

**Senator Daniel McCay** proposes the following substitute bill:

**TAX REVISIONS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Steve Eliason**

Senate Sponsor: Daniel McCay

6	Cosponsors:	Jason Kyle	Judy Weeks Rohner
7	Nelson T. Abbott	Karianne Lisonbee	Mike Schultz
8	Carl R. Albrecht	Anthony E. Loubet	Rex P. Shipp
9	Melissa G. Ballard	Steven J. Lund	Casey Snider
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13	Tyler Clancy	Karen M. Peterson	Jordan D. Teuscher
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15	Jon Hawkins	Val L. Peterson	Stephen L. Whyte
16	Ken Ivory	Candice B. Pierucci	Ryan D. Wilcox
17	Colin W. Jack	Susan Pulsipher	
	Dan N. Johnson		

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19 **LONG TITLE**

20 **General Description:**

21 This bill modifies state tax provisions.

22 **Highlighted Provisions:**

23 This bill:



- 24 ▶ amends the corporate franchise and income tax rates;
- 25 ▶ amends the individual income tax rate;
- 26 ▶ adds to the taxpayer tax credit an additional Utah personal exemption in the year of
- 27 a qualifying dependent's birth;
- 28 ▶ expands eligibility for the social security benefits tax credit by increasing the
- 29 thresholds for the income-based phaseout;
- 30 ▶ modifies the calculation of the earned income tax credit;
- 31 ▶ removes the state sales and use tax imposed on amounts paid or charged for food
- 32 and food ingredients; and
- 33 ▶ makes technical and conforming changes.

34 **Money Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 This bill provides a special effective date.

38 This bill provides retrospective operation.

39 **Utah Code Sections Affected:**

40 AMENDS:

- 41 **59-7-104**, as last amended by Laws of Utah 2022, Chapter 12
- 42 **59-7-201**, as last amended by Laws of Utah 2022, Chapter 12
- 43 **59-10-104**, as last amended by Laws of Utah 2022, Chapter 12
- 44 **59-10-1018**, as last amended by Laws of Utah 2021, Chapter 75
- 45 **59-10-1042**, as last amended by Laws of Utah 2022, Chapters 12, 258
- 46 **59-10-1044**, as enacted by Laws of Utah 2022, Chapter 12
- 47 **59-12-102**, as last amended by Laws of Utah 2021, Chapters 64, 367 and 414 and last
- 48 amended by Coordination Clause, Laws of Utah 2021, Chapter 367
- 49 **59-12-103**, as last amended by Laws of Utah 2022, Chapters 77, 106 and 433
- 50 **59-12-108**, as last amended by Laws of Utah 2020, Chapters 294, 407
- 51 **63N-2-502**, as last amended by Laws of Utah 2020, Chapter 407
- 52 **63N-7-301**, as last amended by Laws of Utah 2022, Chapters 274, 362 and last
- 53 amended by Coordination Clause, Laws of Utah 2022, Chapter 362

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

56 Section 1. Section **59-7-104** is amended to read:

57 **59-7-104. Tax -- Minimum tax.**

58 (1) Each domestic and foreign corporation, except a corporation that is exempt under  
59 Section **59-7-102**, shall pay an annual tax to the state based on the corporation's Utah taxable  
60 income for the taxable year for the privilege of exercising the corporation's corporate franchise  
61 or for the privilege of doing business in the state.

62 (2) The tax shall be [~~4.85~~] 4.65% of a corporation's Utah taxable income.

63 (3) The minimum tax a corporation shall pay under this chapter is \$100.

64 Section 2. Section **59-7-201** is amended to read:

65 **59-7-201. Tax -- Minimum tax.**

66 (1) There is imposed upon each corporation, except a corporation that is exempt under  
67 Section **59-7-102**, a tax upon the corporation's Utah taxable income for the taxable year that is  
68 derived from sources within this state other than income for any period that the corporation is  
69 required to include in the corporation's tax base under Section **59-7-104**.

70 (2) The tax imposed by Subsection (1) shall be [~~4.85~~] 4.65% of a corporation's Utah  
71 taxable income.

72 (3) In no case shall the tax be less than \$100.

73 Section 3. Section **59-10-104** is amended to read:

74 **59-10-104. Tax basis -- Tax rate -- Exemption.**

75 (1) A tax is imposed on the state taxable income of a resident individual as provided in  
76 this section.

77 (2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the  
78 product of:

79 (a) the resident individual's state taxable income for that taxable year; and

80 (b) [~~4.85~~] 4.65%.

81 (3) This section does not apply to a resident individual exempt from taxation under  
82 Section **59-10-104.1**.

83 Section 4. Section **59-10-1018** is amended to read:

84 **59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.**

85 (1) As used in this section:

86 (a) "Head of household filing status" means a head of household, as defined in Section  
87 2(b), Internal Revenue Code, who files a single federal individual income tax return for the  
88 taxable year.

89 (b) "Joint filing status" means:

90 (i) spouses who file a single return jointly under this chapter for a taxable year; or

91 (ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a  
92 single federal individual income tax return for the taxable year.

93 (c) "Qualifying dependent" means an individual with respect to whom the claimant is  
94 allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's  
95 federal individual income tax return for the taxable year.

96 (d) "Single filing status" means:

97 (i) a single individual who files a single federal individual income tax return for the  
98 taxable year; or

99 (ii) a married individual who:

100 (A) does not file a single federal individual income tax return jointly with that married  
101 individual's spouse for the taxable year; and

102 (B) files a single federal individual income tax return for the taxable year.

103 (e) "State or local income tax" means the lesser of:

104 (i) the amount of state or local income tax that the claimant:

105 (A) pays for the taxable year; and

106 (B) reports on the claimant's federal individual income tax return for the taxable year,  
107 regardless of whether the claimant is allowed an itemized deduction on the claimant's federal  
108 individual income tax return for the taxable year for the full amount of state or local income tax  
109 paid; and

110 (ii) \$10,000.

111 (f) (i) "Utah itemized deduction" means the amount the claimant deducts as allowed as  
112 an itemized deduction on the claimant's federal individual income tax return for that taxable  
113 year minus any amount of state or local income tax for the taxable year.

114 (ii) "Utah itemized deduction" does not include any amount of qualified business  
115 income that the claimant subtracts as allowed by Section 199A, Internal Revenue Code, on the  
116 claimant's federal income tax return for that taxable year.

117 (g) "Utah personal exemption" means, subject to Subsection (6), \$1,750 multiplied by  
118 the number of the claimant's qualifying dependents plus an additional qualifying dependent in  
119 the year of a qualifying dependent's birth.

120 (2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through  
121 (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part  
122 equal to the sum of:

123 (a) (i) for a claimant that deducts the standard deduction on the claimant's federal  
124 individual income tax return for the taxable year, 6% of the amount the claimant deducts as  
125 allowed as the standard deduction on the claimant's federal individual income tax return for  
126 that taxable year; or

127 (ii) for a claimant that itemizes deductions on the claimant's federal individual income  
128 tax return for the taxable year, 6% of the amount of the claimant's Utah itemized deduction;  
129 and

130 (b) 6% of the claimant's Utah personal exemption.

131 (3) A claimant may not carry forward or carry back a tax credit under this section.

132 (4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar  
133 by which a claimant's state taxable income exceeds:

134 (a) for a claimant who has a single filing status, \$15,095;

135 (b) for a claimant who has a head of household filing status, \$22,643; or

136 (c) for a claimant who has a joint filing status, \$30,190.

137 (5) (a) For a taxable year beginning on or after January 1, 2022, the commission shall  
138 increase or decrease annually the following dollar amounts by a percentage equal to the  
139 percentage difference between the consumer price index for the preceding calendar year and  
140 the consumer price index for calendar year 2020:

141 (i) the dollar amount listed in Subsection (4)(a); and

142 (ii) the dollar amount listed in Subsection (4)(b).

143 (b) After the commission increases or decreases the dollar amounts listed in Subsection  
144 (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the  
145 nearest whole dollar.

146 (c) After the commission rounds the dollar amounts as required by Subsection (5)(b),  
147 the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that

148 the dollar amount listed in Subsection (4)(c) is equal to the product of:

149 (i) the dollar amount listed in Subsection (4)(a); and

150 (ii) two.

151 (d) For purposes of Subsection (5)(a), the commission shall calculate the consumer

152 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

153 (6) (a) For a taxable year beginning on or after January 1, 2022, the commission shall

154 increase annually the Utah personal exemption amount listed in Subsection (1)(g) by a

155 percentage equal to the percentage by which the consumer price index for the preceding

156 calendar year exceeds the consumer price index for calendar year 2020.

157 (b) After the commission increases the Utah personal exemption amount as described

158 in Subsection (6)(a), the commission shall round the Utah personal exemption amount to the

159 nearest whole dollar.

160 (c) For purposes of Subsection (6)(a), the commission shall calculate the consumer

161 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

162 Section 5. Section **59-10-1042** is amended to read:

163 **59-10-1042. Nonrefundable tax credit for social security benefits.**

164 (1) As used in this section:

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

166 [59-10-1018](#).

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

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

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

170 individual's spouse for the taxable year; and

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

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

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

174 the claimant's spouse:

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

176 this section;

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

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

179 (iii) any addition to adjusted gross income required by Section 59-10-114 for the  
180 taxable year described in Subsection (1)(d)(i).

181 (e) "Single filing status" means a single individual who files a single federal individual  
182 income tax return for the taxable year.

183 (f) "Social security benefit" means an amount received by a claimant as a monthly  
184 benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.

185 (2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), each  
186 claimant on a return that receives a social security benefit may claim a nonrefundable tax credit  
187 against taxes otherwise due under this part equal to the product of:

188 (a) the percentage listed in Subsection 59-10-104(2); and

189 (b) the claimant's social security benefit that is included in adjusted gross income on  
190 the claimant's federal income tax return for the taxable year.

191 (3) A claimant may not:

192 (a) carry forward or carry back the amount of a tax credit under this section that  
193 exceeds the claimant's tax liability for the taxable year; or

194 (b) claim a tax credit under this section for a taxable year if a tax credit under Section  
195 59-10-1019 is claimed on the claimant's return for the same taxable year.

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

199 (a) for a federal individual income tax return that is allowed a married filing separately  
200 status, [~~\$31,000~~] \$37,500;

201 (b) for a federal individual income tax return that is allowed a single filing status,  
202 [~~\$37,000~~] \$45,000;

203 (c) for a federal individual income tax return that is allowed a head of household filing  
204 status, [~~\$62,000~~] \$75,000; or

205 (d) for a return under this chapter that is allowed a joint filing status, [~~\$62,000~~]  
206 \$75,000.

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

210 Section 6. Section **59-10-1044** is amended to read:

211 **59-10-1044. Nonrefundable earned income tax credit.**

212 (1) As used in this section:

213 (a) "Federal earned income tax credit" means the federal earned income tax credit

214 described in Section 32, Internal Revenue Code.

215 (b) "Qualifying claimant" means a resident or nonresident individual who:

216 (i) qualifies for and claims the federal earned income tax credit for the current taxable  
217 year[-]; and

218 (ii) earns income in Utah that is reported on a W-2 form.

219 (2) Subject to Section **59-10-1002.2**, a qualifying claimant may claim a nonrefundable  
220 earned income tax credit equal to the lesser of:

221 (a) ~~[+5]~~ 20% of the amount of the federal earned income tax credit that the qualifying  
222 claimant was entitled to claim on a federal income tax return for the current taxable year[-]; and

223 (b) the total Utah wages reported on the qualifying claimant's W-2 form for the current  
224 taxable year.

225 (3) A qualifying claimant may not carry forward or carry back the amount of the earned  
226 income tax credit that exceeds the qualifying claimant's tax liability.

227 Section 7. Section **59-12-102** is amended to read:

228 **59-12-102. Definitions.**

229 As used in this chapter:

230 (1) "800 service" means a telecommunications service that:

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

232 (b) is typically marketed:

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

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

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

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

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

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

239 Federal Communications Commission.

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



- 241 (i) a subscriber purchases;
- 242 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 243 the subscriber's:
- 244 (A) prerecorded announcement; or
- 245 (B) live service; and
- 246 (iii) is typically marketed:
- 247 (A) under the name 900 service; or
- 248 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 249 Communications Commission.
- 250 (b) "900 service" does not include a charge for:
- 251 (i) a collection service a seller of a telecommunications service provides to a
- 252 subscriber; or
- 253 (ii) the following a subscriber sells to the subscriber's customer:
- 254 (A) a product; or
- 255 (B) a service.
- 256 (3) (a) "Admission or user fees" includes season passes.
- 257 (b) "Admission or user fees" does not include:
- 258 (i) annual membership dues to private organizations; or
- 259 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
- 260 facility listed in Subsection 59-12-103(1)(f).
- 261 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
- 262 person:
- 263 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
- 264 person; or
- 265 (b) is related to the other person because a third person, or a group of third persons who
- 266 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
- 267 whether direct or indirect, in the related persons.
- 268 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 269 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 270 Agreement after November 12, 2002.
- 271 (6) "Agreement combined tax rate" means the sum of the tax rates:

- 272 (a) listed under Subsection (7); and
- 273 (b) that are imposed within a local taxing jurisdiction.
- 274 (7) "Agreement sales and use tax" means a tax imposed under:
- 275 (a) Subsection 59-12-103(2)(a)(i)(A);
- 276 (b) Subsection 59-12-103(2)(b)(i);
- 277 [~~(c)~~ Subsection 59-12-103(2)(c)(i);]
- 278 [~~(d)~~ (c) Subsection 59-12-103(2)(d);
- 279 [~~(e)~~ (d) Subsection 59-12-103(2)(e)(i)(A)(I);
- 280 [~~(f)~~ (e) Section 59-12-204;
- 281 [~~(g)~~ (f) Section 59-12-401;
- 282 [~~(h)~~ (g) Section 59-12-402;
- 283 [~~(i)~~ (h) Section 59-12-402.1;
- 284 [~~(j)~~ (i) Section 59-12-703;
- 285 [~~(k)~~ (j) Section 59-12-802;
- 286 [~~(l)~~ (k) Section 59-12-804;
- 287 [~~(m)~~ (l) Section 59-12-1102;
- 288 [~~(n)~~ (m) Section 59-12-1302;
- 289 [~~(o)~~ (n) Section 59-12-1402;
- 290 [~~(p)~~ (o) Section 59-12-1802;
- 291 [~~(q)~~ (p) Section 59-12-2003;
- 292 [~~(r)~~ (q) Section 59-12-2103;
- 293 [~~(s)~~ (r) Section 59-12-2213;
- 294 [~~(t)~~ (s) Section 59-12-2214;
- 295 [~~(u)~~ (t) Section 59-12-2215;
- 296 [~~(v)~~ (u) Section 59-12-2216;
- 297 [~~(w)~~ (v) Section 59-12-2217;
- 298 [~~(x)~~ (w) Section 59-12-2218;
- 299 [~~(y)~~ (x) Section 59-12-2219; or
- 300 [~~(z)~~ (y) Section 59-12-2220.
- 301 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 302 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

