

FOOD SALES TAX AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Judy Weeks Rohner

Senate Sponsor: John D. Johnson

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

59-12-103, as last amended by Laws of Utah 2022, Chapters 77, 106 and 433

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

63N-7-301, as last amended by Laws of Utah 2022, Chapters 274, 362 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 362



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

Section 1. Section **59-12-102** is amended to read:

59-12-102. Definitions.

As used in this chapter:

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

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

(b) is typically marketed:

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

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

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

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

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

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

Federal Communications Commission.

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

(i) a subscriber purchases;

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

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

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

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

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

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

(A) a product; or

(B) a service.

- 59 (3) (a) "Admission or user fees" includes season passes.
- 60 (b) "Admission or user fees" does not include:
- 61 (i) annual membership dues to private organizations; or
- 62 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
- 63 facility listed in Subsection 59-12-103(1)(f).
- 64 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
- 65 person:
- 66 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
- 67 person; or
- 68 (b) is related to the other person because a third person, or a group of third persons who
- 69 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
- 70 whether direct or indirect, in the related persons.
- 71 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 72 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 73 Agreement after November 12, 2002.
- 74 (6) "Agreement combined tax rate" means the sum of the tax rates:
- 75 (a) listed under Subsection (7); and
- 76 (b) that are imposed within a local taxing jurisdiction.
- 77 (7) "Agreement sales and use tax" means a tax imposed under:
- 78 (a) Subsection 59-12-103(2)(a)(i)(A);
- 79 (b) Subsection 59-12-103(2)(b)(i);
- 80 [~~(c)~~ Subsection 59-12-103(2)(c)(i);]
- 81 [~~(d)~~ (c) Subsection 59-12-103(2)(d);
- 82 [~~(e)~~ (d) Subsection 59-12-103(2)(e)(i)(A)(I);
- 83 [~~(f)~~ (e) Section 59-12-204;
- 84 [~~(g)~~ (f) Section 59-12-401;
- 85 [~~(h)~~ (g) Section 59-12-402;
- 86 [~~(i)~~ (h) Section 59-12-402.1;
- 87 [~~(j)~~ (i) Section 59-12-703;
- 88 [~~(k)~~ (j) Section 59-12-802;
- 89 [~~(l)~~ (k) Section 59-12-804;

- 90 ~~[(m)]~~ (l) Section 59-12-1102;
- 91 ~~[(n)]~~ (m) Section 59-12-1302;
- 92 ~~[(o)]~~ (n) Section 59-12-1402;
- 93 ~~[(p)]~~ (o) Section 59-12-1802;
- 94 ~~[(q)]~~ (p) Section 59-12-2003;
- 95 ~~[(r)]~~ (q) Section 59-12-2103;
- 96 ~~[(s)]~~ (r) Section 59-12-2213;
- 97 ~~[(t)]~~ (s) Section 59-12-2214;
- 98 ~~[(u)]~~ (t) Section 59-12-2215;
- 99 ~~[(v)]~~ (u) Section 59-12-2216;
- 100 ~~[(w)]~~ (v) Section 59-12-2217;
- 101 ~~[(x)]~~ (w) Section 59-12-2218;
- 102 ~~[(y)]~~ (x) Section 59-12-2219; or
- 103 ~~[(z)]~~ (y) Section 59-12-2220.

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

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

106 (a) except for:

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

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

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

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

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

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

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

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

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

120 (A) an inspection;

- 121 (B) a repair, including a structural repair or modification;
- 122 (C) changing landing gear; and
- 123 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 124 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 125 completely apply new paint to the fixed wing turbine powered aircraft; and
- 126 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 127 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 128 authority that certifies the fixed wing turbine powered aircraft.
- 129 (10) "Alcoholic beverage" means a beverage that:
- 130 (a) is suitable for human consumption; and
- 131 (b) contains .5% or more alcohol by volume.
- 132 (11) "Alternative energy" means:
- 133 (a) biomass energy;
- 134 (b) geothermal energy;
- 135 (c) hydroelectric energy;
- 136 (d) solar energy;
- 137 (e) wind energy; or
- 138 (f) energy that is derived from:
- 139 (i) coal-to-liquids;
- 140 (ii) nuclear fuel;
- 141 (iii) oil-impregnated diatomaceous earth;
- 142 (iv) oil sands;
- 143 (v) oil shale;
- 144 (vi) petroleum coke; or
- 145 (vii) waste heat from:
- 146 (A) an industrial facility; or
- 147 (B) a power station in which an electric generator is driven through a process in which
- 148 water is heated, turns into steam, and spins a steam turbine.
- 149 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
- 150 facility" means a facility that:
- 151 (i) uses alternative energy to produce electricity; and

152 (ii) has a production capacity of two megawatts or greater.

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

155 (i) connected to an electric grid; or

156 (ii) located on the premises of an electricity consumer.

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

159 (b) "Ancillary service" includes:

160 (i) a conference bridging service;

161 (ii) a detailed communications billing service;

162 (iii) directory assistance;

163 (iv) a vertical service; or

164 (v) a voice mail service.

165 (14) "Area agency on aging" means the same as that term is defined in Section
166 [62A-3-101](#).

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

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

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

173 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or
174 washing of tangible personal property if the cleaning or washing labor is primarily performed
175 by an individual:

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

178 (b) at the direction of the seller of the cleaning or washing of the tangible personal
179 property.

180 (17) "Authorized carrier" means:

181 (a) in the case of vehicles operated over public highways, the holder of credentials
182 indicating that the vehicle is or will be operated pursuant to both the International Registration

183 Plan and the International Fuel Tax Agreement;

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

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

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

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

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

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

194 (B) animal waste;

195 (C) waste vegetable oil;

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

199 (E) aquatic plants; and

200 (F) agricultural products.

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

202 (i) black liquor; or

203 (ii) treated woods.

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

206 (i) distinct and identifiable; and

207 (ii) sold for one nonitemized price.

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

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

212 (ii) the sale of real property;

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

- 214 (iv) the retail sale of tangible personal property and a service if:
- 215 (A) the tangible personal property:
- 216 (I) is essential to the use of the service; and
- 217 (II) is provided exclusively in connection with the service; and
- 218 (B) the service is the true object of the transaction;
- 219 (v) the retail sale of two services if:
- 220 (A) one service is provided that is essential to the use or receipt of a second service;
- 221 (B) the first service is provided exclusively in connection with the second service; and
- 222 (C) the second service is the true object of the transaction;
- 223 (vi) a transaction that includes tangible personal property or a product subject to
- 224 taxation under this chapter and tangible personal property or a product that is not subject to
- 225 taxation under this chapter if the:
- 226 (A) seller's purchase price of the tangible personal property or product subject to
- 227 taxation under this chapter is de minimis; or
- 228 (B) seller's sales price of the tangible personal property or product subject to taxation
- 229 under this chapter is de minimis; and
- 230 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 231 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 232 (A) that retail sale includes:
- 233 (I) food and food ingredients;
- 234 (II) a drug;
- 235 (III) durable medical equipment;
- 236 (IV) mobility enhancing equipment;
- 237 (V) an over-the-counter drug;
- 238 (VI) a prosthetic device; or
- 239 (VII) a medical supply; and
- 240 (B) subject to Subsection (19)(f):
- 241 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 242 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 243 (II) the seller's sales price of the tangible personal property subject to taxation under
- 244 this chapter is 50% or less of the seller's total sales price of that retail sale.

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

247 (A) packaging that:

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

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

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

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

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

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

264 (A) a binding sales document; or

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

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

268 (A) a bill of sale;

269 (B) a contract;

270 (C) an invoice;

271 (D) a lease agreement;

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

273 (F) a price list;

274 (G) a rate card;

275 (H) a receipt; or

276 (I) a service agreement.

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

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

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

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

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

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

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

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

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

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

300 (i) on a transaction; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

332 (26) "Component part" includes:

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

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

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

- 338 (d) feed, seeds, and seedlings.
- 339 (27) "Computer" means an electronic device that accepts information:
- 340 (a) (i) in digital form; or
- 341 (ii) in a form similar to digital form; and
- 342 (b) manipulates that information for a result based on a sequence of instructions.
- 343 (28) "Computer software" means a set of coded instructions designed to cause:
- 344 (a) a computer to perform a task; or
- 345 (b) automatic data processing equipment to perform a task.
- 346 (29) "Computer software maintenance contract" means a contract that obligates a seller
- 347 of computer software to provide a customer with:
- 348 (a) future updates or upgrades to computer software;
- 349 (b) support services with respect to computer software; or
- 350 (c) a combination of Subsections (29)(a) and (b).
- 351 (30) (a) "Conference bridging service" means an ancillary service that links two or
- 352 more participants of an audio conference call or video conference call.
- 353 (b) "Conference bridging service" may include providing a telephone number as part of
- 354 the ancillary service described in Subsection (30)(a).
- 355 (c) "Conference bridging service" does not include a telecommunications service used
- 356 to reach the ancillary service described in Subsection (30)(a).
- 357 (31) "Construction materials" means any tangible personal property that will be
- 358 converted into real property.
- 359 (32) "Delivered electronically" means delivered to a purchaser by means other than
- 360 tangible storage media.
- 361 (33) (a) "Delivery charge" means a charge:
- 362 (i) by a seller of:
- 363 (A) tangible personal property;
- 364 (B) a product transferred electronically; or
- 365 (C) a service; and
- 366 (ii) for preparation and delivery of the tangible personal property, product transferred
- 367 electronically, or services described in Subsection (33)(a)(i) to a location designated by the
- 368 purchaser.

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

370 (i) transportation;

371 (ii) shipping;

372 (iii) postage;

373 (iv) handling;

374 (v) crating; or

375 (vi) packing.

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

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

379 (a) is intended to supplement the diet;

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

381 (i) a vitamin;

382 (ii) a mineral;

383 (iii) an herb or other botanical;

384 (iv) an amino acid;

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

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

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

390 (A) tablet form;

391 (B) capsule form;

392 (C) powder form;

393 (D) softgel form;

394 (E) gelcap form; or

395 (F) liquid form; or

396 (ii) if the product is not intended for ingestion in a form described in Subsections
397 (35)(c)(i)(A) through (F), is not represented:

398 (A) as conventional food; and

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

- 400 (I) a meal; or
- 401 (II) the diet; and
- 402 (d) is required to be labeled as a dietary supplement:
- 403 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 404 (ii) as required by 21 C.F.R. Sec. 101.36.
- 405 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 406 musical, spoken, or other sounds.
- 407 (b) "Digital audio work" includes a ringtone.
- 408 (37) "Digital audio-visual work" means a series of related images which, when shown
- 409 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 410 (38) "Digital book" means a work that is generally recognized in the ordinary and usual
- 411 sense as a book.
- 412 (39) (a) "Direct mail" means printed material delivered or distributed by United States
- 413 mail or other delivery service:
- 414 (i) to:
- 415 (A) a mass audience; or
- 416 (B) addressees on a mailing list provided:
- 417 (I) by a purchaser of the mailing list; or
- 418 (II) at the discretion of the purchaser of the mailing list; and
- 419 (ii) if the cost of the printed material is not billed directly to the recipients.
- 420 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 421 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 422 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 423 single address.
- 424 (40) "Directory assistance" means an ancillary service of providing:
- 425 (a) address information; or
- 426 (b) telephone number information.
- 427 (41) (a) "Disposable home medical equipment or supplies" means medical equipment
- 428 or supplies that:
- 429 (i) cannot withstand repeated use; and
- 430 (ii) are purchased by, for, or on behalf of a person other than:

