

**Representative Rosemary T. Lesser** proposes the following substitute bill:

**TAX AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel McCay**

House Sponsor: Casey Snider

6	Cosponsors:	Wayne A. Harper	Scott D. Sandall
7	J. Stuart Adams	David P. Hinkins	Jerry W. Stevenson
8	Jacob L. Anderegg	Don L. Ipson	Daniel W. Thatcher
9	Curtis S. Bramble	John D. Johnson	Evan J. Vickers
10	David G. Buxton	Michael S. Kennedy	Todd D. Weiler
11	Kirk A. Cullimore	Michael K. McKell	Chris H. Wilson
12	Lincoln Fillmore	Ann Millner	Ronald M. Winterton
13	Keith Grover	Derrin R. Owens	

---

---

**LONG TITLE**

**General Description:**

This bill modifies tax provisions.

**Highlighted Provisions:**

This bill:

- ▶ expands eligibility for the social security benefits tax credit by increasing the threshold for the income-based phaseout;
- ▶ enacts a state earned income tax credit and provides for apportionment of that credit;
- ▶ removes the state sales and use tax imposed on amounts paid or charged for food



25 and food ingredients;

26 ▶ excludes candy from the definition of food and food ingredients; and

27 ▶ makes technical and conforming changes.

28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 This bill provides a special effective date.

32 This bill provides retrospective operation.

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **11-41-102**, as last amended by Laws of Utah 2021, Chapter 367

36 **59-10-1002.2**, as last amended by Laws of Utah 2021, Chapters 68 and 428

37 **59-10-1042**, as enacted by Laws of Utah 2021, Chapter 428

38 **59-12-102**, as last amended by Laws of Utah 2021, Chapters 64, 367, 414 and last  
39 amended by Coordination Clause, Laws of Utah 2021, Chapter 367

40 **59-12-103**, as last amended by Laws of Utah 2021, Chapters 367, 387, and 411

41 **59-12-108**, as last amended by Laws of Utah 2020, Chapters 294 and 407

42 **63N-7-301**, as last amended by Laws of Utah 2020, Chapter 154

43 ENACTS:

44 **59-10-1044**, Utah Code Annotated 1953



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

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

48 **11-41-102. Definitions.**

49 As used in this chapter:

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

51 (a) (i) county; or

52 (ii) municipality; and

53 (b) person.

54 (2) "Municipality" means a:

55 (a) city;

- 56 (b) town; or
- 57 (c) metro township.
- 58 (3) "Payment" includes:
- 59 (a) a payment;
- 60 (b) a rebate;
- 61 (c) a refund; or
- 62 (d) an amount similar to Subsections (3)(a) through (c).
- 63 (4) "Regional retail business" means a:
- 64 (a) retail business that occupies a floor area of more than 80,000 square feet;
- 65 (b) dealer as defined in Section 41-1a-102;
- 66 (c) retail shopping facility that has at least two anchor tenants if the total number of
- 67 anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square
- 68 feet; or
- 69 (d) grocery store that occupies a floor area of more than 30,000 square feet.
- 70 (5) (a) "Sales and use tax" means a tax:
- 71 (i) imposed on transactions within a:
- 72 (A) county; or
- 73 (B) municipality; and
- 74 (ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12,
- 75 Sales and Use Tax Act.
- 76 (b) "Sales and use tax" does not include a tax authorized under:
- 77 (i) Subsection 59-12-103(2)(a)(i);
- 78 (ii) Subsection 59-12-103(2)(b)(i);
- 79 [~~(iii) Subsection 59-12-103(2)(c)(i);~~]
- 80 [~~(iv)~~] (iii) Subsection 59-12-103(2)(d);
- 81 [~~(v)~~] (iv) Subsection 59-12-103(2)(e)(i)(A);
- 82 [~~(vi)~~] (v) Section 59-12-301;
- 83 [~~(vii)~~] (vi) Section 59-12-352;
- 84 [~~(viii)~~] (vii) Section 59-12-353;
- 85 [~~(ix)~~] (viii) Section 59-12-603; or
- 86 [~~(x)~~] (ix) Section 59-12-1201.

- 87 (6) (a) "Sales and use tax incentive payment" means a payment of revenues:
- 88 (i) to a person;
- 89 (ii) by a:
- 90 (A) county; or
- 91 (B) municipality;
- 92 (iii) to induce the person to locate or relocate a regional retail business within the:
- 93 (A) county; or
- 94 (B) municipality; and
- 95 (iv) that are derived from a sales and use tax.
- 96 (b) "Sales and use tax incentive payment" does not include funding for public
- 97 infrastructure.

98 Section 2. Section **59-10-1002.2** is amended to read:

99 **59-10-1002.2. Apportionment of tax credits.**

- 100 (1) A nonresident individual or a part-year resident individual that claims a tax credit
- 101 in accordance with Section [59-10-1017](#), [59-10-1018](#), [59-10-1019](#), [59-10-1022](#), [59-10-1023](#),
- 102 [59-10-1024](#), [59-10-1028](#), [59-10-1042](#), [~~or~~] [59-10-1043](#), or [59-10-1044](#) may only claim an
- 103 apportioned amount of the tax credit equal to:
- 104 (a) for a nonresident individual, the product of:
- 105 (i) the state income tax percentage for the nonresident individual; and
- 106 (ii) the amount of the tax credit that the nonresident individual would have been
- 107 allowed to claim but for the apportionment requirements of this section; or
- 108 (b) for a part-year resident individual, the product of:
- 109 (i) the state income tax percentage for the part-year resident individual; and
- 110 (ii) the amount of the tax credit that the part-year resident individual would have been
- 111 allowed to claim but for the apportionment requirements of this section.
- 112 (2) A nonresident estate or trust that claims a tax credit in accordance with Section
- 113 [59-10-1017](#), [59-10-1020](#), [59-10-1022](#), [59-10-1024](#), or [59-10-1028](#) may only claim an
- 114 apportioned amount of the tax credit equal to the product of:
- 115 (a) the state income tax percentage for the nonresident estate or trust; and
- 116 (b) the amount of the tax credit that the nonresident estate or trust would have been
- 117 allowed to claim but for the apportionment requirements of this section.

118 Section 3. Section **59-10-1042** is amended to read:

119 **59-10-1042. Nonrefundable tax credit for social security benefits.**

120 (1) As used in this section:

121 (a) "Head of household filing status" means the same as that term is defined in Section

122 [59-10-1018](#).

123 (b) "Joint filing status" means the same as that term is defined in Section [59-10-1018](#).

124 (c) "Married filing separately status" means a married individual who:

125 (i) does not file a single federal individual income tax return jointly with that married

126 individual's spouse for the taxable year; and

127 (ii) files a single federal individual income tax return for the taxable year.

128 (d) "Modified adjusted gross income" means the sum of the following for a claimant

129 or, if the claimant's return under this chapter is allowed a joint filing status, the claimant and

130 the claimant's spouse:

131 (i) adjusted gross income for the taxable year for which a tax credit is claimed under

132 this section;

133 (ii) any interest income that is not included in adjusted gross income for the taxable

134 year described in Subsection (1)(d)(i); and

135 (iii) any addition to adjusted gross income required by Section [59-10-114](#) for the

136 taxable year described in Subsection (1)(d)(i).

137 (e) "Single filing status" means a single individual who files a single federal individual

138 income tax return for the taxable year.

139 (f) "Social security benefit" means an amount received by a claimant as a monthly

140 benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.

141 (2) Except as provided in Section [59-10-1002.2](#) and Subsections (3) and (4), each

142 claimant on a return that receives a social security benefit may claim a nonrefundable tax credit

143 against taxes otherwise due under this part equal to the product of:

144 (a) the percentage listed in Subsection [59-10-104\(2\)](#); and

145 (b) the claimant's social security benefit that is included in adjusted gross income on

146 the claimant's federal income tax return for the taxable year.

147 (3) (a) A claimant may not:

148 (i) carry forward or carry back the amount of a tax credit under this section that

149 exceeds the claimant's tax liability for the taxable year; or

150 (ii) claim a tax credit under this section and a tax credit under Section 59-10-1019.

151 (b) A claimant that qualifies for a tax credit under this section and a tax credit under  
152 Section 59-10-1019 may elect whether to claim a tax credit under this section or a tax credit  
153 under Section 59-10-1019.

154 (4) The tax credit allowed by Subsection (2) claimed on a return filed under this part  
155 shall be reduced by \$.025 for each dollar by which modified adjusted gross income for  
156 purposes of the return exceeds:

157 (a) for a federal individual income tax return that is allowed a married filing separately  
158 status, [~~\$25,000~~] \$31,000;

159 (b) for a federal individual income tax return that is allowed a single filing status,  
160 [~~\$30,000~~] \$37,000;

161 (c) for a federal individual income tax return that is allowed a head of household filing  
162 status, [~~\$50,000~~] \$62,000; or

163 (d) for a return under this chapter that is allowed a joint filing status, [~~\$50,000~~]  
164 \$62,000.

165 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
166 commission may make rules governing the calculation and method for claiming the tax credit  
167 described in this section.

168 Section 4. Section 59-10-1044 is enacted to read:

169 **59-10-1044. Nonrefundable earned income tax credit.**

170 (1) As used in this section:

171 (a) "Federal earned income tax credit" means the federal earned income tax credit  
172 described in Section 32, Internal Revenue Code.

173 (b) "Qualifying claimant" means a resident or nonresident individual who qualifies and  
174 claims the federal earned income tax credit for the current taxable year.

175 (2) Subject to Section 59-10-1002.2, a qualifying claimant may claim a nonrefundable  
176 earned income tax credit equal to 15% of the amount of the federal earned income tax credit  
177 that the qualifying claimant was entitled to claim on a federal income tax return for the current  
178 taxable year.

179 (3) A qualifying claimant may not carry forward or carry back the amount of the earned

180 income tax credit that exceeds the qualifying claimant's tax liability.

181 Section 5. Section **59-12-102** is amended to read:

182 **59-12-102. Definitions.**

183 As used in this chapter:

184 (1) "800 service" means a telecommunications service that:

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

186 (b) is typically marketed:

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

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

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

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

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

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

193 Federal Communications Commission.

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

195 (i) a subscriber purchases;

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

198 (A) prerecorded announcement; or

199 (B) live service; and

200 (iii) is typically marketed:

201 (A) under the name 900 service; or

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

203 Communications Commission.

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

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

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

208 (A) a product; or

209 (B) a service.

210 (3) (a) "Admission or user fees" includes season passes.

- 211 (b) "Admission or user fees" does not include:
- 212 (i) annual membership dues to private organizations; or
- 213 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
- 214 facility listed in Subsection 59-12-103(1)(f).
- 215 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
- 216 person:
- 217 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
- 218 person; or
- 219 (b) is related to the other person because a third person, or a group of third persons who
- 220 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
- 221 whether direct or indirect, in the related persons.
- 222 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 223 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 224 Agreement after November 12, 2002.
- 225 (6) "Agreement combined tax rate" means the sum of the tax rates:
- 226 (a) listed under Subsection (7); and
- 227 (b) that are imposed within a local taxing jurisdiction.
- 228 (7) "Agreement sales and use tax" means a tax imposed under:
- 229 (a) Subsection 59-12-103(2)(a)(i)(A);
- 230 (b) Subsection 59-12-103(2)(b)(i);
- 231 [~~(c)~~ Subsection 59-12-103(2)(c)(i);]
- 232 [~~(d)~~ (c) Subsection 59-12-103(2)(d);
- 233 [~~(e)~~ (d) Subsection 59-12-103(2)(e)(i)(A)(I);
- 234 [~~(f)~~ (e) Section 59-12-204;
- 235 [~~(g)~~ (f) Section 59-12-401;
- 236 [~~(h)~~ (g) Section 59-12-402;
- 237 [~~(i)~~ (h) Section 59-12-402.1;
- 238 [~~(j)~~ (i) Section 59-12-703;
- 239 [~~(k)~~ (j) Section 59-12-802;
- 240 [~~(l)~~ (k) Section 59-12-804;
- 241 [~~(m)~~ (l) Section 59-12-1102;



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

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

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

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

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

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

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

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

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

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

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

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

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

255 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.

256 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

257 (a) except for:

258 (i) an airline as defined in Section 59-2-102; or

259 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"

260 includes a corporation that is qualified to do business but is not otherwise doing business in the  
261 state, of an airline; and

262 (b) that has the workers, expertise, and facilities to perform the following, regardless of  
263 whether the business entity performs the following in this state:

264 (i) check, diagnose, overhaul, and repair:

265 (A) an onboard system of a fixed wing turbine powered aircraft; and

266 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

267 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft  
268 engine;

269 (iii) perform at least the following maintenance on a fixed wing turbine powered  
270 aircraft:

271 (A) an inspection;

272 (B) a repair, including a structural repair or modification;

- 273 (C) changing landing gear; and
- 274 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 275 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 276 completely apply new paint to the fixed wing turbine powered aircraft; and
- 277 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 278 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 279 authority that certifies the fixed wing turbine powered aircraft.
- 280 (10) "Alcoholic beverage" means a beverage that:
- 281 (a) is suitable for human consumption; and
- 282 (b) contains .5% or more alcohol by volume.
- 283 (11) "Alternative energy" means:
- 284 (a) biomass energy;
- 285 (b) geothermal energy;
- 286 (c) hydroelectric energy;
- 287 (d) solar energy;
- 288 (e) wind energy; or
- 289 (f) energy that is derived from:
- 290 (i) coal-to-liquids;
- 291 (ii) nuclear fuel;
- 292 (iii) oil-impregnated diatomaceous earth;
- 293 (iv) oil sands;
- 294 (v) oil shale;
- 295 (vi) petroleum coke; or
- 296 (vii) waste heat from:
- 297 (A) an industrial facility; or
- 298 (B) a power station in which an electric generator is driven through a process in which
- 299 water is heated, turns into steam, and spins a steam turbine.
- 300 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
- 301 facility" means a facility that:
- 302 (i) uses alternative energy to produce electricity; and
- 303 (ii) has a production capacity of two megawatts or greater.

304 (b) A facility is an alternative energy electricity production facility regardless of  
305 whether the facility is:

- 306 (i) connected to an electric grid; or
- 307 (ii) located on the premises of an electricity consumer.

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

310 (b) "Ancillary service" includes:

- 311 (i) a conference bridging service;
- 312 (ii) a detailed communications billing service;
- 313 (iii) directory assistance;
- 314 (iv) a vertical service; or
- 315 (v) a voice mail service.

316 (14) "Area agency on aging" means the same as that term is defined in Section  
317 [62A-3-101](#).

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

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

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

324 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or  
325 washing of tangible personal property if the cleaning or washing labor is primarily performed  
326 by an individual:

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

329 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
330 property.