- 303 (a) except for:
- 304 (i) an airline as defined in Section 59-2-102; or
- 305 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 306 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 307 state, of an airline; and
- 308 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 309 whether the business entity performs the following in this state:
- 310 (i) check, diagnose, overhaul, and repair:
- 311 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 312 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 313 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 314 engine;
- 315 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 316 aircraft:
- 317 (A) an inspection;
- 318 (B) a repair, including a structural repair or modification;
- 319 (C) changing landing gear; and
- 320 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 321 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 322 completely apply new paint to the fixed wing turbine powered aircraft; and
- 323 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 324 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 325 authority that certifies the fixed wing turbine powered aircraft.
- 326 (10) "Alcoholic beverage" means a beverage that:
- 327 (a) is suitable for human consumption; and
- 328 (b) contains .5% or more alcohol by volume.
- 329 (11) "Alternative energy" means:
- 330 (a) biomass energy;
- 331 (b) geothermal energy;
- 332 (c) hydroelectric energy;
- 333 (d) solar energy;

- 334 (e) wind energy; or
- 335 (f) energy that is derived from:
  - 336 (i) coal-to-liquids;
  - 337 (ii) nuclear fuel;
  - 338 (iii) oil-impregnated diatomaceous earth;
  - 339 (iv) oil sands;
  - 340 (v) oil shale;
  - 341 (vi) petroleum coke; or
  - 342 (vii) waste heat from:
    - 343 (A) an industrial facility; or
    - 344 (B) a power station in which an electric generator is driven through a process in which
    - 345 water is heated, turns into steam, and spins a steam turbine.
- 346 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
- 347 facility" means a facility that:
  - 348 (i) uses alternative energy to produce electricity; and
  - 349 (ii) has a production capacity of two megawatts or greater.
- 350 (b) A facility is an alternative energy electricity production facility regardless of
- 351 whether the facility is:
  - 352 (i) connected to an electric grid; or
  - 353 (ii) located on the premises of an electricity consumer.
- 354 (13) (a) "Ancillary service" means a service associated with, or incidental to, the
- 355 provision of telecommunications service.
  - 356 (b) "Ancillary service" includes:
    - 357 (i) a conference bridging service;
    - 358 (ii) a detailed communications billing service;
    - 359 (iii) directory assistance;
    - 360 (iv) a vertical service; or
    - 361 (v) a voice mail service.
- 362 (14) "Area agency on aging" means the same as that term is defined in Section
- 363 [62A-3-101](#).
- 364 (15) "Assisted amusement device" means an amusement device, skill device, or ride

365 device that is started and stopped by an individual:

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

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

370 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or  
371 washing of tangible personal property if the cleaning or washing labor is primarily performed  
372 by an individual:

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

375 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
376 property.

377 (17) "Authorized carrier" means:

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

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

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

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

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

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

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

391 (B) animal waste;

392 (C) waste vegetable oil;

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

- 396 (E) aquatic plants; and
- 397 (F) agricultural products.
- 398 (b) "Biomass energy" does not include:
- 399 (i) black liquor; or
- 400 (ii) treated woods.
- 401 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 402 property, products, or services if the tangible personal property, products, or services are:
- 403 (i) distinct and identifiable; and
- 404 (ii) sold for one nonitemized price.
- 405 (b) "Bundled transaction" does not include:
- 406 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 407 the basis of the selection by the purchaser of the items of tangible personal property included in
- 408 the transaction;
- 409 (ii) the sale of real property;
- 410 (iii) the sale of services to real property;
- 411 (iv) the retail sale of tangible personal property and a service if:
- 412 (A) the tangible personal property:
- 413 (I) is essential to the use of the service; and
- 414 (II) is provided exclusively in connection with the service; and
- 415 (B) the service is the true object of the transaction;
- 416 (v) the retail sale of two services if:
- 417 (A) one service is provided that is essential to the use or receipt of a second service;
- 418 (B) the first service is provided exclusively in connection with the second service; and
- 419 (C) the second service is the true object of the transaction;
- 420 (vi) a transaction that includes tangible personal property or a product subject to
- 421 taxation under this chapter and tangible personal property or a product that is not subject to
- 422 taxation under this chapter if the:
- 423 (A) seller's purchase price of the tangible personal property or product subject to
- 424 taxation under this chapter is de minimis; or
- 425 (B) seller's sales price of the tangible personal property or product subject to taxation
- 426 under this chapter is de minimis; and

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

429 (A) that retail sale includes:

430 (I) food and food ingredients;

431 (II) a drug;

432 (III) durable medical equipment;

433 (IV) mobility enhancing equipment;

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

435 (VI) a prosthetic device; or

436 (VII) a medical supply; and

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

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

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

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

444 (A) packaging that:

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

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

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

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

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

457 (d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price

458 does not include a price that is separately identified by tangible personal property, product, or  
459 service on the following, regardless of whether the following is in paper format or electronic  
460 format:

461 (A) a binding sales document; or

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

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

465 (A) a bill of sale;

466 (B) a contract;

467 (C) an invoice;

468 (D) a lease agreement;

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

470 (F) a price list;

471 (G) a rate card;

472 (H) a receipt; or

473 (I) a service agreement.

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

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

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

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

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

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

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



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

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

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

497 (i) on a transaction; and

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

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

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

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

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

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

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

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

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

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

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

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

519 (25) (a) "Common carrier" means a person engaged in or transacting the business of

520 transporting passengers, freight, merchandise, or other property for hire within this state.

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

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

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

529 (26) "Component part" includes:

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

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

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

535 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

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

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

550 (b) "Conference bridging service" may include providing a telephone number as part of

551 the ancillary service described in Subsection (30)(a).

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

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

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

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

559 (i) by a seller of:

560 (A) tangible personal property;

561 (B) a product transferred electronically; or

562 (C) a service; and

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

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

567 (i) transportation;

568 (ii) shipping;

569 (iii) postage;

570 (iv) handling;

571 (v) crating; or

572 (vi) packing.

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

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

576 (a) is intended to supplement the diet;

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

578 (i) a vitamin;

579 (ii) a mineral;

580 (iii) an herb or other botanical;

581 (iv) an amino acid;

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

584 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient  
585 described in Subsections (35)(b)(i) through (v);

586 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:

587 (A) tablet form;

588 (B) capsule form;

589 (C) powder form;

590 (D) softgel form;

591 (E) gelcap form; or

592 (F) liquid form; or

593 (ii) if the product is not intended for ingestion in a form described in Subsections

594 (35)(c)(i)(A) through (F), is not represented:

595 (A) as conventional food; and

596 (B) for use as a sole item of:

597 (I) a meal; or

598 (II) the diet; and

599 (d) is required to be labeled as a dietary supplement:

600 (i) identifiable by the "Supplemental Facts" box found on the label; and

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

602 (36) (a) "Digital audio work" means a work that results from the fixation of a series of  
603 musical, spoken, or other sounds.

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

605 (37) "Digital audio-visual work" means a series of related images which, when shown  
606 in succession, imparts an impression of motion, together with accompanying sounds, if any.

607 (38) "Digital book" means a work that is generally recognized in the ordinary and usual  
608 sense as a book.

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

611 (i) to:

612 (A) a mass audience; or

- 613 (B) addressees on a mailing list provided:
- 614 (I) by a purchaser of the mailing list; or
- 615 (II) at the discretion of the purchaser of the mailing list; and
- 616 (ii) if the cost of the printed material is not billed directly to the recipients.
- 617 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 618 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 619 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 620 single address.
- 621 (40) "Directory assistance" means an ancillary service of providing:
- 622 (a) address information; or
- 623 (b) telephone number information.
- 624 (41) (a) "Disposable home medical equipment or supplies" means medical equipment
- 625 or supplies that:
- 626 (i) cannot withstand repeated use; and
- 627 (ii) are purchased by, for, or on behalf of a person other than:
- 628 (A) a health care facility as defined in Section [26-21-2](#);
- 629 (B) a health care provider as defined in Section [78B-3-403](#);
- 630 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or
- 631 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).
- 632 (b) "Disposable home medical equipment or supplies" does not include:
- 633 (i) a drug;
- 634 (ii) durable medical equipment;
- 635 (iii) a hearing aid;
- 636 (iv) a hearing aid accessory;
- 637 (v) mobility enhancing equipment; or
- 638 (vi) tangible personal property used to correct impaired vision, including:
- 639 (A) eyeglasses; or
- 640 (B) contact lenses.
- 641 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 642 commission may by rule define what constitutes medical equipment or supplies.
- 643 (42) "Drilling equipment manufacturer" means a facility:

- 644 (a) located in the state;
- 645 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 646 consist of manufacturing component parts of drilling equipment;
- 647 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 648 manufacturing process; and
- 649 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 650 manufacturing process.

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

652 compound, substance, or preparation that is:

- 653 (i) recognized in:
  - 654 (A) the official United States Pharmacopoeia;
  - 655 (B) the official Homeopathic Pharmacopoeia of the United States;
  - 656 (C) the official National Formulary; or
  - 657 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);
- 658 (ii) intended for use in the:
  - 659 (A) diagnosis of disease;
  - 660 (B) cure of disease;
  - 661 (C) mitigation of disease;
  - 662 (D) treatment of disease; or
  - 663 (E) prevention of disease; or
- 664 (iii) intended to affect:
  - 665 (A) the structure of the body; or
  - 666 (B) any function of the body.
- 667 (b) "Drug" does not include:
  - 668 (i) food and food ingredients;
  - 669 (ii) a dietary supplement;
  - 670 (iii) an alcoholic beverage; or
  - 671 (iv) a prosthetic device.

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

673 equipment that:

- 674 (i) can withstand repeated use;

- 675 (ii) is primarily and customarily used to serve a medical purpose;
- 676 (iii) generally is not useful to a person in the absence of illness or injury; and
- 677 (iv) is not worn in or on the body.
- 678 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 679 equipment described in Subsection (44)(a).
- 680 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 681 (45) "Electronic" means:
- 682 (a) relating to technology; and
- 683 (b) having:
- 684 (i) electrical capabilities;
- 685 (ii) digital capabilities;
- 686 (iii) magnetic capabilities;
- 687 (iv) wireless capabilities;
- 688 (v) optical capabilities;
- 689 (vi) electromagnetic capabilities; or
- 690 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).
- 691 (46) "Electronic financial payment service" means an establishment:
- 692 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 693 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 694 federal Executive Office of the President, Office of Management and Budget; and
- 695 (b) that performs electronic financial payment services.
- 696 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 697 (48) "Fixed guideway" means a public transit facility that uses and occupies:
- 698 (a) rail for the use of public transit; or
- 699 (b) a separate right-of-way for the use of public transit.
- 700 (49) "Fixed wing turbine powered aircraft" means an aircraft that:
- 701 (a) is powered by turbine engines;
- 702 (b) operates on jet fuel; and
- 703 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 704 (50) "Fixed wireless service" means a telecommunications service that provides radio
- 705 communication between fixed points.

- 706 (51) (a) "Food and food ingredients" means substances:
- 707 (i) regardless of whether the substances are in:
- 708 (A) liquid form;
- 709 (B) concentrated form;
- 710 (C) solid form;
- 711 (D) frozen form;
- 712 (E) dried form; or
- 713 (F) dehydrated form; and
- 714 (ii) that are:
- 715 (A) sold for:
- 716 (I) ingestion by humans; or
- 717 (II) chewing by humans; and
- 718 (B) consumed for the substance's:
- 719 (I) taste; or
- 720 (II) nutritional value.
- 721 (b) "Food and food ingredients" includes an item described in Subsection (96)(b)(iii).
- 722 (c) "Food and food ingredients" does not include:
- 723 (i) an alcoholic beverage;
- 724 (ii) tobacco; or
- 725 (iii) prepared food.
- 726 (52) (a) "Fundraising sales" means sales:
- 727 (i) (A) made by a school; or
- 728 (B) made by a school student;
- 729 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 730 materials, or provide transportation; and
- 731 (iii) that are part of an officially sanctioned school activity.
- 732 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"
- 733 means a school activity:
- 734 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 735 district governing the authorization and supervision of fundraising activities;
- 736 (ii) that does not directly or indirectly compensate an individual teacher or other



737 educational personnel by direct payment, commissions, or payment in kind; and

738 (iii) the net or gross revenues from which are deposited in a dedicated account

739 controlled by the school or school district.

740 (53) "Geothermal energy" means energy contained in heat that continuously flows

741 outward from the earth that is used as the sole source of energy to produce electricity.

742 (54) "Governing board of the agreement" means the governing board of the agreement

743 that is:

744 (a) authorized to administer the agreement; and

745 (b) established in accordance with the agreement.

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

747 (i) the executive branch of the state, including all departments, institutions, boards,

748 divisions, bureaus, offices, commissions, and committees;

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

750 Administrative Office of the Courts, and similar administrative units in the judicial branch;

751 (iii) the legislative branch of the state, including the House of Representatives, the

752 Senate, the Legislative Printing Office, the Office of Legislative Research and General

753 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal

754 Analyst;

755 (iv) the National Guard;

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

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

758 (b) "Governmental entity" does not include the state systems of public and higher

759 education, including:

760 (i) a school;

761 (ii) the State Board of Education;

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

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

764 (56) "Hydroelectric energy" means water used as the sole source of energy to produce

765 electricity.

766 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or

767 other fuels:

- 768 (a) in mining or extraction of minerals;
- 769 (b) in agricultural operations to produce an agricultural product up to the time of  
770 harvest or placing the agricultural product into a storage facility, including:
- 771 (i) commercial greenhouses;
- 772 (ii) irrigation pumps;
- 773 (iii) farm machinery;
- 774 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered  
775 under Title 41, Chapter 1a, Part 2, Registration; and
- 776 (v) other farming activities;
- 777 (c) in manufacturing tangible personal property at an establishment described in:
- 778 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
779 the federal Executive Office of the President, Office of Management and Budget; or
- 780 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
781 American Industry Classification System of the federal Executive Office of the President,  
782 Office of Management and Budget;
- 783 (d) by a scrap recycler if:
- 784 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
785 one or more of the following items into prepared grades of processed materials for use in new  
786 products:
- 787 (A) iron;
- 788 (B) steel;
- 789 (C) nonferrous metal;
- 790 (D) paper;
- 791 (E) glass;
- 792 (F) plastic;
- 793 (G) textile; or
- 794 (H) rubber; and
- 795 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with  
796 nonrecycled materials; or
- 797 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a  
798 cogeneration facility as defined in Section 54-2-1.

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

801 (i) tangible personal property; or

802 (ii) a product transferred electronically.

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

804 (i) repairs or renovations of:

805 (A) tangible personal property; or

806 (B) a product transferred electronically; or

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

808 (A) to other tangible personal property; and

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

810 (59) "Institution of higher education" means an institution of higher education listed in  
811 Section [53B-2-101](#).

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

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

815 (B) an indeterminate term; and

816 (ii) consideration.