- 431 (A) a health care facility as defined in Section 26-21-2;
- 432 (B) a health care provider as defined in Section 78B-3-403;
- 433 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or
- 434 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).
- 435 (b) "Disposable home medical equipment or supplies" does not include:
- 436 (i) a drug;
- 437 (ii) durable medical equipment;
- 438 (iii) a hearing aid;
- 439 (iv) a hearing aid accessory;
- 440 (v) mobility enhancing equipment; or
- 441 (vi) tangible personal property used to correct impaired vision, including:
- 442 (A) eyeglasses; or
- 443 (B) contact lenses.
- 444 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 445 commission may by rule define what constitutes medical equipment or supplies.
- 446 (42) "Drilling equipment manufacturer" means a facility:
- 447 (a) located in the state;
- 448 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 449 consist of manufacturing component parts of drilling equipment;
- 450 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 451 manufacturing process; and
- 452 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 453 manufacturing process.
- 454 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 455 compound, substance, or preparation that is:
- 456 (i) recognized in:
- 457 (A) the official United States Pharmacopoeia;
- 458 (B) the official Homeopathic Pharmacopoeia of the United States;
- 459 (C) the official National Formulary; or
- 460 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);
- 461 (ii) intended for use in the:

- 462 (A) diagnosis of disease;
- 463 (B) cure of disease;
- 464 (C) mitigation of disease;
- 465 (D) treatment of disease; or
- 466 (E) prevention of disease; or
- 467 (iii) intended to affect:
 - 468 (A) the structure of the body; or
 - 469 (B) any function of the body.
- 470 (b) "Drug" does not include:
 - 471 (i) food and food ingredients;
 - 472 (ii) a dietary supplement;
 - 473 (iii) an alcoholic beverage; or
 - 474 (iv) a prosthetic device.
- 475 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means
- 476 equipment that:
 - 477 (i) can withstand repeated use;
 - 478 (ii) is primarily and customarily used to serve a medical purpose;
 - 479 (iii) generally is not useful to a person in the absence of illness or injury; and
 - 480 (iv) is not worn in or on the body.
- 481 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 482 equipment described in Subsection (44)(a).
- 483 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 484 (45) "Electronic" means:
 - 485 (a) relating to technology; and
 - 486 (b) having:
 - 487 (i) electrical capabilities;
 - 488 (ii) digital capabilities;
 - 489 (iii) magnetic capabilities;
 - 490 (iv) wireless capabilities;
 - 491 (v) optical capabilities;
 - 492 (vi) electromagnetic capabilities; or

- 493 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).
494 (46) "Electronic financial payment service" means an establishment:
495 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
496 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
497 federal Executive Office of the President, Office of Management and Budget; and
498 (b) that performs electronic financial payment services.
- 499 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).
500 (48) "Fixed guideway" means a public transit facility that uses and occupies:
501 (a) rail for the use of public transit; or
502 (b) a separate right-of-way for the use of public transit.
- 503 (49) "Fixed wing turbine powered aircraft" means an aircraft that:
504 (a) is powered by turbine engines;
505 (b) operates on jet fuel; and
506 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 507 (50) "Fixed wireless service" means a telecommunications service that provides radio
508 communication between fixed points.
- 509 (51) (a) "Food and food ingredients" means substances:
510 (i) regardless of whether the substances are in:
511 (A) liquid form;
512 (B) concentrated form;
513 (C) solid form;
514 (D) frozen form;
515 (E) dried form; or
516 (F) dehydrated form; and
517 (ii) that are:
518 (A) sold for:
519 (I) ingestion by humans; or
520 (II) chewing by humans; and
521 (B) consumed for the substance's:
522 (I) taste; or
523 (II) nutritional value.

524 (b) "Food and food ingredients" includes an item described in Subsection (96)(b)(iii).

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

526 (i) an alcoholic beverage;

527 (ii) tobacco; or

528 (iii) prepared food.

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

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

531 (B) made by a school student;

532 (ii) that are for the purpose of raising funds for the school to purchase equipment,
533 materials, or provide transportation; and

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

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

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

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

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

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

545 (54) "Governing board of the agreement" means the governing board of the agreement
546 that is:

547 (a) authorized to administer the agreement; and

548 (b) established in accordance with the agreement.

549 (55) (a) For purposes of Subsection [59-12-104](#)(41), "governmental entity" means:

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

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

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

555 Senate, the Legislative Printing Office, the Office of Legislative Research and General
556 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
557 Analyst;

558 (iv) the National Guard;

559 (v) an independent entity as defined in Section [63E-1-102](#); or

560 (vi) a political subdivision as defined in Section [17B-1-102](#).

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

563 (i) a school;

564 (ii) the State Board of Education;

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

566 (iv) an institution of higher education described in Section [53B-1-102](#).

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

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

571 (a) in mining or extraction of minerals;

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

574 (i) commercial greenhouses;

575 (ii) irrigation pumps;

576 (iii) farm machinery;

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

579 (v) other farming activities;

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

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

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

586 (d) by a scrap recycler if:

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

590 (A) iron;

591 (B) steel;

592 (C) nonferrous metal;

593 (D) paper;

594 (E) glass;

595 (F) plastic;

596 (G) textile; or

597 (H) rubber; and

598 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with
599 nonrecycled materials; or

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

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

604 (i) tangible personal property; or

605 (ii) a product transferred electronically.

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

607 (i) repairs or renovations of:

608 (A) tangible personal property; or

609 (B) a product transferred electronically; or

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

611 (A) to other tangible personal property; and

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

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

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

- 617 (i) (A) a fixed term; or
618 (B) an indeterminate term; and
619 (ii) consideration.
- 620 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
621 amount of consideration may be increased or decreased by reference to the amount realized
622 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
623 Code.
- 624 (c) "Lease" or "rental" does not include:
- 625 (i) a transfer of possession or control of property under a security agreement or
626 deferred payment plan that requires the transfer of title upon completion of the required
627 payments;
- 628 (ii) a transfer of possession or control of property under an agreement that requires the
629 transfer of title:
- 630 (A) upon completion of required payments; and
631 (B) if the payment of an option price does not exceed the greater of:
- 632 (I) \$100; or
633 (II) 1% of the total required payments; or
634 (iii) providing tangible personal property along with an operator for a fixed period of
635 time or an indeterminate period of time if the operator is necessary for equipment to perform as
636 designed.
- 637 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to
638 perform as designed if the operator's duties exceed the:
- 639 (i) set-up of tangible personal property;
640 (ii) maintenance of tangible personal property; or
641 (iii) inspection of tangible personal property.
- 642 (61) "Lesson" means a fixed period of time for the duration of which a trained
643 instructor:
- 644 (a) is present with a student in person or by video; and
645 (b) actively instructs the student, including by providing observation or feedback.
- 646 (62) "Life science establishment" means an establishment in this state that is classified
647 under the following NAICS codes of the 2007 North American Industry Classification System

648 of the federal Executive Office of the President, Office of Management and Budget:

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

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

651 Manufacturing; or

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

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

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

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

659 (a) county that is authorized to impose an agreement sales and use tax;

660 (b) city that is authorized to impose an agreement sales and use tax; or

661 (c) town that is authorized to impose an agreement sales and use tax.

662 (66) "Manufactured home" means the same as that term is defined in Section
663 [15A-1-302](#).

664 (67) "Manufacturing facility" means:

665 (a) an establishment described in:

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

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

671 (b) a scrap recycler if:

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

675 (A) iron;

676 (B) steel;

677 (C) nonferrous metal;

678 (D) paper;

679 (E) glass;

680 (F) plastic;

681 (G) textile; or

682 (H) rubber; and

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

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

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

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

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

695 (i) does any of the following:

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

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

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

707 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible
708 personal property, a product transferred electronically, or a service, regardless of ownership or
709 control of the tangible personal property, the product transferred electronically, or the service

710 that is the subject of the retail sale;

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

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

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

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

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

722 (ii) does any of the following:

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

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

727 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing
728 fee, a fee for inserting or making available tangible personal property, a product transferred
729 electronically, or a service on the person's marketplace, or other consideration for the
730 facilitation of a retail sale of tangible personal property, a product transferred electronically, or
731 a service, regardless of ownership or control of the tangible personal property, the product
732 transferred electronically, or the service that is the subject of the retail sale;

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

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

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

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

742 (ii) a person described in Subsection (69)(a) to the extent the person is facilitating a
743 sale for a seller that is a restaurant as defined in Section 59-12-602.

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

747 (71) "Member of the immediate family of the producer" means a person who is related
748 to a producer described in Subsection 59-12-104(20)(a) as a:

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

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

751 (ii) a foster child or foster stepchild;

752 (b) grandchild or stepgrandchild;

753 (c) grandparent or stepgrandparent;

754 (d) nephew or stepnephew;

755 (e) niece or stepniece;

756 (f) parent or stepparent;

757 (g) sibling or stepsibling;

758 (h) spouse;

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

760 or

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

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

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

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

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

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

771 (iii) the origination point described in Subsection (74)(a)(i) and the termination point

772 described in Subsection (74)(a)(ii) are not fixed.

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

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

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

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

781 (ii) appropriate for use in a:

782 (A) home; or

783 (B) motor vehicle; and

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

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

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

788 (i) a motor vehicle;

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

791 (iii) durable medical equipment; or

792 (iv) a prosthetic device.

793 (76) "Model 1 seller" means a seller registered under the agreement that has selected a
794 certified service provider as the seller's agent to perform the seller's sales and use tax functions
795 for agreement sales and use taxes, as outlined in the contract between the governing board of
796 the agreement and the certified service provider, other than the seller's obligation under Section
797 [59-12-124](#) to remit a tax on the seller's own purchases.

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

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

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

802 (i) collected by the seller; and

803 (ii) to the appropriate local taxing jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

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

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

821 (b) yield mixtures of liquid hydrocarbon; and

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

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

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

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

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

833 (86) (a) "Paging service" means a telecommunications service that provides

834 transmission of a coded radio signal for the purpose of activating a specific pager.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

862 (A) convenience;

863 (B) stability; or

864 (C) for an obvious temporary purpose;

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

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

871 (A) a computer;

872 (B) a telephone;

873 (C) a television; or

874 (D) tangible personal property similar to Subsections (89)(c)(iii)(A) through (C) as
875 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
876 Administrative Rulemaking Act; or

877 (iv) an item listed in Subsection (130)(c).

878 (90) "Person" includes any individual, firm, partnership, joint venture, association,
879 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
880 municipality, district, or other local governmental entity of the state, or any group or
881 combination acting as a unit.

882 (91) "Place of primary use":

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

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

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

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

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

892 (i) through the use of a:

893 (A) bank card;

894 (B) credit card;

895 (C) debit card; or

896 (D) travel card; or
897 (ii) by a charge made to a telephone number that is not associated with the origination
898 or termination of the telecommunications service.

899 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
900 service, that would be a prepaid wireless calling service if the service were exclusively a
901 telecommunications service.

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

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

905 (a) that allows a purchaser access to telecommunications service that is exclusively
906 telecommunications service;

907 (b) that:

908 (i) is paid for in advance; and

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

910 (A) access number; or

911 (B) authorization code;

912 (c) that is dialed:

913 (i) manually; or

914 (ii) electronically; and

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

916 (i) by a known amount; and

917 (ii) with use.