331 (17) "Authorized carrier" means:

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

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

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

340 (18) (a) [~~Except as provided in Subsection (18)(b), "biomass]~~ "Biomass energy" means  
341 any of the following that is used as the primary source of energy to produce fuel or electricity:

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

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

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

345 (B) animal waste;

346 (C) waste vegetable oil;

347 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of  
348 wastewater residuals, or through the conversion of a waste material through a nonincineration,  
349 thermal conversion process;

350 (E) aquatic plants; and

351 (F) agricultural products.

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

353 (i) black liquor; or

354 (ii) treated woods.

355 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal  
356 property, products, or services if the tangible personal property, products, or services are:

357 (i) distinct and identifiable; and

358 (ii) sold for one nonitemized price.

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

360 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on  
361 the basis of the selection by the purchaser of the items of tangible personal property included in  
362 the transaction;

363 (ii) the sale of real property;

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

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

- 366 (A) the tangible personal property:
- 367 (I) is essential to the use of the service; and
- 368 (II) is provided exclusively in connection with the service; and
- 369 (B) the service is the true object of the transaction;
- 370 (v) the retail sale of two services if:
- 371 (A) one service is provided that is essential to the use or receipt of a second service;
- 372 (B) the first service is provided exclusively in connection with the second service; and
- 373 (C) the second service is the true object of the transaction;
- 374 (vi) a transaction that includes tangible personal property or a product subject to
- 375 taxation under this chapter and tangible personal property or a product that is not subject to
- 376 taxation under this chapter if the:
- 377 (A) seller's purchase price of the tangible personal property or product subject to
- 378 taxation under this chapter is de minimis; or
- 379 (B) seller's sales price of the tangible personal property or product subject to taxation
- 380 under this chapter is de minimis; and
- 381 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 382 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 383 (A) that retail sale includes:
- 384 (I) food and food ingredients;
- 385 (II) a drug;
- 386 (III) durable medical equipment;
- 387 (IV) mobility enhancing equipment;
- 388 (V) an over-the-counter drug;
- 389 (VI) a prosthetic device; or
- 390 (VII) a medical supply; and
- 391 (B) subject to Subsection (19)(f):
- 392 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 393 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 394 (II) the seller's sales price of the tangible personal property subject to taxation under
- 395 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 396 (c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a

397 service that is distinct and identifiable does not include:

398 (A) packaging that:

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

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

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

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

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

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

415 (A) a binding sales document; or

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

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

419 (A) a bill of sale;

420 (B) a contract;

421 (C) an invoice;

422 (D) a lease agreement;

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

424 (F) a price list;

425 (G) a rate card;

426 (H) a receipt; or

427 (I) a service agreement.

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

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

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

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

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

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

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

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

447 (20) (a) "Candy" means a preparation of sugar, honey, or other natural or artificial  
448 sweetener in combination with chocolate, fruit, nuts, or other ingredients or flavorings in the  
449 form of bars, drops, or pieces.

450 (b) "Candy" does not include a preparation that:

451 (i) contains flour; or

452 (ii) requires refrigeration.

453 ~~[(20)]~~ (21) "Certified automated system" means software certified by the governing  
454 board of the agreement that:

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

457 (i) on a transaction; and

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

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

461 (c) maintains a record of the transaction described in Subsection ~~[(20)]~~ (21)(a)(i).

462 ~~[(21)]~~ (22) "Certified service provider" means an agent certified:

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

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

468 ~~[(22)]~~ (23) (a) Subject to Subsection ~~[(22)]~~ (23)(b), "clothing" means all human  
469 wearing apparel suitable for general use.

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

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

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

475 ~~[(23)]~~ (24) "Coal-to-liquid" means the process of converting coal into a liquid synthetic  
476 fuel.

477 ~~[(24)]~~ (25) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or  
478 other fuels that does not constitute industrial use under Subsection ~~[(57)]~~ (58) or residential use  
479 under Subsection ~~[(112)]~~ (113).

480 ~~[(25)]~~ (26) (a) "Common carrier" means a person engaged in or transacting the  
481 business of transporting passengers, freight, merchandise, or other property for hire within this  
482 state.

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

486 (ii) For purposes of Subsection ~~[(25)]~~ (26)(b)(i), in accordance with Title 63G, Chapter  
487 3, Utah Administrative Rulemaking Act, the commission may make rules defining what  
488 constitutes a person's place of employment.

489 (c) "Common carrier" does not include a person that provides transportation network



490 services, as defined in Section [13-51-102](#).

491 ~~[(26)]~~ [\(27\)](#) "Component part" includes:

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

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

494 (c) fuel used for providing temperature control of orchards and commercial

495 greenhouses doing a majority of their business in wholesale sales, and for providing power for

496 off-highway type farm machinery; and

497 (d) feed, seeds, and seedlings.

498 ~~[(27)]~~ [\(28\)](#) "Computer" means an electronic device that accepts information:

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

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

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

502 ~~[(28)]~~ [\(29\)](#) "Computer software" means a set of coded instructions designed to cause:

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

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

505 ~~[(29)]~~ [\(30\)](#) "Computer software maintenance contract" means a contract that obligates a  
506 seller of computer software to provide a customer with:

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

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

509 (c) a combination of Subsections ~~[(29)]~~ [\(30\)](#)(a) and (b).

510 ~~[(30)]~~ [\(31\)](#) (a) "Conference bridging service" means an ancillary service that links two  
511 or more participants of an audio conference call or video conference call.

512 (b) "Conference bridging service" may include providing a telephone number as part of  
513 the ancillary service described in Subsection ~~[(30)]~~ [\(31\)](#)(a).

514 (c) "Conference bridging service" does not include a telecommunications service used  
515 to reach the ancillary service described in Subsection ~~[(30)]~~ [\(31\)](#)(a).

516 ~~[(31)]~~ [\(32\)](#) "Construction materials" means any tangible personal property that will be  
517 converted into real property.

518 ~~[(32)]~~ [\(33\)](#) "Delivered electronically" means delivered to a purchaser by means other  
519 than tangible storage media.

520 ~~[(33)]~~ [\(34\)](#) (a) "Delivery charge" means a charge:

521 (i) by a seller of:  
522 (A) tangible personal property;  
523 (B) a product transferred electronically; or  
524 (C) a service; and  
525 (ii) for preparation and delivery of the tangible personal property, product transferred  
526 electronically, or services described in Subsection [~~(33)~~] (34)(a)(i) to a location designated by  
527 the purchaser.

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

- 529 (i) transportation;
- 530 (ii) shipping;
- 531 (iii) postage;
- 532 (iv) handling;
- 533 (v) crating; or
- 534 (vi) packing.

535 [~~(34)~~] (35) "Detailed telecommunications billing service" means an ancillary service of  
536 separately stating information pertaining to individual calls on a customer's billing statement.

537 [~~(35)~~] (36) "Dietary supplement" means a product, other than tobacco, that:

- 538 (a) is intended to supplement the diet;
- 539 (b) contains one or more of the following dietary ingredients:
  - 540 (i) a vitamin;
  - 541 (ii) a mineral;
  - 542 (iii) an herb or other botanical;
  - 543 (iv) an amino acid;
  - 544 (v) a dietary substance for use by humans to supplement the diet by increasing the total  
545 dietary intake; or
  - 546 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient  
547 described in Subsections [~~(35)~~] (36)(b)(i) through (v);

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

- 549 (A) tablet form;
- 550 (B) capsule form;
- 551 (C) powder form;

- 552 (D) softgel form;
- 553 (E) gelcap form; or
- 554 (F) liquid form; or
- 555 (ii) if the product is not intended for ingestion in a form described in Subsections [~~(35)~~
- 556 (36)(c)(i)(A) through (F), is not represented:
- 557 (A) as conventional food; and
- 558 (B) for use as a sole item of:
- 559 (I) a meal; or
- 560 (II) the diet; and
- 561 (d) is required to be labeled as a dietary supplement:
- 562 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 563 (ii) as required by 21 C.F.R. Sec. 101.36.
- 564 [~~(36)~~] (37) (a) "Digital audio work" means a work that results from the fixation of a
- 565 series of musical, spoken, or other sounds.
- 566 (b) "Digital audio work" includes a ringtone.
- 567 [~~(37)~~] (38) "Digital audio-visual work" means a series of related images which, when
- 568 shown in succession, imparts an impression of motion, together with accompanying sounds, if
- 569 any.
- 570 [~~(38)~~] (39) "Digital book" means a work that is generally recognized in the ordinary
- 571 and usual sense as a book.
- 572 [~~(39)~~] (40) (a) "Direct mail" means printed material delivered or distributed by United
- 573 States mail or other delivery service:
- 574 (i) to:
- 575 (A) a mass audience; or
- 576 (B) addressees on a mailing list provided:
- 577 (I) by a purchaser of the mailing list; or
- 578 (II) at the discretion of the purchaser of the mailing list; and
- 579 (ii) if the cost of the printed material is not billed directly to the recipients.
- 580 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 581 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 582 (c) "Direct mail" does not include multiple items of printed material delivered to a

583 single address.

584 ~~[(40)]~~ (41) "Directory assistance" means an ancillary service of providing:

585 (a) address information; or

586 (b) telephone number information.

587 ~~[(41)]~~ (42) (a) "Disposable home medical equipment or supplies" means medical  
588 equipment or supplies that:

589 (i) cannot withstand repeated use; and

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

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

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

593 (C) an office of a health care provider described in Subsection ~~[(41)]~~ (42)(a)(ii)(B); or

594 (D) a person similar to a person described in Subsections ~~[(41)]~~ (42)(a)(ii)(A) through

595 (C).

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

597 (i) a drug;

598 (ii) durable medical equipment;

599 (iii) a hearing aid;

600 (iv) a hearing aid accessory;

601 (v) mobility enhancing equipment; or

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

603 (A) eyeglasses; or

604 (B) contact lenses.

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

607 ~~[(42)]~~ (43) "Drilling equipment manufacturer" means a facility:

608 (a) located in the state;

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

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

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

614 manufacturing process.

615 ~~[(43)]~~ (44) (a) "Drug" means a compound, substance, or preparation, or a component of  
616 a compound, substance, or preparation that is:

617 (i) recognized in:

618 (A) the official United States Pharmacopoeia;

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

620 (C) the official National Formulary; or

621 (D) a supplement to a publication listed in Subsections ~~[(43)]~~ (44)(a)(i)(A) through

622 (C);

623 (ii) intended for use in the:

624 (A) diagnosis of disease;

625 (B) cure of disease;

626 (C) mitigation of disease;

627 (D) treatment of disease; or

628 (E) prevention of disease; or

629 (iii) intended to affect:

630 (A) the structure of the body; or

631 (B) any function of the body.

632 (b) "Drug" does not include:

633 (i) food and food ingredients;

634 (ii) a dietary supplement;

635 (iii) an alcoholic beverage; or

636 (iv) a prosthetic device.

637 ~~[(44)]~~ (45) (a) ~~[Except as provided in Subsection (44)(c), "durable"]~~ "Durable medical  
638 equipment" means equipment that:

639 (i) can withstand repeated use;

640 (ii) is primarily and customarily used to serve a medical purpose;

641 (iii) generally is not useful to a person in the absence of illness or injury; and

642 (iv) is not worn in or on the body.

643 (b) "Durable medical equipment" includes parts used in the repair or replacement of the  
644 equipment described in Subsection ~~[(44)]~~ (45)(a).

645 (c) "Durable medical equipment" does not include mobility enhancing equipment.

646 [~~(45)~~] (46) "Electronic" means:

647 (a) relating to technology; and

648 (b) having:

649 (i) electrical capabilities;

650 (ii) digital capabilities;

651 (iii) magnetic capabilities;

652 (iv) wireless capabilities;

653 (v) optical capabilities;

654 (vi) electromagnetic capabilities; or

655 (vii) capabilities similar to Subsections [~~(45)~~] (46)(b)(i) through (vi).

656 [~~(46)~~] (47) "Electronic financial payment service" means an establishment:

657 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and

658 Clearinghouse Activities, of the 2012 North American Industry Classification System of the

659 federal Executive Office of the President, Office of Management and Budget; and

660 (b) that performs electronic financial payment services.

661 [~~(47)~~] (48) "Employee" means the same as that term is defined in Section 59-10-401.

662 [~~(48)~~] (49) "Fixed guideway" means a public transit facility that uses and occupies:

663 (a) rail for the use of public transit; or

664 (b) a separate right-of-way for the use of public transit.

665 [~~(49)~~] (50) "Fixed wing turbine powered aircraft" means an aircraft that:

666 (a) is powered by turbine engines;

667 (b) operates on jet fuel; and

668 (c) has wings that are permanently attached to the fuselage of the aircraft.

669 [~~(50)~~] (51) "Fixed wireless service" means a telecommunications service that provides

670 radio communication between fixed points.

671 [~~(51)~~] (52) (a) "Food and food ingredients" means substances:

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

673 (A) liquid form;

674 (B) concentrated form;

675 (C) solid form;

- 676 (D) frozen form;
- 677 (E) dried form; or
- 678 (F) dehydrated form; and
- 679 (ii) that are:
- 680 (A) sold for:
- 681 (I) ingestion by humans; or
- 682 (II) chewing by humans; and
- 683 (B) consumed for the substance's:
- 684 (I) taste; or
- 685 (II) nutritional value.
- 686 (b) "Food and food ingredients" includes an item described in Subsection [~~(96)~~
- 687 (97)(b)(iii).
- 688 (c) "Food and food ingredients" does not include:
- 689 (i) an alcoholic beverage;
- 690 (ii) tobacco; [~~or~~]
- 691 (iii) prepared food[~~;~~]; or
- 692 (iv) candy.
- 693 [~~(52)~~] (53) (a) "Fundraising sales" means sales:
- 694 (i) (A) made by a school; or
- 695 (B) made by a school student;
- 696 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 697 materials, or provide transportation; and
- 698 (iii) that are part of an officially sanctioned school activity.
- 699 (b) For purposes of Subsection [~~(52)~~] (53)(a)(iii), "officially sanctioned school activity"
- 700 means a school activity:
- 701 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 702 district governing the authorization and supervision of fundraising activities;
- 703 (ii) that does not directly or indirectly compensate an individual teacher or other
- 704 educational personnel by direct payment, commissions, or payment in kind; and
- 705 (iii) the net or gross revenues from which are deposited in a dedicated account
- 706 controlled by the school or school district.

707 [~~(53)~~] (54) "Geothermal energy" means energy contained in heat that continuously  
708 flows outward from the earth that is used as the sole source of energy to produce electricity.

709 [~~(54)~~] (55) "Governing board of the agreement" means the governing board of the  
710 agreement that is:

- 711 (a) authorized to administer the agreement; and
- 712 (b) established in accordance with the agreement.

713 [~~(55)~~] (56) (a) For purposes of Subsection 59-12-104(41), "governmental entity"  
714 means:

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

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

719 (iii) the legislative branch of the state, including the House of Representatives, the  
720 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
721 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
722 Analyst;

723 (iv) the National Guard;

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

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

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

728 (i) a school;

729 (ii) the State Board of Education;

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

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

732 [~~(56)~~] (57) "Hydroelectric energy" means water used as the sole source of energy to  
733 produce electricity.

