 commission shall make rules:
- 1123 (i) listing the items that constitute "protective equipment"; and
- 1124 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1125 under the agreement.
- 1126 (103) (a) For purposes of Subsection 59-12-104(41), "publication" means any written
- 1127 or printed matter, other than a photocopy:
- 1128 (i) regardless of:
- 1129 (A) characteristics;
- 1130 (B) copyright;
- 1131 (C) form;
- 1132 (D) format;
- 1133 (E) method of reproduction; or
- 1134 (F) source; and
- 1135 (ii) made available in printed or electronic format.
- 1136 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1137 commission may by rule define the term "photocopy."
- 1138 (104) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 1139 (i) valued in money; and
- 1140 (ii) for which tangible personal property, a product transferred electronically, or
- 1141 services are:
- 1142 (A) sold;
- 1143 (B) leased; or

1144 (C) rented.

1145 (b) "Purchase price" and "sales price" include:

1146 (i) the seller's cost of the tangible personal property, a product transferred

1147 electronically, or services sold;

1148 (ii) expenses of the seller, including:

1149 (A) the cost of materials used;

1150 (B) a labor cost;

1151 (C) a service cost;

1152 (D) interest;

1153 (E) a loss;

1154 (F) the cost of transportation to the seller; or

1155 (G) a tax imposed on the seller;

1156 (iii) a charge by the seller for any service necessary to complete the sale; or

1157 (iv) consideration a seller receives from a person other than the purchaser if:

1158 (A) (I) the seller actually receives consideration from a person other than the purchaser;

1159 and

1160 (II) the consideration described in Subsection (104)(b)(iv)(A)(I) is directly related to a

1161 price reduction or discount on the sale;

1162 (B) the seller has an obligation to pass the price reduction or discount through to the

1163 purchaser;

1164 (C) the amount of the consideration attributable to the sale is fixed and determinable by

1165 the seller at the time of the sale to the purchaser; and

1166 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the

1167 seller to claim a price reduction or discount; and

1168 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,

1169 coupon, or other documentation with the understanding that the person other than the seller

1170 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1171 (II) the purchaser identifies that purchaser to the seller as a member of a group or

1172 organization allowed a price reduction or discount, except that a preferred customer card that is

1173 available to any patron of a seller does not constitute membership in a group or organization

1174 allowed a price reduction or discount; or

- 1175 (III) the price reduction or discount is identified as a third party price reduction or  
1176 discount on the:
- 1177 (Aa) invoice the purchaser receives; or  
1178 (Bb) certificate, coupon, or other documentation the purchaser presents.  
1179 (c) "Purchase price" and "sales price" do not include:  
1180 (i) a discount:  
1181 (A) in a form including:  
1182 (I) cash;  
1183 (II) term; or  
1184 (III) coupon;  
1185 (B) that is allowed by a seller;  
1186 (C) taken by a purchaser on a sale; and  
1187 (D) that is not reimbursed by a third party; or  
1188 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately  
1189 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of  
1190 sale or later, as demonstrated by the books and records the seller keeps at the time of the  
1191 transaction in the regular course of business, including books and records the seller keeps at the  
1192 time of the transaction in the regular course of business for nontax purposes, by a  
1193 preponderance of the facts and circumstances at the time of the transaction, and by the  
1194 understanding of all of the parties to the transaction:  
1195 (A) the following from credit extended on the sale of tangible personal property or  
1196 services:  
1197 (I) a carrying charge;  
1198 (II) a financing charge; or  
1199 (III) an interest charge;  
1200 (B) a delivery charge;  
1201 (C) an installation charge;  
1202 (D) a manufacturer rebate on a motor vehicle; or  
1203 (E) a tax or fee legally imposed directly on the consumer.  
1204 (105) "Purchaser" means a person to whom:  
1205 (a) a sale of tangible personal property is made;

- 1206 (b) a product is transferred electronically; or
- 1207 (c) a service is furnished.
- 1208 (106) "Qualifying data center" means a data center facility that:
- 1209 (a) houses a group of networked server computers in one physical location in order to
- 1210 disseminate, manage, and store data and information;
- 1211 (b) is located in the state;
- 1212 (c) is a new operation constructed on or after July 1, 2016;
- 1213 (d) consists of one or more buildings that total 150,000 or more square feet;
- 1214 (e) is owned or leased by:
- 1215 (i) the operator of the data center facility; or
- 1216 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
- 1217 of the data center facility; and
- 1218 (f) is located on one or more parcels of land that are owned or leased by:
- 1219 (i) the operator of the data center facility; or
- 1220 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
- 1221 of the data center facility.
- 1222 (107) "Regularly rented" means:
- 1223 (a) rented to a guest for value three or more times during a calendar year; or
- 1224 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1225 value.
- 1226 (108) "Rental" means the same as that term is defined in Subsection (60).
- 1227 (109) (a) Except as provided in Subsection (109)(b), "repairs or renovations of tangible
- 1228 personal property" means:
- 1229 (i) a repair or renovation of tangible personal property that is not permanently attached
- 1230 to real property; or
- 1231 (ii) attaching tangible personal property or a product transferred electronically to other
- 1232 tangible personal property or detaching tangible personal property or a product transferred
- 1233 electronically from other tangible personal property if:
- 1234 (A) the other tangible personal property to which the tangible personal property or
- 1235 product transferred electronically is attached or from which the tangible personal property or
- 1236 product transferred electronically is detached is not permanently attached to real property; and



1237 (B) the attachment of tangible personal property or a product transferred electronically  
1238 to other tangible personal property or detachment of tangible personal property or a product  
1239 transferred electronically from other tangible personal property is made in conjunction with a  
1240 repair or replacement of tangible personal property or a product transferred electronically.

1241 (b) "Repairs or renovations of tangible personal property" does not include:

1242 (i) attaching prewritten computer software to other tangible personal property if the  
1243 other tangible personal property to which the prewritten computer software is attached is not  
1244 permanently attached to real property; or

1245 (ii) detaching prewritten computer software from other tangible personal property if the  
1246 other tangible personal property from which the prewritten computer software is detached is  
1247 not permanently attached to real property.

1248 (110) "Research and development" means the process of inquiry or experimentation  
1249 aimed at the discovery of facts, devices, technologies, or applications and the process of  
1250 preparing those devices, technologies, or applications for marketing.

1251 (111) (a) "Residential telecommunications services" means a telecommunications  
1252 service or an ancillary service that is provided to an individual for personal use:

1253 (i) at a residential address; or

1254 (ii) at an institution, including a nursing home or a school, if the telecommunications  
1255 service or ancillary service is provided to and paid for by the individual residing at the  
1256 institution rather than the institution.

1257 (b) For purposes of Subsection (111)(a)(i), a residential address includes an:

1258 (i) apartment; or

1259 (ii) other individual dwelling unit.

1260 (112) "Residential use" means the use in or around a home, apartment building,  
1261 sleeping quarters, and similar facilities or accommodations.

1262 (113) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
1263 than:

1264 (a) resale;

1265 (b) sublease; or

1266 (c) subrent.

1267 (114) (a) "Retailer" means any person, unless prohibited by the Constitution of the

1268 United States or federal law, that is engaged in a regularly organized business in tangible  
1269 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is  
1270 selling to the user or consumer and not for resale.

1271 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1272 engaged in the business of selling to users or consumers within the state.

1273 (115) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1274 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1275 Subsection 59-12-103(1), for consideration.

1276 (b) "Sale" includes:

1277 (i) installment and credit sales;

1278 (ii) any closed transaction constituting a sale;

1279 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
1280 chapter;

1281 (iv) any transaction if the possession of property is transferred but the seller retains the  
1282 title as security for the payment of the price; and

1283 (v) any transaction under which right to possession, operation, or use of any article of  
1284 tangible personal property is granted under a lease or contract and the transfer of possession  
1285 would be taxable if an outright sale were made.

1286 (116) "Sale at retail" means the same as that term is defined in Subsection (113).