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

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

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

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

827 (A) upon completion of required payments; and

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

829 (I) \$100; or

830 (II) 1% of the total required payments; or  
831 (iii) providing tangible personal property along with an operator for a fixed period of  
832 time or an indeterminate period of time if the operator is necessary for equipment to perform as  
833 designed.  
834 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to  
835 perform as designed if the operator's duties exceed the:  
836 (i) set-up of tangible personal property;  
837 (ii) maintenance of tangible personal property; or  
838 (iii) inspection of tangible personal property.  
839 (61) "Lesson" means a fixed period of time for the duration of which a trained  
840 instructor:  
841 (a) is present with a student in person or by video; and  
842 (b) actively instructs the student, including by providing observation or feedback.  
843 (62) "Life science establishment" means an establishment in this state that is classified  
844 under the following NAICS codes of the 2007 North American Industry Classification System  
845 of the federal Executive Office of the President, Office of Management and Budget:  
846 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;  
847 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus  
848 Manufacturing; or  
849 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.  
850 (63) "Life science research and development facility" means a facility owned, leased,  
851 or rented by a life science establishment if research and development is performed in 51% or  
852 more of the total area of the facility.  
853 (64) "Load and leave" means delivery to a purchaser by use of a tangible storage media  
854 if the tangible storage media is not physically transferred to the purchaser.  
855 (65) "Local taxing jurisdiction" means a:  
856 (a) county that is authorized to impose an agreement sales and use tax;  
857 (b) city that is authorized to impose an agreement sales and use tax; or  
858 (c) town that is authorized to impose an agreement sales and use tax.  
859 (66) "Manufactured home" means the same as that term is defined in Section  
860 [15A-1-302](#).

861 (67) "Manufacturing facility" means:

862 (a) an establishment described in:

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

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

868 (b) a scrap recycler if:

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

872 (A) iron;

873 (B) steel;

874 (C) nonferrous metal;

875 (D) paper;

876 (E) glass;

877 (F) plastic;

878 (G) textile; or

879 (H) rubber; and

880 (ii) the new products under Subsection (67)(b)(i) would otherwise be made with  
881 nonrecycled materials; or

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

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

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

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

892 (i) does any of the following:

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

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

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

904 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible  
905 personal property, a product transferred electronically, or a service, regardless of ownership or  
906 control of the tangible personal property, the product transferred electronically, or the service  
907 that is the subject of the retail sale;

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

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

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

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

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

919 (ii) does any of the following:

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

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

923 a product transferred electronically, or a service;

924 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing  
925 fee, a fee for inserting or making available tangible personal property, a product transferred  
926 electronically, or a service on the person's marketplace, or other consideration for the  
927 facilitation of a retail sale of tangible personal property, a product transferred electronically, or  
928 a service, regardless of ownership or control of the tangible personal property, the product  
929 transferred electronically, or the service that is the subject of the retail sale;

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

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

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

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

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

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

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

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

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

948 (ii) a foster child or foster stepchild;

949 (b) grandchild or stepgrandchild;

950 (c) grandparent or stepgrandparent;

951 (d) nephew or stepnephew;

952 (e) niece or stepniece;

953 (f) parent or stepparent;

954 (g) sibling or stepsibling;

955 (h) spouse;

956 (i) person who is the spouse of a person described in Subsections (71)(a) through (g);

957 or

958 (j) person similar to a person described in Subsections (71)(a) through (i) as

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

960 Administrative Rulemaking Act.

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

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

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

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

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

968 (iii) the origination point described in Subsection (74)(a)(i) and the termination point  
969 described in Subsection (74)(a)(ii) are not fixed.

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

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

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

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

978 (ii) appropriate for use in a:

979 (A) home; or

980 (B) motor vehicle; and

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

982 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
983 the equipment described in Subsection (75)(a).

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



985 (i) a motor vehicle;

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

988 (iii) durable medical equipment; or

989 (iv) a prosthetic device.

990 (76) "Model 1 seller" means a seller registered under the agreement that has selected a  
991 certified service provider as the seller's agent to perform the seller's sales and use tax functions  
992 for agreement sales and use taxes, as outlined in the contract between the governing board of  
993 the agreement and the certified service provider, other than the seller's obligation under Section  
994 [59-12-124](#) to remit a tax on the seller's own purchases.

995 (77) "Model 2 seller" means a seller registered under the agreement that:

996 (a) except as provided in Subsection (77)(b), has selected a certified automated system  
997 to perform the seller's sales tax functions for agreement sales and use taxes; and

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

999 (i) collected by the seller; and

1000 (ii) to the appropriate local taxing jurisdiction.

1001 (78) (a) Subject to Subsection (78)(b), "model 3 seller" means a seller registered under  
1002 the agreement that has:

1003 (i) sales in at least five states that are members of the agreement;

1004 (ii) total annual sales revenues of at least \$500,000,000;

1005 (iii) a proprietary system that calculates the amount of tax:

1006 (A) for an agreement sales and use tax; and

1007 (B) due to each local taxing jurisdiction; and

1008 (iv) entered into a performance agreement with the governing board of the agreement.

1009 (b) For purposes of Subsection (78)(a), "model 3 seller" includes an affiliated group of  
1010 sellers using the same proprietary system.

1011 (79) "Model 4 seller" means a seller that is registered under the agreement and is not a  
1012 model 1 seller, model 2 seller, or model 3 seller.

1013 (80) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

1014 (81) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

1015 (82) "Oil sands" means impregnated bituminous sands that:

1016 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with  
1017 other hydrocarbons, or otherwise treated;

1018 (b) yield mixtures of liquid hydrocarbon; and

1019 (c) require further processing other than mechanical blending before becoming finished  
1020 petroleum products.

1021 (83) "Oil shale" means a group of fine black to dark brown shales containing kerogen  
1022 material that yields petroleum upon heating and distillation.

1023 (84) "Optional computer software maintenance contract" means a computer software  
1024 maintenance contract that a customer is not obligated to purchase as a condition to the retail  
1025 sale of computer software.

1026 (85) (a) "Other fuels" means products that burn independently to produce heat or  
1027 energy.

1028 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
1029 personal property.

1030 (86) (a) "Paging service" means a telecommunications service that provides  
1031 transmission of a coded radio signal for the purpose of activating a specific pager.

1032 (b) For purposes of Subsection (86)(a), the transmission of a coded radio signal  
1033 includes a transmission by message or sound.

1034 (87) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

1035 (88) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).

1036 (89) (a) "Permanently attached to real property" means that for tangible personal  
1037 property attached to real property:

1038 (i) the attachment of the tangible personal property to the real property:

1039 (A) is essential to the use of the tangible personal property; and

1040 (B) suggests that the tangible personal property will remain attached to the real  
1041 property in the same place over the useful life of the tangible personal property; or

1042 (ii) if the tangible personal property is detached from the real property, the detachment  
1043 would:

1044 (A) cause substantial damage to the tangible personal property; or

1045 (B) require substantial alteration or repair of the real property to which the tangible  
1046 personal property is attached.

- 1047 (b) "Permanently attached to real property" includes:
- 1048 (i) the attachment of an accessory to the tangible personal property if the accessory is:
- 1049 (A) essential to the operation of the tangible personal property; and
- 1050 (B) attached only to facilitate the operation of the tangible personal property;
- 1051 (ii) a temporary detachment of tangible personal property from real property for a
- 1052 repair or renovation if the repair or renovation is performed where the tangible personal
- 1053 property and real property are located; or
- 1054 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
- 1055 Subsection (89)(c)(iii) or (iv).
- 1056 (c) "Permanently attached to real property" does not include:
- 1057 (i) the attachment of portable or movable tangible personal property to real property if
- 1058 that portable or movable tangible personal property is attached to real property only for:
- 1059 (A) convenience;
- 1060 (B) stability; or
- 1061 (C) for an obvious temporary purpose;
- 1062 (ii) the detachment of tangible personal property from real property except for the
- 1063 detachment described in Subsection (89)(b)(ii);
- 1064 (iii) an attachment of the following tangible personal property to real property if the
- 1065 attachment to real property is only through a line that supplies water, electricity, gas,
- 1066 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 1067 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 1068 (A) a computer;
- 1069 (B) a telephone;
- 1070 (C) a television; or
- 1071 (D) tangible personal property similar to Subsections (89)(c)(iii)(A) through (C) as
- 1072 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 1073 Administrative Rulemaking Act; or
- 1074 (iv) an item listed in Subsection (130)(c).
- 1075 (90) "Person" includes any individual, firm, partnership, joint venture, association,
- 1076 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
- 1077 municipality, district, or other local governmental entity of the state, or any group or

1078 combination acting as a unit.

1079 (91) "Place of primary use":

1080 (a) for telecommunications service other than mobile telecommunications service,  
1081 means the street address representative of where the customer's use of the telecommunications  
1082 service primarily occurs, which shall be:

1083 (i) the residential street address of the customer; or

1084 (ii) the primary business street address of the customer; or

1085 (b) for mobile telecommunications service, means the same as that term is defined in  
1086 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1087 (92) (a) "Postpaid calling service" means a telecommunications service a person  
1088 obtains by making a payment on a call-by-call basis:

1089 (i) through the use of a:

1090 (A) bank card;

1091 (B) credit card;

1092 (C) debit card; or

1093 (D) travel card; or

1094 (ii) by a charge made to a telephone number that is not associated with the origination  
1095 or termination of the telecommunications service.

1096 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
1097 service, that would be a prepaid wireless calling service if the service were exclusively a  
1098 telecommunications service.

1099 (93) "Postproduction" means an activity related to the finishing or duplication of a  
1100 medium described in Subsection [59-12-104\(54\)\(a\)](#).

1101 (94) "Prepaid calling service" means a telecommunications service:

1102 (a) that allows a purchaser access to telecommunications service that is exclusively  
1103 telecommunications service;

1104 (b) that:

1105 (i) is paid for in advance; and

1106 (ii) enables the origination of a call using an:

1107 (A) access number; or

1108 (B) authorization code;

- 1109 (c) that is dialed:
- 1110 (i) manually; or
- 1111 (ii) electronically; and
- 1112 (d) sold in predetermined units or dollars that decline:
- 1113 (i) by a known amount; and
- 1114 (ii) with use.
- 1115 (95) "Prepaid wireless calling service" means a telecommunications service:
- 1116 (a) that provides the right to utilize:
- 1117 (i) mobile wireless service; and
- 1118 (ii) other service that is not a telecommunications service, including:
- 1119 (A) the download of a product transferred electronically;
- 1120 (B) a content service; or
- 1121 (C) an ancillary service;
- 1122 (b) that:
- 1123 (i) is paid for in advance; and
- 1124 (ii) enables the origination of a call using an:
- 1125 (A) access number; or
- 1126 (B) authorization code;
- 1127 (c) that is dialed:
- 1128 (i) manually; or
- 1129 (ii) electronically; and
- 1130 (d) sold in predetermined units or dollars that decline:
- 1131 (i) by a known amount; and
- 1132 (ii) with use.
- 1133 (96) (a) "Prepared food" means:
- 1134 (i) food:
- 1135 (A) sold in a heated state; or
- 1136 (B) heated by a seller;
- 1137 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 1138 item; or
- 1139 (iii) except as provided in Subsection (96)(c), food sold with an eating utensil provided

1140 by the seller, including a:

1141 (A) plate;

1142 (B) knife;

1143 (C) fork;

1144 (D) spoon;

1145 (E) glass;

1146 (F) cup;

1147 (G) napkin; or

1148 (H) straw.

1149 (b) "Prepared food" does not include:

1150 (i) food that a seller only:

1151 (A) cuts;

1152 (B) repackages; or

1153 (C) pasteurizes; or

1154 (ii) (A) the following:

1155 (I) raw egg;

1156 (II) raw fish;

1157 (III) raw meat;

1158 (IV) raw poultry; or

1159 (V) a food containing an item described in Subsections (96)(b)(ii)(A)(I) through (IV);

1160 and

1161 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the

1162 Food and Drug Administration's Food Code that a consumer cook the items described in

1163 Subsection (96)(b)(ii)(A) to prevent food borne illness; or

1164 (iii) the following if sold without eating utensils provided by the seller:

1165 (A) food and food ingredients sold by a seller if the seller's proper primary

1166 classification under the 2002 North American Industry Classification System of the federal

1167 Executive Office of the President, Office of Management and Budget, is manufacturing in

1168 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla

1169 Manufacturing;

1170 (B) food and food ingredients sold in an unheated state:

- 1171 (I) by weight or volume; and
- 1172 (II) as a single item; or
- 1173 (C) a bakery item, including:
  - 1174 (I) a bagel;
  - 1175 (II) a bar;
  - 1176 (III) a biscuit;
  - 1177 (IV) bread;
  - 1178 (V) a bun;
  - 1179 (VI) a cake;
  - 1180 (VII) a cookie;
  - 1181 (VIII) a croissant;
  - 1182 (IX) a danish;
  - 1183 (X) a donut;
  - 1184 (XI) a muffin;
  - 1185 (XII) a pastry;
  - 1186 (XIII) a pie;
  - 1187 (XIV) a roll;
  - 1188 (XV) a tart;
  - 1189 (XVI) a torte; or
  - 1190 (XVII) a tortilla.
- 1191 (c) An eating utensil provided by the seller does not include the following used to
- 1192 transport the food:
  - 1193 (i) a container; or
  - 1194 (ii) packaging.
- 1195 (97) "Prescription" means an order, formula, or recipe that is issued:
  - 1196 (a) (i) orally;
  - 1197 (ii) in writing;
  - 1198 (iii) electronically; or
  - 1199 (iv) by any other manner of transmission; and
  - 1200 (b) by a licensed practitioner authorized by the laws of a state.
- 1201 (98) (a) Except as provided in Subsection (98)(b)(ii) or (iii), "prewritten computer

1202 software" means computer software that is not designed and developed:  
1203 (i) by the author or other creator of the computer software; and  
1204 (ii) to the specifications of a specific purchaser.  
1205 (b) "Prewritten computer software" includes:  
1206 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer  
1207 software is not designed and developed:  
1208 (A) by the author or other creator of the computer software; and  
1209 (B) to the specifications of a specific purchaser;  
1210 (ii) computer software designed and developed by the author or other creator of the  
1211 computer software to the specifications of a specific purchaser if the computer software is sold  
1212 to a person other than the purchaser; or  
1213 (iii) except as provided in Subsection (98)(c), prewritten computer software or a  
1214 prewritten portion of prewritten computer software:  
1215 (A) that is modified or enhanced to any degree; and  
1216 (B) if the modification or enhancement described in Subsection (98)(b)(iii)(A) is  
1217 designed and developed to the specifications of a specific purchaser.  
1218 (c) "Prewritten computer software" does not include a modification or enhancement  
1219 described in Subsection (98)(b)(iii) if the charges for the modification or enhancement are:  
1220 (i) reasonable; and  
1221 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the  
1222 invoice or other statement of price provided to the purchaser at the time of sale or later, as  
1223 demonstrated by:  
1224 (A) the books and records the seller keeps at the time of the transaction in the regular  
1225 course of business, including books and records the seller keeps at the time of the transaction in  
1226 the regular course of business for nontax purposes;  
1227 (B) a preponderance of the facts and circumstances at the time of the transaction; and  
1228 (C) the understanding of all of the parties to the transaction.  
1229 (99) (a) "Private communications service" means a telecommunications service:  
1230 (i) that entitles a customer to exclusive or priority use of one or more communications  
1231 channels between or among termination points; and  
1232 (ii) regardless of the manner in which the one or more communications channels are



1233 connected.

