

**Senator Michael K. McKell** proposes the following substitute bill:

**CAR-SHARING AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael K. McKell**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to motor vehicles shared through a car-sharing business platform.

**Highlighted Provisions:**

This bill:

- ▶ enacts provisions relating to business platforms that connect motor vehicle owners with drivers to enable the sharing of motor vehicles for consideration;
- ▶ enacts consumer protection provisions relating to a car-sharing program, including:
  - required disclosures on a car-sharing agreement;
  - driver requirements; and
  - records of a car-sharing program;
- ▶ enacts provisions relating to liability and insurance for claims arising during the period a shared vehicle is used under a car-sharing program;
- ▶ creates a local option tax on peer-to-peer car sharing;
- ▶ amends the state tax on peer-to-peer car sharing;
- ▶ defines terms; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**



26 None

27 **Other Special Clauses:**

28 This bill provides retrospective operation.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **59-12-102**, as last amended by Laws of Utah 2021, Chapters 64, 367 and 414 and last  
32 amended by Coordination Clause, Laws of Utah 2021, Chapter 367

33 **59-12-103**, as last amended by Laws of Utah 2022, Chapters 77, 106 and 433

34 **59-12-602**, as last amended by Laws of Utah 2020, Chapter 407

35 **59-12-603**, as last amended by Laws of Utah 2020, Chapter 407

36 **59-12-1201**, as last amended by Laws of Utah 2016, Chapters 184, 291

37 ENACTS:

38 **13-48a-101**, Utah Code Annotated 1953

39 **13-48a-102**, Utah Code Annotated 1953

40 **13-48a-201**, Utah Code Annotated 1953

41 **13-48a-202**, Utah Code Annotated 1953

42 **13-48a-203**, Utah Code Annotated 1953

43 **13-48a-204**, Utah Code Annotated 1953

44 **13-48a-205**, Utah Code Annotated 1953

45 **13-48a-301**, Utah Code Annotated 1953

46 **13-48a-302**, Utah Code Annotated 1953

47 **13-48a-303**, Utah Code Annotated 1953

48 **13-48a-304**, Utah Code Annotated 1953

49 **13-48a-305**, Utah Code Annotated 1953

50 **13-48a-306**, Utah Code Annotated 1953

51 **13-48a-307**, Utah Code Annotated 1953



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

54 Section 1. Section **13-48a-101** is enacted to read:

55 **CHAPTER 48a. CAR-SHARING PROGRAMS**

56 **Part 1. General Provisions**

57 13-48a-101. Definitions.

58 As used in this chapter:

59 (1) (a) "Car sharing" means the authorized use of a motor vehicle:

60 (i) by an individual other than the owner of the motor vehicle; and

61 (ii) through a car-sharing program.

62 (b) "Car sharing" does not mean the business of providing private passenger motor  
63 vehicles to the public as used in Section [31A-22-311](#).

64 (2) (a) "Car-sharing agreement" means an agreement:

65 (i) applicable to a shared vehicle owner and a shared vehicle driver; and

66 (ii) that governs a shared vehicle driver's use of a shared vehicle through a car-sharing  
67 program.

68 (b) "Car-sharing agreement" does not mean:

69 (i) a rental agreement, as defined in Section [31A-22-311](#); or

70 (ii) a short-term rental as that term is defined in Section [59-12-602](#).

71 (3) "Car-sharing delivery period" means the period of time during which a shared  
72 vehicle is being delivered to the location of the car-sharing start time, if applicable, as  
73 documented by the governing car-sharing agreement.

74 (4) "Car-sharing period" means the period of time that:

75 (a) (i) begins at the car-sharing delivery period; or

76 (ii) if there is no car-sharing delivery period, begins at the car-sharing start time; and

77 (b) ends at the car-sharing termination time.

78 (5) (a) "Car-sharing program" means a business platform that connects motor vehicle  
79 owners with drivers to enable the sharing of motor vehicles for consideration.