1287 (117) "Sale-leaseback transaction" means a transaction by which title to tangible  
1288 personal property or a product transferred electronically that is subject to a tax under this  
1289 chapter is transferred:

1290 (a) by a purchaser-lessee;

1291 (b) to a lessor;

1292 (c) for consideration; and

1293 (d) if:

1294 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
1295 of the tangible personal property or product transferred electronically;

1296 (ii) the sale of the tangible personal property or product transferred electronically to the  
1297 lessor is intended as a form of financing:

1298 (A) for the tangible personal property or product transferred electronically; and

- 1299 (B) to the purchaser-lessee; and
- 1300 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
- 1301 is required to:
- 1302 (A) capitalize the tangible personal property or product transferred electronically for
- 1303 financial reporting purposes; and
- 1304 (B) account for the lease payments as payments made under a financing arrangement.
- 1305 (118) "Sales price" means the same as that term is defined in Subsection (104).
- 1306 (119) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
- 1307 amounts charged by a school:
- 1308 (i) sales that are directly related to the school's educational functions or activities
- 1309 including:
- 1310 (A) the sale of:
- 1311 (I) textbooks;
- 1312 (II) textbook fees;
- 1313 (III) laboratory fees;
- 1314 (IV) laboratory supplies; or
- 1315 (V) safety equipment;
- 1316 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 1317 that:
- 1318 (I) a student is specifically required to wear as a condition of participation in a
- 1319 school-related event or school-related activity; and
- 1320 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 1321 place of ordinary clothing;
- 1322 (C) sales of the following if the net or gross revenues generated by the sales are
- 1323 deposited into a school district fund or school fund dedicated to school meals:
- 1324 (I) food and food ingredients; or
- 1325 (II) prepared food; or
- 1326 (D) transportation charges for official school activities; or
- 1327 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1328 event or school-related activity.
- 1329 (b) "Sales relating to schools" does not include:

- 1330 (i) bookstore sales of items that are not educational materials or supplies;
- 1331 (ii) except as provided in Subsection (119)(a)(i)(B):
- 1332 (A) clothing;
- 1333 (B) clothing accessories or equipment;
- 1334 (C) protective equipment; or
- 1335 (D) sports or recreational equipment; or
- 1336 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1337 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1338 (A) other than a:
- 1339 (I) school;
- 1340 (II) nonprofit organization authorized by a school board or a governing body of a
- 1341 private school to organize and direct a competitive secondary school activity; or
- 1342 (III) nonprofit association authorized by a school board or a governing body of a
- 1343 private school to organize and direct a competitive secondary school activity; and
- 1344 (B) that is required to collect sales and use taxes under this chapter.
- 1345 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1346 commission may make rules defining the term "passed through."
- 1347 (120) For purposes of this section and Section [59-12-104](#), "school" means:
- 1348 (a) an elementary school or a secondary school that:
- 1349 (i) is a:
- 1350 (A) public school; or
- 1351 (B) private school; and
- 1352 (ii) provides instruction for one or more grades kindergarten through 12; or
- 1353 (b) a public school district.
- 1354 (121) (a) "Seller" means a person that makes a sale, lease, or rental of:
- 1355 (i) tangible personal property;
- 1356 (ii) a product transferred electronically; or
- 1357 (iii) a service.
- 1358 (b) "Seller" includes a marketplace facilitator.
- 1359 (122) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1360 means tangible personal property or a product transferred electronically if the tangible personal

- 1361 property or product transferred electronically is:
- 1362 (i) used primarily in the process of:
- 1363 (A) (I) manufacturing a semiconductor;
- 1364 (II) fabricating a semiconductor; or
- 1365 (III) research or development of a:
- 1366 (Aa) semiconductor; or
- 1367 (Bb) semiconductor manufacturing process; or
- 1368 (B) maintaining an environment suitable for a semiconductor; or
- 1369 (ii) consumed primarily in the process of:
- 1370 (A) (I) manufacturing a semiconductor;
- 1371 (II) fabricating a semiconductor; or
- 1372 (III) research or development of a:
- 1373 (Aa) semiconductor; or
- 1374 (Bb) semiconductor manufacturing process; or
- 1375 (B) maintaining an environment suitable for a semiconductor.
- 1376 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1377 includes:
- 1378 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1379 transferred electronically described in Subsection (122)(a); or
- 1380 (ii) a chemical, catalyst, or other material used to:
- 1381 (A) produce or induce in a semiconductor a:
- 1382 (I) chemical change; or
- 1383 (II) physical change;
- 1384 (B) remove impurities from a semiconductor; or
- 1385 (C) improve the marketable condition of a semiconductor.
- 1386 (123) "Senior citizen center" means a facility having the primary purpose of providing
- 1387 services to the aged as defined in Section [62A-3-101](#).
- 1388 (124) (a) Subject to Subsections (124)(b) and (c), "short-term lodging consumable"
- 1389 means tangible personal property that:
- 1390 (i) a business that provides accommodations and services described in Subsection
- 1391 [59-12-103\(1\)\(i\)](#) purchases as part of a transaction to provide the accommodations and services

- 1392 to a purchaser;
- 1393 (ii) is intended to be consumed by the purchaser; and
- 1394 (iii) is:
- 1395 (A) included in the purchase price of the accommodations and services; and
- 1396 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 1397 to the purchaser.
- 1398 (b) "Short-term lodging consumable" includes:
- 1399 (i) a beverage;
- 1400 (ii) a brush or comb;
- 1401 (iii) a cosmetic;
- 1402 (iv) a hair care product;
- 1403 (v) lotion;
- 1404 (vi) a magazine;
- 1405 (vii) makeup;
- 1406 (viii) a meal;
- 1407 (ix) mouthwash;
- 1408 (x) nail polish remover;
- 1409 (xi) a newspaper;
- 1410 (xii) a notepad;
- 1411 (xiii) a pen;
- 1412 (xiv) a pencil;
- 1413 (xv) a razor;
- 1414 (xvi) saline solution;
- 1415 (xvii) a sewing kit;
- 1416 (xviii) shaving cream;
- 1417 (xix) a shoe shine kit;
- 1418 (xx) a shower cap;
- 1419 (xxi) a snack item;
- 1420 (xxii) soap;
- 1421 (xxiii) toilet paper;
- 1422 (xxiv) a toothbrush;

- 1423 (xxv) toothpaste; or
- 1424 (xxvi) an item similar to Subsections (124)(b)(i) through (xxv) as the commission may
- 1425 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1426 Rulemaking Act.
- 1427 (c) "Short-term lodging consumable" does not include:
- 1428 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1429 property to be reused; or
- 1430 (ii) a product transferred electronically.
- 1431 (125) "Simplified electronic return" means the electronic return:
- 1432 (a) described in Section 318(C) of the agreement; and
- 1433 (b) approved by the governing board of the agreement.
- 1434 (126) "Solar energy" means the sun used as the sole source of energy for producing
- 1435 electricity.
- 1436 (127) (a) "Sports or recreational equipment" means an item:
- 1437 (i) designed for human use; and
- 1438 (ii) that is:
- 1439 (A) worn in conjunction with:
- 1440 (I) an athletic activity; or
- 1441 (II) a recreational activity; and
- 1442 (B) not suitable for general use.
- 1443 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1444 commission shall make rules:
- 1445 (i) listing the items that constitute "sports or recreational equipment"; and
- 1446 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1447 equipment" under the agreement.
- 1448 (128) "State" means the state of Utah, its departments, and agencies.
- 1449 (129) "Storage" means any keeping or retention of tangible personal property or any
- 1450 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
- 1451 sale in the regular course of business.
- 1452 (130) (a) Except as provided in Subsection (130)(d) or (e), "tangible personal property"
- 1453 means personal property that:

- 1454 (i) may be:
- 1455 (A) seen;
- 1456 (B) weighed;
- 1457 (C) measured;
- 1458 (D) felt; or
- 1459 (E) touched; or
- 1460 (ii) is in any manner perceptible to the senses.
- 1461 (b) "Tangible personal property" includes:
- 1462 (i) electricity;
- 1463 (ii) water;
- 1464 (iii) gas;
- 1465 (iv) steam; or
- 1466 (v) prewritten computer software, regardless of the manner in which the prewritten
- 1467 computer software is transferred.
- 1468 (c) "Tangible personal property" includes the following regardless of whether the item
- 1469 is attached to real property:
- 1470 (i) a dishwasher;
- 1471 (ii) a dryer;
- 1472 (iii) a freezer;
- 1473 (iv) a microwave;
- 1474 (v) a refrigerator;
- 1475 (vi) a stove;
- 1476 (vii) a washer; or
- 1477 (viii) an item similar to Subsections (130)(c)(i) through (vii) as determined by the
- 1478 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1479 Rulemaking Act.
- 1480 (d) "Tangible personal property" does not include a product that is transferred
- 1481 electronically.
- 1482 (e) "Tangible personal property" does not include the following if attached to real
- 1483 property, regardless of whether the attachment to real property is only through a line that
- 1484 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the



1485 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1486 Rulemaking Act:

- 1487 (i) a hot water heater;
- 1488 (ii) a water filtration system; or
- 1489 (iii) a water softener system.