734 [~~(57)~~] (58) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,  
735 or other fuels:

736 (a) in mining or extraction of minerals;

737 (b) in agricultural operations to produce an agricultural product up to the time of



738 harvest or placing the agricultural product into a storage facility, including:  
739 (i) commercial greenhouses;  
740 (ii) irrigation pumps;  
741 (iii) farm machinery;  
742 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered  
743 under Title 41, Chapter 1a, Part 2, Registration; and  
744 (v) other farming activities;  
745 (c) in manufacturing tangible personal property at an establishment described in:  
746 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
747 the federal Executive Office of the President, Office of Management and Budget; or  
748 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
749 American Industry Classification System of the federal Executive Office of the President,  
750 Office of Management and Budget;  
751 (d) by a scrap recycler if:  
752 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
753 one or more of the following items into prepared grades of processed materials for use in new  
754 products:  
755 (A) iron;  
756 (B) steel;  
757 (C) nonferrous metal;  
758 (D) paper;  
759 (E) glass;  
760 (F) plastic;  
761 (G) textile; or  
762 (H) rubber; and  
763 (ii) the new products under Subsection [(57)] (58)(d)(i) would otherwise be made with  
764 nonrecycled materials; or  
765 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a  
766 cogeneration facility as defined in Section 54-2-1.  
767 [(58)] (59) (a) [Except as provided in Subsection (58)(b), "installation] "Installation  
768 charge" means a charge for installing:

- 769 (i) tangible personal property; or
- 770 (ii) a product transferred electronically.
- 771 (b) "Installation charge" does not include a charge for:
- 772 (i) repairs or renovations of:
- 773 (A) tangible personal property; or
- 774 (B) a product transferred electronically; or
- 775 (ii) attaching tangible personal property or a product transferred electronically:
- 776 (A) to other tangible personal property; and
- 777 (B) as part of a manufacturing or fabrication process.
- 778 [~~59~~] (60) "Institution of higher education" means an institution of higher education
- 779 listed in Section [53B-2-101](#).
- 780 [~~60~~] (61) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 781 personal property or a product transferred electronically for:
- 782 (i) (A) a fixed term; or
- 783 (B) an indeterminate term; and
- 784 (ii) consideration.
- 785 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 786 amount of consideration may be increased or decreased by reference to the amount realized
- 787 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 788 Code.
- 789 (c) "Lease" or "rental" does not include:
- 790 (i) a transfer of possession or control of property under a security agreement or
- 791 deferred payment plan that requires the transfer of title upon completion of the required
- 792 payments;
- 793 (ii) a transfer of possession or control of property under an agreement that requires the
- 794 transfer of title:
- 795 (A) upon completion of required payments; and
- 796 (B) if the payment of an option price does not exceed the greater of:
- 797 (I) \$100; or
- 798 (II) 1% of the total required payments; or
- 799 (iii) providing tangible personal property along with an operator for a fixed period of

800 time or an indeterminate period of time if the operator is necessary for equipment to perform as  
801 designed.

802 (d) For purposes of Subsection [~~(60)~~] (61)(c)(iii), an operator is necessary for  
803 equipment to perform as designed if the operator's duties exceed the:

- 804 (i) set-up of tangible personal property;
- 805 (ii) maintenance of tangible personal property; or
- 806 (iii) inspection of tangible personal property.

807 [~~(61)~~] (62) "Lesson" means a fixed period of time for the duration of which a trained  
808 instructor:

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

811 [~~(62)~~] (63) "Life science establishment" means an establishment in this state that is  
812 classified under the following NAICS codes of the 2007 North American Industry  
813 Classification System of the federal Executive Office of the President, Office of Management  
814 and Budget:

- 815 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 816 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus  
817 Manufacturing; or
- 818 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

819 [~~(63)~~] (64) "Life science research and development facility" means a facility owned,  
820 leased, or rented by a life science establishment if research and development is performed in  
821 51% or more of the total area of the facility.

822 [~~(64)~~] (65) "Load and leave" means delivery to a purchaser by use of a tangible storage  
823 media if the tangible storage media is not physically transferred to the purchaser.

824 [~~(65)~~] (66) "Local taxing jurisdiction" means a:

- 825 (a) county that is authorized to impose an agreement sales and use tax;
- 826 (b) city that is authorized to impose an agreement sales and use tax; or
- 827 (c) town that is authorized to impose an agreement sales and use tax.

828 [~~(66)~~] (67) "Manufactured home" means the same as that term is defined in Section  
829 [15A-1-302](#).

830 [~~(67)~~] (68) "Manufacturing facility" means:

831 (a) an establishment described in:

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

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

837 (b) a scrap recycler if:

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

841 (A) iron;

842 (B) steel;

843 (C) nonferrous metal;

844 (D) paper;

845 (E) glass;

846 (F) plastic;

847 (G) textile; or

848 (H) rubber; and

849 (ii) the new products under Subsection ~~[(67)]~~ (68)(b)(i) would otherwise be made with  
850 nonrecycled materials; or

851 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is  
852 placed in service on or after May 1, 2006.

853 ~~[(68)]~~ (69) (a) "Marketplace" means a physical or electronic place, platform, or forum  
854 where tangible personal property, a product transferred electronically, or a service is offered for  
855 sale.

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

858 ~~[(69)]~~ (70) (a) "Marketplace facilitator" means a person, including an affiliate of the  
859 person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to  
860 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or  
861 controls and that directly or indirectly:

862 (i) does any of the following:

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

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

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

874 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible  
875 personal property, a product transferred electronically, or a service, regardless of ownership or  
876 control of the tangible personal property, the product transferred electronically, or the service  
877 that is the subject of the retail sale;

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

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

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

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

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

889 (ii) does any of the following:

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

892 (B) provides payment processing services for a retail sale of tangible personal property,

893 a product transferred electronically, or a service;

894 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing  
895 fee, a fee for inserting or making available tangible personal property, a product transferred  
896 electronically, or a service on the person's marketplace, or other consideration for the  
897 facilitation of a retail sale of tangible personal property, a product transferred electronically, or  
898 a service, regardless of ownership or control of the tangible personal property, the product  
899 transferred electronically, or the service that is the subject of the retail sale;

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

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

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

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

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

911 [~~(70)~~] (71) "Marketplace seller" means a seller that makes one or more retail sales  
912 through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of  
913 whether the seller is required to be registered to collect and remit the tax under this part.

914 [~~(71)~~] (72) "Member of the immediate family of the producer" means a person who is  
915 related to a producer described in Subsection 59-12-104(20)(a) as a:

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

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

918 (ii) a foster child or foster stepchild;

919 (b) grandchild or stepgrandchild;

920 (c) grandparent or stepgrandparent;

921 (d) nephew or stepnephew;

922 (e) niece or stepniece;

923 (f) parent or stepparent;

- 924 (g) sibling or stepsibling;
- 925 (h) spouse;
- 926 (i) person who is the spouse of a person described in Subsections ~~[(71)]~~ (72)(a) through
- 927 (g); or
- 928 (j) person similar to a person described in Subsections ~~[(71)]~~ (72)(a) through (i) as
- 929 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 930 Administrative Rulemaking Act.
- 931 ~~[(72)]~~ (73) "Mobile home" means the same as that term is defined in Section
- 932 [15A-1-302](#).
- 933 ~~[(73)]~~ (74) "Mobile telecommunications service" means the same as that term is
- 934 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 935 ~~[(74)]~~ (75) (a) "Mobile wireless service" means a telecommunications service,
- 936 regardless of the technology used, if:
- 937 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 938 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 939 (iii) the origination point described in Subsection ~~[(74)]~~ (75)(a)(i) and the termination
- 940 point described in Subsection ~~[(74)]~~ (75)(a)(ii) are not fixed.
- 941 (b) "Mobile wireless service" includes a telecommunications service that is provided
- 942 by a commercial mobile radio service provider.
- 943 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 944 commission may by rule define "commercial mobile radio service provider."
- 945 ~~[(75)]~~ (76) (a) ~~[Except as provided in Subsection (75)(c), "mobility]~~ "Mobility
- 946 enhancing equipment" means equipment that is:
- 947 (i) primarily and customarily used to provide or increase the ability to move from one
- 948 place to another;
- 949 (ii) appropriate for use in a:
- 950 (A) home; or
- 951 (B) motor vehicle; and
- 952 (iii) not generally used by persons with normal mobility.
- 953 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
- 954 the equipment described in Subsection ~~[(75)]~~ (76)(a).

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

956 (i) a motor vehicle;

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

959 (iii) durable medical equipment; or

960 (iv) a prosthetic device.

961 ~~[(76)]~~ (77) "Model 1 seller" means a seller registered under the agreement that has  
962 selected a certified service provider as the seller's agent to perform the seller's sales and use tax  
963 functions for agreement sales and use taxes, as outlined in the contract between the governing  
964 board of the agreement and the certified service provider, other than the seller's obligation  
965 under Section [59-12-124](#) to remit a tax on the seller's own purchases.

966 ~~[(77)]~~ (78) "Model 2 seller" means a seller registered under the agreement that:

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

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

970 (i) collected by the seller; and

971 (ii) to the appropriate local taxing jurisdiction.

972 ~~[(78)]~~ (79) (a) Subject to Subsection ~~[(78)]~~ (79)(b), "model 3 seller" means a seller  
973 registered under the agreement that has:

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

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

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

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

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

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

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

982 ~~[(79)]~~ (80) "Model 4 seller" means a seller that is registered under the agreement and is  
983 not a model 1 seller, model 2 seller, or model 3 seller.

984 ~~[(80)]~~ (81) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

985 ~~[(81)]~~ (82) "Motor vehicle" means the same as that term is defined in Section



986 41-1a-102.

987 [~~(82)~~] (83) "Oil sands" means impregnated bituminous sands that:

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

990 (b) yield mixtures of liquid hydrocarbon; and

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

993 [~~(83)~~] (84) "Oil shale" means a group of fine black to dark brown shales containing  
994 kerogen material that yields petroleum upon heating and distillation.

995 [~~(84)~~] (85) "Optional computer software maintenance contract" means a computer  
996 software maintenance contract that a customer is not obligated to purchase as a condition to the  
997 retail sale of computer software.

998 [~~(85)~~] (86) (a) "Other fuels" means products that burn independently to produce heat or  
999 energy.

1000 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
1001 personal property.

1002 [~~(86)~~] (87) (a) "Paging service" means a telecommunications service that provides  
1003 transmission of a coded radio signal for the purpose of activating a specific pager.

1004 (b) For purposes of Subsection [~~(86)~~] (87)(a), the transmission of a coded radio signal  
1005 includes a transmission by message or sound.

1006 [~~(87)~~] (88) "Pawn transaction" means the same as that term is defined in Section  
1007 13-32a-102.

1008 [~~(88)~~] (89) "Pawnbroker" means the same as that term is defined in Section  
1009 13-32a-102.

1010 [~~(89)~~] (90) (a) "Permanently attached to real property" means that for tangible personal  
1011 property attached to real property:

1012 (i) the attachment of the tangible personal property to the real property:

1013 (A) is essential to the use of the tangible personal property; and

1014 (B) suggests that the tangible personal property will remain attached to the real  
1015 property in the same place over the useful life of the tangible personal property; or

1016 (ii) if the tangible personal property is detached from the real property, the detachment

1017 would:

1018 (A) cause substantial damage to the tangible personal property; or

1019 (B) require substantial alteration or repair of the real property to which the tangible  
1020 personal property is attached.

1021 (b) "Permanently attached to real property" includes:

1022 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1023 (A) essential to the operation of the tangible personal property; and

1024 (B) attached only to facilitate the operation of the tangible personal property;

1025 (ii) a temporary detachment of tangible personal property from real property for a  
1026 repair or renovation if the repair or renovation is performed where the tangible personal

1027 property and real property are located; or

1028 (iii) property attached to oil, gas, or water pipelines, except for the property listed in

1029 Subsection [~~(89)~~] (90)(c)(iii) or (iv).

1030 (c) "Permanently attached to real property" does not include:

1031 (i) the attachment of portable or movable tangible personal property to real property if  
1032 that portable or movable tangible personal property is attached to real property only for:

1033 (A) convenience;

1034 (B) stability; or

1035 (C) for an obvious temporary purpose;

1036 (ii) the detachment of tangible personal property from real property except for the  
1037 detachment described in Subsection [~~(89)~~] (90)(b)(ii);

1038 (iii) an attachment of the following tangible personal property to real property if the  
1039 attachment to real property is only through a line that supplies water, electricity, gas,  
1040 telecommunications, cable, or supplies a similar item as determined by the commission by rule  
1041 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

1042 (A) a computer;

1043 (B) a telephone;

1044 (C) a television; or

1045 (D) tangible personal property similar to Subsections [~~(89)~~] (90)(c)(iii)(A) through (C)  
1046 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
1047 Administrative Rulemaking Act; or

1048 (iv) an item listed in Subsection [~~(130)~~] (131)(c).

1049 [~~(90)~~] (91) "Person" includes any individual, firm, partnership, joint venture,  
1050 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,  
1051 city, municipality, district, or other local governmental entity of the state, or any group or  
1052 combination acting as a unit.

1053 [~~(91)~~] (92) "Place of primary use":

1054 (a) for telecommunications service other than mobile telecommunications service,  
1055 means the street address representative of where the customer's use of the telecommunications  
1056 service primarily occurs, which shall be:

1057 (i) the residential street address of the customer; or

1058 (ii) the primary business street address of the customer; or

1059 (b) for mobile telecommunications service, means the same as that term is defined in  
1060 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1061 [~~(92)~~] (93) (a) "Postpaid calling service" means a telecommunications service a person  
1062 obtains by making a payment on a call-by-call basis:

1063 (i) through the use of a:

1064 (A) bank card;

1065 (B) credit card;

1066 (C) debit card; or

1067 (D) travel card; or

1068 (ii) by a charge made to a telephone number that is not associated with the origination  
1069 or termination of the telecommunications service.

1070 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
1071 service, that would be a prepaid wireless calling service if the service were exclusively a  
1072 telecommunications service.

1073 [~~(93)~~] (94) "Postproduction" means an activity related to the finishing or duplication of  
1074 a medium described in Subsection 59-12-104(54)(a).