918 (95) "Prepaid wireless calling service" means a telecommunications service:

919 (a) that provides the right to utilize:

920 (i) mobile wireless service; and

921 (ii) other service that is not a telecommunications service, including:

922 (A) the download of a product transferred electronically;

923 (B) a content service; or

924 (C) an ancillary service;

925 (b) that:

926 (i) is paid for in advance; and

- 927 (ii) enables the origination of a call using an:
- 928 (A) access number; or
- 929 (B) authorization code;
- 930 (c) that is dialed:
- 931 (i) manually; or
- 932 (ii) electronically; and
- 933 (d) sold in predetermined units or dollars that decline:
- 934 (i) by a known amount; and
- 935 (ii) with use.
- 936 (96) (a) "Prepared food" means:
- 937 (i) food:
- 938 (A) sold in a heated state; or
- 939 (B) heated by a seller;
- 940 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 941 item; or
- 942 (iii) except as provided in Subsection (96)(c), food sold with an eating utensil provided
- 943 by the seller, including a:
- 944 (A) plate;
- 945 (B) knife;
- 946 (C) fork;
- 947 (D) spoon;
- 948 (E) glass;
- 949 (F) cup;
- 950 (G) napkin; or
- 951 (H) straw.
- 952 (b) "Prepared food" does not include:
- 953 (i) food that a seller only:
- 954 (A) cuts;
- 955 (B) repackages; or
- 956 (C) pasteurizes; or
- 957 (ii) (A) the following:

- 958 (I) raw egg;
- 959 (II) raw fish;
- 960 (III) raw meat;
- 961 (IV) raw poultry; or
- 962 (V) a food containing an item described in Subsections (96)(b)(ii)(A)(I) through (IV);

963 and

964 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
965 Food and Drug Administration's Food Code that a consumer cook the items described in
966 Subsection (96)(b)(ii)(A) to prevent food borne illness; or

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

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

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

974 (I) by weight or volume; and

975 (II) as a single item; or

976 (C) a bakery item, including:

977 (I) a bagel;

978 (II) a bar;

979 (III) a biscuit;

980 (IV) bread;

981 (V) a bun;

982 (VI) a cake;

983 (VII) a cookie;

984 (VIII) a croissant;

985 (IX) a danish;

986 (X) a donut;

987 (XI) a muffin;

988 (XII) a pastry;

- 989 (XIII) a pie;
- 990 (XIV) a roll;
- 991 (XV) a tart;
- 992 (XVI) a torte; or
- 993 (XVII) a tortilla.
- 994 (c) An eating utensil provided by the seller does not include the following used to
- 995 transport the food:
- 996 (i) a container; or
- 997 (ii) packaging.
- 998 (97) "Prescription" means an order, formula, or recipe that is issued:
- 999 (a) (i) orally;
- 1000 (ii) in writing;
- 1001 (iii) electronically; or
- 1002 (iv) by any other manner of transmission; and
- 1003 (b) by a licensed practitioner authorized by the laws of a state.
- 1004 (98) (a) Except as provided in Subsection (98)(b)(ii) or (iii), "prewritten computer
- 1005 software" means computer software that is not designed and developed:
- 1006 (i) by the author or other creator of the computer software; and
- 1007 (ii) to the specifications of a specific purchaser.
- 1008 (b) "Prewritten computer software" includes:
- 1009 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 1010 software is not designed and developed:
- 1011 (A) by the author or other creator of the computer software; and
- 1012 (B) to the specifications of a specific purchaser;
- 1013 (ii) computer software designed and developed by the author or other creator of the
- 1014 computer software to the specifications of a specific purchaser if the computer software is sold
- 1015 to a person other than the purchaser; or
- 1016 (iii) except as provided in Subsection (98)(c), prewritten computer software or a
- 1017 prewritten portion of prewritten computer software:
- 1018 (A) that is modified or enhanced to any degree; and
- 1019 (B) if the modification or enhancement described in Subsection (98)(b)(iii)(A) is

1020 designed and developed to the specifications of a specific purchaser.

1021 (c) "Prewritten computer software" does not include a modification or enhancement
1022 described in Subsection (98)(b)(iii) if the charges for the modification or enhancement are:

1023 (i) reasonable; and

1024 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the
1025 invoice or other statement of price provided to the purchaser at the time of sale or later, as
1026 demonstrated by:

1027 (A) the books and records the seller keeps at the time of the transaction in the regular
1028 course of business, including books and records the seller keeps at the time of the transaction in
1029 the regular course of business for nontax purposes;

1030 (B) a preponderance of the facts and circumstances at the time of the transaction; and

1031 (C) the understanding of all of the parties to the transaction.

1032 (99) (a) "Private communications service" means a telecommunications service:

1033 (i) that entitles a customer to exclusive or priority use of one or more communications
1034 channels between or among termination points; and

1035 (ii) regardless of the manner in which the one or more communications channels are
1036 connected.

1037 (b) "Private communications service" includes the following provided in connection
1038 with the use of one or more communications channels:

1039 (i) an extension line;

1040 (ii) a station;

1041 (iii) switching capacity; or

1042 (iv) another associated service that is provided in connection with the use of one or
1043 more communications channels as defined in Section 59-12-215.

1044 (100) (a) Except as provided in Subsection (100)(b), "product transferred
1045 electronically" means a product transferred electronically that would be subject to a tax under
1046 this chapter if that product was transferred in a manner other than electronically.

1047 (b) "Product transferred electronically" does not include:

1048 (i) an ancillary service;

1049 (ii) computer software; or

1050 (iii) a telecommunications service.

- 1051 (101) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 1052 (i) artificially replace a missing portion of the body;
- 1053 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1054 (iii) support a weak or deformed portion of the body.
- 1055 (b) "Prosthetic device" includes:
- 1056 (i) parts used in the repairs or renovation of a prosthetic device;
- 1057 (ii) replacement parts for a prosthetic device;
- 1058 (iii) a dental prosthesis; or
- 1059 (iv) a hearing aid.
- 1060 (c) "Prosthetic device" does not include:
- 1061 (i) corrective eyeglasses; or
- 1062 (ii) contact lenses.
- 1063 (102) (a) "Protective equipment" means an item:
- 1064 (i) for human wear; and
- 1065 (ii) that is:
- 1066 (A) designed as protection:
- 1067 (I) to the wearer against injury or disease; or
- 1068 (II) against damage or injury of other persons or property; and
- 1069 (B) not suitable for general use.
- 1070 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1071 commission shall make rules:
- 1072 (i) listing the items that constitute "protective equipment"; and
- 1073 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1074 under the agreement.
- 1075 (103) (a) For purposes of Subsection [59-12-104\(41\)](#), "publication" means any written
- 1076 or printed matter, other than a photocopy:
- 1077 (i) regardless of:
- 1078 (A) characteristics;
- 1079 (B) copyright;
- 1080 (C) form;
- 1081 (D) format;

1082 (E) method of reproduction; or
1083 (F) source; and
1084 (ii) made available in printed or electronic format.
1085 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1086 commission may by rule define the term "photocopy."
1087 (104) (a) "Purchase price" and "sales price" mean the total amount of consideration:
1088 (i) valued in money; and
1089 (ii) for which tangible personal property, a product transferred electronically, or
1090 services are:
1091 (A) sold;
1092 (B) leased; or
1093 (C) rented.
1094 (b) "Purchase price" and "sales price" include:
1095 (i) the seller's cost of the tangible personal property, a product transferred
1096 electronically, or services sold;
1097 (ii) expenses of the seller, including:
1098 (A) the cost of materials used;
1099 (B) a labor cost;
1100 (C) a service cost;
1101 (D) interest;
1102 (E) a loss;
1103 (F) the cost of transportation to the seller; or
1104 (G) a tax imposed on the seller;
1105 (iii) a charge by the seller for any service necessary to complete the sale; or
1106 (iv) consideration a seller receives from a person other than the purchaser if:
1107 (A) (I) the seller actually receives consideration from a person other than the purchaser;
1108 and
1109 (II) the consideration described in Subsection (104)(b)(iv)(A)(I) is directly related to a
1110 price reduction or discount on the sale;
1111 (B) the seller has an obligation to pass the price reduction or discount through to the
1112 purchaser;

1113 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1114 the seller at the time of the sale to the purchaser; and

1115 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1116 seller to claim a price reduction or discount; and

1117 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1118 coupon, or other documentation with the understanding that the person other than the seller
1119 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1120 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1121 organization allowed a price reduction or discount, except that a preferred customer card that is
1122 available to any patron of a seller does not constitute membership in a group or organization
1123 allowed a price reduction or discount; or

1124 (III) the price reduction or discount is identified as a third party price reduction or
1125 discount on the:

1126 (Aa) invoice the purchaser receives; or

1127 (Bb) certificate, coupon, or other documentation the purchaser presents.

1128 (c) "Purchase price" and "sales price" do not include:

1129 (i) a discount:

1130 (A) in a form including:

1131 (I) cash;

1132 (II) term; or

1133 (III) coupon;

1134 (B) that is allowed by a seller;

1135 (C) taken by a purchaser on a sale; and

1136 (D) that is not reimbursed by a third party; or

1137 (ii) subject to Subsections [59-12-103\(2\)\(f\)\(ii\)](#) and [\(2\)\(g\)\(i\)](#), the following if separately
1138 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
1139 sale or later, as demonstrated by the books and records the seller keeps at the time of the
1140 transaction in the regular course of business, including books and records the seller keeps at the
1141 time of the transaction in the regular course of business for nontax purposes, by a
1142 preponderance of the facts and circumstances at the time of the transaction, and by the
1143 understanding of all of the parties to the transaction:

1144 (A) the following from credit extended on the sale of tangible personal property or
1145 services:

1146 (I) a carrying charge;

1147 (II) a financing charge; or

1148 (III) an interest charge;

1149 (B) a delivery charge;

1150 (C) an installation charge;

1151 (D) a manufacturer rebate on a motor vehicle; or

1152 (E) a tax or fee legally imposed directly on the consumer.

1153 (105) "Purchaser" means a person to whom:

1154 (a) a sale of tangible personal property is made;

1155 (b) a product is transferred electronically; or

1156 (c) a service is furnished.

1157 (106) "Qualifying data center" means a data center facility that:

1158 (a) houses a group of networked server computers in one physical location in order to
1159 disseminate, manage, and store data and information;

1160 (b) is located in the state;

1161 (c) is a new operation constructed on or after July 1, 2016;

1162 (d) consists of one or more buildings that total 150,000 or more square feet;

1163 (e) is owned or leased by:

1164 (i) the operator of the data center facility; or

1165 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
1166 of the data center facility; and

1167 (f) is located on one or more parcels of land that are owned or leased by:

1168 (i) the operator of the data center facility; or

1169 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
1170 of the data center facility.

1171 (107) "Regularly rented" means:

1172 (a) rented to a guest for value three or more times during a calendar year; or

1173 (b) advertised or held out to the public as a place that is regularly rented to guests for
1174 value.

1175 (108) "Rental" means the same as that term is defined in Subsection (60).

1176 (109) (a) Except as provided in Subsection (109)(b), "repairs or renovations of tangible
1177 personal property" means:

1178 (i) a repair or renovation of tangible personal property that is not permanently attached
1179 to real property; or

1180 (ii) attaching tangible personal property or a product transferred electronically to other
1181 tangible personal property or detaching tangible personal property or a product transferred
1182 electronically from other tangible personal property if:

1183 (A) the other tangible personal property to which the tangible personal property or
1184 product transferred electronically is attached or from which the tangible personal property or
1185 product transferred electronically is detached is not permanently attached to real property; and

1186 (B) the attachment of tangible personal property or a product transferred electronically
1187 to other tangible personal property or detachment of tangible personal property or a product
1188 transferred electronically from other tangible personal property is made in conjunction with a
1189 repair or replacement of tangible personal property or a product transferred electronically.

1190 (b) "Repairs or renovations of tangible personal property" does not include:

1191 (i) attaching prewritten computer software to other tangible personal property if the
1192 other tangible personal property to which the prewritten computer software is attached is not
1193 permanently attached to real property; or

1194 (ii) detaching prewritten computer software from other tangible personal property if the
1195 other tangible personal property from which the prewritten computer software is detached is
1196 not permanently attached to real property.

1197 (110) "Research and development" means the process of inquiry or experimentation
1198 aimed at the discovery of facts, devices, technologies, or applications and the process of
1199 preparing those devices, technologies, or applications for marketing.