1490 (131) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
1491 software" means an item listed in Subsection (131)(b) if that item is purchased or leased  
1492 primarily to enable or facilitate one or more of the following to function:

- 1493 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1494 (ii) telecommunications transmission equipment, machinery, or software.

1495 (b) The following apply to Subsection (131)(a):

- 1496 (i) a pole;
- 1497 (ii) software;
- 1498 (iii) a supplementary power supply;
- 1499 (iv) temperature or environmental equipment or machinery;
- 1500 (v) test equipment;
- 1501 (vi) a tower; or
- 1502 (vii) equipment, machinery, or software that functions similarly to an item listed in

1503 Subsections (131)(b)(i) through (vi) as determined by the commission by rule made in  
1504 accordance with Subsection (131)(c).

1505 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1506 commission may by rule define what constitutes equipment, machinery, or software that  
1507 functions similarly to an item listed in Subsections (131)(b)(i) through (vi).

1508 (132) "Telecommunications equipment, machinery, or software required for 911  
1509 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
1510 Sec. 20.18.

1511 (133) "Telecommunications maintenance or repair equipment, machinery, or software"  
1512 means equipment, machinery, or software purchased or leased primarily to maintain or repair  
1513 one or more of the following, regardless of whether the equipment, machinery, or software is  
1514 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
1515 following:

- 1516 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1517 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1518 (c) telecommunications transmission equipment, machinery, or software.

1519 (134) (a) "Telecommunications service" means the electronic conveyance, routing, or  
1520 transmission of audio, data, video, voice, or any other information or signal to a point, or  
1521 among or between points.

1522 (b) "Telecommunications service" includes:

1523 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
1524 processing application is used to act:

1525 (A) on the code, form, or protocol of the content;

1526 (B) for the purpose of electronic conveyance, routing, or transmission; and

1527 (C) regardless of whether the service:

1528 (I) is referred to as voice over Internet protocol service; or

1529 (II) is classified by the Federal Communications Commission as enhanced or value  
1530 added;

1531 (ii) an 800 service;

1532 (iii) a 900 service;

1533 (iv) a fixed wireless service;

1534 (v) a mobile wireless service;

1535 (vi) a postpaid calling service;

1536 (vii) a prepaid calling service;

1537 (viii) a prepaid wireless calling service; or

1538 (ix) a private communications service.

1539 (c) "Telecommunications service" does not include:

1540 (i) advertising, including directory advertising;

1541 (ii) an ancillary service;

1542 (iii) a billing and collection service provided to a third party;

1543 (iv) a data processing and information service if:

1544 (A) the data processing and information service allows data to be:

1545 (I) (Aa) acquired;

1546 (Bb) generated;

- 1547 (Cc) processed;
- 1548 (Dd) retrieved; or
- 1549 (Ee) stored; and
- 1550 (II) delivered by an electronic transmission to a purchaser; and
- 1551 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1552 or information;
- 1553 (v) installation or maintenance of the following on a customer's premises:
- 1554 (A) equipment; or
- 1555 (B) wiring;
- 1556 (vi) Internet access service;
- 1557 (vii) a paging service;
- 1558 (viii) a product transferred electronically, including:
- 1559 (A) music;
- 1560 (B) reading material;
- 1561 (C) a ring tone;
- 1562 (D) software; or
- 1563 (E) video;
- 1564 (ix) a radio and television audio and video programming service:
- 1565 (A) regardless of the medium; and
- 1566 (B) including:
- 1567 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1568 programming service by a programming service provider;
- 1569 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1570 (III) audio and video programming services delivered by a commercial mobile radio
- 1571 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1572 (x) a value-added nonvoice data service; or
- 1573 (xi) tangible personal property.
- 1574 (135) (a) "Telecommunications service provider" means a person that:
- 1575 (i) owns, controls, operates, or manages a telecommunications service; and
- 1576 (ii) engages in an activity described in Subsection (135)(a)(i) for the shared use with or
- 1577 resale to any person of the telecommunications service.

1578 (b) A person described in Subsection (135)(a) is a telecommunications service provider  
1579 whether or not the Public Service Commission of Utah regulates:

1580 (i) that person; or

1581 (ii) the telecommunications service that the person owns, controls, operates, or  
1582 manages.

1583 (136) (a) "Telecommunications switching or routing equipment, machinery, or  
1584 software" means an item listed in Subsection (136)(b) if that item is purchased or leased  
1585 primarily for switching or routing:

1586 (i) an ancillary service;

1587 (ii) data communications;

1588 (iii) voice communications; or

1589 (iv) telecommunications service.

1590 (b) The following apply to Subsection (136)(a):

1591 (i) a bridge;

1592 (ii) a computer;

1593 (iii) a cross connect;

1594 (iv) a modem;

1595 (v) a multiplexer;

1596 (vi) plug in circuitry;

1597 (vii) a router;

1598 (viii) software;

1599 (ix) a switch; or

1600 (x) equipment, machinery, or software that functions similarly to an item listed in  
1601 Subsections (136)(b)(i) through (ix) as determined by the commission by rule made in  
1602 accordance with Subsection (136)(c).

1603 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1604 commission may by rule define what constitutes equipment, machinery, or software that  
1605 functions similarly to an item listed in Subsections (136)(b)(i) through (ix).

1606 (137) (a) "Telecommunications transmission equipment, machinery, or software"  
1607 means an item listed in Subsection (137)(b) if that item is purchased or leased primarily for  
1608 sending, receiving, or transporting:

- 1609 (i) an ancillary service;
- 1610 (ii) data communications;
- 1611 (iii) voice communications; or
- 1612 (iv) telecommunications service.
- 1613 (b) The following apply to Subsection (137)(a):
- 1614 (i) an amplifier;
- 1615 (ii) a cable;
- 1616 (iii) a closure;
- 1617 (iv) a conduit;
- 1618 (v) a controller;
- 1619 (vi) a duplexer;
- 1620 (vii) a filter;
- 1621 (viii) an input device;
- 1622 (ix) an input/output device;
- 1623 (x) an insulator;
- 1624 (xi) microwave machinery or equipment;
- 1625 (xii) an oscillator;
- 1626 (xiii) an output device;
- 1627 (xiv) a pedestal;
- 1628 (xv) a power converter;
- 1629 (xvi) a power supply;
- 1630 (xvii) a radio channel;
- 1631 (xviii) a radio receiver;
- 1632 (xix) a radio transmitter;
- 1633 (xx) a repeater;
- 1634 (xxi) software;
- 1635 (xxii) a terminal;
- 1636 (xxiii) a timing unit;
- 1637 (xxiv) a transformer;
- 1638 (xxv) a wire; or
- 1639 (xxvi) equipment, machinery, or software that functions similarly to an item listed in

1640 Subsections (137)(b)(i) through (xxv) as determined by the commission by rule made in  
1641 accordance with Subsection (137)(c).

1642 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1643 commission may by rule define what constitutes equipment, machinery, or software that  
1644 functions similarly to an item listed in Subsections (137)(b)(i) through (xxv).

1645 (138) (a) "Textbook for a higher education course" means a textbook or other printed  
1646 material that is required for a course:

1647 (i) offered by an institution of higher education; and

1648 (ii) that the purchaser of the textbook or other printed material attends or will attend.

1649 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1650 (139) "Tobacco" means:

1651 (a) a cigarette;

1652 (b) a cigar;

1653 (c) chewing tobacco;

1654 (d) pipe tobacco; or

1655 (e) any other item that contains tobacco.