80 (b) "Car-sharing program" does not mean:

81 (i) a motor vehicle rental company, as defined in Section [13-48-102](#); or

82 (ii) a rental company, as defined in Section [31A-22-311](#).

83 (6) "Car-sharing start time" means the time when a shared vehicle becomes subject to  
84 the control of the shared vehicle driver at or after the time the reservation of the shared vehicle  
85 is scheduled to begin, as documented in the records of the car-sharing program.

86 (7) "Car-sharing termination time" means the earliest of the following events:

87 (a) the expiration of the agreed upon period of time established for the use of a shared

88 vehicle according to the terms of the car-sharing agreement, if the shared vehicle is delivered to  
89 the location agreed upon in the car-sharing agreement;

90 (b) when the shared vehicle is returned to a location as alternatively agreed upon by the  
91 shared vehicle owner and shared vehicle driver as communicated through a car-sharing  
92 program, which alternatively agreed upon location shall be incorporated into the car-sharing  
93 agreement; and

94 (c) when the shared vehicle owner or shared vehicle owner's authorized designee takes  
95 possession and control of the shared vehicle.

96 (8) "Individual-owned shared vehicle" means:

97 (a) for a motor vehicle purchased in the state, a shared vehicle for which applicable  
98 sales tax and use tax was paid on the purchase; or

99 (b) for a motor vehicle not purchased in the state, a shared vehicle for which:

100 (i) an applicable use tax was paid to this state on the purchase; or

101 (ii) sales tax or use tax was paid on the purchase in the jurisdiction in which the motor  
102 vehicle was purchased if that jurisdiction levies a sales or use tax on the purchase of motor  
103 vehicles.

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

105 (10) "Shared vehicle" means a motor vehicle that is available for use by an individual  
106 other than the shared vehicle owner through a car-sharing program.

107 (11) (a) "Shared vehicle driver" means an individual who has been authorized to drive  
108 a shared vehicle by the shared vehicle owner under a car-sharing program.

109 (b) "Shared vehicle driver" does not mean a renter, as defined in Section [31A-22-311](#).

110 (12) (a) "Shared vehicle owner" means:

111 (i) the registered owner of a motor vehicle made available for car sharing; or

112 (ii) a person designated by the registered owner of a motor vehicle made available for  
113 car sharing.

114 (b) "Shared vehicle owner" does not mean a rental company, as defined in Section  
115 [31A-22-311](#).

116 Section 2. Section **13-48a-102** is enacted to read:

117 **13-48a-102. Limits on reach of chapter.**

118 Nothing in this chapter:

119 (1) limits the liability of a car-sharing program for an act or omission of the car-sharing  
120 program that results in injury to a person as a result of the use of a shared vehicle through a  
121 car-sharing program; or

122 (2) limits the ability of the car-sharing program, by contract, to seek indemnification  
123 from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the  
124 car-sharing program resulting from a breach of the terms and conditions of the car-sharing  
125 agreement.

126 Section 3. Section **13-48a-201** is enacted to read:

127 **Part 2. Consumer Protection Provisions**

128 **13-48a-201. Notification about possible violation of lienholder agreement.**

129 (1) As used in this section, "lienholder agreement" means an agreement between the  
130 owner of a motor vehicle and another person under which the other person has a lien against  
131 the motor vehicle.

132 (2) At the time that the owner of a motor vehicle registers to make the owner's motor  
133 vehicle available for sharing through a car-sharing program, the car-sharing program shall  
134 notify the owner that the use of the owner's motor vehicle through the car-sharing program,  
135 including without physical damage coverage, may violate the terms of a lienholder agreement  
136 that the motor vehicle may be subject to.

137 Section 4. Section **13-48a-202** is enacted to read:

138 **13-48a-202. Safety recalls.**

139 (1) At the time that the owner of a motor vehicle registers to make the owner's motor  
140 vehicle available for sharing through a car-sharing program, the car-sharing program shall:

141 (a) verify that the shared vehicle does not have any safety recalls for which the repairs  
142 have not been made; and

143 (b) notify the motor vehicle owner of the requirements under Subsections (2), (3), and  
144 (4).