1075 [~~(94)~~] (95) "Prepaid calling service" means a telecommunications service:

1076 (a) that allows a purchaser access to telecommunications service that is exclusively  
1077 telecommunications service;

1078 (b) that:

- 1079 (i) is paid for in advance; and
- 1080 (ii) enables the origination of a call using an:
  - 1081 (A) access number; or
  - 1082 (B) authorization code;
  - 1083 (c) that is dialed:
    - 1084 (i) manually; or
    - 1085 (ii) electronically; and
  - 1086 (d) sold in predetermined units or dollars that decline:
    - 1087 (i) by a known amount; and
    - 1088 (ii) with use.
- 1089 [~~95~~] (96) "Prepaid wireless calling service" means a telecommunications service:
  - 1090 (a) that provides the right to utilize:
    - 1091 (i) mobile wireless service; and
    - 1092 (ii) other service that is not a telecommunications service, including:
      - 1093 (A) the download of a product transferred electronically;
      - 1094 (B) a content service; or
      - 1095 (C) an ancillary service;
    - 1096 (b) that:
      - 1097 (i) is paid for in advance; and
      - 1098 (ii) enables the origination of a call using an:
        - 1099 (A) access number; or
        - 1100 (B) authorization code;
        - 1101 (c) that is dialed:
          - 1102 (i) manually; or
          - 1103 (ii) electronically; and
        - 1104 (d) sold in predetermined units or dollars that decline:
          - 1105 (i) by a known amount; and
          - 1106 (ii) with use.
  - 1107 [~~96~~] (97) (a) "Prepared food" means:
    - 1108 (i) food:
      - 1109 (A) sold in a heated state; or

- 1110 (B) heated by a seller;
- 1111 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 1112 item; or
- 1113 (iii) except as provided in Subsection [~~96~~] (97)(c), food sold with an eating utensil
- 1114 provided by the seller, including a:
  - 1115 (A) plate;
  - 1116 (B) knife;
  - 1117 (C) fork;
  - 1118 (D) spoon;
  - 1119 (E) glass;
  - 1120 (F) cup;
  - 1121 (G) napkin; or
  - 1122 (H) straw.
- 1123 (b) "Prepared food" does not include:
  - 1124 (i) food that a seller only:
    - 1125 (A) cuts;
    - 1126 (B) repackages; or
    - 1127 (C) pasteurizes; or
  - 1128 (ii) (A) the following:
    - 1129 (I) raw egg;
    - 1130 (II) raw fish;
    - 1131 (III) raw meat;
    - 1132 (IV) raw poultry; or
    - 1133 (V) a food containing an item described in Subsections [~~96~~] (97)(b)(ii)(A)(I) through
    - 1134 (IV); and
    - 1135 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
    - 1136 Food and Drug Administration's Food Code that a consumer cook the items described in
    - 1137 Subsection [~~96~~] (97)(b)(ii)(A) to prevent food borne illness; or
    - 1138 (iii) the following if sold without eating utensils provided by the seller:
      - 1139 (A) food and food ingredients sold by a seller if the seller's proper primary
      - 1140 classification under the 2002 North American Industry Classification System of the federal

1141 Executive Office of the President, Office of Management and Budget, is manufacturing in  
1142 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla  
1143 Manufacturing;

1144 (B) food and food ingredients sold in an unheated state:

1145 (I) by weight or volume; and

1146 (II) as a single item; or

1147 (C) a bakery item, including:

1148 (I) a bagel;

1149 (II) a bar;

1150 (III) a biscuit;

1151 (IV) bread;

1152 (V) a bun;

1153 (VI) a cake;

1154 (VII) a cookie;

1155 (VIII) a croissant;

1156 (IX) a danish;

1157 (X) a donut;

1158 (XI) a muffin;

1159 (XII) a pastry;

1160 (XIII) a pie;

1161 (XIV) a roll;

1162 (XV) a tart;

1163 (XVI) a torte; or

1164 (XVII) a tortilla.

1165 (c) An eating utensil provided by the seller does not include the following used to  
1166 transport the food:

1167 (i) a container; or

1168 (ii) packaging.

1169 [(97)] (98) "Prescription" means an order, formula, or recipe that is issued:

1170 (a) (i) orally;

1171 (ii) in writing;

- 1172 (iii) electronically; or
- 1173 (iv) by any other manner of transmission; and
- 1174 (b) by a licensed practitioner authorized by the laws of a state.
- 1175 ~~[(98)]~~ (99) (a) Except as provided in Subsection ~~[(98)]~~ (99)(b)(ii) or (iii), "prewritten
- 1176 computer software" means computer software that is not designed and developed:
- 1177 (i) by the author or other creator of the computer software; and
- 1178 (ii) to the specifications of a specific purchaser.
- 1179 (b) "Prewritten computer software" includes:
- 1180 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 1181 software is not designed and developed:
- 1182 (A) by the author or other creator of the computer software; and
- 1183 (B) to the specifications of a specific purchaser;
- 1184 (ii) computer software designed and developed by the author or other creator of the
- 1185 computer software to the specifications of a specific purchaser if the computer software is sold
- 1186 to a person other than the purchaser; or
- 1187 (iii) except as provided in Subsection ~~[(98)]~~ (99)(c), prewritten computer software or a
- 1188 prewritten portion of prewritten computer software:
- 1189 (A) that is modified or enhanced to any degree; and
- 1190 (B) if the modification or enhancement described in Subsection ~~[(98)]~~ (99)(b)(iii)(A) is
- 1191 designed and developed to the specifications of a specific purchaser.
- 1192 (c) "Prewritten computer software" does not include a modification or enhancement
- 1193 described in Subsection ~~[(98)]~~ (99)(b)(iii) if the charges for the modification or enhancement
- 1194 are:
- 1195 (i) reasonable; and
- 1196 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the
- 1197 invoice or other statement of price provided to the purchaser at the time of sale or later, as
- 1198 demonstrated by:
- 1199 (A) the books and records the seller keeps at the time of the transaction in the regular
- 1200 course of business, including books and records the seller keeps at the time of the transaction in
- 1201 the regular course of business for nontax purposes;
- 1202 (B) a preponderance of the facts and circumstances at the time of the transaction; and

1203 (C) the understanding of all of the parties to the transaction.

1204 [~~(99)~~] (100) (a) "Private communications service" means a telecommunications  
1205 service:

1206 (i) that entitles a customer to exclusive or priority use of one or more communications  
1207 channels between or among termination points; and

1208 (ii) regardless of the manner in which the one or more communications channels are  
1209 connected.

1210 (b) "Private communications service" includes the following provided in connection  
1211 with the use of one or more communications channels:

1212 (i) an extension line;

1213 (ii) a station;

1214 (iii) switching capacity; or

1215 (iv) another associated service that is provided in connection with the use of one or  
1216 more communications channels as defined in Section 59-12-215.

1217 [~~(100)~~] (101) (a) [~~Except as provided in Subsection (100)(b), "product]~~ "Product  
1218 transferred electronically" means a product transferred electronically that would be subject to a  
1219 tax under this chapter if that product was transferred in a manner other than electronically.

1220 (b) "Product transferred electronically" does not include:

1221 (i) an ancillary service;

1222 (ii) computer software; or

1223 (iii) a telecommunications service.

1224 [~~(101)~~] (102) (a) "Prosthetic device" means a device that is worn on or in the body to:

1225 (i) artificially replace a missing portion of the body;

1226 (ii) prevent or correct a physical deformity or physical malfunction; or

1227 (iii) support a weak or deformed portion of the body.

1228 (b) "Prosthetic device" includes:

1229 (i) parts used in the repairs or renovation of a prosthetic device;

1230 (ii) replacement parts for a prosthetic device;

1231 (iii) a dental prosthesis; or

1232 (iv) a hearing aid.

1233 (c) "Prosthetic device" does not include:



- 1234 (i) corrective eyeglasses; or  
1235 (ii) contact lenses.  
1236 [~~(102)~~] (103) (a) "Protective equipment" means an item:  
1237 (i) for human wear; and  
1238 (ii) that is:  
1239 (A) designed as protection:  
1240 (I) to the wearer against injury or disease; or  
1241 (II) against damage or injury of other persons or property; and  
1242 (B) not suitable for general use.  
1243 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1244 commission shall make rules:  
1245 (i) listing the items that constitute "protective equipment"; and  
1246 (ii) that are consistent with the list of items that constitute "protective equipment"  
1247 under the agreement.  
1248 [~~(103)~~] (104) (a) For purposes of Subsection 59-12-104(41), "publication" means any  
1249 written or printed matter, other than a photocopy:  
1250 (i) regardless of:  
1251 (A) characteristics;  
1252 (B) copyright;  
1253 (C) form;  
1254 (D) format;  
1255 (E) method of reproduction; or  
1256 (F) source; and  
1257 (ii) made available in printed or electronic format.  
1258 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1259 commission may by rule define the term "photocopy."  
1260 [~~(104)~~] (105) (a) "Purchase price" and "sales price" mean the total amount of  
1261 consideration:  
1262 (i) valued in money; and  
1263 (ii) for which tangible personal property, a product transferred electronically, or  
1264 services are:

- 1265 (A) sold;
- 1266 (B) leased; or
- 1267 (C) rented.
- 1268 (b) "Purchase price" and "sales price" include:
- 1269 (i) the seller's cost of the tangible personal property, a product transferred
- 1270 electronically, or services sold;
- 1271 (ii) expenses of the seller, including:
- 1272 (A) the cost of materials used;
- 1273 (B) a labor cost;
- 1274 (C) a service cost;
- 1275 (D) interest;
- 1276 (E) a loss;
- 1277 (F) the cost of transportation to the seller; or
- 1278 (G) a tax imposed on the seller;
- 1279 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1280 (iv) consideration a seller receives from a person other than the purchaser if:
- 1281 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 1282 and
- 1283 (II) the consideration described in Subsection [~~(104)~~] (105)(b)(iv)(A)(I) is directly
- 1284 related to a price reduction or discount on the sale;
- 1285 (B) the seller has an obligation to pass the price reduction or discount through to the
- 1286 purchaser;
- 1287 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 1288 the seller at the time of the sale to the purchaser; and
- 1289 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 1290 seller to claim a price reduction or discount; and
- 1291 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 1292 coupon, or other documentation with the understanding that the person other than the seller
- 1293 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 1294 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 1295 organization allowed a price reduction or discount, except that a preferred customer card that is

1296 available to any patron of a seller does not constitute membership in a group or organization  
1297 allowed a price reduction or discount; or

1298 (III) the price reduction or discount is identified as a third party price reduction or  
1299 discount on the:

1300 (Aa) invoice the purchaser receives; or

1301 (Bb) certificate, coupon, or other documentation the purchaser presents.

1302 (c) "Purchase price" and "sales price" do not include:

1303 (i) a discount:

1304 (A) in a form including:

1305 (I) cash;

1306 (II) term; or

1307 (III) coupon;

1308 (B) that is allowed by a seller;

1309 (C) taken by a purchaser on a sale; and

1310 (D) that is not reimbursed by a third party; or

1311 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately

1312 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of

1313 sale or later, as demonstrated by the books and records the seller keeps at the time of the

1314 transaction in the regular course of business, including books and records the seller keeps at the

1315 time of the transaction in the regular course of business for nontax purposes, by a

1316 preponderance of the facts and circumstances at the time of the transaction, and by the

1317 understanding of all of the parties to the transaction:

1318 (A) the following from credit extended on the sale of tangible personal property or  
1319 services:

1320 (I) a carrying charge;

1321 (II) a financing charge; or

1322 (III) an interest charge;

1323 (B) a delivery charge;

1324 (C) an installation charge;

1325 (D) a manufacturer rebate on a motor vehicle; or

1326 (E) a tax or fee legally imposed directly on the consumer.

1327 [~~(105)~~] (106) "Purchaser" means a person to whom:

1328 (a) a sale of tangible personal property is made;

1329 (b) a product is transferred electronically; or

1330 (c) a service is furnished.

1331 [~~(106)~~] (107) "Qualifying data center" means a data center facility that:

1332 (a) houses a group of networked server computers in one physical location in order to  
1333 disseminate, manage, and store data and information;

1334 (b) is located in the state;

1335 (c) is a new operation constructed on or after July 1, 2016;

1336 (d) consists of one or more buildings that total 150,000 or more square feet;

1337 (e) is owned or leased by:

1338 (i) the operator of the data center facility; or

1339 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator  
1340 of the data center facility; and

1341 (f) is located on one or more parcels of land that are owned or leased by:

1342 (i) the operator of the data center facility; or

1343 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator  
1344 of the data center facility.

1345 [~~(107)~~] (108) "Regularly rented" means:

1346 (a) rented to a guest for value three or more times during a calendar year; or

1347 (b) advertised or held out to the public as a place that is regularly rented to guests for  
1348 value.

1349 [~~(108)~~] (109) "Rental" means the same as that term is defined in Subsection [~~(60)~~] (61).

1350 [~~(109)~~] (110) (a) [~~Except as provided in Subsection (109)(b), "repairs"~~] "Repairs or  
1351 renovations of tangible personal property" means:

1352 (i) a repair or renovation of tangible personal property that is not permanently attached  
1353 to real property; or

1354 (ii) attaching tangible personal property or a product transferred electronically to other  
1355 tangible personal property or detaching tangible personal property or a product transferred  
1356 electronically from other tangible personal property if:

1357 (A) the other tangible personal property to which the tangible personal property or

1358 product transferred electronically is attached or from which the tangible personal property or  
1359 product transferred electronically is detached is not permanently attached to real property; and

1360 (B) the attachment of tangible personal property or a product transferred electronically  
1361 to other tangible personal property or detachment of tangible personal property or a product  
1362 transferred electronically from other tangible personal property is made in conjunction with a  
1363 repair or replacement of tangible personal property or a product transferred electronically.

1364 (b) "Repairs or renovations of tangible personal property" does not include:

1365 (i) attaching prewritten computer software to other tangible personal property if the  
1366 other tangible personal property to which the prewritten computer software is attached is not  
1367 permanently attached to real property; or

1368 (ii) detaching prewritten computer software from other tangible personal property if the  
1369 other tangible personal property from which the prewritten computer software is detached is  
1370 not permanently attached to real property.

1371 [~~(110)~~] (111) "Research and development" means the process of inquiry or  
1372 experimentation aimed at the discovery of facts, devices, technologies, or applications and the  
1373 process of preparing those devices, technologies, or applications for marketing.

1374 [~~(111)~~] (112) (a) "Residential telecommunications services" means a  
1375 telecommunications service or an ancillary service that is provided to an individual for personal  
1376 use:

1377 (i) at a residential address; or

1378 (ii) at an institution, including a nursing home or a school, if the telecommunications  
1379 service or ancillary service is provided to and paid for by the individual residing at the  
1380 institution rather than the institution.

1381 (b) For purposes of Subsection [~~(111)~~] (112)(a)(i), a residential address includes an:

1382 (i) apartment; or

1383 (ii) other individual dwelling unit.

1384 [~~(112)~~] (113) "Residential use" means the use in or around a home, apartment building,  
1385 sleeping quarters, and similar facilities or accommodations.

1386 [~~(113)~~] (114) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose  
1387 other than:

1388 (a) resale;

1389 (b) sublease; or

1390 (c) subrent.

1391 ~~[(114)]~~ (115) (a) "Retailer" means any person, unless prohibited by the Constitution of  
1392 the United States or federal law, that is engaged in a regularly organized business in tangible  
1393 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is  
1394 selling to the user or consumer and not for resale.

1395 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1396 engaged in the business of selling to users or consumers within the state.

1397 ~~[(115)]~~ (116) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1398 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1399 Subsection 59-12-103(1), for consideration.