1656 (140) "Unassisted amusement device" means an amusement device, skill device, or  
1657 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
1658 the amusement device, skill device, or ride device.

1659 (141) (a) "Use" means the exercise of any right or power over tangible personal  
1660 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),  
1661 incident to the ownership or the leasing of that tangible personal property, product transferred  
1662 electronically, or service.

1663 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
1664 property, a product transferred electronically, or a service in the regular course of business and  
1665 held for resale.

1666 (142) "Value-added nonvoice data service" means a service:

1667 (a) that otherwise meets the definition of a telecommunications service except that a  
1668 computer processing application is used to act primarily for a purpose other than conveyance,  
1669 routing, or transmission; and

1670 (b) with respect to which a computer processing application is used to act on data or

- 1671 information:
- 1672 (i) code;
- 1673 (ii) content;
- 1674 (iii) form; or
- 1675 (iv) protocol.
- 1676 (143) (a) Subject to Subsection (143)(b), "vehicle" means the following that are
- 1677 required to be titled, registered, or titled and registered:
- 1678 (i) an aircraft as defined in Section 72-10-102;
- 1679 (ii) a vehicle as defined in Section 41-1a-102;
- 1680 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1681 (iv) a vessel as defined in Section 41-1a-102.
- 1682 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1683 (i) a vehicle described in Subsection (143)(a); or
- 1684 (ii) (A) a locomotive;
- 1685 (B) a freight car;
- 1686 (C) railroad work equipment; or
- 1687 (D) other railroad rolling stock.
- 1688 (144) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 1689 exchanging a vehicle as defined in Subsection (143).
- 1690 (145) (a) "Vertical service" means an ancillary service that:
- 1691 (i) is offered in connection with one or more telecommunications services; and
- 1692 (ii) offers an advanced calling feature that allows a customer to:
- 1693 (A) identify a caller; and
- 1694 (B) manage multiple calls and call connections.
- 1695 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 1696 conference bridging service.
- 1697 (146) (a) "Voice mail service" means an ancillary service that enables a customer to
- 1698 receive, send, or store a recorded message.
- 1699 (b) "Voice mail service" does not include a vertical service that a customer is required
- 1700 to have in order to utilize a voice mail service.
- 1701 (147) (a) Except as provided in Subsection (147)(b), "waste energy facility" means a

1702 facility that generates electricity:

1703 (i) using as the primary source of energy waste materials that would be placed in a  
1704 landfill or refuse pit if it were not used to generate electricity, including:

1705 (A) tires;

1706 (B) waste coal;

1707 (C) oil shale; or

1708 (D) municipal solid waste; and

1709 (ii) in amounts greater than actually required for the operation of the facility.

1710 (b) "Waste energy facility" does not include a facility that incinerates:

1711 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1712 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1713 (148) "Watercraft" means a vessel as defined in Section [73-18-2](#).

1714 (149) "Wind energy" means wind used as the sole source of energy to produce  
1715 electricity.

1716 (150) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
1717 location by the United States Postal Service.

1718 Section 3. Section **59-12-103** is amended to read:

1719 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**  
1720 **tax revenues.**

1721 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or  
1722 sales price for amounts paid or charged for the following transactions:

1723 (a) retail sales of tangible personal property made within the state;

1724 (b) amounts paid for:

1725 (i) telecommunications service, other than mobile telecommunications service, that  
1726 originates and terminates within the boundaries of this state;

1727 (ii) mobile telecommunications service that originates and terminates within the  
1728 boundaries of one state only to the extent permitted by the Mobile Telecommunications  
1729 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

1730 (iii) an ancillary service associated with a:

1731 (A) telecommunications service described in Subsection (1)(b)(i); or

1732 (B) mobile telecommunications service described in Subsection (1)(b)(ii);



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

1764 (B) the particular parts used in the repairs or renovations of that tangible personal  
1765 property are exempt from a tax under this chapter;

1766 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for  
1767 assisted cleaning or washing of tangible personal property;

1768 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court  
1769 accommodations and services that are regularly rented for less than 30 consecutive days;

1770 (j) amounts paid or charged for laundry or dry cleaning services;

1771 (k) amounts paid or charged for leases or rentals of tangible personal property if within  
1772 this state the tangible personal property is:

1773 (i) stored;

1774 (ii) used; or

1775 (iii) otherwise consumed;

1776 (l) amounts paid or charged for tangible personal property if within this state the  
1777 tangible personal property is:

1778 (i) stored;

1779 (ii) used; or

1780 (iii) consumed; and

1781 (m) amounts paid or charged for a sale:

1782 (i) (A) of a product transferred electronically; or

1783 (B) of a repair or renovation of a product transferred electronically; and

1784 (ii) regardless of whether the sale provides:

1785 (A) a right of permanent use of the product; or

1786 (B) a right to use the product that is less than a permanent use, including a right:

1787 (I) for a definite or specified length of time; and

1788 (II) that terminates upon the occurrence of a condition.

1789 (2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax  
1790 are imposed on a transaction described in Subsection (1) equal to the sum of:

1791 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

1792 (A) 4.70% plus the rate specified in Subsection (12)(a); and

1793 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales  
1794 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

1795 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional  
1796 State Sales and Use Tax Act; and

1797 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
1798 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
1799 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state  
1800 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1801 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1802 transaction under this chapter other than this part.

1803 (b) Except as provided in Subsection (2)(e) or (f) and subject to Subsection (2)(k), a  
1804 state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to  
1805 the sum of:

1806 (i) a state tax imposed on the transaction at a tax rate of 2%; and

1807 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1808 transaction under this chapter other than this part.

1809 ~~[(c) Except as provided in Subsection (2)(e) or (f), a state tax and a local tax are~~  
1810 ~~imposed on amounts paid or charged for food and food ingredients equal to the sum of:]~~

1811 ~~[(i) a state tax imposed on the amounts paid or charged for food and food ingredients at~~  
1812 ~~a tax rate of 1.75%; and]~~

1813 ~~[(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the~~  
1814 ~~amounts paid or charged for food and food ingredients under this chapter other than this part.]~~

1815 (c) (i) Except as provided in Subsection (2)(e) or (f), a local tax is imposed on amounts  
1816 paid or charged for food and food ingredients equal to the sum of the tax rates a county, city, or  
1817 town imposes under this chapter on the amounts paid or charged for food and food ingredients.

1818 (ii) There is no state tax imposed on amounts paid or charged for food and food  
1819 ingredients.

1820 (d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts  
1821 paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at  
1822 a rate of 4.85%.

1823 (e) (i) For a bundled transaction that is attributable to food and food ingredients and  
1824 tangible personal property other than food and food ingredients, a state tax and a local tax is  
1825 imposed on the entire bundled transaction equal to the sum of:

- 1826 (A) a state tax imposed on the entire bundled transaction equal to the sum of:
- 1827 (I) the tax rate described in Subsection (2)(a)(i)(A); and
- 1828 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
- 1829 Sales and Use Tax Act, if the location of the transaction as determined under Sections
- 1830 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
- 1831 Additional State Sales and Use Tax Act; and
- 1832 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
- 1833 Sales and Use Tax Act, if the location of the transaction as determined under Sections
- 1834 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
- 1835 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
- 1836 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
- 1837 described in Subsection (2)(a)(ii).
- 1838 (ii) If an optional computer software maintenance contract is a bundled transaction that
- 1839 consists of taxable and nontaxable products that are not separately itemized on an invoice or
- 1840 similar billing document, the purchase of the optional computer software maintenance contract
- 1841 is 40% taxable under this chapter and 60% nontaxable under this chapter.
- 1842 (iii) Subject to Subsection (2)(e)(iv), for a bundled transaction other than a bundled
- 1843 transaction described in Subsection (2)(e)(i) or (ii):
- 1844 (A) if the sales price of the bundled transaction is attributable to tangible personal
- 1845 property, a product, or a service that is subject to taxation under this chapter and tangible
- 1846 personal property, a product, or service that is not subject to taxation under this chapter, the
- 1847 entire bundled transaction is subject to taxation under this chapter unless:
- 1848 (I) the seller is able to identify by reasonable and verifiable standards the tangible
- 1849 personal property, product, or service that is not subject to taxation under this chapter from the
- 1850 books and records the seller keeps in the seller's regular course of business; or
- 1851 (II) state or federal law provides otherwise; or
- 1852 (B) if the sales price of a bundled transaction is attributable to two or more items of
- 1853 tangible personal property, products, or services that are subject to taxation under this chapter
- 1854 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
- 1855 higher tax rate unless:
- 1856 (I) the seller is able to identify by reasonable and verifiable standards the tangible

1857 personal property, product, or service that is subject to taxation under this chapter at the lower  
1858 tax rate from the books and records the seller keeps in the seller's regular course of business; or

1859 (II) state or federal law provides otherwise.