1234 (b) "Private communications service" includes the following provided in connection  
1235 with the use of one or more communications channels:

1236 (i) an extension line;

1237 (ii) a station;

1238 (iii) switching capacity; or

1239 (iv) another associated service that is provided in connection with the use of one or  
1240 more communications channels as defined in Section 59-12-215.

1241 (100) (a) Except as provided in Subsection (100)(b), "product transferred  
1242 electronically" means a product transferred electronically that would be subject to a tax under  
1243 this chapter if that product was transferred in a manner other than electronically.

1244 (b) "Product transferred electronically" does not include:

1245 (i) an ancillary service;

1246 (ii) computer software; or

1247 (iii) a telecommunications service.

1248 (101) (a) "Prosthetic device" means a device that is worn on or in the body to:

1249 (i) artificially replace a missing portion of the body;

1250 (ii) prevent or correct a physical deformity or physical malfunction; or

1251 (iii) support a weak or deformed portion of the body.

1252 (b) "Prosthetic device" includes:

1253 (i) parts used in the repairs or renovation of a prosthetic device;

1254 (ii) replacement parts for a prosthetic device;

1255 (iii) a dental prosthesis; or

1256 (iv) a hearing aid.

1257 (c) "Prosthetic device" does not include:

1258 (i) corrective eyeglasses; or

1259 (ii) contact lenses.

1260 (102) (a) "Protective equipment" means an item:

1261 (i) for human wear; and

1262 (ii) that is:

1263 (A) designed as protection:

- 1264 (I) to the wearer against injury or disease; or  
1265 (II) against damage or injury of other persons or property; and  
1266 (B) not suitable for general use.
- 1267 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1268 commission shall make rules:
- 1269 (i) listing the items that constitute "protective equipment"; and  
1270 (ii) that are consistent with the list of items that constitute "protective equipment"  
1271 under the agreement.
- 1272 (103) (a) For purposes of Subsection [59-12-104](#)(41), "publication" means any written  
1273 or printed matter, other than a photocopy:
- 1274 (i) regardless of:  
1275 (A) characteristics;  
1276 (B) copyright;  
1277 (C) form;  
1278 (D) format;  
1279 (E) method of reproduction; or  
1280 (F) source; and  
1281 (ii) made available in printed or electronic format.
- 1282 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1283 commission may by rule define the term "photocopy."
- 1284 (104) (a) "Purchase price" and "sales price" mean the total amount of consideration:  
1285 (i) valued in money; and  
1286 (ii) for which tangible personal property, a product transferred electronically, or  
1287 services are:  
1288 (A) sold;  
1289 (B) leased; or  
1290 (C) rented.
- 1291 (b) "Purchase price" and "sales price" include:  
1292 (i) the seller's cost of the tangible personal property, a product transferred  
1293 electronically, or services sold;  
1294 (ii) expenses of the seller, including:

- 1295 (A) the cost of materials used;
- 1296 (B) a labor cost;
- 1297 (C) a service cost;
- 1298 (D) interest;
- 1299 (E) a loss;
- 1300 (F) the cost of transportation to the seller; or
- 1301 (G) a tax imposed on the seller;
- 1302 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1303 (iv) consideration a seller receives from a person other than the purchaser if:
- 1304 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 1305 and
- 1306 (II) the consideration described in Subsection (104)(b)(iv)(A)(I) is directly related to a
- 1307 price reduction or discount on the sale;
- 1308 (B) the seller has an obligation to pass the price reduction or discount through to the
- 1309 purchaser;
- 1310 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 1311 the seller at the time of the sale to the purchaser; and
- 1312 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 1313 seller to claim a price reduction or discount; and
- 1314 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 1315 coupon, or other documentation with the understanding that the person other than the seller
- 1316 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 1317 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 1318 organization allowed a price reduction or discount, except that a preferred customer card that is
- 1319 available to any patron of a seller does not constitute membership in a group or organization
- 1320 allowed a price reduction or discount; or
- 1321 (III) the price reduction or discount is identified as a third party price reduction or
- 1322 discount on the:
- 1323 (Aa) invoice the purchaser receives; or
- 1324 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1325 (c) "Purchase price" and "sales price" do not include:

- 1326 (i) a discount:
- 1327 (A) in a form including:
- 1328 (I) cash;
- 1329 (II) term; or
- 1330 (III) coupon;
- 1331 (B) that is allowed by a seller;
- 1332 (C) taken by a purchaser on a sale; and
- 1333 (D) that is not reimbursed by a third party; or
- 1334 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately
- 1335 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
- 1336 sale or later, as demonstrated by the books and records the seller keeps at the time of the
- 1337 transaction in the regular course of business, including books and records the seller keeps at the
- 1338 time of the transaction in the regular course of business for nontax purposes, by a
- 1339 preponderance of the facts and circumstances at the time of the transaction, and by the
- 1340 understanding of all of the parties to the transaction:
- 1341 (A) the following from credit extended on the sale of tangible personal property or
- 1342 services:
- 1343 (I) a carrying charge;
- 1344 (II) a financing charge; or
- 1345 (III) an interest charge;
- 1346 (B) a delivery charge;
- 1347 (C) an installation charge;
- 1348 (D) a manufacturer rebate on a motor vehicle; or
- 1349 (E) a tax or fee legally imposed directly on the consumer.
- 1350 (105) "Purchaser" means a person to whom:
- 1351 (a) a sale of tangible personal property is made;
- 1352 (b) a product is transferred electronically; or
- 1353 (c) a service is furnished.
- 1354 (106) "Qualifying data center" means a data center facility that:
- 1355 (a) houses a group of networked server computers in one physical location in order to
- 1356 disseminate, manage, and store data and information;

- 1357 (b) is located in the state;
- 1358 (c) is a new operation constructed on or after July 1, 2016;
- 1359 (d) consists of one or more buildings that total 150,000 or more square feet;
- 1360 (e) is owned or leased by:
  - 1361 (i) the operator of the data center facility; or
  - 1362 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
  - 1363 of the data center facility; and
- 1364 (f) is located on one or more parcels of land that are owned or leased by:
  - 1365 (i) the operator of the data center facility; or
  - 1366 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
  - 1367 of the data center facility.
- 1368 (107) "Regularly rented" means:
  - 1369 (a) rented to a guest for value three or more times during a calendar year; or
  - 1370 (b) advertised or held out to the public as a place that is regularly rented to guests for
  - 1371 value.
- 1372 (108) "Rental" means the same as that term is defined in Subsection (60).
- 1373 (109) (a) Except as provided in Subsection (109)(b), "repairs or renovations of tangible
- 1374 personal property" means:
  - 1375 (i) a repair or renovation of tangible personal property that is not permanently attached
  - 1376 to real property; or
  - 1377 (ii) attaching tangible personal property or a product transferred electronically to other
  - 1378 tangible personal property or detaching tangible personal property or a product transferred
  - 1379 electronically from other tangible personal property if:
    - 1380 (A) the other tangible personal property to which the tangible personal property or
    - 1381 product transferred electronically is attached or from which the tangible personal property or
    - 1382 product transferred electronically is detached is not permanently attached to real property; and
    - 1383 (B) the attachment of tangible personal property or a product transferred electronically
    - 1384 to other tangible personal property or detachment of tangible personal property or a product
    - 1385 transferred electronically from other tangible personal property is made in conjunction with a
    - 1386 repair or replacement of tangible personal property or a product transferred electronically.
  - 1387 (b) "Repairs or renovations of tangible personal property" does not include:

1388 (i) attaching prewritten computer software to other tangible personal property if the  
1389 other tangible personal property to which the prewritten computer software is attached is not  
1390 permanently attached to real property; or

1391 (ii) detaching prewritten computer software from other tangible personal property if the  
1392 other tangible personal property from which the prewritten computer software is detached is  
1393 not permanently attached to real property.

1394 (110) "Research and development" means the process of inquiry or experimentation  
1395 aimed at the discovery of facts, devices, technologies, or applications and the process of  
1396 preparing those devices, technologies, or applications for marketing.

1397 (111) (a) "Residential telecommunications services" means a telecommunications  
1398 service or an ancillary service that is provided to an individual for personal use:

1399 (i) at a residential address; or

1400 (ii) at an institution, including a nursing home or a school, if the telecommunications  
1401 service or ancillary service is provided to and paid for by the individual residing at the  
1402 institution rather than the institution.

1403 (b) For purposes of Subsection (111)(a)(i), a residential address includes an:

1404 (i) apartment; or

1405 (ii) other individual dwelling unit.

1406 (112) "Residential use" means the use in or around a home, apartment building,  
1407 sleeping quarters, and similar facilities or accommodations.

1408 (113) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
1409 than:

1410 (a) resale;

1411 (b) sublease; or

1412 (c) subrent.

1413 (114) (a) "Retailer" means any person, unless prohibited by the Constitution of the  
1414 United States or federal law, that is engaged in a regularly organized business in tangible  
1415 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is  
1416 selling to the user or consumer and not for resale.

1417 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1418 engaged in the business of selling to users or consumers within the state.

1419 (115) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1420 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1421 Subsection 59-12-103(1), for consideration.

1422 (b) "Sale" includes:

1423 (i) installment and credit sales;

1424 (ii) any closed transaction constituting a sale;

1425 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
1426 chapter;

1427 (iv) any transaction if the possession of property is transferred but the seller retains the  
1428 title as security for the payment of the price; and

1429 (v) any transaction under which right to possession, operation, or use of any article of  
1430 tangible personal property is granted under a lease or contract and the transfer of possession  
1431 would be taxable if an outright sale were made.

1432 (116) "Sale at retail" means the same as that term is defined in Subsection (113).

1433 (117) "Sale-leaseback transaction" means a transaction by which title to tangible  
1434 personal property or a product transferred electronically that is subject to a tax under this  
1435 chapter is transferred:

1436 (a) by a purchaser-lessee;

1437 (b) to a lessor;

1438 (c) for consideration; and

1439 (d) if:

1440 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
1441 of the tangible personal property or product transferred electronically;

1442 (ii) the sale of the tangible personal property or product transferred electronically to the  
1443 lessor is intended as a form of financing:

1444 (A) for the tangible personal property or product transferred electronically; and

1445 (B) to the purchaser-lessee; and

1446 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
1447 is required to:

1448 (A) capitalize the tangible personal property or product transferred electronically for  
1449 financial reporting purposes; and

- 1450 (B) account for the lease payments as payments made under a financing arrangement.
- 1451 (118) "Sales price" means the same as that term is defined in Subsection (104).
- 1452 (119) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
- 1453 amounts charged by a school:
- 1454 (i) sales that are directly related to the school's educational functions or activities
- 1455 including:
- 1456 (A) the sale of:
- 1457 (I) textbooks;
- 1458 (II) textbook fees;
- 1459 (III) laboratory fees;
- 1460 (IV) laboratory supplies; or
- 1461 (V) safety equipment;
- 1462 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 1463 that:
- 1464 (I) a student is specifically required to wear as a condition of participation in a
- 1465 school-related event or school-related activity; and
- 1466 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 1467 place of ordinary clothing;
- 1468 (C) sales of the following if the net or gross revenues generated by the sales are
- 1469 deposited into a school district fund or school fund dedicated to school meals:
- 1470 (I) food and food ingredients; or
- 1471 (II) prepared food; or
- 1472 (D) transportation charges for official school activities; or
- 1473 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1474 event or school-related activity.
- 1475 (b) "Sales relating to schools" does not include:
- 1476 (i) bookstore sales of items that are not educational materials or supplies;
- 1477 (ii) except as provided in Subsection (119)(a)(i)(B):
- 1478 (A) clothing;
- 1479 (B) clothing accessories or equipment;
- 1480 (C) protective equipment; or



- 1481 (D) sports or recreational equipment; or
- 1482 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1483 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1484 (A) other than a:
- 1485 (I) school;
- 1486 (II) nonprofit organization authorized by a school board or a governing body of a
- 1487 private school to organize and direct a competitive secondary school activity; or
- 1488 (III) nonprofit association authorized by a school board or a governing body of a
- 1489 private school to organize and direct a competitive secondary school activity; and
- 1490 (B) that is required to collect sales and use taxes under this chapter.
- 1491 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1492 commission may make rules defining the term "passed through."
- 1493 (120) For purposes of this section and Section 59-12-104, "school" means:
- 1494 (a) an elementary school or a secondary school that:
- 1495 (i) is a:
- 1496 (A) public school; or
- 1497 (B) private school; and
- 1498 (ii) provides instruction for one or more grades kindergarten through 12; or
- 1499 (b) a public school district.
- 1500 (121) (a) "Seller" means a person that makes a sale, lease, or rental of:
- 1501 (i) tangible personal property;
- 1502 (ii) a product transferred electronically; or
- 1503 (iii) a service.
- 1504 (b) "Seller" includes a marketplace facilitator.
- 1505 (122) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1506 means tangible personal property or a product transferred electronically if the tangible personal
- 1507 property or product transferred electronically is:
- 1508 (i) used primarily in the process of:
- 1509 (A) (I) manufacturing a semiconductor;
- 1510 (II) fabricating a semiconductor; or
- 1511 (III) research or development of a:

- 1512 (Aa) semiconductor; or
- 1513 (Bb) semiconductor manufacturing process; or
- 1514 (B) maintaining an environment suitable for a semiconductor; or
- 1515 (ii) consumed primarily in the process of:
- 1516 (A) (I) manufacturing a semiconductor;
- 1517 (II) fabricating a semiconductor; or
- 1518 (III) research or development of a:
- 1519 (Aa) semiconductor; or
- 1520 (Bb) semiconductor manufacturing process; or
- 1521 (B) maintaining an environment suitable for a semiconductor.
- 1522 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1523 includes:
- 1524 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1525 transferred electronically described in Subsection (122)(a); or
- 1526 (ii) a chemical, catalyst, or other material used to:
- 1527 (A) produce or induce in a semiconductor a:
- 1528 (I) chemical change; or
- 1529 (II) physical change;
- 1530 (B) remove impurities from a semiconductor; or
- 1531 (C) improve the marketable condition of a semiconductor.
- 1532 (123) "Senior citizen center" means a facility having the primary purpose of providing
- 1533 services to the aged as defined in Section [62A-3-101](#).
- 1534 (124) (a) Subject to Subsections (124)(b) and (c), "short-term lodging consumable"
- 1535 means tangible personal property that:
- 1536 (i) a business that provides accommodations and services described in Subsection
- 1537 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services
- 1538 to a purchaser;
- 1539 (ii) is intended to be consumed by the purchaser; and
- 1540 (iii) is:
- 1541 (A) included in the purchase price of the accommodations and services; and
- 1542 (B) not separately stated on an invoice, bill of sale, or other similar document provided

1543 to the purchaser.