145 (2) An owner of a motor vehicle may not register to make the owner's motor vehicle  
146 available for sharing through a car-sharing program if:

147 (a) the owner has received an actual notice of a safety recall applicable to the motor  
148 vehicle; and

149 (b) the safety recall repair has not been made.

150 (3) A shared vehicle owner who receives an actual notice of a safety recall applicable  
151 to the shared vehicle during the time that the shared vehicle is made available for sharing  
152 through a car-sharing program shall, as soon as practicably possible after receiving the notice,  
153 remove the shared vehicle from availability for sharing through the car-sharing program until  
154 the safety recall repair is made.

155 (4) A shared vehicle owner who receives an actual notice of a safety recall applicable  
156 to the shared vehicle during the time that the shared vehicle is in the possession of a shared  
157 vehicle driver under a car-sharing agreement shall, as soon as practicably possible after  
158 receiving the notice, notify the car-sharing program about the safety recall so that the shared  
159 vehicle owner may address the safety recall repair.

160 Section 5. Section **13-48a-203** is enacted to read:

161 **13-48a-203. Required disclosures for a car-sharing agreement.**

162 A car-sharing agreement shall disclose to the shared vehicle owner and the shared  
163 vehicle driver:

164 (1) a right of the car-sharing company to seek indemnification from the shared vehicle  
165 owner or shared vehicle driver for economic loss resulting from a breach of the car-sharing  
166 agreement;

167 (2) that a motor vehicle liability insurance policy issued to the shared vehicle owner or  
168 shared vehicle driver does not provide a defense or indemnification for any claim asserted by  
169 the car-sharing company;

170 (3) that the car-sharing program's insurance policy covering the shared vehicle owner  
171 and the shared vehicle driver is in effect only during the car-sharing period and that, for any use  
172 of the shared vehicle by the shared vehicle driver after the car-sharing termination time, the  
173 shared vehicle driver and the shared vehicle owner may not have insurance coverage;

174 (4) of the daily rate, fees, and, if applicable, insurance or protection package costs that  
175 are charged to the shared vehicle owner or shared vehicle driver;

176 (5) that the shared vehicle owner's motor vehicle liability insurance policy may not  
177 provide coverage for the shared vehicle;

178 (6) of an emergency telephone number to contact personnel capable of fielding  
179 roadside assistance or other customer service inquiries; and

180 (7) whether there are conditions under which a shared vehicle driver must maintain a

181 personal automobile insurance policy with certain applicable coverage limits on a primary basis  
182 in order to book a shared vehicle.

183 Section 6. Section **13-48a-204** is enacted to read:

184 **13-48a-204. Records relating to the use of shared vehicles.**

185 (1) A car-sharing program shall collect and verify records pertaining to the use of a  
186 shared vehicle, including times used, car-sharing period pick up and drop off locations, fees  
187 paid by the shared vehicle driver, and revenues received by the shared vehicle owner, and  
188 provide that information upon request to the shared vehicle owner, the shared vehicle owner's  
189 insurer, or the shared vehicle driver's insurer to facilitate a claim coverage investigation,  
190 settlement, negotiation, or litigation.

191 (2) The car-sharing program shall retain the records for a time period not less than two  
192 years.

193 Section 7. Section **13-48a-205** is enacted to read:

194 **13-48a-205. GPS or other special equipment.**

195 (1) A car-sharing program:

196 (a) has sole responsibility for any GPS or other special equipment that the car-sharing  
197 company places on or in a shared vehicle to monitor the shared vehicle or facilitate the  
198 car-sharing agreement; and

199 (b) shall agree to indemnify and hold harmless the shared vehicle owner for any  
200 damage to the shared vehicle that:

201 (i) is a result of damage to or theft of equipment described in Subsection (1)(a);

202 (ii) occurs during the car-sharing period; and

203 (iii) is not caused by the shared vehicle owner.