1860 (iv) For purposes of Subsection (2)(e)(iii), books and records that a seller keeps in the  
1861 seller's regular course of business includes books and records the seller keeps in the regular  
1862 course of business for nontax purposes.

1863 (f) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(f)(ii)  
1864 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a  
1865 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental  
1866 of tangible personal property, other property, a product, or a service that is not subject to  
1867 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless  
1868 the seller, at the time of the transaction:

1869 (A) separately states the portion of the transaction that is not subject to taxation under  
1870 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

1871 (B) is able to identify by reasonable and verifiable standards, from the books and  
1872 records the seller keeps in the seller's regular course of business, the portion of the transaction  
1873 that is not subject to taxation under this chapter.

1874 (ii) A purchaser and a seller may correct the taxability of a transaction if:

1875 (A) after the transaction occurs, the purchaser and the seller discover that the portion of  
1876 the transaction that is not subject to taxation under this chapter was not separately stated on an  
1877 invoice, bill of sale, or similar document provided to the purchaser because of an error or  
1878 ignorance of the law; and

1879 (B) the seller is able to identify by reasonable and verifiable standards, from the books  
1880 and records the seller keeps in the seller's regular course of business, the portion of the  
1881 transaction that is not subject to taxation under this chapter.

1882 (iii) For purposes of Subsections (2)(f)(i) and (ii), books and records that a seller keeps  
1883 in the seller's regular course of business includes books and records the seller keeps in the  
1884 regular course of business for nontax purposes.

1885 (g) (i) If the sales price of a transaction is attributable to two or more items of tangible  
1886 personal property, products, or services that are subject to taxation under this chapter at  
1887 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate

1888 unless the seller, at the time of the transaction:

1889 (A) separately states the items subject to taxation under this chapter at each of the  
1890 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

1891 (B) is able to identify by reasonable and verifiable standards the tangible personal  
1892 property, product, or service that is subject to taxation under this chapter at the lower tax rate  
1893 from the books and records the seller keeps in the seller's regular course of business.

1894 (ii) For purposes of Subsection (2)(g)(i), books and records that a seller keeps in the  
1895 seller's regular course of business includes books and records the seller keeps in the regular  
1896 course of business for nontax purposes.

1897 (h) Subject to Subsections (2)(i) and (j), a tax rate repeal or tax rate change for a tax  
1898 rate imposed under the following shall take effect on the first day of a calendar quarter:

1899 (i) Subsection (2)(a)(i)(A);

1900 (ii) Subsection (2)(b)(i); or

1901 [~~(iii)~~ Subsection (2)(c)(i); ~~or~~]

1902 [~~(iv)~~ (iii) Subsection (2)(e)(i)(A)(I).

1903 (i) (i) A tax rate increase takes effect on the first day of the first billing period that  
1904 begins on or after the effective date of the tax rate increase if the billing period for the  
1905 transaction begins before the effective date of a tax rate increase imposed under:

1906 (A) Subsection (2)(a)(i)(A);

1907 (B) Subsection (2)(b)(i); or

1908 [~~(C)~~ Subsection (2)(c)(i); ~~or~~]

1909 [~~(D)~~ (C) Subsection (2)(e)(i)(A)(I).

1910 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing  
1911 statement for the billing period is rendered on or after the effective date of the repeal of the tax  
1912 or the tax rate decrease imposed under:

1913 (A) Subsection (2)(a)(i)(A);

1914 (B) Subsection (2)(b)(i); or

1915 [~~(C)~~ Subsection (2)(c)(i); ~~or~~]

1916 [~~(D)~~ (C) Subsection (2)(e)(i)(A)(I).

1917 (j) (i) For a tax rate described in Subsection (2)(j)(ii), if a tax due on a catalogue sale is  
1918 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or

1919 change in a tax rate takes effect:

1920 (A) on the first day of a calendar quarter; and

1921 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

1922 (ii) Subsection (2)(j)(i) applies to the tax rates described in the following:

1923 (A) Subsection (2)(a)(i)(A);

1924 (B) Subsection (2)(b)(i); or

1925 [~~(C) Subsection (2)(c)(i); or~~]

1926 [~~(D)~~] (C) Subsection (2)(e)(i)(A)(I).

1927 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

1928 the commission may by rule define the term "catalogue sale."

1929 (k) (i) For a location described in Subsection (2)(k)(ii), the commission shall determine

1930 the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the

1931 predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

1932 (ii) Subsection (2)(k)(i) applies to a location where gas, electricity, heat, coal, fuel oil,

1933 or other fuel is furnished through a single meter for two or more of the following uses:

1934 (A) a commercial use;

1935 (B) an industrial use; or

1936 (C) a residential use.

1937 (3) (a) The following state taxes shall be deposited into the General Fund:

1938 (i) the tax imposed by Subsection (2)(a)(i)(A);

1939 (ii) the tax imposed by Subsection (2)(b)(i); and

1940 [~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]

1941 [~~(iv)~~] (iii) the tax imposed by Subsection (2)(e)(i)(A)(I).

1942 (b) The following local taxes shall be distributed to a county, city, or town as provided

1943 in this chapter:

1944 (i) the tax imposed by Subsection (2)(a)(ii);

1945 (ii) the tax imposed by Subsection (2)(b)(ii);

1946 (iii) the tax imposed by Subsection (2)(c)[~~(ii)~~]; and

1947 (iv) the tax imposed by Subsection (2)(e)(i)(B).

1948 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General

1949 Fund.

1950 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1951 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)  
1952 through (g):

1953 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1954 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

1955 (B) for the fiscal year; or

1956 (ii) \$17,500,000.

1957 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
1958 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the  
1959 Department of Natural Resources to:

1960 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to  
1961 protect sensitive plant and animal species; or

1962 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
1963 act, to political subdivisions of the state to implement the measures described in Subsections  
1964 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

1965 (ii) Money transferred to the Department of Natural Resources under Subsection  
1966 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
1967 person to list or attempt to have listed a species as threatened or endangered under the  
1968 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1969 (iii) At the end of each fiscal year:

1970 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
1971 Conservation and Development Fund created in Section 73-10-24;

1972 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
1973 Program Subaccount created in Section 73-10c-5; and

1974 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
1975 Program Subaccount created in Section 73-10c-5.

1976 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
1977 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund  
1978 created in Section 4-18-106.

1979 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described  
1980 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water



1981 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of  
1982 water rights.

1983 (ii) At the end of each fiscal year:

1984 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
1985 Conservation and Development Fund created in Section 73-10-24;

1986 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
1987 Program Subaccount created in Section 73-10c-5; and

1988 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
1989 Program Subaccount created in Section 73-10c-5.

1990 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described  
1991 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and  
1992 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

1993 (ii) In addition to the uses allowed of the Water Resources Conservation and  
1994 Development Fund under Section 73-10-24, the Water Resources Conservation and  
1995 Development Fund may also be used to:

1996 (A) conduct hydrologic and geotechnical investigations by the Division of Water  
1997 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
1998 quantifying surface and ground water resources and describing the hydrologic systems of an  
1999 area in sufficient detail so as to enable local and state resource managers to plan for and  
2000 accommodate growth in water use without jeopardizing the resource;

2001 (B) fund state required dam safety improvements; and

2002 (C) protect the state's interest in interstate water compact allocations, including the  
2003 hiring of technical and legal staff.