1400 (b) "Sale" includes:

1401 (i) installment and credit sales;

1402 (ii) any closed transaction constituting a sale;

1403 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
1404 chapter;

1405 (iv) any transaction if the possession of property is transferred but the seller retains the  
1406 title as security for the payment of the price; and

1407 (v) any transaction under which right to possession, operation, or use of any article of  
1408 tangible personal property is granted under a lease or contract and the transfer of possession  
1409 would be taxable if an outright sale were made.

1410 ~~[(116)]~~ (117) "Sale at retail" means the same as that term is defined in Subsection  
1411 ~~[(113)]~~ (114).

1412 ~~[(117)]~~ (118) "Sale-leaseback transaction" means a transaction by which title to  
1413 tangible personal property or a product transferred electronically that is subject to a tax under  
1414 this chapter is transferred:

1415 (a) by a purchaser-lessee;

1416 (b) to a lessor;

1417 (c) for consideration; and

1418 (d) if:

1419 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase

1420 of the tangible personal property or product transferred electronically;  
1421 (ii) the sale of the tangible personal property or product transferred electronically to the  
1422 lessor is intended as a form of financing:  
1423 (A) for the tangible personal property or product transferred electronically; and  
1424 (B) to the purchaser-lessee; and  
1425 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
1426 is required to:  
1427 (A) capitalize the tangible personal property or product transferred electronically for  
1428 financial reporting purposes; and  
1429 (B) account for the lease payments as payments made under a financing arrangement.  
1430 [~~(118)~~] (119) "Sales price" means the same as that term is defined in Subsection  
1431 [~~(104)~~] (105).  
1432 [~~(119)~~] (120) (a) "Sales relating to schools" means the following sales by, amounts  
1433 paid to, or amounts charged by a school:  
1434 (i) sales that are directly related to the school's educational functions or activities  
1435 including:  
1436 (A) the sale of:  
1437 (I) textbooks;  
1438 (II) textbook fees;  
1439 (III) laboratory fees;  
1440 (IV) laboratory supplies; or  
1441 (V) safety equipment;  
1442 (B) the sale of a uniform, protective equipment, or sports or recreational equipment  
1443 that:  
1444 (I) a student is specifically required to wear as a condition of participation in a  
1445 school-related event or school-related activity; and  
1446 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
1447 place of ordinary clothing;  
1448 (C) sales of the following if the net or gross revenues generated by the sales are  
1449 deposited into a school district fund or school fund dedicated to school meals:  
1450 (I) food and food ingredients; or

- 1451 (II) prepared food; or
- 1452 (D) transportation charges for official school activities; or
- 1453 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1454 event or school-related activity.
- 1455 (b) "Sales relating to schools" does not include:
- 1456 (i) bookstore sales of items that are not educational materials or supplies;
- 1457 (ii) except as provided in Subsection [~~(119)~~] (120)(a)(i)(B):
- 1458 (A) clothing;
- 1459 (B) clothing accessories or equipment;
- 1460 (C) protective equipment; or
- 1461 (D) sports or recreational equipment; or
- 1462 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1463 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1464 (A) other than a:
- 1465 (I) school;
- 1466 (II) nonprofit organization authorized by a school board or a governing body of a
- 1467 private school to organize and direct a competitive secondary school activity; or
- 1468 (III) nonprofit association authorized by a school board or a governing body of a
- 1469 private school to organize and direct a competitive secondary school activity; and
- 1470 (B) that is required to collect sales and use taxes under this chapter.
- 1471 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1472 commission may make rules defining the term "passed through."
- 1473 [~~(120)~~] (121) For purposes of this section and Section [59-12-104](#), "school" means:
- 1474 (a) an elementary school or a secondary school that:
- 1475 (i) is a:
- 1476 (A) public school; or
- 1477 (B) private school; and
- 1478 (ii) provides instruction for one or more grades kindergarten through 12; or
- 1479 (b) a public school district.
- 1480 [~~(121)~~] (122) (a) "Seller" means a person that makes a sale, lease, or rental of:
- 1481 (i) tangible personal property;



- 1482 (ii) a product transferred electronically; or  
1483 (iii) a service.  
1484 (b) "Seller" includes a marketplace facilitator.  
1485 [~~(122)~~] (123) (a) "Semiconductor fabricating, processing, research, or development  
1486 materials" means tangible personal property or a product transferred electronically if the  
1487 tangible personal property or product transferred electronically is:  
1488 (i) used primarily in the process of:  
1489 (A) (I) manufacturing a semiconductor;  
1490 (II) fabricating a semiconductor; or  
1491 (III) research or development of a:  
1492 (Aa) semiconductor; or  
1493 (Bb) semiconductor manufacturing process; or  
1494 (B) maintaining an environment suitable for a semiconductor; or  
1495 (ii) consumed primarily in the process of:  
1496 (A) (I) manufacturing a semiconductor;  
1497 (II) fabricating a semiconductor; or  
1498 (III) research or development of a:  
1499 (Aa) semiconductor; or  
1500 (Bb) semiconductor manufacturing process; or  
1501 (B) maintaining an environment suitable for a semiconductor.  
1502 (b) "Semiconductor fabricating, processing, research, or development materials"  
1503 includes:  
1504 (i) parts used in the repairs or renovations of tangible personal property or a product  
1505 transferred electronically described in Subsection [~~(122)~~] (123)(a); or  
1506 (ii) a chemical, catalyst, or other material used to:  
1507 (A) produce or induce in a semiconductor a:  
1508 (I) chemical change; or  
1509 (II) physical change;  
1510 (B) remove impurities from a semiconductor; or  
1511 (C) improve the marketable condition of a semiconductor.  
1512 [~~(123)~~] (124) "Senior citizen center" means a facility having the primary purpose of

1513 providing services to the aged as defined in Section 62A-3-101.

1514 ~~[(124)]~~ (125) (a) ~~[Subject to Subsections (124)(b) and (c), "short-term]~~ "Short-term  
1515 lodging consumable" means tangible personal property that:

1516 (i) a business that provides accommodations and services described in Subsection  
1517 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services  
1518 to a purchaser;

1519 (ii) is intended to be consumed by the purchaser; and

1520 (iii) is:

1521 (A) included in the purchase price of the accommodations and services; and

1522 (B) not separately stated on an invoice, bill of sale, or other similar document provided  
1523 to the purchaser.

1524 (b) "Short-term lodging consumable" includes:

1525 (i) a beverage;

1526 (ii) a brush or comb;

1527 (iii) a cosmetic;

1528 (iv) a hair care product;

1529 (v) lotion;

1530 (vi) a magazine;

1531 (vii) makeup;

1532 (viii) a meal;

1533 (ix) mouthwash;

1534 (x) nail polish remover;

1535 (xi) a newspaper;

1536 (xii) a notepad;

1537 (xiii) a pen;

1538 (xiv) a pencil;

1539 (xv) a razor;

1540 (xvi) saline solution;

1541 (xvii) a sewing kit;

1542 (xviii) shaving cream;

1543 (xix) a shoe shine kit;

1544 (xx) a shower cap;  
1545 (xxi) a snack item;  
1546 (xxii) soap;  
1547 (xxiii) toilet paper;  
1548 (xxiv) a toothbrush;  
1549 (xxv) toothpaste; or  
1550 (xxvi) an item similar to Subsections [~~(124)~~] (125)(b)(i) through (xxv) as the  
1551 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah  
1552 Administrative Rulemaking Act.  
1553 (c) "Short-term lodging consumable" does not include:  
1554 (i) tangible personal property that is cleaned or washed to allow the tangible personal  
1555 property to be reused; or  
1556 (ii) a product transferred electronically.  
1557 [~~(125)~~] (126) "Simplified electronic return" means the electronic return:  
1558 (a) described in Section 318(C) of the agreement; and  
1559 (b) approved by the governing board of the agreement.  
1560 [~~(126)~~] (127) "Solar energy" means the sun used as the sole source of energy for  
1561 producing electricity.  
1562 [~~(127)~~] (128) (a) "Sports or recreational equipment" means an item:  
1563 (i) designed for human use; and  
1564 (ii) that is:  
1565 (A) worn in conjunction with:  
1566 (I) an athletic activity; or  
1567 (II) a recreational activity; and  
1568 (B) not suitable for general use.  
1569 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1570 commission shall make rules:  
1571 (i) listing the items that constitute "sports or recreational equipment"; and  
1572 (ii) that are consistent with the list of items that constitute "sports or recreational  
1573 equipment" under the agreement.  
1574 [~~(128)~~] (129) "State" means the state of Utah, its departments, and agencies.

1575            [~~(129)~~] (130) "Storage" means any keeping or retention of tangible personal property or  
1576 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose  
1577 except sale in the regular course of business.

1578            [~~(130)~~] (131) (a) [~~Except as provided in Subsection (130)(d) or (e), "tangible]~~  
1579 "Tangible personal property" means personal property that:

1580            (i) may be:

1581            (A) seen;

1582            (B) weighed;

1583            (C) measured;

1584            (D) felt; or

1585            (E) touched; or

1586            (ii) is in any manner perceptible to the senses.

1587            (b) "Tangible personal property" includes:

1588            (i) electricity;

1589            (ii) water;

1590            (iii) gas;

1591            (iv) steam; or

1592            (v) prewritten computer software, regardless of the manner in which the prewritten  
1593 computer software is transferred.

1594            (c) "Tangible personal property" includes the following regardless of whether the item  
1595 is attached to real property:

1596            (i) a dishwasher;

1597            (ii) a dryer;

1598            (iii) a freezer;

1599            (iv) a microwave;

1600            (v) a refrigerator;

1601            (vi) a stove;

1602            (vii) a washer; or

1603            (viii) an item similar to Subsections [~~(130)~~] (131)(c)(i) through (vii) as determined by  
1604 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1605 Rulemaking Act.

1606 (d) "Tangible personal property" does not include a product that is transferred  
1607 electronically.

1608 (e) "Tangible personal property" does not include the following if attached to real  
1609 property, regardless of whether the attachment to real property is only through a line that  
1610 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the  
1611 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1612 Rulemaking Act:

1613 (i) a hot water heater;

1614 (ii) a water filtration system; or

1615 (iii) a water softener system.

1616 ~~[(131)]~~ (132) (a) "Telecommunications enabling or facilitating equipment, machinery,  
1617 or software" means an item listed in Subsection ~~[(131)]~~ (132)(b) if that item is purchased or  
1618 leased primarily to enable or facilitate one or more of the following to function:

1619 (i) telecommunications switching or routing equipment, machinery, or software; or

1620 (ii) telecommunications transmission equipment, machinery, or software.

1621 (b) The following apply to Subsection ~~[(131)]~~ (132)(a):

1622 (i) a pole;

1623 (ii) software;

1624 (iii) a supplementary power supply;

1625 (iv) temperature or environmental equipment or machinery;

1626 (v) test equipment;

1627 (vi) a tower; or

1628 (vii) equipment, machinery, or software that functions similarly to an item listed in  
1629 Subsections ~~[(131)]~~ (132)(b)(i) through (vi) as determined by the commission by rule made in  
1630 accordance with Subsection ~~[(131)]~~ (132)(c).

1631 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1632 commission may by rule define what constitutes equipment, machinery, or software that  
1633 functions similarly to an item listed in Subsections ~~[(131)]~~ (132)(b)(i) through (vi).

1634 ~~[(132)]~~ (133) "Telecommunications equipment, machinery, or software required for  
1635 911 service" means equipment, machinery, or software that is required to comply with 47  
1636 C.F.R. Sec. 20.18.

1637            [~~(133)~~] (134) "Telecommunications maintenance or repair equipment, machinery, or  
1638 software" means equipment, machinery, or software purchased or leased primarily to maintain  
1639 or repair one or more of the following, regardless of whether the equipment, machinery, or  
1640 software is purchased or leased as a spare part or as an upgrade or modification to one or more  
1641 of the following:

- 1642            (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1643            (b) telecommunications switching or routing equipment, machinery, or software; or
- 1644            (c) telecommunications transmission equipment, machinery, or software.

1645            [~~(134)~~] (135) (a) "Telecommunications service" means the electronic conveyance,  
1646 routing, or transmission of audio, data, video, voice, or any other information or signal to a  
1647 point, or among or between points.

1648            (b) "Telecommunications service" includes:

1649            (i) an electronic conveyance, routing, or transmission with respect to which a computer  
1650 processing application is used to act:

1651            (A) on the code, form, or protocol of the content;

1652            (B) for the purpose of electronic conveyance, routing, or transmission; and

1653            (C) regardless of whether the service:

1654            (I) is referred to as voice over Internet protocol service; or

1655            (II) is classified by the Federal Communications Commission as enhanced or value  
1656 added;

1657            (ii) an 800 service;

1658            (iii) a 900 service;

1659            (iv) a fixed wireless service;

1660            (v) a mobile wireless service;

1661            (vi) a postpaid calling service;

1662            (vii) a prepaid calling service;

1663            (viii) a prepaid wireless calling service; or

1664            (ix) a private communications service.

1665            (c) "Telecommunications service" does not include:

1666            (i) advertising, including directory advertising;

1667            (ii) an ancillary service;

- 1668 (iii) a billing and collection service provided to a third party;
- 1669 (iv) a data processing and information service if:
- 1670 (A) the data processing and information service allows data to be:
- 1671 (I) (Aa) acquired;
- 1672 (Bb) generated;
- 1673 (Cc) processed;
- 1674 (Dd) retrieved; or
- 1675 (Ee) stored; and
- 1676 (II) delivered by an electronic transmission to a purchaser; and
- 1677 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1678 or information;
- 1679 (v) installation or maintenance of the following on a customer's premises:
- 1680 (A) equipment; or
- 1681 (B) wiring;
- 1682 (vi) Internet access service;
- 1683 (vii) a paging service;
- 1684 (viii) a product transferred electronically, including:
- 1685 (A) music;
- 1686 (B) reading material;
- 1687 (C) a ring tone;
- 1688 (D) software; or
- 1689 (E) video;
- 1690 (ix) a radio and television audio and video programming service:
- 1691 (A) regardless of the medium; and
- 1692 (B) including:
- 1693 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1694 programming service by a programming service provider;
- 1695 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1696 (III) audio and video programming services delivered by a commercial mobile radio
- 1697 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1698 (x) a value-added nonvoice data service; or

- 1699 (xi) tangible personal property.
- 1700 [~~(135)~~] (136) (a) "Telecommunications service provider" means a person that:
- 1701 (i) owns, controls, operates, or manages a telecommunications service; and
- 1702 (ii) engages in an activity described in Subsection [~~(135)~~] (136)(a)(i) for the shared use
- 1703 with or resale to any person of the telecommunications service.
- 1704 (b) A person described in Subsection [~~(135)~~] (136)(a) is a telecommunications service
- 1705 provider whether or not the Public Service Commission of Utah regulates:
- 1706 (i) that person; or
- 1707 (ii) the telecommunications service that the person owns, controls, operates, or
- 1708 manages.
- 1709 [~~(136)~~] (137) (a) "Telecommunications switching or routing equipment, machinery, or
- 1710 software" means an item listed in Subsection [~~(136)~~] (137)(b) if that item is purchased or
- 1711 leased primarily for switching or routing:
- 1712 (i) an ancillary service;
- 1713 (ii) data communications;
- 1714 (iii) voice communications; or
- 1715 (iv) telecommunications service.
- 1716 (b) The following apply to Subsection [~~(136)~~] (137)(a):
- 1717 (i) a bridge;
- 1718 (ii) a computer;
- 1719 (iii) a cross connect;
- 1720 (iv) a modem;
- 1721 (v) a multiplexer;
- 1722 (vi) plug in circuitry;
- 1723 (vii) a router;
- 1724 (viii) software;
- 1725 (ix) a switch; or
- 1726 (x) equipment, machinery, or software that functions similarly to an item listed in
- 1727 Subsections [~~(136)~~] (137)(b)(i) through (ix) as determined by the commission by rule made in
- 1728 accordance with Subsection [~~(136)~~] (137)(c).
- 1729 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the



1730 commission may by rule define what constitutes equipment, machinery, or software that  
1731 functions similarly to an item listed in Subsections [~~(136)~~] (137)(b)(i) through (ix).