204 (2) A car-sharing program may seek indemnity from a shared vehicle driver for any  
205 loss of or damage to equipment described in Subsection (1)(a) that occurs during the  
206 car-sharing period.

207 Section 8. Section **13-48a-301** is enacted to read:

208 **Part 3. Liability and Insurance for Covered Loss from Operation of Shared Vehicle**

209 **13-48a-301. Car-sharing company assumption of liability for a covered loss --**

210 **Exception.**

211 (1) Except as provided in Subsection (2), a car-sharing program shall assume liability

212 of a shared vehicle owner for bodily injury or property damage to third parties or personal  
213 injury protection losses during the car-sharing period in an amount stated in the car-sharing  
214 agreement, which amount may not be less than those set forth in Section [31A-22-304](#).

215 (2) Notwithstanding the definition of car-sharing termination time, the assumption of  
216 liability under Subsection (1) does not apply to a shared vehicle owner when:

217 (a) a shared vehicle owner makes an intentional or fraudulent material  
218 misrepresentation or omission to the car-sharing program before the car-sharing period in  
219 which the loss occurred; or

220 (b) acting in concert with a shared vehicle driver who fails to return the shared vehicle  
221 pursuant to the terms of the car-sharing agreement.

222 (3) Notwithstanding the definition of car-sharing termination time, the assumption of  
223 liability under Subsection (1) would apply to bodily injury, property damage, or personal injury  
224 protection losses by damaged third parties required by Section [31A-22-304](#).

225 Section 9. Section **13-48a-302** is enacted to read:

226 **13-48a-302. Motor vehicle liability insurance.**

227 (1) A car-sharing program shall ensure that, during each car-sharing period, the shared  
228 vehicle owner and the shared vehicle driver are insured under a motor vehicle liability  
229 insurance policy that provides coverage in amounts no less than the minimum amounts set  
230 forth in Section [31A-22-304](#), and:

231 (a) recognizes that the shared vehicle insured under the policy is made available and  
232 used through a car-sharing program; or

233 (b) does not exclude use of a shared vehicle by a shared vehicle driver.

234 (2) The insurance described in Subsection (1) may be satisfied by motor vehicle  
235 liability insurance maintained by:

236 (a) a shared vehicle owner;

237 (b) a shared vehicle driver;

238 (c) a car-sharing program; or

239 (d) a shared vehicle owner, a shared vehicle driver, and a car-sharing program.

240 (3) The insurance described in Subsection (1) that is satisfying the insurance  
241 requirement of Subsection (1) shall be primary during each car-sharing period and in the event  
242 that a claim occurs in another state with minimum financial responsibility limits higher than



243 those in Section 31A-22-304, during the car-sharing period, the coverage maintained under  
244 Subsection (2) shall satisfy the difference in minimum coverage amounts, up to the applicable  
245 policy limits.

246 (4) The insurer, insurers, or car-sharing program providing coverage under Subsection  
247 (1) or (2) shall assume primary liability for a claim when:

248 (a) a dispute exists as to who was in control of the shared motor vehicle at the time of  
249 the loss and the car-sharing program does not have available, did not retain, or fails to provide  
250 the information required by Section 13-48a-203; or

251 (b) a dispute exists as to whether the shared vehicle was returned to the alternatively  
252 agreed upon location as required under Section 13-48a-101.

253 (5) If insurance maintained by a shared vehicle owner or shared vehicle driver in  
254 accordance with Subsection (2) has lapsed or does not provide the required coverage, insurance  
255 maintained by the car-sharing program shall provide the coverage required by Subsection (1)  
256 beginning with the first dollar of a claim and have the duty to defend the claim except under  
257 circumstances set forth in Subsection 13-48a-301(2).