1200 (111) (a) "Residential telecommunications services" means a telecommunications
1201 service or an ancillary service that is provided to an individual for personal use:

1202 (i) at a residential address; or

1203 (ii) at an institution, including a nursing home or a school, if the telecommunications
1204 service or ancillary service is provided to and paid for by the individual residing at the
1205 institution rather than the institution.

- 1206 (b) For purposes of Subsection (111)(a)(i), a residential address includes an:
- 1207 (i) apartment; or
- 1208 (ii) other individual dwelling unit.
- 1209 (112) "Residential use" means the use in or around a home, apartment building,
- 1210 sleeping quarters, and similar facilities or accommodations.
- 1211 (113) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
- 1212 than:
- 1213 (a) resale;
- 1214 (b) sublease; or
- 1215 (c) subrent.
- 1216 (114) (a) "Retailer" means any person, unless prohibited by the Constitution of the
- 1217 United States or federal law, that is engaged in a regularly organized business in tangible
- 1218 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is
- 1219 selling to the user or consumer and not for resale.
- 1220 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
- 1221 engaged in the business of selling to users or consumers within the state.
- 1222 (115) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
- 1223 otherwise, in any manner, of tangible personal property or any other taxable transaction under
- 1224 Subsection 59-12-103(1), for consideration.
- 1225 (b) "Sale" includes:
- 1226 (i) installment and credit sales;
- 1227 (ii) any closed transaction constituting a sale;
- 1228 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 1229 chapter;
- 1230 (iv) any transaction if the possession of property is transferred but the seller retains the
- 1231 title as security for the payment of the price; and
- 1232 (v) any transaction under which right to possession, operation, or use of any article of
- 1233 tangible personal property is granted under a lease or contract and the transfer of possession
- 1234 would be taxable if an outright sale were made.
- 1235 (116) "Sale at retail" means the same as that term is defined in Subsection (113).
- 1236 (117) "Sale-leaseback transaction" means a transaction by which title to tangible

1237 personal property or a product transferred electronically that is subject to a tax under this
1238 chapter is transferred:

- 1239 (a) by a purchaser-lessee;
- 1240 (b) to a lessor;
- 1241 (c) for consideration; and
- 1242 (d) if:
 - 1243 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
 - 1244 of the tangible personal property or product transferred electronically;
 - 1245 (ii) the sale of the tangible personal property or product transferred electronically to the
 - 1246 lessor is intended as a form of financing:
 - 1247 (A) for the tangible personal property or product transferred electronically; and
 - 1248 (B) to the purchaser-lessee; and
 - 1249 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
 - 1250 is required to:
 - 1251 (A) capitalize the tangible personal property or product transferred electronically for
 - 1252 financial reporting purposes; and
 - 1253 (B) account for the lease payments as payments made under a financing arrangement.
- 1254 (118) "Sales price" means the same as that term is defined in Subsection (104).
- 1255 (119) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
- 1256 amounts charged by a school:
 - 1257 (i) sales that are directly related to the school's educational functions or activities
 - 1258 including:
 - 1259 (A) the sale of:
 - 1260 (I) textbooks;
 - 1261 (II) textbook fees;
 - 1262 (III) laboratory fees;
 - 1263 (IV) laboratory supplies; or
 - 1264 (V) safety equipment;
 - 1265 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
 - 1266 that:
 - 1267 (I) a student is specifically required to wear as a condition of participation in a

1268 school-related event or school-related activity; and
1269 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1270 place of ordinary clothing;
1271 (C) sales of the following if the net or gross revenues generated by the sales are
1272 deposited into a school district fund or school fund dedicated to school meals:
1273 (I) food and food ingredients; or
1274 (II) prepared food; or
1275 (D) transportation charges for official school activities; or
1276 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1277 event or school-related activity.
1278 (b) "Sales relating to schools" does not include:
1279 (i) bookstore sales of items that are not educational materials or supplies;
1280 (ii) except as provided in Subsection (119)(a)(i)(B):
1281 (A) clothing;
1282 (B) clothing accessories or equipment;
1283 (C) protective equipment; or
1284 (D) sports or recreational equipment; or
1285 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1286 event or school-related activity if the amounts paid or charged are passed through to a person:
1287 (A) other than a:
1288 (I) school;
1289 (II) nonprofit organization authorized by a school board or a governing body of a
1290 private school to organize and direct a competitive secondary school activity; or
1291 (III) nonprofit association authorized by a school board or a governing body of a
1292 private school to organize and direct a competitive secondary school activity; and
1293 (B) that is required to collect sales and use taxes under this chapter.
1294 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1295 commission may make rules defining the term "passed through."
1296 (120) For purposes of this section and Section 59-12-104, "school" means:
1297 (a) an elementary school or a secondary school that:
1298 (i) is a:

- 1299 (A) public school; or
- 1300 (B) private school; and
- 1301 (ii) provides instruction for one or more grades kindergarten through 12; or
- 1302 (b) a public school district.
- 1303 (121) (a) "Seller" means a person that makes a sale, lease, or rental of:
- 1304 (i) tangible personal property;
- 1305 (ii) a product transferred electronically; or
- 1306 (iii) a service.
- 1307 (b) "Seller" includes a marketplace facilitator.
- 1308 (122) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1309 means tangible personal property or a product transferred electronically if the tangible personal
- 1310 property or product transferred electronically is:
- 1311 (i) used primarily in the process of:
- 1312 (A) (I) manufacturing a semiconductor;
- 1313 (II) fabricating a semiconductor; or
- 1314 (III) research or development of a:
- 1315 (Aa) semiconductor; or
- 1316 (Bb) semiconductor manufacturing process; or
- 1317 (B) maintaining an environment suitable for a semiconductor; or
- 1318 (ii) consumed primarily in the process of:
- 1319 (A) (I) manufacturing a semiconductor;
- 1320 (II) fabricating a semiconductor; or
- 1321 (III) research or development of a:
- 1322 (Aa) semiconductor; or
- 1323 (Bb) semiconductor manufacturing process; or
- 1324 (B) maintaining an environment suitable for a semiconductor.
- 1325 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1326 includes:
- 1327 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1328 transferred electronically described in Subsection (122)(a); or
- 1329 (ii) a chemical, catalyst, or other material used to:

- 1330 (A) produce or induce in a semiconductor a:
- 1331 (I) chemical change; or
- 1332 (II) physical change;
- 1333 (B) remove impurities from a semiconductor; or
- 1334 (C) improve the marketable condition of a semiconductor.
- 1335 (123) "Senior citizen center" means a facility having the primary purpose of providing
- 1336 services to the aged as defined in Section [62A-3-101](#).
- 1337 (124) (a) Subject to Subsections (124)(b) and (c), "short-term lodging consumable"
- 1338 means tangible personal property that:
- 1339 (i) a business that provides accommodations and services described in Subsection
- 1340 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services
- 1341 to a purchaser;
- 1342 (ii) is intended to be consumed by the purchaser; and
- 1343 (iii) is:
- 1344 (A) included in the purchase price of the accommodations and services; and
- 1345 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 1346 to the purchaser.
- 1347 (b) "Short-term lodging consumable" includes:
- 1348 (i) a beverage;
- 1349 (ii) a brush or comb;
- 1350 (iii) a cosmetic;
- 1351 (iv) a hair care product;
- 1352 (v) lotion;
- 1353 (vi) a magazine;
- 1354 (vii) makeup;
- 1355 (viii) a meal;
- 1356 (ix) mouthwash;
- 1357 (x) nail polish remover;
- 1358 (xi) a newspaper;
- 1359 (xii) a notepad;
- 1360 (xiii) a pen;

- 1361 (xiv) a pencil;
- 1362 (xv) a razor;
- 1363 (xvi) saline solution;
- 1364 (xvii) a sewing kit;
- 1365 (xviii) shaving cream;
- 1366 (xix) a shoe shine kit;
- 1367 (xx) a shower cap;
- 1368 (xxi) a snack item;
- 1369 (xxii) soap;
- 1370 (xxiii) toilet paper;
- 1371 (xxiv) a toothbrush;
- 1372 (xxv) toothpaste; or
- 1373 (xxvi) an item similar to Subsections (124)(b)(i) through (xxv) as the commission may
- 1374 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1375 Rulemaking Act.
- 1376 (c) "Short-term lodging consumable" does not include:
- 1377 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1378 property to be reused; or
- 1379 (ii) a product transferred electronically.
- 1380 (125) "Simplified electronic return" means the electronic return:
- 1381 (a) described in Section 318(C) of the agreement; and
- 1382 (b) approved by the governing board of the agreement.
- 1383 (126) "Solar energy" means the sun used as the sole source of energy for producing
- 1384 electricity.
- 1385 (127) (a) "Sports or recreational equipment" means an item:
- 1386 (i) designed for human use; and
- 1387 (ii) that is:
- 1388 (A) worn in conjunction with:
- 1389 (I) an athletic activity; or
- 1390 (II) a recreational activity; and
- 1391 (B) not suitable for general use.

1392 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1393 commission shall make rules:

- 1394 (i) listing the items that constitute "sports or recreational equipment"; and
- 1395 (ii) that are consistent with the list of items that constitute "sports or recreational
1396 equipment" under the agreement.

1397 (128) "State" means the state of Utah, its departments, and agencies.

1398 (129) "Storage" means any keeping or retention of tangible personal property or any
1399 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
1400 sale in the regular course of business.

1401 (130) (a) Except as provided in Subsection (130)(d) or (e), "tangible personal property"
1402 means personal property that:

- 1403 (i) may be:
 - 1404 (A) seen;
 - 1405 (B) weighed;
 - 1406 (C) measured;
 - 1407 (D) felt; or
 - 1408 (E) touched; or
- 1409 (ii) is in any manner perceptible to the senses.

1410 (b) "Tangible personal property" includes:

- 1411 (i) electricity;
- 1412 (ii) water;
- 1413 (iii) gas;
- 1414 (iv) steam; or
- 1415 (v) prewritten computer software, regardless of the manner in which the prewritten
1416 computer software is transferred.

1417 (c) "Tangible personal property" includes the following regardless of whether the item
1418 is attached to real property:

- 1419 (i) a dishwasher;
- 1420 (ii) a dryer;
- 1421 (iii) a freezer;
- 1422 (iv) a microwave;

- 1423 (v) a refrigerator;
- 1424 (vi) a stove;
- 1425 (vii) a washer; or
- 1426 (viii) an item similar to Subsections (130)(c)(i) through (vii) as determined by the
- 1427 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1428 Rulemaking Act.
- 1429 (d) "Tangible personal property" does not include a product that is transferred
- 1430 electronically.
- 1431 (e) "Tangible personal property" does not include the following if attached to real
- 1432 property, regardless of whether the attachment to real property is only through a line that
- 1433 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 1434 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1435 Rulemaking Act:
- 1436 (i) a hot water heater;
- 1437 (ii) a water filtration system; or
- 1438 (iii) a water softener system.
- 1439 (131) (a) "Telecommunications enabling or facilitating equipment, machinery, or
- 1440 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
- 1441 primarily to enable or facilitate one or more of the following to function:
- 1442 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1443 (ii) telecommunications transmission equipment, machinery, or software.
- 1444 (b) The following apply to Subsection (131)(a):
- 1445 (i) a pole;
- 1446 (ii) software;
- 1447 (iii) a supplementary power supply;
- 1448 (iv) temperature or environmental equipment or machinery;
- 1449 (v) test equipment;
- 1450 (vi) a tower; or
- 1451 (vii) equipment, machinery, or software that functions similarly to an item listed in
- 1452 Subsections (131)(b)(i) through (vi) as determined by the commission by rule made in
- 1453 accordance with Subsection (131)(c).