1544 (b) "Short-term lodging consumable" includes:

1545 (i) a beverage;

1546 (ii) a brush or comb;

1547 (iii) a cosmetic;

1548 (iv) a hair care product;

1549 (v) lotion;

1550 (vi) a magazine;

1551 (vii) makeup;

1552 (viii) a meal;

1553 (ix) mouthwash;

1554 (x) nail polish remover;

1555 (xi) a newspaper;

1556 (xii) a notepad;

1557 (xiii) a pen;

1558 (xiv) a pencil;

1559 (xv) a razor;

1560 (xvi) saline solution;

1561 (xvii) a sewing kit;

1562 (xviii) shaving cream;

1563 (xix) a shoe shine kit;

1564 (xx) a shower cap;

1565 (xxi) a snack item;

1566 (xxii) soap;

1567 (xxiii) toilet paper;

1568 (xxiv) a toothbrush;

1569 (xxv) toothpaste; or

1570 (xxvi) an item similar to Subsections (124)(b)(i) through (xxv) as the commission may

1571 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

1572 Rulemaking Act.

1573 (c) "Short-term lodging consumable" does not include:

- 1574 (i) tangible personal property that is cleaned or washed to allow the tangible personal  
1575 property to be reused; or
- 1576 (ii) a product transferred electronically.
- 1577 (125) "Simplified electronic return" means the electronic return:
- 1578 (a) described in Section 318(C) of the agreement; and
- 1579 (b) approved by the governing board of the agreement.
- 1580 (126) "Solar energy" means the sun used as the sole source of energy for producing  
1581 electricity.
- 1582 (127) (a) "Sports or recreational equipment" means an item:
- 1583 (i) designed for human use; and
- 1584 (ii) that is:
- 1585 (A) worn in conjunction with:
- 1586 (I) an athletic activity; or
- 1587 (II) a recreational activity; and
- 1588 (B) not suitable for general use.
- 1589 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1590 commission shall make rules:
- 1591 (i) listing the items that constitute "sports or recreational equipment"; and
- 1592 (ii) that are consistent with the list of items that constitute "sports or recreational  
1593 equipment" under the agreement.
- 1594 (128) "State" means the state of Utah, its departments, and agencies.
- 1595 (129) "Storage" means any keeping or retention of tangible personal property or any  
1596 other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose except  
1597 sale in the regular course of business.
- 1598 (130) (a) Except as provided in Subsection (130)(d) or (e), "tangible personal property"  
1599 means personal property that:
- 1600 (i) may be:
- 1601 (A) seen;
- 1602 (B) weighed;
- 1603 (C) measured;
- 1604 (D) felt; or

- 1605 (E) touched; or
- 1606 (ii) is in any manner perceptible to the senses.
- 1607 (b) "Tangible personal property" includes:
- 1608 (i) electricity;
- 1609 (ii) water;
- 1610 (iii) gas;
- 1611 (iv) steam; or
- 1612 (v) prewritten computer software, regardless of the manner in which the prewritten
- 1613 computer software is transferred.
- 1614 (c) "Tangible personal property" includes the following regardless of whether the item
- 1615 is attached to real property:
- 1616 (i) a dishwasher;
- 1617 (ii) a dryer;
- 1618 (iii) a freezer;
- 1619 (iv) a microwave;
- 1620 (v) a refrigerator;
- 1621 (vi) a stove;
- 1622 (vii) a washer; or
- 1623 (viii) an item similar to Subsections (130)(c)(i) through (vii) as determined by the
- 1624 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1625 Rulemaking Act.
- 1626 (d) "Tangible personal property" does not include a product that is transferred
- 1627 electronically.
- 1628 (e) "Tangible personal property" does not include the following if attached to real
- 1629 property, regardless of whether the attachment to real property is only through a line that
- 1630 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 1631 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1632 Rulemaking Act:
- 1633 (i) a hot water heater;
- 1634 (ii) a water filtration system; or
- 1635 (iii) a water softener system.

1636 (131) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
1637 software" means an item listed in Subsection (131)(b) if that item is purchased or leased  
1638 primarily to enable or facilitate one or more of the following to function:

1639 (i) telecommunications switching or routing equipment, machinery, or software; or

1640 (ii) telecommunications transmission equipment, machinery, or software.

1641 (b) The following apply to Subsection (131)(a):

1642 (i) a pole;

1643 (ii) software;

1644 (iii) a supplementary power supply;

1645 (iv) temperature or environmental equipment or machinery;

1646 (v) test equipment;

1647 (vi) a tower; or

1648 (vii) equipment, machinery, or software that functions similarly to an item listed in  
1649 Subsections (131)(b)(i) through (vi) as determined by the commission by rule made in  
1650 accordance with Subsection (131)(c).

1651 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1652 commission may by rule define what constitutes equipment, machinery, or software that  
1653 functions similarly to an item listed in Subsections (131)(b)(i) through (vi).

1654 (132) "Telecommunications equipment, machinery, or software required for 911  
1655 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
1656 Sec. 20.18.

1657 (133) "Telecommunications maintenance or repair equipment, machinery, or software"  
1658 means equipment, machinery, or software purchased or leased primarily to maintain or repair  
1659 one or more of the following, regardless of whether the equipment, machinery, or software is  
1660 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
1661 following:

1662 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1663 (b) telecommunications switching or routing equipment, machinery, or software; or

1664 (c) telecommunications transmission equipment, machinery, or software.

1665 (134) (a) "Telecommunications service" means the electronic conveyance, routing, or  
1666 transmission of audio, data, video, voice, or any other information or signal to a point, or

1667 among or between points.

1668 (b) "Telecommunications service" includes:

1669 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
1670 processing application is used to act:

1671 (A) on the code, form, or protocol of the content;

1672 (B) for the purpose of electronic conveyance, routing, or transmission; and

1673 (C) regardless of whether the service:

1674 (I) is referred to as voice over Internet protocol service; or

1675 (II) is classified by the Federal Communications Commission as enhanced or value  
1676 added;

1677 (ii) an 800 service;

1678 (iii) a 900 service;

1679 (iv) a fixed wireless service;

1680 (v) a mobile wireless service;

1681 (vi) a postpaid calling service;

1682 (vii) a prepaid calling service;

1683 (viii) a prepaid wireless calling service; or

1684 (ix) a private communications service.

1685 (c) "Telecommunications service" does not include:

1686 (i) advertising, including directory advertising;

1687 (ii) an ancillary service;

1688 (iii) a billing and collection service provided to a third party;

1689 (iv) a data processing and information service if:

1690 (A) the data processing and information service allows data to be:

1691 (I) (Aa) acquired;

1692 (Bb) generated;

1693 (Cc) processed;

1694 (Dd) retrieved; or

1695 (Ee) stored; and

1696 (II) delivered by an electronic transmission to a purchaser; and

1697 (B) the purchaser's primary purpose for the underlying transaction is the processed data

1698 or information;

1699 (v) installation or maintenance of the following on a customer's premises:

1700 (A) equipment; or

1701 (B) wiring;

1702 (vi) Internet access service;

1703 (vii) a paging service;

1704 (viii) a product transferred electronically, including:

1705 (A) music;

1706 (B) reading material;

1707 (C) a ring tone;

1708 (D) software; or

1709 (E) video;

1710 (ix) a radio and television audio and video programming service:

1711 (A) regardless of the medium; and

1712 (B) including:

1713 (I) furnishing conveyance, routing, or transmission of a television audio and video

1714 programming service by a programming service provider;

1715 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or

1716 (III) audio and video programming services delivered by a commercial mobile radio

1717 service provider as defined in 47 C.F.R. Sec. 20.3;

1718 (x) a value-added nonvoice data service; or

1719 (xi) tangible personal property.

1720 (135) (a) "Telecommunications service provider" means a person that:

1721 (i) owns, controls, operates, or manages a telecommunications service; and

1722 (ii) engages in an activity described in Subsection (135)(a)(i) for the shared use with or

1723 resale to any person of the telecommunications service.

1724 (b) A person described in Subsection (135)(a) is a telecommunications service provider

1725 whether or not the Public Service Commission of Utah regulates:

1726 (i) that person; or

1727 (ii) the telecommunications service that the person owns, controls, operates, or

1728 manages.



1729 (136) (a) "Telecommunications switching or routing equipment, machinery, or  
1730 software" means an item listed in Subsection (136)(b) if that item is purchased or leased  
1731 primarily for switching or routing:

- 1732 (i) an ancillary service;
- 1733 (ii) data communications;
- 1734 (iii) voice communications; or
- 1735 (iv) telecommunications service.

1736 (b) The following apply to Subsection (136)(a):

- 1737 (i) a bridge;
- 1738 (ii) a computer;
- 1739 (iii) a cross connect;
- 1740 (iv) a modem;
- 1741 (v) a multiplexer;
- 1742 (vi) plug in circuitry;
- 1743 (vii) a router;
- 1744 (viii) software;
- 1745 (ix) a switch; or
- 1746 (x) equipment, machinery, or software that functions similarly to an item listed in  
1747 Subsections (136)(b)(i) through (ix) as determined by the commission by rule made in  
1748 accordance with Subsection (136)(c).

1749 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1750 commission may by rule define what constitutes equipment, machinery, or software that  
1751 functions similarly to an item listed in Subsections (136)(b)(i) through (ix).

1752 (137) (a) "Telecommunications transmission equipment, machinery, or software"  
1753 means an item listed in Subsection (137)(b) if that item is purchased or leased primarily for  
1754 sending, receiving, or transporting:

- 1755 (i) an ancillary service;
- 1756 (ii) data communications;
- 1757 (iii) voice communications; or
- 1758 (iv) telecommunications service.

1759 (b) The following apply to Subsection (137)(a):

- 1760 (i) an amplifier;
- 1761 (ii) a cable;
- 1762 (iii) a closure;
- 1763 (iv) a conduit;
- 1764 (v) a controller;
- 1765 (vi) a duplexer;
- 1766 (vii) a filter;
- 1767 (viii) an input device;
- 1768 (ix) an input/output device;
- 1769 (x) an insulator;
- 1770 (xi) microwave machinery or equipment;
- 1771 (xii) an oscillator;
- 1772 (xiii) an output device;
- 1773 (xiv) a pedestal;
- 1774 (xv) a power converter;
- 1775 (xvi) a power supply;
- 1776 (xvii) a radio channel;
- 1777 (xviii) a radio receiver;
- 1778 (xix) a radio transmitter;
- 1779 (xx) a repeater;
- 1780 (xxi) software;
- 1781 (xxii) a terminal;
- 1782 (xxiii) a timing unit;
- 1783 (xxiv) a transformer;
- 1784 (xxv) a wire; or
- 1785 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1786 Subsections (137)(b)(i) through (xxv) as determined by the commission by rule made in
- 1787 accordance with Subsection (137)(c).
- 1788 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1789 commission may by rule define what constitutes equipment, machinery, or software that
- 1790 functions similarly to an item listed in Subsections (137)(b)(i) through (xxv).

1791 (138) (a) "Textbook for a higher education course" means a textbook or other printed  
1792 material that is required for a course:

1793 (i) offered by an institution of higher education; and

1794 (ii) that the purchaser of the textbook or other printed material attends or will attend.

1795 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1796 (139) "Tobacco" means:

1797 (a) a cigarette;

1798 (b) a cigar;

1799 (c) chewing tobacco;

1800 (d) pipe tobacco; or

1801 (e) any other item that contains tobacco.

1802 (140) "Unassisted amusement device" means an amusement device, skill device, or  
1803 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
1804 the amusement device, skill device, or ride device.

1805 (141) (a) "Use" means the exercise of any right or power over tangible personal  
1806 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),  
1807 incident to the ownership or the leasing of that tangible personal property, product transferred  
1808 electronically, or service.

1809 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
1810 property, a product transferred electronically, or a service in the regular course of business and  
1811 held for resale.

1812 (142) "Value-added nonvoice data service" means a service:

1813 (a) that otherwise meets the definition of a telecommunications service except that a  
1814 computer processing application is used to act primarily for a purpose other than conveyance,  
1815 routing, or transmission; and

1816 (b) with respect to which a computer processing application is used to act on data or  
1817 information:

1818 (i) code;

1819 (ii) content;

1820 (iii) form; or

1821 (iv) protocol.

1822 (143) (a) Subject to Subsection (143)(b), "vehicle" means the following that are  
1823 required to be titled, registered, or titled and registered:

- 1824 (i) an aircraft as defined in Section 72-10-102;
- 1825 (ii) a vehicle as defined in Section 41-1a-102;
- 1826 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1827 (iv) a vessel as defined in Section 41-1a-102.

1828 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1829 (i) a vehicle described in Subsection (143)(a); or
- 1830 (ii) (A) a locomotive;
- 1831 (B) a freight car;
- 1832 (C) railroad work equipment; or
- 1833 (D) other railroad rolling stock.

1834 (144) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
1835 exchanging a vehicle as defined in Subsection (143).

1836 (145) (a) "Vertical service" means an ancillary service that:

- 1837 (i) is offered in connection with one or more telecommunications services; and
- 1838 (ii) offers an advanced calling feature that allows a customer to:
  - 1839 (A) identify a caller; and
  - 1840 (B) manage multiple calls and call connections.

1841 (b) "Vertical service" includes an ancillary service that allows a customer to manage a  
1842 conference bridging service.

1843 (146) (a) "Voice mail service" means an ancillary service that enables a customer to  
1844 receive, send, or store a recorded message.

1845 (b) "Voice mail service" does not include a vertical service that a customer is required  
1846 to have in order to utilize a voice mail service.