2004 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
2005 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount  
2006 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2007 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
2008 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount  
2009 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2010 (i) provide for the installation and repair of collection, treatment, storage, and  
2011 distribution facilities for any public water system, as defined in Section 19-4-102;

2012 (ii) develop underground sources of water, including springs and wells; and  
2013 (iii) develop surface water sources.  
2014 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
2015 2006, the difference between the following amounts shall be expended as provided in this  
2016 Subsection (5), if that difference is greater than \$1:  
2017 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
2018 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and  
2019 (ii) \$17,500,000.  
2020 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:  
2021 (A) transferred each fiscal year to the Department of Natural Resources as dedicated  
2022 credits; and  
2023 (B) expended by the Department of Natural Resources for watershed rehabilitation or  
2024 restoration.  
2025 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
2026 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund  
2027 created in Section 73-10-24.  
2028 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
2029 remaining difference described in Subsection (5)(a) shall be:  
2030 (A) transferred each fiscal year to the Division of Water Resources as dedicated  
2031 credits; and  
2032 (B) expended by the Division of Water Resources for cloud-seeding projects  
2033 authorized by Title 73, Chapter 15, Modification of Weather.  
2034 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
2035 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund  
2036 created in Section 73-10-24.  
2037 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the  
2038 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
2039 Resources Conservation and Development Fund created in Section 73-10-24 for use by the  
2040 Division of Water Resources for:  
2041 (i) preconstruction costs:  
2042 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter

2043 26, Bear River Development Act; and

2044 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project  
2045 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2046 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
2047 Chapter 26, Bear River Development Act;

2048 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
2049 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2050 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and  
2051 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2052 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to  
2053 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be  
2054 transferred each year as dedicated credits to the Division of Water Rights to cover the costs  
2055 incurred for employing additional technical staff for the administration of water rights.

2056 (f) At the end of each fiscal year, any unexpended dedicated credits described in  
2057 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development  
2058 Fund created in Section 73-10-24.

2059 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the  
2060 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection  
2061 (1) for the fiscal year shall be deposited as follows:

2062 (a) for fiscal year 2020-21 only:

2063 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the  
2064 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2065 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the  
2066 Water Infrastructure Restricted Account created by Section 73-10g-103; and

2067 (b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described  
2068 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account  
2069 created by Section 73-10g-103.

2070 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in  
2071 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,  
2072 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005  
2073 created by Section 72-2-124:

2074 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of  
2075 the revenues collected from the following taxes, which represents a portion of the  
2076 approximately 17% of sales and use tax revenues generated annually by the sales and use tax  
2077 on vehicles and vehicle-related products:

2078 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2079 (B) the tax imposed by Subsection (2)(b)(i); and

2080 [~~(C)~~ the tax imposed by Subsection (2)(c)(i); and]

2081 [~~(D)~~] (C) the tax imposed by Subsection (2)(e)(i)(A)(I); plus

2082 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the  
2083 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through  
2084 [~~(D)~~] (C) that exceeds the amount collected from the sales and use taxes described in  
2085 Subsections (7)(a)(i)(A) through [~~(D)~~] (C) in the 2010-11 fiscal year.

2086 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of  
2087 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total  
2088 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through [~~(D)~~]  
2089 (C) generated in the current fiscal year than the total percentage of sales and use taxes  
2090 deposited in the previous fiscal year, the Division of Finance shall deposit an amount under  
2091 Subsection (7)(a) equal to the product of:

2092 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the  
2093 previous fiscal year; and

2094 (B) the total sales and use tax revenue generated by the taxes described in Subsections  
2095 (7)(a)(i)(A) through [~~(D)~~] (C) in the current fiscal year.

2096 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under  
2097 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes  
2098 described in Subsections (7)(a)(i)(A) through [~~(D)~~] (C) in the current fiscal year, the Division  
2099 of Finance shall deposit 17% of the revenues collected from the sales and use taxes described  
2100 in Subsections (7)(a)(i)(A) through [~~(D)~~] (C) for the current fiscal year under Subsection (7)(a).

2101 (iii) Subject to Subsection (7)(b)(iv)(E), in all subsequent fiscal years after a year in  
2102 which 17% of the revenues collected from the sales and use taxes described in Subsections  
2103 (7)(a)(i)(A) through [~~(D)~~] (C) was deposited under Subsection (7)(a), the Division of Finance  
2104 shall annually deposit 17% of the revenues collected from the sales and use taxes described in

2105 Subsections (7)(a)(i)(A) through ~~[(D)]~~ (C) in the current fiscal year under Subsection (7)(a).

2106 (iv) (A) As used in this Subsection (7)(b)(iv), "additional growth revenue" means the  
2107 amount of relevant revenue collected in the current fiscal year that exceeds by more than 3%  
2108 the relevant revenue collected in the previous fiscal year.

2109 (B) As used in this Subsection (7)(b)(iv), "combined amount" means the combined  
2110 total amount of money deposited into the Cottonwood Canyons fund under Subsections  
2111 (7)(b)(iv)(F) and ~~[(8)(c)(iv)(F)]~~ (8)(d)(vi) in any single fiscal year.

2112 (C) As used in this Subsection (7)(b)(iv), "Cottonwood Canyons fund" means the  
2113 Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

2114 (D) As used in this Subsection (7)(b)(iv), "relevant revenue" means the portion of taxes  
2115 listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in  
2116 Subsections (7)(a)(i)(A) through ~~[(D)]~~ (C).

2117 (E) For a fiscal year beginning on or after July 1, 2020, the commission shall annually  
2118 reduce the deposit under Subsection ~~[(7)(c)(iii)]~~ (7)(a) into the Transportation Investment Fund  
2119 of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b)(iv) to the  
2120 Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue,  
2121 subject to the limit in Subsection (7)(b)(iv)(F).

2122 (F) The commission shall annually deposit the amount described in Subsection  
2123 (7)(b)(iv)(E) into the Cottonwood Canyons fund, subject to an annual maximum combined  
2124 amount for any single fiscal year of \$20,000,000.

2125 (G) If the amount of relevant revenue declines in a fiscal year compared to the previous  
2126 fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood  
2127 Canyons fund under this Subsection (7)(b)(iv) in the same proportion as the decline in relevant  
2128 revenue.

2129 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under  
2130 Subsections (6) and (7), and subject to Subsections (8)(b) and (d)(v), for a fiscal year beginning  
2131 on or after July 1, 2018, the commission shall annually deposit into the Transportation  
2132 Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under  
2133 Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following  
2134 taxes:

2135 (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2136 (ii) the tax imposed by Subsection (2)(b)(i); and  
2137 [~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]  
2138 [~~(iv)~~] (iii) the tax imposed by Subsection (2)(e)(i)(A)(I).

2139 (b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually  
2140 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by  
2141 an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by  
2142 the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale  
2143 or use in this state that exceeds 29.4 cents per gallon.

2144 (c) The commission shall annually deposit the amount described in Subsection (8)(b)  
2145 into the Transit Transportation Investment Fund created in Section [72-2-124](#).

2146 (d) (i) As used in this Subsection (8)(d), "additional growth revenue" means the  
2147 amount of relevant revenue collected in the current fiscal year that exceeds by more than 3%  
2148 the relevant revenue collected in the previous fiscal year.

2149 (ii) As used in this Subsection (8)(d), "combined amount" means the combined total  
2150 amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F)  
2151 and (8)(d)(vi) in any single fiscal year.

2152 (iii) As used in this Subsection (8)(d), "Cottonwood Canyons fund" means the  
2153 Cottonwood Canyons Transportation Investment Fund created in Subsection [72-2-124](#)(10).

2154 (iv) As used in this Subsection (8)(d), "relevant revenue" means the portion of taxes  
2155 listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described  
2156 in Subsections (8)(a)(i) through [~~(iv)~~] (iii).

2157 (v) For a fiscal year beginning on or after July 1, 2020, the commission shall annually  
2158 reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by  
2159 an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood  
2160 Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the  
2161 limit in Subsection (8)(d)(vi).

2162 (vi) The commission shall annually deposit the amount described in Subsection  
2163 (8)(d)(v) into the Cottonwood Canyons fund, subject to an annual maximum combined amount  
2164 for any single fiscal year of \$20,000,000.

2165 (vii) If the amount of relevant revenue declines in a fiscal year compared to the  
2166 previous fiscal year, the commission shall decrease the amount of the contribution to the

2167 Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in  
2168 relevant revenue.