1454 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1455 commission may by rule define what constitutes equipment, machinery, or software that
1456 functions similarly to an item listed in Subsections (131)(b)(i) through (vi).

1457 (132) "Telecommunications equipment, machinery, or software required for 911
1458 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
1459 Sec. 20.18.

1460 (133) "Telecommunications maintenance or repair equipment, machinery, or software"
1461 means equipment, machinery, or software purchased or leased primarily to maintain or repair
1462 one or more of the following, regardless of whether the equipment, machinery, or software is
1463 purchased or leased as a spare part or as an upgrade or modification to one or more of the
1464 following:

- 1465 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1466 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1467 (c) telecommunications transmission equipment, machinery, or software.

1468 (134) (a) "Telecommunications service" means the electronic conveyance, routing, or
1469 transmission of audio, data, video, voice, or any other information or signal to a point, or
1470 among or between points.

1471 (b) "Telecommunications service" includes:

1472 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1473 processing application is used to act:

1474 (A) on the code, form, or protocol of the content;

1475 (B) for the purpose of electronic conveyance, routing, or transmission; and

1476 (C) regardless of whether the service:

1477 (I) is referred to as voice over Internet protocol service; or

1478 (II) is classified by the Federal Communications Commission as enhanced or value
1479 added;

1480 (ii) an 800 service;

1481 (iii) a 900 service;

1482 (iv) a fixed wireless service;

1483 (v) a mobile wireless service;

1484 (vi) a postpaid calling service;

- 1485 (vii) a prepaid calling service;
- 1486 (viii) a prepaid wireless calling service; or
- 1487 (ix) a private communications service.
- 1488 (c) "Telecommunications service" does not include:
- 1489 (i) advertising, including directory advertising;
- 1490 (ii) an ancillary service;
- 1491 (iii) a billing and collection service provided to a third party;
- 1492 (iv) a data processing and information service if:
- 1493 (A) the data processing and information service allows data to be:
- 1494 (I) (Aa) acquired;
- 1495 (Bb) generated;
- 1496 (Cc) processed;
- 1497 (Dd) retrieved; or
- 1498 (Ee) stored; and
- 1499 (II) delivered by an electronic transmission to a purchaser; and
- 1500 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1501 or information;
- 1502 (v) installation or maintenance of the following on a customer's premises:
- 1503 (A) equipment; or
- 1504 (B) wiring;
- 1505 (vi) Internet access service;
- 1506 (vii) a paging service;
- 1507 (viii) a product transferred electronically, including:
- 1508 (A) music;
- 1509 (B) reading material;
- 1510 (C) a ring tone;
- 1511 (D) software; or
- 1512 (E) video;
- 1513 (ix) a radio and television audio and video programming service:
- 1514 (A) regardless of the medium; and
- 1515 (B) including:

- 1516 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1517 programming service by a programming service provider;
- 1518 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1519 (III) audio and video programming services delivered by a commercial mobile radio
- 1520 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1521 (x) a value-added nonvoice data service; or
- 1522 (xi) tangible personal property.
- 1523 (135) (a) "Telecommunications service provider" means a person that:
- 1524 (i) owns, controls, operates, or manages a telecommunications service; and
- 1525 (ii) engages in an activity described in Subsection (135)(a)(i) for the shared use with or
- 1526 resale to any person of the telecommunications service.
- 1527 (b) A person described in Subsection (135)(a) is a telecommunications service provider
- 1528 whether or not the Public Service Commission of Utah regulates:
- 1529 (i) that person; or
- 1530 (ii) the telecommunications service that the person owns, controls, operates, or
- 1531 manages.
- 1532 (136) (a) "Telecommunications switching or routing equipment, machinery, or
- 1533 software" means an item listed in Subsection (136)(b) if that item is purchased or leased
- 1534 primarily for switching or routing:
- 1535 (i) an ancillary service;
- 1536 (ii) data communications;
- 1537 (iii) voice communications; or
- 1538 (iv) telecommunications service.
- 1539 (b) The following apply to Subsection (136)(a):
- 1540 (i) a bridge;
- 1541 (ii) a computer;
- 1542 (iii) a cross connect;
- 1543 (iv) a modem;
- 1544 (v) a multiplexer;
- 1545 (vi) plug in circuitry;
- 1546 (vii) a router;

1547 (viii) software;
1548 (ix) a switch; or
1549 (x) equipment, machinery, or software that functions similarly to an item listed in
1550 Subsections (136)(b)(i) through (ix) as determined by the commission by rule made in
1551 accordance with Subsection (136)(c).

1552 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1553 commission may by rule define what constitutes equipment, machinery, or software that
1554 functions similarly to an item listed in Subsections (136)(b)(i) through (ix).

1555 (137) (a) "Telecommunications transmission equipment, machinery, or software"
1556 means an item listed in Subsection (137)(b) if that item is purchased or leased primarily for
1557 sending, receiving, or transporting:

- 1558 (i) an ancillary service;
 - 1559 (ii) data communications;
 - 1560 (iii) voice communications; or
 - 1561 (iv) telecommunications service.
- 1562 (b) The following apply to Subsection (137)(a):
- 1563 (i) an amplifier;
 - 1564 (ii) a cable;
 - 1565 (iii) a closure;
 - 1566 (iv) a conduit;
 - 1567 (v) a controller;
 - 1568 (vi) a duplexer;
 - 1569 (vii) a filter;
 - 1570 (viii) an input device;
 - 1571 (ix) an input/output device;
 - 1572 (x) an insulator;
 - 1573 (xi) microwave machinery or equipment;
 - 1574 (xii) an oscillator;
 - 1575 (xiii) an output device;
 - 1576 (xiv) a pedestal;
 - 1577 (xv) a power converter;

1578 (xvi) a power supply;
1579 (xvii) a radio channel;
1580 (xviii) a radio receiver;
1581 (xix) a radio transmitter;
1582 (xx) a repeater;
1583 (xxi) software;
1584 (xxii) a terminal;
1585 (xxiii) a timing unit;
1586 (xxiv) a transformer;
1587 (xxv) a wire; or
1588 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
1589 Subsections (137)(b)(i) through (xxv) as determined by the commission by rule made in
1590 accordance with Subsection (137)(c).

1591 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1592 commission may by rule define what constitutes equipment, machinery, or software that
1593 functions similarly to an item listed in Subsections (137)(b)(i) through (xxv).

1594 (138) (a) "Textbook for a higher education course" means a textbook or other printed
1595 material that is required for a course:

- 1596 (i) offered by an institution of higher education; and
- 1597 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1598 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1599 (139) "Tobacco" means:

- 1600 (a) a cigarette;
- 1601 (b) a cigar;
- 1602 (c) chewing tobacco;
- 1603 (d) pipe tobacco; or
- 1604 (e) any other item that contains tobacco.

1605 (140) "Unassisted amusement device" means an amusement device, skill device, or
1606 ride device that is started and stopped by the purchaser or renter of the right to use or operate
1607 the amusement device, skill device, or ride device.

1608 (141) (a) "Use" means the exercise of any right or power over tangible personal

1609 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1610 incident to the ownership or the leasing of that tangible personal property, product transferred
1611 electronically, or service.

1612 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1613 property, a product transferred electronically, or a service in the regular course of business and
1614 held for resale.

1615 (142) "Value-added nonvoice data service" means a service:

1616 (a) that otherwise meets the definition of a telecommunications service except that a
1617 computer processing application is used to act primarily for a purpose other than conveyance,
1618 routing, or transmission; and

1619 (b) with respect to which a computer processing application is used to act on data or
1620 information:

- 1621 (i) code;
- 1622 (ii) content;
- 1623 (iii) form; or
- 1624 (iv) protocol.

1625 (143) (a) Subject to Subsection (143)(b), "vehicle" means the following that are
1626 required to be titled, registered, or titled and registered:

- 1627 (i) an aircraft as defined in Section 72-10-102;
- 1628 (ii) a vehicle as defined in Section 41-1a-102;
- 1629 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1630 (iv) a vessel as defined in Section 41-1a-102.

1631 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1632 (i) a vehicle described in Subsection (143)(a); or
- 1633 (ii) (A) a locomotive;
- 1634 (B) a freight car;
- 1635 (C) railroad work equipment; or
- 1636 (D) other railroad rolling stock.

1637 (144) "Vehicle dealer" means a person engaged in the business of buying, selling, or
1638 exchanging a vehicle as defined in Subsection (143).

1639 (145) (a) "Vertical service" means an ancillary service that:

- 1640 (i) is offered in connection with one or more telecommunications services; and
- 1641 (ii) offers an advanced calling feature that allows a customer to:
- 1642 (A) identify a caller; and
- 1643 (B) manage multiple calls and call connections.
- 1644 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 1645 conference bridging service.

1646 (146) (a) "Voice mail service" means an ancillary service that enables a customer to

1647 receive, send, or store a recorded message.

1648 (b) "Voice mail service" does not include a vertical service that a customer is required

1649 to have in order to utilize a voice mail service.

1650 (147) (a) Except as provided in Subsection (147)(b), "waste energy facility" means a

1651 facility that generates electricity:

1652 (i) using as the primary source of energy waste materials that would be placed in a

1653 landfill or refuse pit if it were not used to generate electricity, including:

- 1654 (A) tires;
- 1655 (B) waste coal;
- 1656 (C) oil shale; or
- 1657 (D) municipal solid waste; and

1658 (ii) in amounts greater than actually required for the operation of the facility.

1659 (b) "Waste energy facility" does not include a facility that incinerates:

- 1660 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1661 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1662 (148) "Watercraft" means a vessel as defined in Section [73-18-2](#).

1663 (149) "Wind energy" means wind used as the sole source of energy to produce

1664 electricity.

1665 (150) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic

1666 location by the United States Postal Service.

1667 Section 2. Section **59-12-103** is amended to read:

1668 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**

1669 **tax revenues.**

1670 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or

1671 sales price for amounts paid or charged for the following transactions:

1672 (a) retail sales of tangible personal property made within the state;

1673 (b) amounts paid for:

1674 (i) telecommunications service, other than mobile telecommunications service, that

1675 originates and terminates within the boundaries of this state;

1676 (ii) mobile telecommunications service that originates and terminates within the

1677 boundaries of one state only to the extent permitted by the Mobile Telecommunications

1678 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

1679 (iii) an ancillary service associated with a:

1680 (A) telecommunications service described in Subsection (1)(b)(i); or

1681 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

1682 (c) sales of the following for commercial use:

1683 (i) gas;

1684 (ii) electricity;

1685 (iii) heat;

1686 (iv) coal;

1687 (v) fuel oil; or

1688 (vi) other fuels;

1689 (d) sales of the following for residential use:

1690 (i) gas;

1691 (ii) electricity;

1692 (iii) heat;

1693 (iv) coal;

1694 (v) fuel oil; or

1695 (vi) other fuels;

1696 (e) sales of prepared food;

1697 (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or

1698 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,

1699 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,

1700 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit

1701 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf

1702 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
1703 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
1704 horseback rides, sports activities, or any other amusement, entertainment, recreation,
1705 exhibition, cultural, or athletic activity;

1706 (g) amounts paid or charged for services for repairs or renovations of tangible personal
1707 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

1708 (i) the tangible personal property; and

1709 (ii) parts used in the repairs or renovations of the tangible personal property described
1710 in Subsection (1)(g)(i), regardless of whether:

1711 (A) any parts are actually used in the repairs or renovations of that tangible personal
1712 property; or

1713 (B) the particular parts used in the repairs or renovations of that tangible personal
1714 property are exempt from a tax under this chapter;

1715 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
1716 assisted cleaning or washing of tangible personal property;

1717 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
1718 accommodations and services that are regularly rented for less than 30 consecutive days;