258 (6) Coverage under an automobile insurance policy maintained by the car-sharing  
259 program is not dependent on another automobile insurer first denying a claim, nor shall another  
260 automobile insurance policy be required to first deny a claim.

261 Section 10. Section 13-48a-303 is enacted to read:

262 **13-48a-303. Certain abilities of insurance companies preserved.**

263 (1) (a) A motor vehicle liability insurance policy may exclude coverage and a duty to  
264 defend or indemnify with respect to a claim arising during a motor vehicle's use as a shared  
265 vehicle, based on the motor vehicle's use as a shared vehicle.

266 (b) Coverage that may be excluded as provided in Subsection (1) includes coverage  
267 for:

268 (i) bodily injury or property damage suffered by a third party;

269 (ii) a claim covered by uninsured motorist coverage described in Section 31A-22-305;

270 (iii) a claim covered by underinsured motorist coverage described in Section

271 31A-22-305.5;

272 (iv) a claim covered by personal injury protection coverage and benefits described in

273 Section 31A-22-307;

- 274 (v) a claim for medical payments;
- 275 (vi) a claim for comprehensive physical damage; and
- 276 (vii) a claim for collision physical damage.

277 (2) Nothing in this chapter invalidates, limits, or restricts the ability of an insurance  
278 company under other applicable law to:

- 279 (a) underwrite an insurance policy; or
- 280 (b) cancel or fail to renew an insurance policy.

281 (3) Nothing in this chapter invalidates or limits a provision in a motor vehicle liability  
282 insurance policy, including any insurance policy in use or approved for use, that excludes  
283 coverage for a motor vehicle made available for rent, sharing, hire, or any business use.

284 Section 11. Section **13-48a-304** is enacted to read:

285 **13-48a-304. Insurable interest -- Insurance to cover various liabilities -- No**  
286 **liability to maintain certain insurance.**

287 (1) Notwithstanding any other provision of law, a car-sharing program has an insurable  
288 interest in a shared vehicle during the car-sharing period.

289 (2) A car-sharing program may own and maintain as the named insured one or more  
290 policies of motor vehicle insurance that provide coverage for:

- 291 (a) a liability assumed by the car-sharing program under a car-sharing agreement;
- 292 (b) a liability of the shared vehicle owner;
- 293 (c) a liability of the shared vehicle driver; or
- 294 (d) damage or loss to a shared vehicle.

295 (3) Nothing in this section requires a car-sharing program to maintain insurance  
296 coverage for the car-sharing program's liability under this chapter.

297 Section 12. Section **13-48a-305** is enacted to read:

298 **13-48a-305. Recovery for claim excluded from insurance policy.**

299 An insurance company that defends or indemnifies a claim against a shared vehicle that  
300 is excluded under the terms of the insurance company's policy shall have the right to seek  
301 recovery against the motor vehicle insurer of the car-sharing program if the claim is:

302 (1) made against the shared vehicle owner or shared vehicle driver for a loss or injury  
303 that occurs during the car-sharing period; and

304 (2) excluded under the terms of the policy of the insurance company that defends or

305 indemnifies the claim.

306 Section 13. Section **13-48a-306** is enacted to read:

307 **13-48a-306. Exemption from liability based on operation of a car-sharing**  
308 **program or on vehicle ownership.**

309 Consistent with 49 U.S.C. Sec. 30106, a car-sharing program and a shared vehicle  
310 owner are exempt from vicarious liability under any state or local law that imposes liability  
311 solely based on vehicle ownership.

312 Section 14. Section **13-48a-307** is enacted to read:

313 **13-48a-307. Driver license requirement and records.**

314 (1) A car-sharing program may not enter into a car-sharing agreement with a driver  
315 unless the driver who will operate the shared vehicle:

316 (a) holds a driver license issued under the applicable law of this state that authorizes  
317 the driver to operate vehicles of the class of the shared vehicle;

318 (b) is a nonresident who:

319 (i) has a driver license issued by the state or country of the driver's residence that  
320 authorizes the driver in that state or country to drive vehicles of the class of the shared vehicle;  
321 and

322 (ii) is at least the same age as that required of a resident to drive; or

323 (c) otherwise is specifically authorized to drive vehicles of the class of the shared  
324 vehicle.