1847 (147) (a) Except as provided in Subsection (147)(b), "waste energy facility" means a  
1848 facility that generates electricity:

- 1849 (i) using as the primary source of energy waste materials that would be placed in a  
1850 landfill or refuse pit if it were not used to generate electricity, including:
  - 1851 (A) tires;
  - 1852 (B) waste coal;

- 1853 (C) oil shale; or
- 1854 (D) municipal solid waste; and
- 1855 (ii) in amounts greater than actually required for the operation of the facility.
- 1856 (b) "Waste energy facility" does not include a facility that incinerates:
- 1857 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1858 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1859 (148) "Watercraft" means a vessel as defined in Section [73-18-2](#).
- 1860 (149) "Wind energy" means wind used as the sole source of energy to produce
- 1861 electricity.
- 1862 (150) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
- 1863 location by the United States Postal Service.
- 1864 Section 8. Section **59-12-103** is amended to read:
- 1865 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
- 1866 **tax revenues.**
- 1867 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
- 1868 sales price for amounts paid or charged for the following transactions:
- 1869 (a) retail sales of tangible personal property made within the state;
- 1870 (b) amounts paid for:
- 1871 (i) telecommunications service, other than mobile telecommunications service, that
- 1872 originates and terminates within the boundaries of this state;
- 1873 (ii) mobile telecommunications service that originates and terminates within the
- 1874 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 1875 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 1876 (iii) an ancillary service associated with a:
- 1877 (A) telecommunications service described in Subsection (1)(b)(i); or
- 1878 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 1879 (c) sales of the following for commercial use:
- 1880 (i) gas;
- 1881 (ii) electricity;
- 1882 (iii) heat;
- 1883 (iv) coal;

- 1884 (v) fuel oil; or
- 1885 (vi) other fuels;
- 1886 (d) sales of the following for residential use:
  - 1887 (i) gas;
  - 1888 (ii) electricity;
  - 1889 (iii) heat;
  - 1890 (iv) coal;
  - 1891 (v) fuel oil; or
  - 1892 (vi) other fuels;
- 1893 (e) sales of prepared food;
- 1894 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 1895 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 1896 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 1897 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 1898 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 1899 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 1900 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 1901 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 1902 exhibition, cultural, or athletic activity;
- 1903 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 1904 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
  - 1905 (i) the tangible personal property; and
  - 1906 (ii) parts used in the repairs or renovations of the tangible personal property described
  - 1907 in Subsection (1)(g)(i), regardless of whether:
    - 1908 (A) any parts are actually used in the repairs or renovations of that tangible personal
    - 1909 property; or
    - 1910 (B) the particular parts used in the repairs or renovations of that tangible personal
    - 1911 property are exempt from a tax under this chapter;
  - 1912 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
  - 1913 assisted cleaning or washing of tangible personal property;
  - 1914 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court

1915 accommodations and services that are regularly rented for less than 30 consecutive days;

1916 (j) amounts paid or charged for laundry or dry cleaning services;

1917 (k) amounts paid or charged for leases or rentals of tangible personal property if within

1918 this state the tangible personal property is:

1919 (i) stored;

1920 (ii) used; or

1921 (iii) otherwise consumed;

1922 (l) amounts paid or charged for tangible personal property if within this state the

1923 tangible personal property is:

1924 (i) stored;

1925 (ii) used; or

1926 (iii) consumed; and

1927 (m) amounts paid or charged for a sale:

1928 (i) (A) of a product transferred electronically; or

1929 (B) of a repair or renovation of a product transferred electronically; and

1930 (ii) regardless of whether the sale provides:

1931 (A) a right of permanent use of the product; or

1932 (B) a right to use the product that is less than a permanent use, including a right:

1933 (I) for a definite or specified length of time; and

1934 (II) that terminates upon the occurrence of a condition.

1935 (2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax

1936 are imposed on a transaction described in Subsection (1) equal to the sum of:

1937 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

1938 (A) 4.70% plus the rate specified in Subsection (12)(a); and

1939 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales

1940 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

1941 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional

1942 State Sales and Use Tax Act; and

1943 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales

1944 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

1945 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state

1946 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1947 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1948 transaction under this chapter other than this part.

1949 (b) Except as provided in Subsection (2)(e) or (f) and subject to Subsection (2)(k), a  
1950 state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to  
1951 the sum of:

1952 (i) a state tax imposed on the transaction at a tax rate of 2%; and

1953 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1954 transaction under this chapter other than this part.

1955 (c) (i) Except as provided in Subsection (2)(e) or (f), a local tax is imposed on amounts  
1956 paid or charged for food and food ingredients equal to the sum of the tax rates a county, city, or  
1957 town imposes under this chapter on the amounts paid or charged for food or food ingredients.

1958 (ii) There is no state tax imposed on amounts paid or charged for food and food  
1959 ingredients.

1960 [~~(c) Except as provided in Subsection (2)(e) or (f), a state tax and a local tax are~~  
1961 ~~imposed on amounts paid or charged for food and food ingredients equal to the sum of:]~~

1962 [~~(i) a state tax imposed on the amounts paid or charged for food and food ingredients at~~  
1963 ~~a tax rate of 1.75%; and]~~

1964 [~~(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the~~  
1965 ~~amounts paid or charged for food and food ingredients under this chapter other than this part.]~~

1966 (d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts  
1967 paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at  
1968 a rate of 4.85%.

1969 (e) (i) For a bundled transaction that is attributable to food and food ingredients and  
1970 tangible personal property other than food and food ingredients, a state tax and a local tax is  
1971 imposed on the entire bundled transaction equal to the sum of:

1972 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

1973 (I) the tax rate described in Subsection (2)(a)(i)(A); and

1974 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
1975 Sales and Use Tax Act, if the location of the transaction as determined under Sections

1976 [59-12-211](#) through [59-12-215](#) is in a county in which the state imposes the tax under Part 18,



1977 Additional State Sales and Use Tax Act; and

1978 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
1979 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
1980 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which  
1981 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1982 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates  
1983 described in Subsection (2)(a)(ii).

1984 (ii) If an optional computer software maintenance contract is a bundled transaction that  
1985 consists of taxable and nontaxable products that are not separately itemized on an invoice or  
1986 similar billing document, the purchase of the optional computer software maintenance contract  
1987 is 40% taxable under this chapter and 60% nontaxable under this chapter.

1988 (iii) Subject to Subsection (2)(e)(iv), for a bundled transaction other than a bundled  
1989 transaction described in Subsection (2)(e)(i) or (ii):

1990 (A) if the sales price of the bundled transaction is attributable to tangible personal  
1991 property, a product, or a service that is subject to taxation under this chapter and tangible  
1992 personal property, a product, or service that is not subject to taxation under this chapter, the  
1993 entire bundled transaction is subject to taxation under this chapter unless:

1994 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
1995 personal property, product, or service that is not subject to taxation under this chapter from the  
1996 books and records the seller keeps in the seller's regular course of business; or

1997 (II) state or federal law provides otherwise; or

1998 (B) if the sales price of a bundled transaction is attributable to two or more items of  
1999 tangible personal property, products, or services that are subject to taxation under this chapter  
2000 at different rates, the entire bundled transaction is subject to taxation under this chapter at the  
2001 higher tax rate unless:

2002 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
2003 personal property, product, or service that is subject to taxation under this chapter at the lower  
2004 tax rate from the books and records the seller keeps in the seller's regular course of business; or

2005 (II) state or federal law provides otherwise.

2006 (iv) For purposes of Subsection (2)(e)(iii), books and records that a seller keeps in the  
2007 seller's regular course of business includes books and records the seller keeps in the regular

2008 course of business for nontax purposes.

2009 (f) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(f)(ii)  
2010 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a  
2011 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental  
2012 of tangible personal property, other property, a product, or a service that is not subject to  
2013 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless  
2014 the seller, at the time of the transaction:

2015 (A) separately states the portion of the transaction that is not subject to taxation under  
2016 this chapter 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, from the books and  
2018 records the seller keeps in the seller's regular course of business, the portion of the transaction  
2019 that is not subject to taxation under this chapter.

2020 (ii) A purchaser and a seller may correct the taxability of a transaction if:

2021 (A) after the transaction occurs, the purchaser and the seller discover that the portion of  
2022 the transaction that is not subject to taxation under this chapter was not separately stated on an  
2023 invoice, bill of sale, or similar document provided to the purchaser because of an error or  
2024 ignorance of the law; and

2025 (B) the seller is able to identify by reasonable and verifiable standards, from the books  
2026 and records the seller keeps in the seller's regular course of business, the portion of the  
2027 transaction that is not subject to taxation under this chapter.

2028 (iii) For purposes of Subsections (2)(f)(i) and (ii), books and records that a seller keeps  
2029 in the seller's regular course of business includes books and records the seller keeps in the  
2030 regular course of business for nontax purposes.

2031 (g) (i) If the sales price of a transaction is attributable to two or more items of tangible  
2032 personal property, products, or services that are subject to taxation under this chapter at  
2033 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate  
2034 unless the seller, at the time of the transaction:

2035 (A) separately states the items subject to taxation under this chapter at each of the  
2036 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

2037 (B) is able to identify by reasonable and verifiable standards the tangible personal  
2038 property, product, or service that is subject to taxation under this chapter at the lower tax rate

2039 from the books and records the seller keeps in the seller's regular course of business.

2040 (ii) For purposes of Subsection (2)(g)(i), books and records that a seller keeps in the  
2041 seller's regular course of business includes books and records the seller keeps in the regular  
2042 course of business for nontax purposes.

2043 (h) Subject to Subsections (2)(i) and (j), a tax rate repeal or tax rate change for a tax  
2044 rate imposed under the following shall take effect on the first day of a calendar quarter:

2045 (i) Subsection (2)(a)(i)(A);

2046 (ii) Subsection (2)(b)(i); or

2047 [~~(iii)~~ Subsection (2)(c)(i); or]

2048 [~~(iv)~~] (iii) Subsection (2)(e)(i)(A)(I).

2049 (i) (i) A tax rate increase takes effect on the first day of the first billing period that  
2050 begins on or after the effective date of the tax rate increase if the billing period for the  
2051 transaction begins before the effective date of a tax rate increase imposed under:

2052 (A) Subsection (2)(a)(i)(A);

2053 (B) Subsection (2)(b)(i); or

2054 [~~(C)~~ Subsection (2)(c)(i); or]

2055 [~~(D)~~] (C) Subsection (2)(e)(i)(A)(I).

2056 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing  
2057 statement for the billing period is rendered on or after the effective date of the repeal of the tax  
2058 or the tax rate decrease imposed under:

2059 (A) Subsection (2)(a)(i)(A);

2060 (B) Subsection (2)(b)(i); or

2061 [~~(C)~~ Subsection (2)(c)(i); or]

2062 [~~(D)~~] (C) Subsection (2)(e)(i)(A)(I).

2063 (j) (i) For a tax rate described in Subsection (2)(j)(ii), if a tax due on a catalogue sale is  
2064 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or  
2065 change in a tax rate takes effect:

2066 (A) on the first day of a calendar quarter; and

2067 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

2068 (ii) Subsection (2)(j)(i) applies to the tax rates described in the following:

2069 (A) Subsection (2)(a)(i)(A);

2070 (B) Subsection (2)(b)(i); or  
2071 [~~(C) Subsection (2)(c)(i); or~~]  
2072 [~~(D)~~] (C) Subsection (2)(e)(i)(A)(I).

2073 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
2074 the commission may by rule define the term "catalogue sale."

2075 (k) (i) For a location described in Subsection (2)(k)(ii), the commission shall determine  
2076 the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the  
2077 predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

2078 (ii) Subsection (2)(k)(i) applies to a location where gas, electricity, heat, coal, fuel oil,  
2079 or other fuel is furnished through a single meter for two or more of the following uses:

2080 (A) a commercial use;

2081 (B) an industrial use; or

2082 (C) a residential use.

2083 (3) (a) The following state taxes shall be deposited into the General Fund:

2084 (i) the tax imposed by Subsection (2)(a)(i)(A);

2085 (ii) the tax imposed by Subsection (2)(b)(i); and

2086 [~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]

2087 [~~(iv)~~] (iii) the tax imposed by Subsection (2)(e)(i)(A)(I).

2088 (b) The following local taxes shall be distributed to a county, city, or town as provided  
2089 in this chapter:

2090 (i) the tax imposed by Subsection (2)(a)(ii);

2091 (ii) the tax imposed by Subsection (2)(b)(ii);

2092 (iii) the tax imposed by Subsection [~~(2)(c)(ii)~~] (2)(c); and

2093 (iv) the tax imposed by Subsection (2)(e)(i)(B).

2094 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General  
2095 Fund.

2096 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
2097 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)  
2098 through (g):

2099 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

2100 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

2101 (B) for the fiscal year; or  
2102 (ii) \$17,500,000.  
2103 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
2104 described in Subsection (4)(a) shall be transferred each year as designated sales and use tax  
2105 revenue to the Department of Natural Resources to:  
2106 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to  
2107 protect sensitive plant and animal species; or  
2108 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
2109 act, to political subdivisions of the state to implement the measures described in Subsections  
2110 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.  
2111 (ii) Money transferred to the Department of Natural Resources under Subsection  
2112 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
2113 person to list or attempt to have listed a species as threatened or endangered under the  
2114 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.  
2115 (iii) At the end of each fiscal year:  
2116 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the  
2117 Water Resources Conservation and Development Fund created in Section 73-10-24;  
2118 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the  
2119 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and  
2120 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the  
2121 Drinking Water Loan Program Subaccount created in Section 73-10c-5.  
2122 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
2123 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund  
2124 created in Section 4-18-106.  
2125 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described  
2126 in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to  
2127 the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for  
2128 the adjudication of water rights.  
2129 (ii) At the end of each fiscal year:  
2130 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the  
2131 Water Resources Conservation and Development Fund created in Section 73-10-24;

2132 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the  
2133 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

2134 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the  
2135 Drinking Water Loan Program Subaccount created in Section 73-10c-5.

2136 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described  
2137 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and  
2138 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

2139 (ii) In addition to the uses allowed of the Water Resources Conservation and  
2140 Development Fund under Section 73-10-24, the Water Resources Conservation and  
2141 Development Fund may also be used to:

2142 (A) conduct hydrologic and geotechnical investigations by the Division of Water  
2143 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
2144 quantifying surface and ground water resources and describing the hydrologic systems of an  
2145 area in sufficient detail so as to enable local and state resource managers to plan for and  
2146 accommodate growth in water use without jeopardizing the resource;

2147 (B) fund state required dam safety improvements; and

2148 (C) protect the state's interest in interstate water compact allocations, including the  
2149 hiring of technical and legal staff.

2150 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
2151 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount  
2152 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2153 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
2154 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount  
2155 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2156 (i) provide for the installation and repair of collection, treatment, storage, and  
2157 distribution facilities for any public water system, as defined in Section 19-4-102;

2158 (ii) develop underground sources of water, including springs and wells; and

2159 (iii) develop surface water sources.

2160 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
2161 2006, the difference between the following amounts shall be expended as provided in this  
2162 Subsection (5), if that difference is greater than \$1:

2163 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
2164 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

2165 (ii) \$17,500,000.

2166 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

2167 (A) transferred each fiscal year to the Department of Natural Resources as designated  
2168 sales and use tax revenue; and

2169 (B) expended by the Department of Natural Resources for watershed rehabilitation or  
2170 restoration.

2171 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use  
2172 tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation  
2173 and Development Fund created in Section 73-10-24.

2174 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
2175 remaining difference described in Subsection (5)(a) shall be:

2176 (A) transferred each fiscal year to the Division of Water Resources as designated sales  
2177 and use tax revenue; and

2178 (B) expended by the Division of Water Resources for cloud-seeding projects  
2179 authorized by Title 73, Chapter 15, Modification of Weather.

2180 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use  
2181 tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation  
2182 and Development Fund created in Section 73-10-24.