1719 (j) amounts paid or charged for laundry or dry cleaning services;

1720 (k) amounts paid or charged for leases or rentals of tangible personal property if within
1721 this state the tangible personal property is:

1722 (i) stored;

1723 (ii) used; or

1724 (iii) otherwise consumed;

1725 (l) amounts paid or charged for tangible personal property if within this state the
1726 tangible personal property is:

1727 (i) stored;

1728 (ii) used; or

1729 (iii) consumed; and

1730 (m) amounts paid or charged for a sale:

1731 (i) (A) of a product transferred electronically; or

1732 (B) of a repair or renovation of a product transferred electronically; and

- 1733 (ii) regardless of whether the sale provides:
- 1734 (A) a right of permanent use of the product; or
- 1735 (B) a right to use the product that is less than a permanent use, including a right:
- 1736 (I) for a definite or specified length of time; and
- 1737 (II) that terminates upon the occurrence of a condition.
- 1738 (2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax
- 1739 are imposed on a transaction described in Subsection (1) equal to the sum of:
- 1740 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
- 1741 (A) 4.70% plus the rate specified in Subsection (12)(a); and
- 1742 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
- 1743 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
- 1744 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
- 1745 State Sales and Use Tax Act; and
- 1746 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
- 1747 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
- 1748 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
- 1749 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
- 1750 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 1751 transaction under this chapter other than this part.
- 1752 (b) Except as provided in Subsection (2)(e) or (f) and subject to Subsection (2)(k), a
- 1753 state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to
- 1754 the sum of:
- 1755 (i) a state tax imposed on the transaction at a tax rate of 2%; and
- 1756 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 1757 transaction under this chapter other than this part.
- 1758 ~~[(c) Except as provided in Subsection (2)(e) or (f), a state tax and a local tax are~~
- 1759 ~~imposed on amounts paid or charged for food and food ingredients equal to the sum of:]~~
- 1760 ~~[(i) a state tax imposed on the amounts paid or charged for food and food ingredients at~~
- 1761 ~~a tax rate of 1.75%; and]~~
- 1762 ~~[(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the~~
- 1763 ~~amounts paid or charged for food and food ingredients under this chapter other than this part.]~~

1764 (c) (i) Except as provided in Subsection (2)(e) or (f), a local tax is imposed on amounts
1765 paid or charged for food and food ingredients equal to the sum of the tax rates a county, city, or
1766 town imposes under this chapter on the amounts paid or charged for food and food ingredients.

1767 (ii) There is no state tax imposed on amounts paid or charged for food and food
1768 ingredients.

1769 (d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts
1770 paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at
1771 a rate of 4.85%.

1772 (e) (i) For a bundled transaction that is attributable to food and food ingredients and
1773 tangible personal property other than food and food ingredients, a state tax and a local tax is
1774 imposed on the entire bundled transaction equal to the sum of:

1775 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

1776 (I) the tax rate described in Subsection (2)(a)(i)(A); and

1777 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
1778 Sales and Use Tax Act, if the location of the transaction as determined under Sections
1779 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
1780 Additional State Sales and Use Tax Act; and

1781 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
1782 Sales and Use Tax Act, if the location of the transaction as determined under Sections
1783 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
1784 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1785 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
1786 described in Subsection (2)(a)(ii).

1787 (ii) If an optional computer software maintenance contract is a bundled transaction that
1788 consists of taxable and nontaxable products that are not separately itemized on an invoice or
1789 similar billing document, the purchase of the optional computer software maintenance contract
1790 is 40% taxable under this chapter and 60% nontaxable under this chapter.

1791 (iii) Subject to Subsection (2)(e)(iv), for a bundled transaction other than a bundled
1792 transaction described in Subsection (2)(e)(i) or (ii):

1793 (A) if the sales price of the bundled transaction is attributable to tangible personal
1794 property, a product, or a service that is subject to taxation under this chapter and tangible

1795 personal property, a product, or service that is not subject to taxation under this chapter, the
1796 entire bundled transaction is subject to taxation under this chapter unless:

1797 (I) the seller is able to identify by reasonable and verifiable standards the tangible
1798 personal property, product, or service that is not subject to taxation under this chapter from the
1799 books and records the seller keeps in the seller's regular course of business; or

1800 (II) state or federal law provides otherwise; or

1801 (B) if the sales price of a bundled transaction is attributable to two or more items of
1802 tangible personal property, products, or services that are subject to taxation under this chapter
1803 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
1804 higher tax rate unless:

1805 (I) the seller is able to identify by reasonable and verifiable standards the tangible
1806 personal property, product, or service that is subject to taxation under this chapter at the lower
1807 tax rate from the books and records the seller keeps in the seller's regular course of business; or

1808 (II) state or federal law provides otherwise.

1809 (iv) For purposes of Subsection (2)(e)(iii), books and records that a seller keeps in the
1810 seller's regular course of business includes books and records the seller keeps in the regular
1811 course of business for nontax purposes.

1812 (f) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(f)(ii)
1813 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
1814 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
1815 of tangible personal property, other property, a product, or a service that is not subject to
1816 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
1817 the seller, at the time of the transaction:

1818 (A) separately states the portion of the transaction that is not subject to taxation under
1819 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

1820 (B) is able to identify by reasonable and verifiable standards, from the books and
1821 records the seller keeps in the seller's regular course of business, the portion of the transaction
1822 that is not subject to taxation under this chapter.

1823 (ii) A purchaser and a seller may correct the taxability of a transaction if:

1824 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
1825 the transaction that is not subject to taxation under this chapter was not separately stated on an

1826 invoice, bill of sale, or similar document provided to the purchaser because of an error or
1827 ignorance of the law; and

1828 (B) the seller is able to identify by reasonable and verifiable standards, from the books
1829 and records the seller keeps in the seller's regular course of business, the portion of the
1830 transaction that is not subject to taxation under this chapter.

1831 (iii) For purposes of Subsections (2)(f)(i) and (ii), books and records that a seller keeps
1832 in the seller's regular course of business includes books and records the seller keeps in the
1833 regular course of business for nontax purposes.

1834 (g) (i) If the sales price of a transaction is attributable to two or more items of tangible
1835 personal property, products, or services that are subject to taxation under this chapter at
1836 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
1837 unless the seller, at the time of the transaction:

1838 (A) separately states the items subject to taxation under this chapter at each of the
1839 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

1840 (B) is able to identify by reasonable and verifiable standards the tangible personal
1841 property, product, or service that is subject to taxation under this chapter at the lower tax rate
1842 from the books and records the seller keeps in the seller's regular course of business.

1843 (ii) For purposes of Subsection (2)(g)(i), books and records that a seller keeps in the
1844 seller's regular course of business includes books and records the seller keeps in the regular
1845 course of business for nontax purposes.

1846 (h) Subject to Subsections (2)(i) and (j), a tax rate repeal or tax rate change for a tax
1847 rate imposed under the following shall take effect on the first day of a calendar quarter:

- 1848 (i) Subsection (2)(a)(i)(A);
- 1849 (ii) Subsection (2)(b)(i); or
- 1850 [~~(iii) Subsection (2)(c)(i); or~~]
- 1851 [~~(iv)~~] (iii) Subsection (2)(e)(i)(A)(I).

1852 (i) (i) A tax rate increase takes effect on the first day of the first billing period that
1853 begins on or after the effective date of the tax rate increase if the billing period for the
1854 transaction begins before the effective date of a tax rate increase imposed under:

- 1855 (A) Subsection (2)(a)(i)(A);
- 1856 (B) Subsection (2)(b)(i); or

- 1857 [~~(C)~~ Subsection (2)(e)(i); ~~or~~]
 1858 [~~(D)~~] (C) Subsection (2)(e)(i)(A)(I).
 1859 (ii) The repeal of a tax or a tax rate decrease applies to a billing
 1860 statement for the billing period is rendered on or after the effective date of the repeal of the tax
 1861 or the tax rate decrease imposed under:
 1862 (A) Subsection (2)(a)(i)(A);
 1863 (B) Subsection (2)(b)(i); or
 1864 [~~(C)~~ Subsection (2)(e)(i); ~~or~~]
 1865 [~~(D)~~] (C) Subsection (2)(e)(i)(A)(I).
 1866 (j) (i) For a tax rate described in Subsection (2)(j)(ii), if a tax due on a catalogue sale is
 1867 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
 1868 change in a tax rate takes effect:
 1869 (A) on the first day of a calendar quarter; and
 1870 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
 1871 (ii) Subsection (2)(j)(i) applies to the tax rates described in the following:
 1872 (A) Subsection (2)(a)(i)(A);
 1873 (B) Subsection (2)(b)(i); or
 1874 [~~(C)~~ Subsection (2)(e)(i); ~~or~~]
 1875 [~~(D)~~] (C) Subsection (2)(e)(i)(A)(I).
 1876 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
 1877 the commission may by rule define the term "catalogue sale."
 1878 (k) (i) For a location described in Subsection (2)(k)(ii), the commission shall determine
 1879 the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the
 1880 predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.
 1881 (ii) Subsection (2)(k)(i) applies to a location where gas, electricity, heat, coal, fuel oil,
 1882 or other fuel is furnished through a single meter for two or more of the following uses:
 1883 (A) a commercial use;
 1884 (B) an industrial use; or
 1885 (C) a residential use.
 1886 (3) (a) The following state taxes shall be deposited into the General Fund:
 1887 (i) the tax imposed by Subsection (2)(a)(i)(A);

1888 (ii) the tax imposed by Subsection (2)(b)(i); and
 1889 [~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]
 1890 [~~(iv)~~] (iii) the tax imposed by Subsection (2)(e)(i)(A)(I).

1891 (b) The following local taxes shall be distributed to a county, city, or town as provided
 1892 in this chapter:

- 1893 (i) the tax imposed by Subsection (2)(a)(ii);
- 1894 (ii) the tax imposed by Subsection (2)(b)(ii);
- 1895 (iii) the tax imposed by Subsection [~~(2)(c)(ii)~~] (2)(c); and
- 1896 (iv) the tax imposed by Subsection (2)(e)(i)(B).

1897 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General
 1898 Fund.

1899 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
 1900 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
 1901 through (g):

- 1902 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 1903 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 1904 (B) for the fiscal year; or
- 1905 (ii) \$17,500,000.

1906 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
 1907 described in Subsection (4)(a) shall be transferred each year as designated sales and use tax
 1908 revenue to the Department of Natural Resources to:

- 1909 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
 1910 protect sensitive plant and animal species; or
- 1911 (B) award grants, up to the amount authorized by the Legislature in an appropriations
 1912 act, to political subdivisions of the state to implement the measures described in Subsections
 1913 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

1914 (ii) Money transferred to the Department of Natural Resources under Subsection
 1915 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
 1916 person to list or attempt to have listed a species as threatened or endangered under the
 1917 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1918 (iii) At the end of each fiscal year:

1919 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the
1920 Water Resources Conservation and Development Fund created in Section 73-10-24;

1921 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the
1922 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

1923 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the
1924 Drinking Water Loan Program Subaccount created in Section 73-10c-5.

1925 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1926 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
1927 created in Section 4-18-106.

1928 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
1929 in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to
1930 the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for
1931 the adjudication of water rights.

1932 (ii) At the end of each fiscal year:

1933 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the
1934 Water Resources Conservation and Development Fund created in Section 73-10-24;

1935 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the
1936 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

1937 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the
1938 Drinking Water Loan Program Subaccount created in Section 73-10c-5.