325 (2) A car-sharing program shall keep a record of:

326 (a) the name and address of the shared vehicle driver;

327 (b) the number of the driver license of the shared vehicle driver and each other person,  
328 if any, who will operate the shared vehicle; and

329 (c) the place of issuance of the driver license.

330 Section 15. Section **59-12-102** is amended to read:

331 **59-12-102. Definitions.**

332 As used in this chapter:

333 (1) "800 service" means a telecommunications service that:

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

335 (b) is typically marketed:

- 336 (i) under the name 800 toll-free calling;
- 337 (ii) under the name 855 toll-free calling;
- 338 (iii) under the name 866 toll-free calling;
- 339 (iv) under the name 877 toll-free calling;
- 340 (v) under the name 888 toll-free calling; or
- 341 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
- 342 Federal Communications Commission.
- 343 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 344 (i) a subscriber purchases;
- 345 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 346 the subscriber's:
- 347 (A) prerecorded announcement; or
- 348 (B) live service; and
- 349 (iii) is typically marketed:
- 350 (A) under the name 900 service; or
- 351 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 352 Communications Commission.
- 353 (b) "900 service" does not include a charge for:
- 354 (i) a collection service a seller of a telecommunications service provides to a
- 355 subscriber; or
- 356 (ii) the following a subscriber sells to the subscriber's customer:
- 357 (A) a product; or
- 358 (B) a service.
- 359 (3) (a) "Admission or user fees" includes season passes.
- 360 (b) "Admission or user fees" does not include:
- 361 (i) annual membership dues to private organizations; or
- 362 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
- 363 facility listed in Subsection [59-12-103\(1\)\(f\)](#).
- 364 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
- 365 person:
- 366 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other

367 person; or

368 (b) is related to the other person because a third person, or a group of third persons who  
369 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,  
370 whether direct or indirect, in the related persons.

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

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

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

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

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

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

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

380 (c) Subsection 59-12-103(2)(c)(i);

381 (d) Subsection 59-12-103(2)(d);

382 (e) Subsection 59-12-103(2)(e)(i)(A)(I);

383 (f) Section 59-12-204;

384 (g) Section 59-12-401;

385 (h) Section 59-12-402;

386 (i) Section 59-12-402.1;

387 (j) Section 59-12-703;

388 (k) Section 59-12-802;

389 (l) Section 59-12-804;

390 (m) Section 59-12-1102;

391 (n) Section 59-12-1302;

392 (o) Section 59-12-1402;

393 (p) Section 59-12-1802;

394 (q) Section 59-12-2003;

395 (r) Section 59-12-2103;

396 (s) Section 59-12-2213;

397 (t) Section 59-12-2214;

- 398 (u) Section 59-12-2215;
- 399 (v) Section 59-12-2216;
- 400 (w) Section 59-12-2217;
- 401 (x) Section 59-12-2218;
- 402 (y) Section 59-12-2219; or
- 403 (z) Section 59-12-2220.
- 404 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 405 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 406 (a) except for:
- 407 (i) an airline as defined in Section 59-2-102; or
- 408 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 409 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 410 state, of an airline; and
- 411 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 412 whether the business entity performs the following in this state:
- 413 (i) check, diagnose, overhaul, and repair:
- 414 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 415 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 416 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 417 engine;
- 418 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 419 aircraft:
- 420 (A) an inspection;
- 421 (B) a repair, including a structural repair or modification;
- 422 (C) changing landing gear; and
- 423 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 424 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 425 completely apply new paint to the fixed wing turbine powered aircraft; and
- 426 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 427 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 428 authority that certifies the fixed wing turbine powered aircraft.