1732 [~~(137)~~] (138) (a) "Telecommunications transmission equipment, machinery, or  
1733 software" means an item listed in Subsection [~~(137)~~] (138)(b) if that item is purchased or  
1734 leased primarily for sending, receiving, or transporting:

- 1735 (i) an ancillary service;
- 1736 (ii) data communications;
- 1737 (iii) voice communications; or
- 1738 (iv) telecommunications service.

1739 (b) The following apply to Subsection [~~(137)~~] (138)(a):

- 1740 (i) an amplifier;
- 1741 (ii) a cable;
- 1742 (iii) a closure;
- 1743 (iv) a conduit;
- 1744 (v) a controller;
- 1745 (vi) a duplexer;
- 1746 (vii) a filter;
- 1747 (viii) an input device;
- 1748 (ix) an input/output device;
- 1749 (x) an insulator;
- 1750 (xi) microwave machinery or equipment;
- 1751 (xii) an oscillator;
- 1752 (xiii) an output device;
- 1753 (xiv) a pedestal;
- 1754 (xv) a power converter;
- 1755 (xvi) a power supply;
- 1756 (xvii) a radio channel;
- 1757 (xviii) a radio receiver;
- 1758 (xix) a radio transmitter;
- 1759 (xx) a repeater;
- 1760 (xxi) software;

1761 (xxii) a terminal;  
1762 (xxiii) a timing unit;  
1763 (xxiv) a transformer;  
1764 (xxv) a wire; or  
1765 (xxvi) equipment, machinery, or software that functions similarly to an item listed in  
1766 Subsections [~~(137)~~] (138)(b)(i) through (xxv) as determined by the commission by rule made in  
1767 accordance with Subsection [~~(137)~~] (138)(c).

1768 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1769 commission may by rule define what constitutes equipment, machinery, or software that  
1770 functions similarly to an item listed in Subsections [~~(137)~~] (138)(b)(i) through (xxv).

1771 [~~(138)~~] (139) (a) "Textbook for a higher education course" means a textbook or other  
1772 printed material that is required for a course:

- 1773 (i) offered by an institution of higher education; and
- 1774 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1775 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1776 [~~(139)~~] (140) "Tobacco" means:

- 1777 (a) a cigarette;
- 1778 (b) a cigar;
- 1779 (c) chewing tobacco;
- 1780 (d) pipe tobacco; or
- 1781 (e) any other item that contains tobacco.

1782 [~~(140)~~] (141) "Unassisted amusement device" means an amusement device, skill  
1783 device, or ride device that is started and stopped by the purchaser or renter of the right to use or  
1784 operate the amusement device, skill device, or ride device.

1785 [~~(141)~~] (142) (a) "Use" means the exercise of any right or power over tangible personal  
1786 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),  
1787 incident to the ownership or the leasing of that tangible personal property, product transferred  
1788 electronically, or service.

1789 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
1790 property, a product transferred electronically, or a service in the regular course of business and  
1791 held for resale.

1792 [~~(142)~~] (143) "Value-added nonvoice data service" means a service:

1793 (a) that otherwise meets the definition of a telecommunications service except that a  
1794 computer processing application is used to act primarily for a purpose other than conveyance,  
1795 routing, or transmission; and

1796 (b) with respect to which a computer processing application is used to act on data or  
1797 information:

- 1798 (i) code;
- 1799 (ii) content;
- 1800 (iii) form; or
- 1801 (iv) protocol.

1802 [~~(143)~~] (144) (a) Subject to Subsection [~~(143)~~] (144)(b), "vehicle" means the following  
1803 that are required to be titled, registered, or titled and registered:

- 1804 (i) an aircraft as defined in Section 72-10-102;
- 1805 (ii) a vehicle as defined in Section 41-1a-102;
- 1806 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1807 (iv) a vessel as defined in Section 41-1a-102.

1808 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1809 (i) a vehicle described in Subsection [~~(143)~~] (144)(a); or
- 1810 (ii) (A) a locomotive;
- 1811 (B) a freight car;
- 1812 (C) railroad work equipment; or
- 1813 (D) other railroad rolling stock.

1814 [~~(144)~~] (145) "Vehicle dealer" means a person engaged in the business of buying,  
1815 selling, or exchanging a vehicle as defined in Subsection [~~(143)~~] (144).

1816 [~~(145)~~] (146) (a) "Vertical service" means an ancillary service that:

- 1817 (i) is offered in connection with one or more telecommunications services; and
- 1818 (ii) offers an advanced calling feature that allows a customer to:  
1819 (A) identify a caller; and  
1820 (B) manage multiple calls and call connections.

1821 (b) "Vertical service" includes an ancillary service that allows a customer to manage a  
1822 conference bridging service.

1823            [~~(146)~~] (147) (a) "Voice mail service" means an ancillary service that enables a  
1824 customer to receive, send, or store a recorded message.

1825            (b) "Voice mail service" does not include a vertical service that a customer is required  
1826 to have in order to utilize a voice mail service.

1827            [~~(147)~~] (148) (a) [~~Except as provided in Subsection (147)(b), "waste~~] "Waste energy  
1828 facility" means a facility that generates electricity:

1829            (i) using as the primary source of energy waste materials that would be placed in a  
1830 landfill or refuse pit if it were not used to generate electricity, including:

1831            (A) tires;

1832            (B) waste coal;

1833            (C) oil shale; or

1834            (D) municipal solid waste; and

1835            (ii) in amounts greater than actually required for the operation of the facility.

1836            (b) "Waste energy facility" does not include a facility that incinerates:

1837            (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1838            (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1839            [~~(148)~~] (149) "Watercraft" means a vessel as defined in Section [73-18-2](#).

1840            [~~(149)~~] (150) "Wind energy" means wind used as the sole source of energy to produce  
1841 electricity.

1842            [~~(150)~~] (151) "ZIP Code" means a Zoning Improvement Plan Code assigned to a  
1843 geographic location by the United States Postal Service.

1844            Section 6. Section **59-12-103** is amended to read:

1845            **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**  
1846 **tax revenues.**

1847            (1) A tax is imposed on the purchaser as provided in this part on the purchase price or  
1848 sales price for amounts paid or charged for the following transactions:

1849            (a) retail sales of tangible personal property made within the state;

1850            (b) amounts paid for:

1851            (i) telecommunications service, other than mobile telecommunications service, that  
1852 originates and terminates within the boundaries of this state;

1853            (ii) mobile telecommunications service that originates and terminates within the

1854 boundaries of one state only to the extent permitted by the Mobile Telecommunications  
1855 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or  
1856 (iii) an ancillary service associated with a:  
1857 (A) telecommunications service described in Subsection (1)(b)(i); or  
1858 (B) mobile telecommunications service described in Subsection (1)(b)(ii);  
1859 (c) sales of the following for commercial use:  
1860 (i) gas;  
1861 (ii) electricity;  
1862 (iii) heat;  
1863 (iv) coal;  
1864 (v) fuel oil; or  
1865 (vi) other fuels;  
1866 (d) sales of the following for residential use:  
1867 (i) gas;  
1868 (ii) electricity;  
1869 (iii) heat;  
1870 (iv) coal;  
1871 (v) fuel oil; or  
1872 (vi) other fuels;  
1873 (e) sales of prepared food;  
1874 (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or  
1875 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,  
1876 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,  
1877 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit  
1878 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf  
1879 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,  
1880 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,  
1881 horseback rides, sports activities, or any other amusement, entertainment, recreation,  
1882 exhibition, cultural, or athletic activity;  
1883 (g) amounts paid or charged for services for repairs or renovations of tangible personal  
1884 property, unless Section [59-12-104](#) provides for an exemption from sales and use tax for:

- 1885 (i) the tangible personal property; and
- 1886 (ii) parts used in the repairs or renovations of the tangible personal property described
- 1887 in Subsection (1)(g)(i), regardless of whether:
- 1888 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 1889 property; or
- 1890 (B) the particular parts used in the repairs or renovations of that tangible personal
- 1891 property are exempt from a tax under this chapter;
- 1892 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 1893 assisted cleaning or washing of tangible personal property;
- 1894 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 1895 accommodations and services that are regularly rented for less than 30 consecutive days;
- 1896 (j) amounts paid or charged for laundry or dry cleaning services;
- 1897 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 1898 this state the tangible personal property is:
- 1899 (i) stored;
- 1900 (ii) used; or
- 1901 (iii) otherwise consumed;
- 1902 (l) amounts paid or charged for tangible personal property if within this state the
- 1903 tangible personal property is:
- 1904 (i) stored;
- 1905 (ii) used; or
- 1906 (iii) consumed; and
- 1907 (m) amounts paid or charged for a sale:
- 1908 (i) (A) of a product transferred electronically; or
- 1909 (B) of a repair or renovation of a product transferred electronically; and
- 1910 (ii) regardless of whether the sale provides:
- 1911 (A) a right of permanent use of the product; or
- 1912 (B) a right to use the product that is less than a permanent use, including a right:
- 1913 (I) for a definite or specified length of time; and
- 1914 (II) that terminates upon the occurrence of a condition.
- 1915 (2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax

1916 are imposed on a transaction described in Subsection (1) equal to the sum of:

1917 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

1918 (A) 4.70% plus the rate specified in Subsection (12)(a); and

1919 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales  
1920 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
1921 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional  
1922 State Sales and Use Tax Act; and

1923 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
1924 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
1925 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state  
1926 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1927 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1928 transaction under this chapter other than this part.

1929 (b) Except as provided in Subsection (2)(e) or (f) and subject to Subsection (2)(k), a  
1930 state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to  
1931 the sum of:

1932 (i) a state tax imposed on the transaction at a tax rate of 2%; and

1933 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1934 transaction under this chapter other than this part.

1935 [~~(c) Except as provided in Subsection (2)(e) or (f), a state tax and a local tax are~~  
1936 ~~imposed on amounts paid or charged for food and food ingredients equal to the sum of:]~~

1937 [~~(i) a state tax imposed on the amounts paid or charged for food and food ingredients at~~  
1938 ~~a tax rate of 1.75%; and]~~

1939 [~~(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the~~  
1940 ~~amounts paid or charged for food and food ingredients under this chapter other than this part.]~~

1941 (c) (i) Except as provided in Subsection (2)(e) or (f), a local tax is imposed on amounts  
1942 paid or charged for food and food ingredients equal to the sum of the tax rates a county, city, or  
1943 town imposes under this chapter on the amounts paid or charged for food and food ingredients.

1944 (ii) There is no state tax imposed on amounts paid or charged for food and food  
1945 ingredients.

1946 (d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts

1947 paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at  
1948 a rate of 4.85%.

1949 (e) (i) For a bundled transaction that is attributable to food and food ingredients and  
1950 tangible personal property other than food and food ingredients, a state tax and a local tax is  
1951 imposed on the entire bundled transaction equal to the sum of:

1952 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

1953 (I) the tax rate described in Subsection (2)(a)(i)(A); and

1954 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
1955 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
1956 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
1957 Additional State Sales and Use Tax Act; and

1958 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
1959 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
1960 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which  
1961 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1962 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates  
1963 described in Subsection (2)(a)(ii).

1964 (ii) If an optional computer software maintenance contract is a bundled transaction that  
1965 consists of taxable and nontaxable products that are not separately itemized on an invoice or  
1966 similar billing document, the purchase of the optional computer software maintenance contract  
1967 is 40% taxable under this chapter and 60% nontaxable under this chapter.

1968 (iii) Subject to Subsection (2)(e)(iv), for a bundled transaction other than a bundled  
1969 transaction described in Subsection (2)(e)(i) or (ii):

1970 (A) if the sales price of the bundled transaction is attributable to tangible personal  
1971 property, a product, or a service that is subject to taxation under this chapter and tangible  
1972 personal property, a product, or service that is not subject to taxation under this chapter, the  
1973 entire bundled transaction is subject to taxation under this chapter unless:

1974 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
1975 personal property, product, or service that is not subject to taxation under this chapter from the  
1976 books and records the seller keeps in the seller's regular course of business; or

1977 (II) state or federal law provides otherwise; or



1978 (B) if the sales price of a bundled transaction is attributable to two or more items of  
1979 tangible personal property, products, or services that are subject to taxation under this chapter  
1980 at different rates, the entire bundled transaction is subject to taxation under this chapter at the  
1981 higher tax rate unless:

1982 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
1983 personal property, product, or service that is subject to taxation under this chapter at the lower  
1984 tax rate from the books and records the seller keeps in the seller's regular course of business; or

1985 (II) state or federal law provides otherwise.

1986 (iv) For purposes of Subsection (2)(e)(iii), books and records that a seller keeps in the  
1987 seller's regular course of business includes books and records the seller keeps in the regular  
1988 course of business for nontax purposes.

1989 (f) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(f)(ii)  
1990 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a  
1991 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental  
1992 of tangible personal property, other property, a product, or a service that is not subject to  
1993 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless  
1994 the seller, at the time of the transaction:

1995 (A) separately states the portion of the transaction that is not subject to taxation under  
1996 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

1997 (B) is able to identify by reasonable and verifiable standards, from the books and  
1998 records the seller keeps in the seller's regular course of business, the portion of the transaction  
1999 that is not subject to taxation under this chapter.

2000 (ii) A purchaser and a seller may correct the taxability of a transaction if:

2001 (A) after the transaction occurs, the purchaser and the seller discover that the portion of  
2002 the transaction that is not subject to taxation under this chapter was not separately stated on an  
2003 invoice, bill of sale, or similar document provided to the purchaser because of an error or  
2004 ignorance of the law; and

2005 (B) the seller is able to identify by reasonable and verifiable standards, from the books  
2006 and records the seller keeps in the seller's regular course of business, the portion of the  
2007 transaction that is not subject to taxation under this chapter.