2169 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
2170 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund  
2171 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

2172 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(b),  
2173 and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of  
2174 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section  
2175 72-2-124 the amount of revenue described as follows:

2176 (i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05%  
2177 tax rate on the transactions described in Subsection (1); and

2178 (ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%  
2179 tax rate on the transactions described in Subsection (1).

2180 (b) For purposes of Subsection (10)(a), the Division of Finance may not deposit into  
2181 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or  
2182 charged for food and food ingredients, except for tax revenue generated by a bundled  
2183 transaction attributable to food and food ingredients and tangible personal property other than  
2184 food and food ingredients described in Subsection (2)(e).

2185 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the  
2186 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that  
2187 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of  
2188 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue  
2189 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,  
2190 created in Section 63N-2-512.

2191 (12) (a) The rate specified in this subsection is 0.15%.

2192 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year  
2193 beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the  
2194 rate described in Subsection (12)(a) on the transactions that are subject to the sales and use tax  
2195 under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section  
2196 26-36b-208.

2197 (13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year

2198 2020-21, the Division of Finance shall deposit \$200,000 into the General Fund as a dedicated  
2199 credit solely for use of the Search and Rescue Financial Assistance Program created in, and  
2200 expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

2201 (14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of  
2202 Finance shall annually transfer \$1,813,400 of the revenue deposited into the Transportation  
2203 Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

2204 (b) If the total revenue deposited into the Transportation Investment Fund of 2005  
2205 under Subsections (6) through (8) is less than \$1,813,400 for a fiscal year, the Division of  
2206 Finance shall transfer the total revenue deposited into the Transportation Investment Fund of  
2207 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

2208 (15) Notwithstanding Subsection (3)(a), and as described in Section [63N-3-610](#),  
2209 beginning one year after the sales and use tax boundary for a housing and transit reinvestment  
2210 zone is established, the commission, at least annually, shall transfer an amount equal to 15% of  
2211 the sales and use tax increment within an established sales and use tax boundary, as defined in  
2212 Section [63N-3-602](#), into the Transit Transportation Investment Fund created in Section  
2213 [72-2-124](#).

2214 Section 4. Section **59-12-108** is amended to read:

2215 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**  
2216 **Certain amounts allocated to local taxing jurisdictions.**

2217 (1) (a) Notwithstanding Section [59-12-107](#), a seller that has a tax liability under this  
2218 chapter of \$50,000 or more for the previous calendar year shall:

2219 (i) file a return with the commission:

2220 (A) monthly on or before the last day of the month immediately following the month  
2221 for which the seller collects a tax under this chapter; and

2222 (B) for the month for which the seller collects a tax under this chapter; and

2223 (ii) except as provided in Subsection (1)(b), remit with the return required by  
2224 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,  
2225 fee, or charge described in Subsection (1)(c):

2226 (A) if that seller's tax liability under this chapter for the previous calendar year is less  
2227 than \$96,000, by any method permitted by the commission; or

2228 (B) if that seller's tax liability under this chapter for the previous calendar year is



2229 \$96,000 or more, by electronic funds transfer.

2230 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)  
2231 the amount the seller is required to remit to the commission for each tax, fee, or charge  
2232 described in Subsection (1)(c) if that seller:

2233 (i) is required by Section 59-12-107 to file the return electronically; or

2234 (ii) (A) is required to collect and remit a tax under Section 59-12-107; and

2235 (B) files a simplified electronic return.

2236 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

2237 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

2238 (ii) a fee under Section 19-6-714;

2239 (iii) a fee under Section 19-6-805;

2240 (iv) a charge under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications  
2241 Service Charges; or

2242 (v) a tax under this chapter.

2243 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,  
2244 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method  
2245 for making same-day payments other than by electronic funds transfer if making payments by  
2246 electronic funds transfer fails.

2247 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2248 commission shall establish by rule procedures and requirements for determining the amount a  
2249 seller is required to remit to the commission under this Subsection (1).

2250 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a  
2251 seller described in Subsection (4) may retain each month the amount allowed by this  
2252 Subsection (2).

2253 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain  
2254 each month 1.31% of any amounts the seller is required to remit to the commission:

2255 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax  
2256 and a local tax imposed in accordance with the following, for the month for which the seller is  
2257 filing a return in accordance with Subsection (1):

2258 (A) Subsection 59-12-103(2)(a);

2259 (B) Subsection 59-12-103(2)(b); and

2260 (C) Subsection 59-12-103(2)(d); and  
2261 (ii) for an agreement sales and use tax.  
2262 (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may  
2263 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described  
2264 in Subsection 59-12-103(1) that is subject to the [~~state tax and the local~~] tax imposed in  
2265 accordance with Subsection 59-12-103(2)(c).  
2266 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount  
2267 equal to the sum of:  
2268 (A) 1.31% of any amounts the seller is required to remit to the commission for:  
2269 (I) the [~~state tax and the local~~] tax imposed in accordance with Subsection  
2270 59-12-103(2)(c);  
2271 (II) the month for which the seller is filing a return in accordance with Subsection (1);  
2272 and  
2273 (III) an agreement sales and use tax; and  
2274 (B) 1.31% of the difference between:  
2275 (I) the amounts the seller would have been required to remit to the commission:  
2276 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject  
2277 to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);  
2278 (Bb) for the month for which the seller is filing a return in accordance with Subsection  
2279 (1); and  
2280 (Cc) for an agreement sales and use tax; and  
2281 (II) the amounts the seller is required to remit to the commission for:  
2282 (Aa) the [~~state tax and the local~~] tax imposed in accordance with Subsection  
2283 59-12-103(2)(c);  
2284 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);  
2285 and  
2286 (Cc) an agreement sales and use tax.  
2287 (d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain  
2288 each month 1% of any amounts the seller is required to remit to the commission:  
2289 (i) for the month for which the seller is filing a return in accordance with Subsection  
2290 (1); and

- 2291 (ii) under:
- 2292 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 2293 (B) Subsection 59-12-603(1)(a)(i)(A);
- 2294 (C) Subsection 59-12-603(1)(a)(i)(B); or
- 2295 (D) Subsection 59-12-603(1)(a)(ii).
- 2296 (3) A state government entity that is required to remit taxes monthly in accordance
- 2297 with Subsection (1) may not retain any amount under Subsection (2).
- 2298 (4) A seller that has a tax liability under this chapter for the previous calendar year of
- 2299 less than \$50,000 may:
- 2300 (a) voluntarily meet the requirements of Subsection (1); and
- 2301 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
- 2302 amounts allowed by Subsection (2).
- 2303 (5) Penalties for late payment shall be as provided in Section 59-1-401.
- 2304 (6) (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted
- 2305 to the commission under this part, the commission shall each month calculate an amount equal
- 2306 to the difference between:
- 2307 (i) the total amount retained for that month by all sellers had the percentages listed
- 2308 under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and
- 2309 (ii) the total amount retained for that month by all sellers at the percentages listed
- 2310 under Subsections (2)(b) and (2)(c)(ii).
- 2311 (b) The commission shall each month allocate the amount calculated under Subsection
- 2312 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use
- 2313 tax that the commission distributes to each county, city, and town for that month compared to
- 2314 the total agreement sales and use tax that the commission distributes for that month to all
- 2315 counties, cities, and towns.
- 2316 (c) The amount the commission calculates under Subsection (6)(a) may not include an
- 2317 amount collected from a tax that:
- 2318 (i) the state imposes within a county, city, or town, including the unincorporated area
- 2319 of a county; and
- 2320 (ii) is not imposed within the entire state.
- 2321 Section 5. Section 63N-7-301 is amended to read:

2322 **63N-7-301. Tourism Marketing Performance Account.**

2323 (1) There is created within the General Fund a restricted account known as the Tourism  
2324 Marketing Performance Account.

2325 (2) The account shall be administered by [~~GOED~~] the office for the purposes listed in  
2326 Subsection (5).

2327 (3) (a) The account shall earn interest.

2328 (b) All interest earned on account money shall be deposited into the account.

2329 (4) The account shall be funded by appropriations made to the account by the  
2330 Legislature in accordance with this section.

2331 (5) The [~~executive~~] managing director of [~~GOED's~~] the office's Office of Tourism shall  
2332 use account money appropriated to [~~GOED~~] the office to pay for the statewide advertising,  
2333 marketing, and branding campaign for promotion of the state as conducted by [~~GOED~~] the  
2334 office.