2183 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the  
2184 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
2185 Resources Conservation and Development Fund created in Section 73-10-24 for use by the  
2186 Division of Water Resources for:

2187 (i) preconstruction costs:

2188 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
2189 26, Bear River Development Act; and

2190 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project  
2191 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2192 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
2193 Chapter 26, Bear River Development Act;

2194 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
2195 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2196 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and  
2197 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2198 (e) After making the transfers required by Subsections (5)(b) and (c), 15% of the  
2199 remaining difference described in Subsection (5)(a) shall be deposited each year into the Water  
2200 Rights Restricted Account created by Section 73-2-1.6.

2201 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the  
2202 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection  
2203 (1) for the fiscal year shall be deposited as follows:

2204 (a) for fiscal year 2020-21 only:

2205 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the  
2206 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2207 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the  
2208 Water Infrastructure Restricted Account created by Section 73-10g-103; and

2209 (b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described  
2210 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account  
2211 created by Section 73-10g-103.

2212 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in  
2213 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,  
2214 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005  
2215 created by Section 72-2-124:

2216 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of  
2217 the revenues collected from the following taxes, which represents a portion of the  
2218 approximately 17% of sales and use tax revenues generated annually by the sales and use tax  
2219 on vehicles and vehicle-related products:

2220 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2221 (B) the tax imposed by Subsection (2)(b)(i); and

2222 [~~(C)~~] the tax imposed by Subsection (2)(c)(i); and]

2223 [~~(D)~~] (C) the tax imposed by Subsection (2)(e)(i)(A)(I); plus

2224 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the



2225 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through  
2226 ~~[(D)]~~ (C) that exceeds the amount collected from the sales and use taxes described in  
2227 Subsections (7)(a)(i)(A) through ~~[(D)]~~ (C) in the 2010-11 fiscal year.

2228 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of  
2229 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total  
2230 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through ~~[(D)]~~  
2231 (C) generated in the current fiscal year than the total percentage of sales and use taxes  
2232 deposited in the previous fiscal year, the Division of Finance shall deposit an amount under  
2233 Subsection (7)(a) equal to the product of:

2234 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the  
2235 previous fiscal year; and

2236 (B) the total sales and use tax revenue generated by the taxes described in Subsections  
2237 (7)(a)(i)(A) through ~~[(D)]~~ (C) in the current fiscal year.

2238 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under  
2239 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes  
2240 described in Subsections (7)(a)(i)(A) through ~~[(D)]~~ (C) in the current fiscal year, the Division  
2241 of Finance shall deposit 17% of the revenues collected from the sales and use taxes described  
2242 in Subsections (7)(a)(i)(A) through ~~[(D)]~~ (C) for the current fiscal year under Subsection (7)(a).

2243 (iii) Subject to Subsection (7)(b)(iv)(E), in all subsequent fiscal years after a year in  
2244 which 17% of the revenues collected from the sales and use taxes described in Subsections  
2245 (7)(a)(i)(A) through ~~[(D)]~~ (C) was deposited under Subsection (7)(a), the Division of Finance  
2246 shall annually deposit 17% of the revenues collected from the sales and use taxes described in  
2247 Subsections (7)(a)(i)(A) through ~~[(D)]~~ (C) in the current fiscal year under Subsection (7)(a).

2248 (iv) (A) As used in this Subsection (7)(b)(iv), "additional growth revenue" means the  
2249 amount of relevant revenue collected in the current fiscal year that exceeds by more than 3%  
2250 the relevant revenue collected in the previous fiscal year.

2251 (B) As used in this Subsection (7)(b)(iv), "combined amount" means the combined  
2252 total amount of money deposited into the Cottonwood Canyons fund under Subsections  
2253 (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

2254 (C) As used in this Subsection (7)(b)(iv), "Cottonwood Canyons fund" means the  
2255 Cottonwood Canyons Transportation Investment Fund created in Subsection [72-2-124\(10\)](#).

2256 (D) As used in this Subsection (7)(b)(iv), "relevant revenue" means the portion of taxes  
2257 listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in  
2258 Subsections (7)(a)(i)(A) through ~~[(D)]~~ (C).

2259 (E) For a fiscal year beginning on or after July 1, 2020, the commission shall annually  
2260 reduce the deposit under Subsection (7)(b)(iii) into the Transportation Investment Fund of 2005  
2261 by an amount equal to the amount of the deposit under this Subsection (7)(b)(iv) to the  
2262 Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue,  
2263 subject to the limit in Subsection (7)(b)(iv)(F).

2264 (F) The commission shall annually deposit the amount described in Subsection  
2265 (7)(b)(iv)(E) into the Cottonwood Canyons fund, subject to an annual maximum combined  
2266 amount for any single fiscal year of \$20,000,000.

2267 (G) If the amount of relevant revenue declines in a fiscal year compared to the previous  
2268 fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood  
2269 Canyons fund under this Subsection (7)(b)(iv) in the same proportion as the decline in relevant  
2270 revenue.

2271 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under  
2272 Subsections (6) and (7), and subject to Subsections (8)(b) and (d)(v), for a fiscal year beginning  
2273 on or after July 1, 2018, the commission shall annually deposit into the Transportation  
2274 Investment Fund of 2005 created by Section [72-2-124](#) a portion of the taxes listed under  
2275 Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following  
2276 taxes:

2277 (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2278 (ii) the tax imposed by Subsection (2)(b)(i); and

2279 ~~[(iii) the tax imposed by Subsection (2)(c)(i); and]~~

2280 ~~[(iv)]~~ (iii) the tax imposed by Subsection (2)(e)(i)(A)(I).

2281 (b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually  
2282 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by  
2283 an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by  
2284 the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale  
2285 or use in this state that exceeds 29.4 cents per gallon.

2286 (c) The commission shall annually deposit the amount described in Subsection (8)(b)

2287 into the Transit Transportation Investment Fund created in Section [72-2-124](#).

2288 (d) (i) As used in this Subsection (8)(d), "additional growth revenue" means the  
2289 amount of relevant revenue collected in the current fiscal year that exceeds by more than 3%  
2290 the relevant revenue collected in the previous fiscal year.

2291 (ii) As used in this Subsection (8)(d), "combined amount" means the combined total  
2292 amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F)  
2293 and (8)(d)(vi) in any single fiscal year.

2294 (iii) As used in this Subsection (8)(d), "Cottonwood Canyons fund" means the  
2295 Cottonwood Canyons Transportation Investment Fund created in Subsection [72-2-124](#)(10).

2296 (iv) As used in this Subsection (8)(d), "relevant revenue" means the portion of taxes  
2297 listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described  
2298 in Subsections (8)(a)(i) through ~~(iv)~~ (iii).

2299 (v) For a fiscal year beginning on or after July 1, 2020, the commission shall annually  
2300 reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by  
2301 an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood  
2302 Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the  
2303 limit in Subsection (8)(d)(vi).

2304 (vi) The commission shall annually deposit the amount described in Subsection  
2305 (8)(d)(v) into the Cottonwood Canyons fund, subject to an annual maximum combined amount  
2306 for any single fiscal year of \$20,000,000.

2307 (vii) If the amount of relevant revenue declines in a fiscal year compared to the  
2308 previous fiscal year, the commission shall decrease the amount of the contribution to the  
2309 Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in  
2310 relevant revenue.

2311 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
2312 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund  
2313 created by Section [35A-8-1009](#) and expended as provided in Section [35A-8-1009](#).

2314 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(b),  
2315 and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of  
2316 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section  
2317 [72-2-124](#) the amount of revenue described as follows:

2318 (i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05%  
2319 tax rate on the transactions described in Subsection (1); and

2320 (ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%  
2321 tax rate on the transactions described in Subsection (1).

2322 (b) For purposes of Subsection (10)(a), the Division of Finance may not deposit into  
2323 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or  
2324 charged for food and food ingredients, except for tax revenue generated by a bundled  
2325 transaction attributable to food and food ingredients and tangible personal property other than  
2326 food and food ingredients described in Subsection (2)(e).

2327 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the  
2328 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that  
2329 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of  
2330 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue  
2331 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,  
2332 created in Section 63N-2-512.

2333 (12) (a) The rate specified in this subsection is 0.15%.

2334 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year  
2335 beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the  
2336 rate described in Subsection (12)(a) on the transactions that are subject to the sales and use tax  
2337 under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section  
2338 26-36b-208.

2339 (13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
2340 2020-21, the Division of Finance shall deposit \$200,000 into the General Fund as a dedicated  
2341 credit solely for use of the Search and Rescue Financial Assistance Program created in, and  
2342 expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

2343 (14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of  
2344 Finance shall annually transfer \$1,813,400 of the revenue deposited into the Transportation  
2345 Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

2346 (b) If the total revenue deposited into the Transportation Investment Fund of 2005  
2347 under Subsections (6) through (8) is less than \$1,813,400 for a fiscal year, the Division of  
2348 Finance shall transfer the total revenue deposited into the Transportation Investment Fund of

2349 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

2350 (15) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610,  
 2351 beginning the first day of the calendar quarter one year after the sales and use tax boundary for  
 2352 a housing and transit reinvestment zone is established, the commission, at least annually, shall  
 2353 transfer an amount equal to 15% of the sales and use tax increment within an established sales  
 2354 and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation  
 2355 Investment Fund created in Section 72-2-124.

2356 (16) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year  
 2357 beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure  
 2358 Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection  
 2359 (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

2360 (a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2361 (b) the tax imposed by Subsection (2)(b)(i); and

2362 [~~(c) the tax imposed by Subsection (2)(c)(i); and~~]

2363 [~~(d)~~] (c) the tax imposed by Subsection (2)(e)(i)(A)(I).

2364 Section 9. Section 59-12-108 is amended to read:

2365 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**  
 2366 **Certain amounts allocated to local taxing jurisdictions.**

2367 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this  
 2368 chapter of \$50,000 or more for the previous calendar year shall:

2369 (i) file a return with the commission:

2370 (A) monthly on or before the last day of the month immediately following the month  
 2371 for which the seller collects a tax under this chapter; and

2372 (B) for the month for which the seller collects a tax under this chapter; and

2373 (ii) except as provided in Subsection (1)(b), remit with the return required by  
 2374 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,  
 2375 fee, or charge described in Subsection (1)(c):

2376 (A) if that seller's tax liability under this chapter for the previous calendar year is less  
 2377 than \$96,000, by any method permitted by the commission; or

2378 (B) if that seller's tax liability under this chapter for the previous calendar year is  
 2379 \$96,000 or more, by electronic funds transfer.

2380 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)  
2381 the amount the seller is required to remit to the commission for each tax, fee, or charge  
2382 described in Subsection (1)(c) if that seller:

- 2383 (i) is required by Section 59-12-107 to file the return electronically; or
- 2384 (ii) (A) is required to collect and remit a tax under Section 59-12-107; and
- 2385 (B) files a simplified electronic return.

2386 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

- 2387 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 2388 (ii) a fee under Section 19-6-714;
- 2389 (iii) a fee under Section 19-6-805;

2390 (iv) a charge under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications  
2391 Service Charges; or

2392 (v) a tax under this chapter.

2393 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,  
2394 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method  
2395 for making same-day payments other than by electronic funds transfer if making payments by  
2396 electronic funds transfer fails.

2397 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2398 commission shall establish by rule procedures and requirements for determining the amount a  
2399 seller is required to remit to the commission under this Subsection (1).

2400 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a  
2401 seller described in Subsection (4) may retain each month the amount allowed by this  
2402 Subsection (2).

2403 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain  
2404 each month 1.31% of any amounts the seller is required to remit to the commission:

2405 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax  
2406 and a local tax imposed in accordance with the following, for the month for which the seller is  
2407 filing a return in accordance with Subsection (1):

- 2408 (A) Subsection 59-12-103(2)(a);
- 2409 (B) Subsection 59-12-103(2)(b); and
- 2410 (C) Subsection 59-12-103(2)(d); and

- 2411 (ii) for an agreement sales and use tax.
- 2412 (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may
- 2413 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described
- 2414 in Subsection 59-12-103(1) that is subject to the ~~[state tax and the local]~~ tax imposed in
- 2415 accordance with Subsection 59-12-103(2)(c).
- 2416 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount
- 2417 equal to the sum of:
- 2418 (A) 1.31% of any amounts the seller is required to remit to the commission for:
- 2419 (I) the ~~[state tax and the local]~~ tax imposed in accordance with Subsection
- 2420 59-12-103(2)(c);
- 2421 (II) the month for which the seller is filing a return in accordance with Subsection (1);
- 2422 and
- 2423 (III) an agreement sales and use tax; and
- 2424 (B) 1.31% of the difference between:
- 2425 (I) the amounts the seller would have been required to remit to the commission:
- 2426 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject
- 2427 to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);
- 2428 (Bb) for the month for which the seller is filing a return in accordance with Subsection
- 2429 (1); and
- 2430 (Cc) for an agreement sales and use tax; and
- 2431 (II) the amounts the seller is required to remit to the commission for:
- 2432 (Aa) the ~~[state tax and the local]~~ tax imposed in accordance with Subsection
- 2433 59-12-103(2)(c);
- 2434 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);
- 2435 and
- 2436 (Cc) an agreement sales and use tax.
- 2437 (d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
- 2438 each month 1% of any amounts the seller is required to remit to the commission:
- 2439 (i) for the month for which the seller is filing a return in accordance with Subsection
- 2440 (1); and
- 2441 (ii) under:



2442 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;  
2443 (B) Subsection 59-12-603(1)(a)(i)(A);  
2444 (C) Subsection 59-12-603(1)(a)(i)(B); or  
2445 (D) Subsection 59-12-603(1)(a)(ii).  
2446 (3) A state government entity that is required to remit taxes monthly in accordance  
2447 with Subsection (1) may not retain any amount under Subsection (2).  
2448 (4) A seller that has a tax liability under this chapter for the previous calendar year of  
2449 less than \$50,000 may:  
2450 (a) voluntarily meet the requirements of Subsection (1); and  
2451 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the  
2452 amounts allowed by Subsection (2).  
2453 (5) Penalties for late payment shall be as provided in Section 59-1-401.  
2454 (6) (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted  
2455 to the commission under this part, the commission shall each month calculate an amount equal  
2456 to the difference between:  
2457 (i) the total amount retained for that month by all sellers had the percentages listed  
2458 under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and  
2459 (ii) the total amount retained for that month by all sellers at the percentages listed  
2460 under Subsections (2)(b) and (2)(c)(ii).  
2461 (b) The commission shall each month allocate the amount calculated under Subsection  
2462 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use  
2463 tax that the commission distributes to each county, city, and town for that month compared to  
2464 the total agreement sales and use tax that the commission distributes for that month to all  
2465 counties, cities, and towns.  
2466 (c) The amount the commission calculates under Subsection (6)(a) may not include an  
2467 amount collected from a tax that:  
2468 (i) the state imposes within a county, city, or town, including the unincorporated area  
2469 of a county; and  
2470 (ii) is not imposed within the entire state.  
2471 Section 10. Section 63N-2-502 is amended to read:  
2472 **63N-2-502. Definitions.**



2473 As used in this part:

2474 (1) "Agreement" means an agreement described in Section [63N-2-503](#).