2008 (iii) For purposes of Subsections (2)(f)(i) and (ii), books and records that a seller keeps

2009 in the seller's regular course of business includes books and records the seller keeps in the  
2010 regular course of business for nontax purposes.

2011 (g) (i) If the sales price of a transaction is attributable to two or more items of tangible  
2012 personal property, products, or services that are subject to taxation under this chapter at  
2013 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate  
2014 unless the seller, at the time of the transaction:

2015 (A) separately states the items subject to taxation under this chapter at each of the  
2016 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

2017 (B) is able to identify by reasonable and verifiable standards the tangible personal  
2018 property, product, or service that is subject to taxation under this chapter at the lower tax rate  
2019 from the books and records the seller keeps in the seller's regular course of business.

2020 (ii) For purposes of Subsection (2)(g)(i), books and records that a seller keeps in the  
2021 seller's regular course of business includes books and records the seller keeps in the regular  
2022 course of business for nontax purposes.

2023 (h) Subject to Subsections (2)(i) and (j), a tax rate repeal or tax rate change for a tax  
2024 rate imposed under the following shall take effect on the first day of a calendar quarter:

2025 (i) Subsection (2)(a)(i)(A);

2026 (ii) Subsection (2)(b)(i); or

2027 [~~(iii) Subsection (2)(c)(i); or~~]

2028 [~~(iv)~~] (iii) Subsection (2)(e)(i)(A)(I).

2029 (i) (i) A tax rate increase takes effect on the first day of the first billing period that  
2030 begins on or after the effective date of the tax rate increase if the billing period for the  
2031 transaction begins before the effective date of a tax rate increase imposed under:

2032 (A) Subsection (2)(a)(i)(A);

2033 (B) Subsection (2)(b)(i); or

2034 [~~(C) Subsection (2)(c)(i); or~~]

2035 [~~(D)~~] (C) Subsection (2)(e)(i)(A)(I).

2036 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing  
2037 statement for the billing period is rendered on or after the effective date of the repeal of the tax  
2038 or the tax rate decrease imposed under:

2039 (A) Subsection (2)(a)(i)(A);

- 2040 (B) Subsection (2)(b)(i); or
- 2041 [~~(C) Subsection (2)(c)(i); or~~]
- 2042 [~~(D)~~] (C) Subsection (2)(e)(i)(A)(I).
- 2043 (j) (i) For a tax rate described in Subsection (2)(j)(ii), if a tax due on a catalogue sale is
- 2044 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
- 2045 change in a tax rate takes effect:
- 2046 (A) on the first day of a calendar quarter; and
- 2047 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 2048 (ii) Subsection (2)(j)(i) applies to the tax rates described in the following:
- 2049 (A) Subsection (2)(a)(i)(A);
- 2050 (B) Subsection (2)(b)(i); or
- 2051 [~~(C) Subsection (2)(c)(i); or~~]
- 2052 [~~(D)~~] (C) Subsection (2)(e)(i)(A)(I).
- 2053 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 2054 the commission may by rule define the term "catalogue sale."
- 2055 (k) (i) For a location described in Subsection (2)(k)(ii), the commission shall determine
- 2056 the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the
- 2057 predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.
- 2058 (ii) Subsection (2)(k)(i) applies to a location where gas, electricity, heat, coal, fuel oil,
- 2059 or other fuel is furnished through a single meter for two or more of the following uses:
- 2060 (A) a commercial use;
- 2061 (B) an industrial use; or
- 2062 (C) a residential use.
- 2063 (3) (a) The following state taxes shall be deposited into the General Fund:
- 2064 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 2065 (ii) the tax imposed by Subsection (2)(b)(i); and
- 2066 [~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]
- 2067 [~~(iv)~~] (iii) the tax imposed by Subsection (2)(e)(i)(A)(I).
- 2068 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 2069 in this chapter:
- 2070 (i) the tax imposed by Subsection (2)(a)(ii);

2071 (ii) the tax imposed by Subsection (2)(b)(ii);  
2072 (iii) the tax imposed by Subsection (2)(c)[~~(ii)~~]; and  
2073 (iv) the tax imposed by Subsection (2)(e)(i)(B).  
2074 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General  
2075 Fund.  
2076 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
2077 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)  
2078 through (g):  
2079 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:  
2080 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and  
2081 (B) for the fiscal year; or  
2082 (ii) \$17,500,000.  
2083 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
2084 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the  
2085 Department of Natural Resources to:  
2086 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to  
2087 protect sensitive plant and animal species; or  
2088 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
2089 act, to political subdivisions of the state to implement the measures described in Subsections  
2090 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.  
2091 (ii) Money transferred to the Department of Natural Resources under Subsection  
2092 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
2093 person to list or attempt to have listed a species as threatened or endangered under the  
2094 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.  
2095 (iii) At the end of each fiscal year:  
2096 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
2097 Conservation and Development Fund created in Section 73-10-24;  
2098 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
2099 Program Subaccount created in Section 73-10c-5; and  
2100 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
2101 Program Subaccount created in Section 73-10c-5.

2102 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
2103 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund  
2104 created in Section 4-18-106.

2105 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described  
2106 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water  
2107 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of  
2108 water rights.

2109 (ii) At the end of each fiscal year:

2110 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
2111 Conservation and Development Fund created in Section 73-10-24;

2112 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
2113 Program Subaccount created in Section 73-10c-5; and

2114 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
2115 Program Subaccount created in Section 73-10c-5.

2116 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described  
2117 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and  
2118 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

2119 (ii) In addition to the uses allowed of the Water Resources Conservation and  
2120 Development Fund under Section 73-10-24, the Water Resources Conservation and  
2121 Development Fund may also be used to:

2122 (A) conduct hydrologic and geotechnical investigations by the Division of Water  
2123 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
2124 quantifying surface and ground water resources and describing the hydrologic systems of an  
2125 area in sufficient detail so as to enable local and state resource managers to plan for and  
2126 accommodate growth in water use without jeopardizing the resource;

2127 (B) fund state required dam safety improvements; and

2128 (C) protect the state's interest in interstate water compact allocations, including the  
2129 hiring of technical and legal staff.

2130 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
2131 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount  
2132 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2133 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
2134 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount  
2135 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2136 (i) provide for the installation and repair of collection, treatment, storage, and  
2137 distribution facilities for any public water system, as defined in Section 19-4-102;

2138 (ii) develop underground sources of water, including springs and wells; and

2139 (iii) develop surface water sources.

2140 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
2141 2006, the difference between the following amounts shall be expended as provided in this  
2142 Subsection (5), if that difference is greater than \$1:

2143 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
2144 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

2145 (ii) \$17,500,000.

2146 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

2147 (A) transferred each fiscal year to the Department of Natural Resources as dedicated  
2148 credits; and

2149 (B) expended by the Department of Natural Resources for watershed rehabilitation or  
2150 restoration.

2151 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
2152 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund  
2153 created in Section 73-10-24.

2154 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
2155 remaining difference described in Subsection (5)(a) shall be:

2156 (A) transferred each fiscal year to the Division of Water Resources as dedicated  
2157 credits; and

2158 (B) expended by the Division of Water Resources for cloud-seeding projects  
2159 authorized by Title 73, Chapter 15, Modification of Weather.

2160 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
2161 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund  
2162 created in Section 73-10-24.

2163 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the

2164 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
2165 Resources Conservation and Development Fund created in Section 73-10-24 for use by the  
2166 Division of Water Resources for:

2167 (i) preconstruction costs:

2168 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
2169 26, Bear River Development Act; and

2170 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project  
2171 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2172 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
2173 Chapter 26, Bear River Development Act;

2174 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
2175 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2176 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and  
2177 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2178 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to  
2179 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be  
2180 transferred each year as dedicated credits to the Division of Water Rights to cover the costs  
2181 incurred for employing additional technical staff for the administration of water rights.

2182 (f) At the end of each fiscal year, any unexpended dedicated credits described in  
2183 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development  
2184 Fund created in Section 73-10-24.

2185 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the  
2186 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection  
2187 (1) for the fiscal year shall be deposited as follows:

2188 (a) for fiscal year 2020-21 only:

2189 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the  
2190 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2191 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the  
2192 Water Infrastructure Restricted Account created by Section 73-10g-103; and

2193 (b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described  
2194 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account

2195 created by Section [73-10g-103](#).

2196 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in  
2197 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,  
2198 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005  
2199 created by Section [72-2-124](#):

2200 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of  
2201 the revenues collected from the following taxes, which represents a portion of the  
2202 approximately 17% of sales and use tax revenues generated annually by the sales and use tax  
2203 on vehicles and vehicle-related products:

2204 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2205 (B) the tax imposed by Subsection (2)(b)(i); and

2206 [~~(C) the tax imposed by Subsection (2)(c)(i); and~~]

2207 [~~(D)~~] (C) the tax imposed by Subsection (2)(e)(i)(A)(I); plus

2208 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the  
2209 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through  
2210 (D) that exceeds the amount collected from the sales and use taxes described in Subsections  
2211 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

2212 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of  
2213 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total  
2214 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)  
2215 generated in the current fiscal year than the total percentage of sales and use taxes deposited in  
2216 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection  
2217 (7)(a) equal to the product of:

2218 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the  
2219 previous fiscal year; and

2220 (B) the total sales and use tax revenue generated by the taxes described in Subsections  
2221 (7)(a)(i)(A) through (D) in the current fiscal year.

2222 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under  
2223 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes  
2224 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of  
2225 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in



2226 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

2227 (iii) Subject to Subsection (7)(b)(iv)(E), in all subsequent fiscal years after a year in  
2228 which 17% of the revenues collected from the sales and use taxes described in Subsections  
2229 (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall  
2230 annually deposit 17% of the revenues collected from the sales and use taxes described in  
2231 Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

2232 (iv) (A) As used in this Subsection (7)(b)(iv), "additional growth revenue" means the  
2233 amount of relevant revenue collected in the current fiscal year that exceeds by more than 3%  
2234 the relevant revenue collected in the previous fiscal year.

2235 (B) As used in this Subsection (7)(b)(iv), "combined amount" means the combined  
2236 total amount of money deposited into the Cottonwood Canyons fund under Subsections  
2237 (7)(b)(iv)(F) and (8)(c)(iv)(F) in any single fiscal year.

2238 (C) As used in this Subsection (7)(b)(iv), "Cottonwood Canyons fund" means the  
2239 Cottonwood Canyons Transportation Investment Fund created in Subsection [72-2-124\(10\)](#).

2240 (D) As used in this Subsection (7)(b)(iv), "relevant revenue" means the portion of taxes  
2241 listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in  
2242 Subsections (7)(a)(i)(A) through (D).

2243 (E) For a fiscal year beginning on or after July 1, 2020, the commission shall annually  
2244 reduce the deposit under Subsection (7)(c)(iii) into the Transportation Investment Fund of 2005  
2245 by an amount equal to the amount of the deposit under this Subsection (7)(b)(iv) to the  
2246 Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue,  
2247 subject to the limit in Subsection (7)(b)(iv)(F).

2248 (F) The commission shall annually deposit the amount described in Subsection  
2249 (7)(b)(iv)(E) into the Cottonwood Canyons fund, subject to an annual maximum combined  
2250 amount for any single fiscal year of \$20,000,000.

2251 (G) If the amount of relevant revenue declines in a fiscal year compared to the previous  
2252 fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood  
2253 Canyons fund under this Subsection (7)(b)(iv) in the same proportion as the decline in relevant  
2254 revenue.

2255 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under  
2256 Subsections (6) and (7), and subject to Subsections (8)(b) and (d)(v), for a fiscal year beginning

2257 on or after July 1, 2018, the commission shall annually deposit into the Transportation  
2258 Investment Fund of 2005 created by Section [72-2-124](#) a portion of the taxes listed under  
2259 Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following  
2260 taxes:

- 2261 (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
- 2262 (ii) the tax imposed by Subsection (2)(b)(i); and
- 2263 [~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]
- 2264 [~~(iv)~~] (iii) the tax imposed by Subsection (2)(e)(i)(A)(I).

2265 (b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually  
2266 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by  
2267 an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by  
2268 the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale  
2269 or use in this state that exceeds 29.4 cents per gallon.

2270 (c) The commission shall annually deposit the amount described in Subsection (8)(b)  
2271 into the Transit Transportation Investment Fund created in Section [72-2-124](#).

2272 (d) (i) As used in this Subsection (8)(d), "additional growth revenue" means the  
2273 amount of relevant revenue collected in the current fiscal year that exceeds by more than 3%  
2274 the relevant revenue collected in the previous fiscal year.

2275 (ii) As used in this Subsection (8)(d), "combined amount" means the combined total  
2276 amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F)  
2277 and (8)(d)(vi) in any single fiscal year.

2278 (iii) As used in this Subsection (8)(d), "Cottonwood Canyons fund" means the  
2279 Cottonwood Canyons Transportation Investment Fund created in Subsection [72-2-124](#)(10).

2280 (iv) As used in this Subsection (8)(d), "relevant revenue" means the portion of taxes  
2281 listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described  
2282 in Subsections (8)(a)(i) through (iv).

2283 (v) For a fiscal year beginning on or after July 1, 2020, the commission shall annually  
2284 reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by  
2285 an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood  
2286 Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the  
2287 limit in Subsection (8)(d)(vi).

2288 (vi) The commission shall annually deposit the amount described in Subsection  
2289 (8)(d)(v) into the Cottonwood Canyons fund, subject to an annual maximum combined amount  
2290 for any single fiscal year of \$20,000,000.

2291 (vii) If the amount of relevant revenue declines in a fiscal year compared to the  
2292 previous fiscal year, the commission shall decrease the amount of the contribution to the  
2293 Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in  
2294 relevant revenue.

2295 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
2296 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund  
2297 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

2298 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(b),  
2299 and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of  
2300 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section  
2301 72-2-124 the amount of revenue described as follows:

2302 (i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05%  
2303 tax rate on the transactions described in Subsection (1); and

2304 (ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%  
2305 tax rate on the transactions described in Subsection (1).

2306 (b) For purposes of Subsection (10)(a), the Division of Finance may not deposit into  
2307 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or  
2308 charged for food and food ingredients, except for tax revenue generated by a bundled  
2309 transaction attributable to food and food ingredients and tangible personal property other than  
2310 food and food ingredients described in Subsection (2)(e).

2311 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the  
2312 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that  
2313 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of  
2314 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue  
2315 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,  
2316 created in Section 63N-2-512.

2317 (12) (a) The rate specified in this subsection is 0.15%.

2318 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year

2319 beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the  
2320 rate described in Subsection (12)(a) on the transactions that are subject to the sales and use tax  
2321 under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section  
2322 [26-36b-208](#).