2335 (6) (a) For each fiscal year beginning on or after July 1, 2007, [~~GOED~~] the office shall  
2336 annually allocate 10% of the account money appropriated to [~~GOED~~] the office to a sports  
2337 organization for advertising, marketing, branding, and promoting Utah in attracting sporting  
2338 events into the state.

2339 (b) The sports organization shall:

2340 (i) provide an annual written report to [~~GOED~~] the office that gives an accounting of  
2341 the use of funds the sports organization receives under this Subsection (6); and

2342 (ii) promote the state and encourage economic growth in the state.

2343 (c) For purposes of this Subsection (6), "sports organization" means an organization  
2344 that:

2345 (i) is exempt from federal income taxation in accordance with Section 501(c)(3),  
2346 Internal Revenue Code;

2347 (ii) maintains its principal location in the state;

2348 (iii) has a minimum of 15 years experience in the state hosting, fostering, and attracting  
2349 major summer and winter sporting events statewide; and

2350 (iv) was created to foster state, regional, national, and international sports competitions  
2351 in the state, to drive the state's Olympic and sports legacy, including competitions related to  
2352 Olympic sports, and to promote and encourage sports tourism throughout the state, including

2353 advertising, marketing, branding, and promoting the state for the purpose of attracting sporting  
2354 events in the state.

2355 ~~[(7) Money deposited into the account shall include a legislative appropriation from the~~  
2356 ~~cumulative sales and use tax revenue increases described in Subsection (8), plus any additional~~  
2357 ~~appropriation made by the Legislature.]~~

2358 ~~[(8) (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax~~  
2359 ~~revenues determined under this Subsection (8) shall be certified by the State Tax Commission~~  
2360 ~~as a set-aside for the account, and the State Tax Commission shall report the amount of the~~  
2361 ~~set-aside to the office, the Office of Legislative Fiscal Analyst, and the Division of Finance,~~  
2362 ~~which shall set aside the certified amount for appropriation to the account.]~~

2363 ~~[(b) For fiscal years 2016 through 2019, the State Tax Commission shall calculate the~~  
2364 ~~set-aside under this Subsection (8) in each fiscal year by applying one of the following~~  
2365 ~~formulas: if the annual percentage change in the Consumer Price Index for All Urban~~  
2366 ~~Consumers, as published by the Bureau of Labor Statistics of the United States Department of~~  
2367 ~~Labor, for the fiscal year two years before the fiscal year in which the set-aside is to be made~~  
2368 ~~is:]~~

2369 ~~[(i) greater than 3%, and if the annual percentage change in the state sales and use tax~~  
2370 ~~revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal~~  
2371 ~~year three years before the fiscal year in which the set-aside is to be made to the fiscal year two~~  
2372 ~~years before the fiscal year in which the set-aside is to be made is greater than the annual~~  
2373 ~~percentage change in the Consumer Price Index for the fiscal year two years before the fiscal~~  
2374 ~~year in which the set-aside is to be made, then the difference between the annual percentage~~  
2375 ~~change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented~~  
2376 ~~goods and services and the annual percentage change in the Consumer Price Index shall be~~  
2377 ~~multiplied by an amount equal to the state sales and use tax revenues attributable to the retail~~  
2378 ~~sales of tourist-oriented goods and services from the fiscal year three years before the fiscal~~  
2379 ~~year in which the set-aside is to be made; or]~~

2380 ~~[(ii) 3% or less, and if the annual percentage change in the state sales and use tax~~  
2381 ~~revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal~~  
2382 ~~year three years before the fiscal year in which the set-aside is to be made to the fiscal year two~~  
2383 ~~years before the fiscal year in which the set-aside is to be made is greater than 3%, then the~~

2384 ~~difference between the annual percentage change in the state sales and use tax revenues~~  
2385 ~~attributable to the retail sales of tourist-oriented goods and services and 3% shall be multiplied~~  
2386 ~~by an amount equal to the state sales and use tax revenues attributable to the retail sales of~~  
2387 ~~tourist-oriented goods and services from the fiscal year three years before the fiscal year in~~  
2388 ~~which the set-aside is to be made.]~~

2389 ~~[(c) The total money appropriated to the account in a fiscal year under Subsections~~  
2390 ~~(8)(a) and (b) may not exceed the amount appropriated to the account in the preceding fiscal~~  
2391 ~~year by more than \$3,000,000.]~~

2392 ~~[(d) As used in this Subsection (8), "state sales and use tax revenues" are revenues~~  
2393 ~~collected under Subsections 59-12-103(2)(a)(i)(A) and 59-12-103(2)(c)(i).]~~

2394 ~~[(e) As used in this Subsection (8), "retail sales of tourist-oriented goods and services"~~  
2395 ~~are calculated by adding the following percentages of sales from each business registered with~~  
2396 ~~the State Tax Commission under one of the following codes of the 2012 North American~~  
2397 ~~Industry Classification System of the federal Executive Office of the President, Office of~~  
2398 ~~Management and Budget:]~~

2399 ~~[(i) 80% of the sales from each business under NAICS Codes:]~~

2400 ~~[(A) 532111 Passenger Car Rental;]~~

2401 ~~[(B) 53212 Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing;]~~

2402 ~~[(C) 5615 Travel Arrangement and Reservation Services;]~~

2403 ~~[(D) 7211 Traveler Accommodation; and]~~

2404 ~~[(E) 7212 RV (Recreational Vehicle) Parks and Recreational Camps;]~~

2405 ~~[(ii) 25% of the sales from each business under NAICS Codes:]~~

2406 ~~[(A) 51213 Motion Picture and Video Exhibition;]~~

2407 ~~[(B) 532292 Recreational Goods Rental;]~~

2408 ~~[(C) 711 Performing Arts, Spectator Sports, and Related Industries;]~~

2409 ~~[(D) 712 Museums, Historical Sites, and Similar Institutions; and]~~

2410 ~~[(E) 713 Amusement, Gambling, and Recreation Industries;]~~

2411 ~~[(iii) 20% of the sales from each business under NAICS Code 722 Food Services and~~  
2412 ~~Drinking Places;]~~

2413 ~~[(iv) 18% of the sales from each business under NAICS Codes:]~~

2414 ~~[(A) 447 Gasoline Stations; and]~~

2415 [~~(B) 81293 Parking Lots and Garages;~~]

2416 [~~(v) 14% of the sales from each business under NAICS Code 8111 Automotive Repair~~  
2417 ~~and Maintenance; and]~~

2418 [~~(vi) 5% of the sales from each business under NAICS Codes;~~]

2419 [~~(A) 445 Food and Beverage Stores;~~]

2420 [~~(B) 446 Health and Personal Care Stores;~~]

2421 [~~(C) 448 Clothing and Clothing Accessories Stores;~~]

2422 [~~(D) 451 Sporting Goods, Hobby, Musical Instrument, and Book Stores;~~]

2423 [~~(E) 452 General Merchandise Stores; and]~~

2424 [~~(F) 453 Miscellaneous Store Retailers.]~~

2425 [~~(9)~~] (7) (a) For each fiscal year, the office shall allocate 20% of the funds appropriated  
2426 to the Tourism Marketing and Performance Account to the cooperative program described in  
2427 this Subsection [~~(9)~~] (7).

2428 (b) Money allocated to the cooperative program may be awarded to cities, counties,  
2429 nonprofit destination marketing organizations, and similar public entities for the purpose of  
2430 supplementing money committed by these entities for advertising and promoting sites and  
2431 events in the state.

2432 (c) The office shall establish:

2433 (i) an application and approval process for an entity to receive a cooperative program  
2434 award, including an application deadline;

2435 (ii) the criteria for awarding a cooperative program award, which shall emphasize  
2436 attracting out-of-state visitors, and may include attracting in-state visitors, to sites and events in  
2437 the state; and

2438 (iii) eligibility, advertising, timing, and reporting requirements of an entity that  
2439 receives a cooperative program award.

2440 (d) Money allocated to the cooperative program that is not used in each fiscal year shall  
2441 be returned to the Tourism Marketing Performance Account.

2442 Section 6. **Effective date.**

2443 This bill takes effect on July 1, 2022.