1939 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
1940 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
1941 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

1942 (ii) In addition to the uses allowed of the Water Resources Conservation and
1943 Development Fund under Section 73-10-24, the Water Resources Conservation and
1944 Development Fund may also be used to:

1945 (A) conduct hydrologic and geotechnical investigations by the Division of Water
1946 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1947 quantifying surface and ground water resources and describing the hydrologic systems of an
1948 area in sufficient detail so as to enable local and state resource managers to plan for and
1949 accommodate growth in water use without jeopardizing the resource;

1950 (B) fund state required dam safety improvements; and

1951 (C) protect the state's interest in interstate water compact allocations, including the
1952 hiring of technical and legal staff.

1953 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1954 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
1955 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1956 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1957 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
1958 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1959 (i) provide for the installation and repair of collection, treatment, storage, and
1960 distribution facilities for any public water system, as defined in Section 19-4-102;

1961 (ii) develop underground sources of water, including springs and wells; and

1962 (iii) develop surface water sources.

1963 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1964 2006, the difference between the following amounts shall be expended as provided in this
1965 Subsection (5), if that difference is greater than \$1:

1966 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
1967 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

1968 (ii) \$17,500,000.

1969 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

1970 (A) transferred each fiscal year to the Department of Natural Resources as designated
1971 sales and use tax revenue; and

1972 (B) expended by the Department of Natural Resources for watershed rehabilitation or
1973 restoration.

1974 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use
1975 tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation
1976 and Development Fund created in Section 73-10-24.

1977 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
1978 remaining difference described in Subsection (5)(a) shall be:

1979 (A) transferred each fiscal year to the Division of Water Resources as designated sales
1980 and use tax revenue; and

1981 (B) expended by the Division of Water Resources for cloud-seeding projects
1982 authorized by Title 73, Chapter 15, Modification of Weather.

1983 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use
1984 tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation
1985 and Development Fund created in Section 73-10-24.

1986 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
1987 remaining difference described in Subsection (5)(a) shall be deposited into the Water
1988 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
1989 Division of Water Resources for:

1990 (i) preconstruction costs:

1991 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
1992 26, Bear River Development Act; and

1993 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
1994 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

1995 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
1996 Chapter 26, Bear River Development Act;

1997 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
1998 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

1999 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
2000 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2001 (e) After making the transfers required by Subsections (5)(b) and (c), 15% of the
2002 remaining difference described in Subsection (5)(a) shall be deposited each year into the Water
2003 Rights Restricted Account created by Section 73-2-1.6.

2004 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
2005 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
2006 (1) for the fiscal year shall be deposited as follows:

2007 (a) for fiscal year 2020-21 only:

2008 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
2009 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2010 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
2011 Water Infrastructure Restricted Account created by Section 73-10g-103; and

2012 (b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
2013 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
2014 created by Section [73-10g-103](#).

2015 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
2016 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
2017 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
2018 created by Section [72-2-124](#):

2019 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
2020 the revenues collected from the following taxes, which represents a portion of the
2021 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
2022 on vehicles and vehicle-related products:

2023 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2024 (B) the tax imposed by Subsection (2)(b)(i); and

2025 [~~(C)~~] ~~the tax imposed by Subsection (2)(c)(i); and]~~

2026 [~~(D)~~] (C) the tax imposed by Subsection (2)(e)(i)(A)(I); plus

2027 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
2028 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
2029 [~~(D)~~] (C) that exceeds the amount collected from the sales and use taxes described in
2030 Subsections (7)(a)(i)(A) through [~~(D)~~] (C) in the 2010-11 fiscal year.

2031 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
2032 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
2033 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through [~~(D)~~]
2034 (C) generated in the current fiscal year than the total percentage of sales and use taxes
2035 deposited in the previous fiscal year, the Division of Finance shall deposit an amount under
2036 Subsection (7)(a) equal to the product of:

2037 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
2038 previous fiscal year; and

2039 (B) the total sales and use tax revenue generated by the taxes described in Subsections
2040 (7)(a)(i)(A) through [~~(D)~~] (C) in the current fiscal year.

2041 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
2042 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes

2043 described in Subsections (7)(a)(i)(A) through ~~[(D)]~~ (C) in the current fiscal year, the Division
2044 of Finance shall deposit 17% of the revenues collected from the sales and use taxes described
2045 in Subsections (7)(a)(i)(A) through ~~[(D)]~~ (C) for the current fiscal year under Subsection (7)(a).

2046 (iii) Subject to Subsection (7)(b)(iv)(E), in all subsequent fiscal years after a year in
2047 which 17% of the revenues collected from the sales and use taxes described in Subsections
2048 (7)(a)(i)(A) through ~~[(D)]~~ (C) was deposited under Subsection (7)(a), the Division of Finance
2049 shall annually deposit 17% of the revenues collected from the sales and use taxes described in
2050 Subsections (7)(a)(i)(A) through ~~[(D)]~~ (C) in the current fiscal year under Subsection (7)(a).

2051 (iv) (A) As used in this Subsection (7)(b)(iv), "additional growth revenue" means the
2052 amount of relevant revenue collected in the current fiscal year that exceeds by more than 3%
2053 the relevant revenue collected in the previous fiscal year.

2054 (B) As used in this Subsection (7)(b)(iv), "combined amount" means the combined
2055 total amount of money deposited into the Cottonwood Canyons fund under Subsections
2056 (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

2057 (C) As used in this Subsection (7)(b)(iv), "Cottonwood Canyons fund" means the
2058 Cottonwood Canyons Transportation Investment Fund created in Subsection [72-2-124\(10\)](#).

2059 (D) As used in this Subsection (7)(b)(iv), "relevant revenue" means the portion of taxes
2060 listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in
2061 Subsections (7)(a)(i)(A) through ~~[(D)]~~ (C).

2062 (E) For a fiscal year beginning on or after July 1, 2020, the commission shall annually
2063 reduce the deposit under Subsection (7)(b)(iii) into the Transportation Investment Fund of 2005
2064 by an amount equal to the amount of the deposit under this Subsection (7)(b)(iv) to the
2065 Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue,
2066 subject to the limit in Subsection (7)(b)(iv)(F).

2067 (F) The commission shall annually deposit the amount described in Subsection
2068 (7)(b)(iv)(E) into the Cottonwood Canyons fund, subject to an annual maximum combined
2069 amount for any single fiscal year of \$20,000,000.

2070 (G) If the amount of relevant revenue declines in a fiscal year compared to the previous
2071 fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood
2072 Canyons fund under this Subsection (7)(b)(iv) in the same proportion as the decline in relevant
2073 revenue.

2074 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
2075 Subsections (6) and (7), and subject to Subsections (8)(b) and (d)(v), for a fiscal year beginning
2076 on or after July 1, 2018, the commission shall annually deposit into the Transportation
2077 Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under
2078 Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following
2079 taxes:

2080 (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2081 (ii) the tax imposed by Subsection (2)(b)(i); and

2082 [~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]

2083 [~~(iv)~~] (iii) the tax imposed by Subsection (2)(e)(i)(A)(I).

2084 (b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
2085 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by
2086 an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by
2087 the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale
2088 or use in this state that exceeds 29.4 cents per gallon.

2089 (c) The commission shall annually deposit the amount described in Subsection (8)(b)
2090 into the Transit Transportation Investment Fund created in Section 72-2-124.

2091 (d) (i) As used in this Subsection (8)(d), "additional growth revenue" means the
2092 amount of relevant revenue collected in the current fiscal year that exceeds by more than 3%
2093 the relevant revenue collected in the previous fiscal year.

2094 (ii) As used in this Subsection (8)(d), "combined amount" means the combined total
2095 amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F)
2096 and (8)(d)(vi) in any single fiscal year.

2097 (iii) As used in this Subsection (8)(d), "Cottonwood Canyons fund" means the
2098 Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

2099 (iv) As used in this Subsection (8)(d), "relevant revenue" means the portion of taxes
2100 listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described
2101 in Subsections (8)(a)(i) through [~~(iv)~~] (iii).

2102 (v) For a fiscal year beginning on or after July 1, 2020, the commission shall annually
2103 reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by
2104 an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood

2105 Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the
2106 limit in Subsection (8)(d)(vi).

2107 (vi) The commission shall annually deposit the amount described in Subsection
2108 (8)(d)(v) into the Cottonwood Canyons fund, subject to an annual maximum combined amount
2109 for any single fiscal year of \$20,000,000.

2110 (vii) If the amount of relevant revenue declines in a fiscal year compared to the
2111 previous fiscal year, the commission shall decrease the amount of the contribution to the
2112 Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in
2113 relevant revenue.

2114 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2115 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
2116 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

2117 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(b),
2118 and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of
2119 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
2120 72-2-124 the amount of revenue described as follows:

2121 (i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05%
2122 tax rate on the transactions described in Subsection (1); and

2123 (ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
2124 tax rate on the transactions described in Subsection (1).

2125 (b) For purposes of Subsection (10)(a), the Division of Finance may not deposit into
2126 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
2127 charged for food and food ingredients, except for tax revenue generated by a bundled
2128 transaction attributable to food and food ingredients and tangible personal property other than
2129 food and food ingredients described in Subsection (2)(e).

2130 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
2131 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
2132 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
2133 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
2134 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
2135 created in Section 63N-2-512.

2136 (12) (a) The rate specified in this subsection is 0.15%.

2137 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year
2138 beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the
2139 rate described in Subsection (12)(a) on the transactions that are subject to the sales and use tax
2140 under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section
2141 [26-36b-208](#).

2142 (13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2143 2020-21, the Division of Finance shall deposit \$200,000 into the General Fund as a dedicated
2144 credit solely for use of the Search and Rescue Financial Assistance Program created in, and
2145 expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

2146 (14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of
2147 Finance shall annually transfer \$1,813,400 of the revenue deposited into the Transportation
2148 Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

2149 (b) If the total revenue deposited into the Transportation Investment Fund of 2005
2150 under Subsections (6) through (8) is less than \$1,813,400 for a fiscal year, the Division of
2151 Finance shall transfer the total revenue deposited into the Transportation Investment Fund of
2152 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

2153 (15) Notwithstanding Subsection (3)(a), and as described in Section [63N-3-610](#),
2154 beginning the first day of the calendar quarter one year after the sales and use tax boundary for
2155 a housing and transit reinvestment zone is established, the commission, at least annually, shall
2156 transfer an amount equal to 15% of the sales and use tax increment within an established sales
2157 and use tax boundary, as defined in Section [63N-3-602](#), into the Transit Transportation
2158 Investment Fund created in Section [72-2-124](#).

2159 (16) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year
2160 beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure
2161 Restricted Account, created in Section [51-9-902](#), a portion of the taxes listed under Subsection
2162 (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

2163 (a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2164 (b) the tax imposed by Subsection (2)(b)(i); and

2165 [~~(c) the tax imposed by Subsection (2)(c)(i); and~~]

2166 [~~(d)~~] (c) the tax imposed by Subsection (2)(e)(i)(A)(I).

2167 Section 3. Section **59-12-108** is amended to read:

2168 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**

2169 **Certain amounts allocated to local taxing jurisdictions.**

2170 (1) (a) Notwithstanding Section **59-12-107**, a seller that has a tax liability under this
2171 chapter of \$50,000 or more for the previous calendar year shall:

2172 (i) file a return with the commission:

2173 (A) monthly on or before the last day of the month immediately following the month
2174 for which the seller collects a tax under this chapter; and

2175 (B) for the month for which the seller collects a tax under this chapter; and

2176 (ii) except as provided in Subsection (1)(b), remit with the return required by
2177 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,
2178 fee, or charge described in Subsection (1)(c):

2179 (A) if that seller's tax liability under this chapter for the previous calendar year is less
2180 than \$96,000, by any method permitted by the commission; or

2181 (B) if that seller's tax liability under this chapter for the previous calendar year is
2182 \$96,000 or more, by electronic funds transfer.