2323 (13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
2324 2020-21, the Division of Finance shall deposit \$200,000 into the General Fund as a dedicated  
2325 credit solely for use of the Search and Rescue Financial Assistance Program created in, and  
2326 expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

2327 (14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of  
2328 Finance shall annually transfer \$1,813,400 of the revenue deposited into the Transportation  
2329 Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

2330 (b) If the total revenue deposited into the Transportation Investment Fund of 2005  
2331 under Subsections (6) through (8) is less than \$1,813,400 for a fiscal year, the Division of  
2332 Finance shall transfer the total revenue deposited into the Transportation Investment Fund of  
2333 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

2334 (15) Notwithstanding Subsection (3)(a), and as described in Section [63N-3-610](#),  
2335 beginning one year after the sales and use tax boundary for a housing and transit reinvestment  
2336 zone is established, the commission, at least annually, shall transfer an amount equal to 15% of  
2337 the sales and use tax increment within an established sales and use tax boundary, as defined in  
2338 Section [63N-3-602](#), into the Transit Transportation Investment Fund created in Section  
2339 [72-2-124](#).

2340 Section 7. Section [59-12-108](#) is amended to read:

2341 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**  
2342 **Certain amounts allocated to local taxing jurisdictions.**

2343 (1) (a) Notwithstanding Section [59-12-107](#), a seller that has a tax liability under this  
2344 chapter of \$50,000 or more for the previous calendar year shall:

2345 (i) file a return with the commission:

2346 (A) monthly on or before the last day of the month immediately following the month  
2347 for which the seller collects a tax under this chapter; and

2348 (B) for the month for which the seller collects a tax under this chapter; and

2349 (ii) except as provided in Subsection (1)(b), remit with the return required by

2350 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,  
2351 fee, or charge described in Subsection (1)(c):

2352 (A) if that seller's tax liability under this chapter for the previous calendar year is less  
2353 than \$96,000, by any method permitted by the commission; or

2354 (B) if that seller's tax liability under this chapter for the previous calendar year is  
2355 \$96,000 or more, by electronic funds transfer.

2356 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)  
2357 the amount the seller is required to remit to the commission for each tax, fee, or charge  
2358 described in Subsection (1)(c) if that seller:

2359 (i) is required by Section 59-12-107 to file the return electronically; or

2360 (ii) (A) is required to collect and remit a tax under Section 59-12-107; and

2361 (B) files a simplified electronic return.

2362 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

2363 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

2364 (ii) a fee under Section 19-6-714;

2365 (iii) a fee under Section 19-6-805;

2366 (iv) a charge under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications  
2367 Service Charges; or

2368 (v) a tax under this chapter.

2369 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,  
2370 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method  
2371 for making same-day payments other than by electronic funds transfer if making payments by  
2372 electronic funds transfer fails.

2373 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2374 commission shall establish by rule procedures and requirements for determining the amount a  
2375 seller is required to remit to the commission under this Subsection (1).

2376 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a  
2377 seller described in Subsection (4) may retain each month the amount allowed by this  
2378 Subsection (2).

2379 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain  
2380 each month 1.31% of any amounts the seller is required to remit to the commission:

2381 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax  
2382 and a local tax imposed in accordance with the following, for the month for which the seller is  
2383 filing a return in accordance with Subsection (1):

2384 (A) Subsection 59-12-103(2)(a);

2385 (B) Subsection 59-12-103(2)(b); and

2386 (C) Subsection 59-12-103(2)(d); and

2387 (ii) for an agreement sales and use tax.

2388 (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may  
2389 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described  
2390 in Subsection 59-12-103(1) that is subject to the [~~state tax and the local~~] tax imposed in  
2391 accordance with Subsection 59-12-103(2)(c).

2392 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount  
2393 equal to the sum of:

2394 (A) 1.31% of any amounts the seller is required to remit to the commission for:

2395 (I) the [~~state tax and the local~~] tax imposed in accordance with Subsection  
2396 59-12-103(2)(c);

2397 (II) the month for which the seller is filing a return in accordance with Subsection (1);  
2398 and

2399 (III) an agreement sales and use tax; and

2400 (B) 1.31% of the difference between:

2401 (I) the amounts the seller would have been required to remit to the commission:

2402 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject  
2403 to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);

2404 (Bb) for the month for which the seller is filing a return in accordance with Subsection  
2405 (1); and

2406 (Cc) for an agreement sales and use tax; and

2407 (II) the amounts the seller is required to remit to the commission for:

2408 (Aa) the [~~state tax and the local~~] tax imposed in accordance with Subsection  
2409 59-12-103(2)(c);

2410 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);  
2411 and

- 2412 (Cc) an agreement sales and use tax.
- 2413 (d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
- 2414 each month 1% of any amounts the seller is required to remit to the commission:
- 2415 (i) for the month for which the seller is filing a return in accordance with Subsection
- 2416 (1); and
- 2417 (ii) under:
- 2418 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 2419 (B) Subsection 59-12-603(1)(a)(i)(A);
- 2420 (C) Subsection 59-12-603(1)(a)(i)(B); or
- 2421 (D) Subsection 59-12-603(1)(a)(ii).
- 2422 (3) A state government entity that is required to remit taxes monthly in accordance
- 2423 with Subsection (1) may not retain any amount under Subsection (2).
- 2424 (4) A seller that has a tax liability under this chapter for the previous calendar year of
- 2425 less than \$50,000 may:
- 2426 (a) voluntarily meet the requirements of Subsection (1); and
- 2427 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
- 2428 amounts allowed by Subsection (2).
- 2429 (5) Penalties for late payment shall be as provided in Section 59-1-401.
- 2430 (6) (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted
- 2431 to the commission under this part, the commission shall each month calculate an amount equal
- 2432 to the difference between:
- 2433 (i) the total amount retained for that month by all sellers had the percentages listed
- 2434 under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and
- 2435 (ii) the total amount retained for that month by all sellers at the percentages listed
- 2436 under Subsections (2)(b) and (2)(c)(ii).
- 2437 (b) The commission shall each month allocate the amount calculated under Subsection
- 2438 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use
- 2439 tax that the commission distributes to each county, city, and town for that month compared to
- 2440 the total agreement sales and use tax that the commission distributes for that month to all
- 2441 counties, cities, and towns.
- 2442 (c) The amount the commission calculates under Subsection (6)(a) may not include an

2443 amount collected from a tax that:

2444 (i) the state imposes within a county, city, or town, including the unincorporated area  
2445 of a county; and

2446 (ii) is not imposed within the entire state.

2447 Section 8. Section **63N-7-301** is amended to read:

2448 **63N-7-301. Tourism Marketing Performance Account.**

2449 (1) There is created within the General Fund a restricted account known as the Tourism  
2450 Marketing Performance Account.

2451 (2) The account shall be administered by GOED for the purposes listed in Subsection  
2452 (5).

2453 (3) (a) The account shall earn interest.

2454 (b) All interest earned on account money shall be deposited into the account.

2455 (4) The account shall be funded by appropriations made to the account by the  
2456 Legislature in accordance with this section.

2457 (5) The executive director of GOED's Office of Tourism shall use account money  
2458 appropriated to GOED to pay for the statewide advertising, marketing, and branding campaign  
2459 for promotion of the state as conducted by GOED.

2460 (6) (a) For each fiscal year beginning on or after July 1, 2007, GOED shall annually  
2461 allocate 10% of the account money appropriated to GOED to a sports organization for  
2462 advertising, marketing, branding, and promoting Utah in attracting sporting events into the  
2463 state.

2464 (b) The sports organization shall:

2465 (i) provide an annual written report to GOED that gives an accounting of the use of  
2466 funds the sports organization receives under this Subsection (6); and

2467 (ii) promote the state and encourage economic growth in the state.

2468 (c) For purposes of this Subsection (6), "sports organization" means an organization  
2469 that:

2470 (i) is exempt from federal income taxation in accordance with Section 501(c)(3),  
2471 Internal Revenue Code;

2472 (ii) maintains its principal location in the state;

2473 (iii) has a minimum of 15 years experience in the state hosting, fostering, and attracting



2474 major summer and winter sporting events statewide; and

2475 (iv) was created to foster state, regional, national, and international sports competitions  
2476 in the state, to drive the state's Olympic and sports legacy, including competitions related to  
2477 Olympic sports, and to promote and encourage sports tourism throughout the state, including  
2478 advertising, marketing, branding, and promoting the state for the purpose of attracting sporting  
2479 events in the state.

2480 (7) Money deposited into the account shall include a legislative appropriation from the  
2481 cumulative sales and use tax revenue increases described in Subsection (8), plus any additional  
2482 appropriation made by the Legislature.

2483 [~~(8) (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax  
2484 revenues determined under this Subsection (8) shall be certified by the State Tax Commission  
2485 as a set-aside for the account, and the State Tax Commission shall report the amount of the  
2486 set-aside to the office, the Office of Legislative Fiscal Analyst, and the Division of Finance,  
2487 which shall set aside the certified amount for appropriation to the account.]~~

2488 [~~(b) For fiscal years 2016 through 2019, the State Tax Commission shall calculate the  
2489 set-aside under this Subsection (8) in each fiscal year by applying one of the following  
2490 formulas: if the annual percentage change in the Consumer Price Index for All Urban  
2491 Consumers, as published by the Bureau of Labor Statistics of the United States Department of  
2492 Labor, for the fiscal year two years before the fiscal year in which the set-aside is to be made  
2493 is:]~~

2494 [~~(i) greater than 3%, and if the annual percentage change in the state sales and use tax  
2495 revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal  
2496 year three years before the fiscal year in which the set-aside is to be made to the fiscal year two  
2497 years before the fiscal year in which the set-aside is to be made is greater than the annual  
2498 percentage change in the Consumer Price Index for the fiscal year two years before the fiscal  
2499 year in which the set-aside is to be made, then the difference between the annual percentage  
2500 change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented  
2501 goods and services and the annual percentage change in the Consumer Price Index shall be  
2502 multiplied by an amount equal to the state sales and use tax revenues attributable to the retail  
2503 sales of tourist-oriented goods and services from the fiscal year three years before the fiscal  
2504 year in which the set-aside is to be made; or]~~

2505 ~~[(ii) 3% or less, and if the annual percentage change in the state sales and use tax~~  
2506 ~~revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal~~  
2507 ~~year three years before the fiscal year in which the set-aside is to be made to the fiscal year two~~  
2508 ~~years before the fiscal year in which the set-aside is to be made is greater than 3%, then the~~  
2509 ~~difference between the annual percentage change in the state sales and use tax revenues~~  
2510 ~~attributable to the retail sales of tourist-oriented goods and services and 3% shall be multiplied~~  
2511 ~~by an amount equal to the state sales and use tax revenues attributable to the retail sales of~~  
2512 ~~tourist-oriented goods and services from the fiscal year three years before the fiscal year in~~  
2513 ~~which the set-aside is to be made.]~~

2514 ~~[(c) The total money appropriated to the account in a fiscal year under Subsections~~  
2515 ~~(8)(a) and (b) may not exceed the amount appropriated to the account in the preceding fiscal~~  
2516 ~~year by more than \$3,000,000.]~~

2517 ~~[(d) As used in this Subsection (8), "state sales and use tax revenues" are revenues~~  
2518 ~~collected under Subsections 59-12-103(2)(a)(i)(A) and 59-12-103(2)(c)(i).]~~

2519 ~~[(e) As used in this Subsection (8), "retail sales of tourist-oriented goods and services"~~  
2520 ~~are calculated by adding the following percentages of sales from each business registered with~~  
2521 ~~the State Tax Commission under one of the following codes of the 2012 North American~~  
2522 ~~Industry Classification System of the federal Executive Office of the President, Office of~~  
2523 ~~Management and Budget:]~~

2524 ~~[(i) 80% of the sales from each business under NAICS Codes:]~~

2525 ~~[(A) 532111 Passenger Car Rental;]~~

2526 ~~[(B) 53212 Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing;]~~

2527 ~~[(C) 5615 Travel Arrangement and Reservation Services;]~~

2528 ~~[(D) 7211 Traveler Accommodation; and]~~

2529 ~~[(E) 7212 RV (Recreational Vehicle) Parks and Recreational Camps;]~~

2530 ~~[(ii) 25% of the sales from each business under NAICS Codes:]~~

2531 ~~[(A) 51213 Motion Picture and Video Exhibition;]~~

2532 ~~[(B) 532292 Recreational Goods Rental;]~~

2533 ~~[(C) 711 Performing Arts, Spectator Sports, and Related Industries;]~~

2534 ~~[(D) 712 Museums, Historical Sites, and Similar Institutions; and]~~

2535 ~~[(E) 713 Amusement, Gambling, and Recreation Industries;]~~

2536 ~~[(iii) 20% of the sales from each business under NAICS Code 722 Food Services and~~  
2537 ~~Drinking Places;]~~

2538 ~~[(iv) 18% of the sales from each business under NAICS Codes:]~~

2539 ~~[(A) 447 Gasoline Stations; and]~~

2540 ~~[(B) 81293 Parking Lots and Garages;]~~

2541 ~~[(v) 14% of the sales from each business under NAICS Code 8111 Automotive Repair~~  
2542 ~~and Maintenance; and]~~

2543 ~~[(vi) 5% of the sales from each business under NAICS Codes:]~~

2544 ~~[(A) 445 Food and Beverage Stores;]~~

2545 ~~[(B) 446 Health and Personal Care Stores;]~~

2546 ~~[(C) 448 Clothing and Clothing Accessories Stores;]~~

2547 ~~[(D) 451 Sporting Goods, Hobby, Musical Instrument, and Book Stores;]~~

2548 ~~[(E) 452 General Merchandise Stores; and]~~

2549 ~~[(F) 453 Miscellaneous Store Retailers.]~~

2550 ~~[(9)]~~ (8) (a) For each fiscal year, the office shall allocate 20% of the funds appropriated  
2551 to the Tourism Marketing and Performance Account to the cooperative program described in  
2552 this Subsection ~~[(9)]~~ (8).

2553 (b) Money allocated to the cooperative program may be awarded to cities, counties,  
2554 nonprofit destination marketing organizations, and similar public entities for the purpose of  
2555 supplementing money committed by these entities for advertising and promoting sites and  
2556 events in the state.

2557 (c) The office shall establish:

2558 (i) an application and approval process for an entity to receive a cooperative program  
2559 award, including an application deadline;

2560 (ii) the criteria for awarding a cooperative program award, which shall emphasize  
2561 attracting out-of-state visitors, and may include attracting in-state visitors, to sites and events in  
2562 the state; and

2563 (iii) eligibility, advertising, timing, and reporting requirements of an entity that  
2564 receives a cooperative program award.

2565 (d) Money allocated to the cooperative program that is not used in each fiscal year shall  
2566 be returned to the Tourism Marketing Performance Account.

2567 Section 9. **Effective date.**

2568 (1) Except as provided in Subsection (2), this bill takes effect on May 4, 2022.

2569 (2) The changes to the following sections take effect on July 1, 2022:

2570 (a) Section [11-41-102](#);

2571 (b) Section [59-12-102](#);

2572 (c) Section [59-12-103](#);

2573 (d) Section [59-12-108](#); and

2574 (e) Section [63N-7-301](#).

2575 Section 10. **Retrospective operation.**

2576 This bill has retrospective operation for a taxable year beginning on or after January 1,

2577 2022.