2475 (2) "Base taxable value" means the value of hotel property before the construction on a  
2476 qualified hotel begins, as that value is established by the county in which the hotel property is  
2477 located, using a reasonable valuation method that may include the value of the hotel property  
2478 on the county assessment rolls the year before the year during which construction on the  
2479 qualified hotel begins.

2480 (3) "Certified claim" means a claim that the office has approved and certified as  
2481 provided in Section [63N-2-505](#).

2482 (4) "Claim" means a written document submitted by a qualified hotel owner or host  
2483 local government to request a convention incentive.

2484 (5) "Claimant" means the qualified hotel owner or host local government that submits a  
2485 claim under Subsection [63N-2-505\(1\)\(a\)](#) for a convention incentive.

2486 (6) "Commission" means the Utah State Tax Commission.

2487 (7) "Community reinvestment agency" means the same as that term is defined in  
2488 Section [17C-1-102](#).

2489 (8) "Construction revenue" means revenue generated from state taxes and local taxes  
2490 imposed on transactions occurring during the eligibility period as a result of the construction of  
2491 the hotel property, including purchases made by a qualified hotel owner and its subcontractors.

2492 (9) "Convention incentive" means an incentive for the development of a qualified  
2493 hotel, in the form of payment from the incentive fund as provided in this part, as authorized in  
2494 an agreement.

2495 (10) "Eligibility period" means:

2496 (a) the period that:

2497 (i) begins the date construction of a qualified hotel begins; and

2498 (ii) ends:

2499 (A) for purposes of the state portion, 20 years after the date of initial occupancy of that  
2500 qualified hotel; or

2501 (B) for purposes of the local portion and incremental property tax revenue, 25 years  
2502 after the date of initial occupancy of that hotel; or

2503 (b) as provided in an agreement between the office and a qualified hotel owner or host

2504 local government, a period that:

2505 (i) begins no earlier than the date construction of a qualified hotel begins; and

2506 (ii) is shorter than the period described in Subsection (10)(a).

2507 (11) "Endorsement letter" means a letter:

2508 (a) from the county in which a qualified hotel is located or is proposed to be located;

2509 (b) signed by the county executive; and

2510 (c) expressing the county's endorsement of a developer of a qualified hotel as meeting

2511 all the county's criteria for receiving the county's endorsement.

2512 (12) "Host agency" means the community reinvestment agency of the host local

2513 government.

2514 (13) "Host local government" means:

2515 (a) a county that enters into an agreement with the office for the construction of a

2516 qualified hotel within the unincorporated area of the county; or

2517 (b) a city or town that enters into an agreement with the office for the construction of a

2518 qualified hotel within the boundary of the city or town.

2519 (14) "Hotel property" means a qualified hotel and any property that is included in the

2520 same development as the qualified hotel, including convention, exhibit, and meeting space,

2521 retail shops, restaurants, parking, and other ancillary facilities and amenities.

2522 (15) "Incentive fund" means the Convention Incentive Fund created in Section

2523 [63N-2-503.5](#).

2524 (16) "Incremental property tax revenue" means the amount of property tax revenue

2525 generated from hotel property that equals the difference between:

2526 (a) the amount of property tax revenue generated in any tax year by all taxing entities

2527 from hotel property, using the current assessed value of the hotel property; and

2528 (b) the amount of property tax revenue that would be generated that tax year by all

2529 taxing entities from hotel property, using the hotel property's base taxable value.

2530 (17) "Local portion" means the portion of new tax revenue that is generated by local

2531 taxes.

2532 (18) "Local taxes" means a tax imposed under:

2533 (a) Section [59-12-204](#);

2534 (b) Section [59-12-301](#);

- 2535 (c) Sections [59-12-352](#) and [59-12-353](#);
- 2536 (d) Subsection [59-12-603\(1\)\(a\)](#); or
- 2537 (e) Section [59-12-1102](#).
- 2538 (19) "New tax revenue" means construction revenue, offsite revenue, and onsite  
2539 revenue.
- 2540 (20) "Offsite revenue" means revenue generated from state taxes and local taxes  
2541 imposed on transactions by a third-party seller occurring other than on hotel property during the  
2542 eligibility period, if:
- 2543 (a) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax  
2544 Act; and
- 2545 (b) the third-party seller voluntarily consents to the disclosure of information to the  
2546 office, as provided in Subsection [63N-2-505\(2\)\(b\)\(i\)\(E\)](#).
- 2547 (21) "Onsite revenue" means revenue generated from state taxes and local taxes  
2548 imposed on transactions occurring on hotel property during the eligibility period.
- 2549 (22) "Public infrastructure" means:
- 2550 (a) water, sewer, storm drainage, electrical, telecommunications, and other similar  
2551 systems and lines;
- 2552 (b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public  
2553 transportation facilities; and
- 2554 (c) other buildings, facilities, infrastructure, and improvements that benefit the public.
- 2555 (23) "Qualified hotel" means a full-service hotel development constructed in the state  
2556 on or after July 1, 2014 that:
- 2557 (a) requires a significant capital investment;
- 2558 (b) includes at least 85 square feet of convention, exhibit, and meeting space per guest  
2559 room; and
- 2560 (c) is located within 1,000 feet of a convention center that contains at least 500,000  
2561 square feet of convention, exhibit, and meeting space.
- 2562 (24) "Qualified hotel owner" means a person who owns a qualified hotel.
- 2563 (25) "Review committee" means the independent review committee established under  
2564 Section [63N-2-504](#).
- 2565 (26) "Significant capital investment" means an amount of at least \$200,000,000.

2566 (27) "State portion" means the portion of new tax revenue that is generated by state  
2567 taxes.

2568 (28) "State taxes" means a tax imposed under Subsection 59-12-103(2)(a)(i), (2)(b)(i),  
2569 [~~(2)(c)(i)~~] or (2)(e)(i)(A).

2570 (29) "Third-party seller" means a person who is a seller in a transaction:

2571 (a) occurring other than on hotel property;

2572 (b) that is:

2573 (i) the sale, rental, or lease of a room or of convention or exhibit space or other  
2574 facilities on hotel property; or

2575 (ii) the sale of tangible personal property or a service that is part of a bundled  
2576 transaction, as defined in Section 59-12-102, with a sale, rental, or lease described in  
2577 Subsection (29)(b)(i); and

2578 (c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.  
2579 Section 11. Section 63N-7-301 is amended to read:

2580 **63N-7-301. Tourism Marketing Performance Account.**

2581 (1) There is created within the General Fund a restricted account known as the Tourism  
2582 Marketing Performance Account.

2583 (2) The account shall be administered by the tourism office for the purposes listed in  
2584 Subsections (6) [~~through (8)~~] and (7).

2585 (3) (a) The account shall earn interest.

2586 (b) All interest earned on account money shall be deposited into the account.

2587 (4) The account shall be funded by appropriations made to the account by the  
2588 Legislature in accordance with this section.

2589 (5) The managing director shall use account money appropriated to the tourism office  
2590 to pay for the statewide advertising, marketing, and branding campaign for promotion of the  
2591 state as conducted by the tourism office.

2592 (6) (a) For each fiscal year, the tourism office shall annually allocate 10% of the  
2593 account money appropriated to the tourism office to a sports organization for advertising,  
2594 marketing, branding, and promoting Utah in attracting sporting events into the state.

2595 (b) The sports organization shall:

2596 (i) provide an annual written report to the tourism office that gives an accounting of the

2597 use of funds the sports organization receives under this Subsection (6); and

2598 (ii) promote the state and encourage economic growth in the state.

2599 ~~[(7) Money deposited into the account shall include a legislative appropriation from the~~  
2600 ~~cumulative sales and use tax revenue increases described in Subsection (8), plus any additional~~  
2601 ~~appropriation made by the Legislature.]~~

2602 ~~[(8) (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax~~  
2603 ~~revenues determined under this Subsection (8) shall be certified by the State Tax Commission~~  
2604 ~~as a set-aside for the account, and the State Tax Commission shall report the amount of the~~  
2605 ~~set-aside to the office, the Office of Legislative Fiscal Analyst, and the Division of Finance,~~  
2606 ~~which shall set aside the certified amount for appropriation to the account.]~~

2607 ~~[(b) For fiscal years 2016 through 2019, the State Tax Commission shall calculate the~~  
2608 ~~set-aside under this Subsection (8) in each fiscal year by applying one of the following~~  
2609 ~~formulas: if the annual percentage change in the Consumer Price Index for All Urban~~  
2610 ~~Consumers, as published by the Bureau of Labor Statistics of the United States Department of~~  
2611 ~~Labor, for the fiscal year two years before the fiscal year in which the set-aside is to be made~~  
2612 ~~is:]~~

2613 ~~[(i) greater than 3%, and if the annual percentage change in the state sales and use tax~~  
2614 ~~revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal~~  
2615 ~~year three years before the fiscal year in which the set-aside is to be made to the fiscal year two~~  
2616 ~~years before the fiscal year in which the set-aside is to be made is greater than the annual~~  
2617 ~~percentage change in the Consumer Price Index for the fiscal year two years before the fiscal~~  
2618 ~~year in which the set-aside is to be made, then the difference between the annual percentage~~  
2619 ~~change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented~~  
2620 ~~goods and services and the annual percentage change in the Consumer Price Index shall be~~  
2621 ~~multiplied by an amount equal to the state sales and use tax revenues attributable to the retail~~  
2622 ~~sales of tourist-oriented goods and services from the fiscal year three years before the fiscal~~  
2623 ~~year in which the set-aside is to be made; or]~~

2624 ~~[(ii) 3% or less, and if the annual percentage change in the state sales and use tax~~  
2625 ~~revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal~~  
2626 ~~year three years before the fiscal year in which the set-aside is to be made to the fiscal year two~~  
2627 ~~years before the fiscal year in which the set-aside is to be made is greater than 3%, then the~~

2628 ~~difference between the annual percentage change in the state sales and use tax revenues~~  
2629 ~~attributable to the retail sales of tourist-oriented goods and services and 3% shall be multiplied~~  
2630 ~~by an amount equal to the state sales and use tax revenues attributable to the retail sales of~~  
2631 ~~tourist-oriented goods and services from the fiscal year three years before the fiscal year in~~  
2632 ~~which the set-aside is to be made.]~~

2633 ~~[(c) The total money appropriated to the account in a fiscal year under Subsections~~  
2634 ~~(8)(a) and (b) may not exceed the amount appropriated to the account in the preceding fiscal~~  
2635 ~~year by more than \$3,000,000.]~~

2636 ~~[(d) As used in this Subsection (8), "state sales and use tax revenues" are revenues~~  
2637 ~~collected under Subsections 59-12-103(2)(a)(i)(A) and 59-12-103(2)(c)(i).]~~

2638 ~~[(e) As used in this Subsection (8), "retail sales of tourist-oriented goods and services"~~  
2639 ~~are calculated by adding the following percentages of sales from each business registered with~~  
2640 ~~the State Tax Commission under one of the following codes of the 2012 North American~~  
2641 ~~Industry Classification System of the federal Executive Office of the President, Office of~~  
2642 ~~Management and Budget:]~~

2643 ~~[(i) 80% of the sales from each business under NAICS Codes:]~~

2644 ~~[(A) 532111 Passenger Car Rental;]~~

2645 ~~[(B) 53212 Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing;]~~

2646 ~~[(C) 5615 Travel Arrangement and Reservation Services;]~~

2647 ~~[(D) 7211 Traveler Accommodation; and]~~

2648 ~~[(E) 7212 RV (Recreational Vehicle) Parks and Recreational Camps;]~~

2649 ~~[(ii) 25% of the sales from each business under NAICS Codes:]~~

2650 ~~[(A) 51213 Motion Picture and Video Exhibition;]~~

2651 ~~[(B) 532292 Recreational Goods Rental;]~~

2652 ~~[(C) 711 Performing Arts, Spectator Sports, and Related Industries;]~~

2653 ~~[(D) 712 Museums, Historical Sites, and Similar Institutions; and]~~

2654 ~~[(E) 713 Amusement, Gambling, and Recreation Industries;]~~

2655 ~~[(iii) 20% of the sales from each business under NAICS Code 722 Food Services and~~  
2656 ~~Drinking Places;]~~

2657 ~~[(iv) 18% of the sales from each business under NAICS Codes:]~~

2658 ~~[(A) 447 Gasoline Stations; and]~~

2659 ~~[(B) 81293 Parking Lots and Garages;]~~  
2660 ~~[(v) 14% of the sales from each business under NAICS Code 8111 Automotive Repair~~  
2661 ~~and Maintenance; and]~~  
2662 ~~[(vi) 5% of the sales from each business under NAICS Codes:]~~  
2663 ~~[(A) 445 Food and Beverage Stores;]~~  
2664 ~~[(B) 446 Health and Personal Care Stores;]~~  
2665 ~~[(C) 448 Clothing and Clothing Accessories Stores;]~~  
2666 ~~[(D) 451 Sporting Goods, Hobby, Musical Instrument, and Book Stores;]~~  
2667 ~~[(E) 452 General Merchandise Stores; and]~~  
2668 ~~[(F) 453 Miscellaneous Store Retailers.]~~

2669 ~~[(9)]~~ (7) (a) For each fiscal year, the tourism office shall allocate 20% of the funds  
2670 appropriated to the Tourism Marketing and Performance Account to the cooperative program  
2671 described in this Subsection ~~[(9)]~~ (7).

2672 (b) Money allocated to the cooperative program may be awarded to cities, counties,  
2673 nonprofit destination marketing organizations, and similar public entities for the purpose of  
2674 supplementing money committed by these entities for advertising and promoting sites and  
2675 events in the state.

2676 (c) The tourism office shall establish:

2677 (i) an application and approval process for an entity to receive a cooperative program  
2678 award, including an application deadline;

2679 (ii) the criteria for awarding a cooperative program award, which shall emphasize  
2680 attracting out-of-state visitors, and may include attracting in-state visitors, to sites and events in  
2681 the state; and

2682 (iii) eligibility, advertising, timing, and reporting requirements of an entity that  
2683 receives a cooperative program award.

2684 (d) Money allocated to the cooperative program that is not used in each fiscal year shall  
2685 be returned to the Tourism Marketing Performance Account.

2686 **Section 12. Contingent effective date.**

2687 The changes to Sections [59-12-102](#), [59-12-103](#), [59-12-108](#), [63N-2-502](#), and [63N-7-301](#)  
2688 take effect January 1, 2025, if the amendment to the Utah Constitution proposed by S.J.R. 10,  
2689 Proposal to Amend Utah Constitution - Income Tax, 2023 General Session, passes the

2690 Legislature and is approved by a majority of those voting on it at the next regular general  
2691 election.

2692 Section 13. **Retrospective operation.**

2693 The following sections have retrospective operation for a taxable year beginning on or  
2694 after January 1, 2023:

2695 (1) Section [59-7-104](#);

2696 (2) Section [59-7-201](#);

2697 (3) Section [59-10-104](#);

2698 (4) Section [59-10-1018](#);

2699 (5) Section [59-10-1042](#); and

2700 (6) Section [59-10-1044](#).