2183 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)
2184 the amount the seller is required to remit to the commission for each tax, fee, or charge
2185 described in Subsection (1)(c) if that seller:

2186 (i) is required by Section **59-12-107** to file the return electronically; or

2187 (ii) (A) is required to collect and remit a tax under Section **59-12-107**; and

2188 (B) files a simplified electronic return.

2189 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

2190 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

2191 (ii) a fee under Section **19-6-714**;

2192 (iii) a fee under Section **19-6-805**;

2193 (iv) a charge under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications
2194 Service Charges; or

2195 (v) a tax under this chapter.

2196 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,
2197 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method

2198 for making same-day payments other than by electronic funds transfer if making payments by
2199 electronic funds transfer fails.

2200 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2201 commission shall establish by rule procedures and requirements for determining the amount a
2202 seller is required to remit to the commission under this Subsection (1).

2203 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a
2204 seller described in Subsection (4) may retain each month the amount allowed by this
2205 Subsection (2).

2206 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
2207 each month 1.31% of any amounts the seller is required to remit to the commission:

2208 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax
2209 and a local tax imposed in accordance with the following, for the month for which the seller is
2210 filing a return in accordance with Subsection (1):

2211 (A) Subsection 59-12-103(2)(a);

2212 (B) Subsection 59-12-103(2)(b); and

2213 (C) Subsection 59-12-103(2)(d); and

2214 (ii) for an agreement sales and use tax.

2215 (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may
2216 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described
2217 in Subsection 59-12-103(1) that is subject to the [~~state tax and the local~~] tax imposed in
2218 accordance with Subsection 59-12-103(2)(c).

2219 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount
2220 equal to the sum of:

2221 (A) 1.31% of any amounts the seller is required to remit to the commission for:

2222 (I) the [~~state tax and the local~~] tax imposed in accordance with Subsection
2223 59-12-103(2)(c);

2224 (II) the month for which the seller is filing a return in accordance with Subsection (1);

2225 and

2226 (III) an agreement sales and use tax; and

2227 (B) 1.31% of the difference between:

2228 (I) the amounts the seller would have been required to remit to the commission:

2229 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject
2230 to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);
2231 (Bb) for the month for which the seller is filing a return in accordance with Subsection
2232 (1); and
2233 (Cc) for an agreement sales and use tax; and
2234 (II) the amounts the seller is required to remit to the commission for:
2235 (Aa) the [~~state tax and the local~~] tax imposed in accordance with Subsection
2236 59-12-103(2)(c);
2237 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);
2238 and
2239 (Cc) an agreement sales and use tax.
2240 (d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
2241 each month 1% of any amounts the seller is required to remit to the commission:
2242 (i) for the month for which the seller is filing a return in accordance with Subsection
2243 (1); and
2244 (ii) under:
2245 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
2246 (B) Subsection 59-12-603(1)(a)(i)(A);
2247 (C) Subsection 59-12-603(1)(a)(i)(B); or
2248 (D) Subsection 59-12-603(1)(a)(ii).
2249 (3) A state government entity that is required to remit taxes monthly in accordance
2250 with Subsection (1) may not retain any amount under Subsection (2).
2251 (4) A seller that has a tax liability under this chapter for the previous calendar year of
2252 less than \$50,000 may:
2253 (a) voluntarily meet the requirements of Subsection (1); and
2254 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
2255 amounts allowed by Subsection (2).
2256 (5) Penalties for late payment shall be as provided in Section 59-1-401.
2257 (6) (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted
2258 to the commission under this part, the commission shall each month calculate an amount equal
2259 to the difference between:

2260 (i) the total amount retained for that month by all sellers had the percentages listed
2261 under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and

2262 (ii) the total amount retained for that month by all sellers at the percentages listed
2263 under Subsections (2)(b) and (2)(c)(ii).

2264 (b) The commission shall each month allocate the amount calculated under Subsection
2265 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use
2266 tax that the commission distributes to each county, city, and town for that month compared to
2267 the total agreement sales and use tax that the commission distributes for that month to all
2268 counties, cities, and towns.

2269 (c) The amount the commission calculates under Subsection (6)(a) may not include an
2270 amount collected from a tax that:

2271 (i) the state imposes within a county, city, or town, including the unincorporated area
2272 of a county; and

2273 (ii) is not imposed within the entire state.

2274 Section 4. Section **63N-7-301** is amended to read:

2275 **63N-7-301. Tourism Marketing Performance Account.**

2276 (1) There is created within the General Fund a restricted account known as the Tourism
2277 Marketing Performance Account.

2278 (2) The account shall be administered by the tourism office for the purposes listed in
2279 Subsections (6) through (8).

2280 (3) (a) The account shall earn interest.

2281 (b) All interest earned on account money shall be deposited into the account.

2282 (4) The account shall be funded by appropriations made to the account by the
2283 Legislature in accordance with this section.

2284 (5) The managing director shall use account money appropriated to the tourism office
2285 to pay for the statewide advertising, marketing, and branding campaign for promotion of the
2286 state as conducted by the tourism office.

2287 (6) (a) For each fiscal year, the tourism office shall annually allocate 10% of the
2288 account money appropriated to the tourism office to a sports organization for advertising,
2289 marketing, branding, and promoting Utah in attracting sporting events into the state.

2290 (b) The sports organization shall:

2291 (i) provide an annual written report to the tourism office that gives an accounting of the
2292 use of funds the sports organization receives under this Subsection (6); and

2293 (ii) promote the state and encourage economic growth in the state.

2294 ~~[(7) Money deposited into the account shall include a legislative appropriation from the
2295 cumulative sales and use tax revenue increases described in Subsection (8), plus any additional
2296 appropriation made by the Legislature. (8) (a) In fiscal years 2006 through 2019, a portion of
2297 the state sales and use tax revenues determined under this Subsection (8) shall be certified by
2298 the State Tax Commission as a set-aside for the account, and the State Tax Commission shall
2299 report the amount of the set-aside to the office, the Office of Legislative Fiscal Analyst, and the
2300 Division of Finance, which shall set aside the certified amount for appropriation to the
2301 account.]~~

2302 ~~[(b) For fiscal years 2016 through 2019, the State Tax Commission shall calculate the
2303 set-aside under this Subsection (8) in each fiscal year by applying one of the following
2304 formulas: if the annual percentage change in the Consumer Price Index for All Urban
2305 Consumers, as published by the Bureau of Labor Statistics of the United States Department of
2306 Labor, for the fiscal year two years before the fiscal year in which the set-aside is to be made
2307 is:]~~

2308 ~~[(i) greater than 3%, and if the annual percentage change in the state sales and use tax
2309 revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal
2310 year three years before the fiscal year in which the set-aside is to be made to the fiscal year two
2311 years before the fiscal year in which the set-aside is to be made is greater than the annual
2312 percentage change in the Consumer Price Index for the fiscal year two years before the fiscal
2313 year in which the set-aside is to be made, then the difference between the annual percentage
2314 change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented
2315 goods and services and the annual percentage change in the Consumer Price Index shall be
2316 multiplied by an amount equal to the state sales and use tax revenues attributable to the retail
2317 sales of tourist-oriented goods and services from the fiscal year three years before the fiscal
2318 year in which the set-aside is to be made; or]~~

2319 ~~[(ii) 3% or less, and if the annual percentage change in the state sales and use tax
2320 revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal
2321 year three years before the fiscal year in which the set-aside is to be made to the fiscal year two~~

2322 years before the fiscal year in which the set-aside is to be made is greater than 3%, then the
2323 difference between the annual percentage change in the state sales and use tax revenues
2324 attributable to the retail sales of tourist-oriented goods and services and 3% shall be multiplied
2325 by an amount equal to the state sales and use tax revenues attributable to the retail sales of
2326 tourist-oriented goods and services from the fiscal year three years before the fiscal year in
2327 which the set-aside is to be made.]

2328 ~~[(c) The total money appropriated to the account in a fiscal year under Subsections~~
2329 ~~(8)(a) and (b) may not exceed the amount appropriated to the account in the preceding fiscal~~
2330 ~~year by more than \$3,000,000.]~~

2331 ~~[(d) As used in this Subsection (8), "state sales and use tax revenues" are revenues~~
2332 ~~collected under Subsections 59-12-103(2)(a)(i)(A) and 59-12-103(2)(c)(i).]~~

2333 ~~[(e) As used in this Subsection (8), "retail sales of tourist-oriented goods and services"~~
2334 ~~are calculated by adding the following percentages of sales from each business registered with~~
2335 ~~the State Tax Commission under one of the following codes of the 2012 North American~~
2336 ~~Industry Classification System of the federal Executive Office of the President, Office of~~
2337 ~~Management and Budget:]~~

2338 ~~[(i) 80% of the sales from each business under NAICS Codes:]~~

2339 ~~[(A) 532111 Passenger Car Rental;]~~

2340 ~~[(B) 53212 Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing;]~~

2341 ~~[(C) 5615 Travel Arrangement and Reservation Services;]~~

2342 ~~[(D) 7211 Traveler Accommodation; and]~~

2343 ~~[(E) 7212 RV (Recreational Vehicle) Parks and Recreational Camps;]~~

2344 ~~[(ii) 25% of the sales from each business under NAICS Codes:]~~

2345 ~~[(A) 51213 Motion Picture and Video Exhibition;]~~

2346 ~~[(B) 532292 Recreational Goods Rental;]~~

2347 ~~[(C) 711 Performing Arts, Spectator Sports, and Related Industries;]~~

2348 ~~[(D) 712 Museums, Historical Sites, and Similar Institutions; and]~~

2349 ~~[(E) 713 Amusement, Gambling, and Recreation Industries;]~~

2350 ~~[(iii) 20% of the sales from each business under NAICS Code 722 Food Services and~~
2351 ~~Drinking Places;]~~

2352 ~~[(iv) 18% of the sales from each business under NAICS Codes:]~~

2353 ~~[(A) 447 Gasoline Stations; and]~~
 2354 ~~[(B) 81293 Parking Lots and Garages;]~~
 2355 ~~[(v) 14% of the sales from each business under NAICS Code 8111 Automotive Repair~~
 2356 ~~and Maintenance; and]~~

2357 ~~[(vi) 5% of the sales from each business under NAICS Codes:]~~

2358 ~~[(A) 445 Food and Beverage Stores;]~~

2359 ~~[(B) 446 Health and Personal Care Stores;]~~

2360 ~~[(C) 448 Clothing and Clothing Accessories Stores;]~~

2361 ~~[(D) 451 Sporting Goods, Hobby, Musical Instrument, and Book Stores;]~~

2362 ~~[(E) 452 General Merchandise Stores; and]~~

2363 ~~[(F) 453 Miscellaneous Store Retailers.]~~

2364 ~~[(9)]~~ (7) (a) For each fiscal year, the tourism office shall allocate 20% of the funds
 2365 appropriated to the Tourism Marketing and Performance Account to the cooperative program
 2366 described in this Subsection ~~[(9)]~~ (7).

2367 (b) Money allocated to the cooperative program may be awarded to cities, counties,
 2368 nonprofit destination marketing organizations, and similar public entities for the purpose of
 2369 supplementing money committed by these entities for advertising and promoting sites and
 2370 events in the state.

2371 (c) The tourism office shall establish:

2372 (i) an application and approval process for an entity to receive a cooperative program
 2373 award, including an application deadline;

2374 (ii) the criteria for awarding a cooperative program award, which shall emphasize
 2375 attracting out-of-state visitors, and may include attracting in-state visitors, to sites and events in
 2376 the state; and

2377 (iii) eligibility, advertising, timing, and reporting requirements of an entity that
 2378 receives a cooperative program award.

2379 (d) Money allocated to the cooperative program that is not used in each fiscal year shall
 2380 be returned to the Tourism Marketing Performance Account.

2381 Section 5. **Effective date.**

2382 This bill takes effect on July 1, 2023.