429 (10) "Alcoholic beverage" means a beverage that:

- 430 (a) is suitable for human consumption; and
- 431 (b) contains .5% or more alcohol by volume.

432 (11) "Alternative energy" means:

- 433 (a) biomass energy;
- 434 (b) geothermal energy;
- 435 (c) hydroelectric energy;
- 436 (d) solar energy;
- 437 (e) wind energy; or
- 438 (f) energy that is derived from:
  - 439 (i) coal-to-liquids;
  - 440 (ii) nuclear fuel;
  - 441 (iii) oil-impregnated diatomaceous earth;
  - 442 (iv) oil sands;
  - 443 (v) oil shale;
  - 444 (vi) petroleum coke; or
  - 445 (vii) waste heat from:
    - 446 (A) an industrial facility; or
    - 447 (B) a power station in which an electric generator is driven through a process in which
    - 448 water is heated, turns into steam, and spins a steam turbine.

449 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production

450 facility" means a facility that:

- 451 (i) uses alternative energy to produce electricity; and
  - 452 (ii) has a production capacity of two megawatts or greater.
- 453 (b) A facility is an alternative energy electricity production facility regardless of
- 454 whether the facility is:
- 455 (i) connected to an electric grid; or
  - 456 (ii) located on the premises of an electricity consumer.

457 (13) (a) "Ancillary service" means a service associated with, or incidental to, the

458 provision of telecommunications service.

459 (b) "Ancillary service" includes:

460 (i) a conference bridging service;

461 (ii) a detailed communications billing service;

462 (iii) directory assistance;

463 (iv) a vertical service; or

464 (v) a voice mail service.

465 (14) "Area agency on aging" means the same as that term is defined in Section

466 [62A-3-101](#).

467 (15) "Assisted amusement device" means an amusement device, skill device, or ride

468 device that is started and stopped by an individual:

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

470 device, skill device, or ride device; and

471 (b) at the direction of the seller of the right to use the amusement device, skill device,

472 or ride device.

473 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or

474 washing of tangible personal property if the cleaning or washing labor is primarily performed

475 by an individual:

476 (a) who is not the purchaser of the cleaning or washing of the tangible personal

477 property; and

478 (b) at the direction of the seller of the cleaning or washing of the tangible personal

479 property.

480 (17) "Authorized carrier" means:

481 (a) in the case of vehicles operated over public highways, the holder of credentials

482 indicating that the vehicle is or will be operated pursuant to both the International Registration

483 Plan and the International Fuel Tax Agreement;

484 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating

485 certificate or air carrier's operating certificate; or

486 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling

487 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling

488 stock in more than one state.

489 (18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the

490 following that is used as the primary source of energy to produce fuel or electricity:



- 491 (i) material from a plant or tree; or
- 492 (ii) other organic matter that is available on a renewable basis, including:
  - 493 (A) slash and brush from forests and woodlands;
  - 494 (B) animal waste;
  - 495 (C) waste vegetable oil;
  - 496 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
  - 497 wastewater residuals, or through the conversion of a waste material through a nonincineration,
  - 498 thermal conversion process;
  - 499 (E) aquatic plants; and
  - 500 (F) agricultural products.
- 501 (b) "Biomass energy" does not include:
  - 502 (i) black liquor; or
  - 503 (ii) treated woods.
- 504 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 505 property, products, or services if the tangible personal property, products, or services are:
  - 506 (i) distinct and identifiable; and
  - 507 (ii) sold for one nonitemized price.
- 508 (b) "Bundled transaction" does not include:
  - 509 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
  - 510 the basis of the selection by the purchaser of the items of tangible personal property included in
  - 511 the transaction;
    - 512 (ii) the sale of real property;
    - 513 (iii) the sale of services to real property;
    - 514 (iv) the retail sale of tangible personal property and a service if:
      - 515 (A) the tangible personal property:
        - 516 (I) is essential to the use of the service; and
        - 517 (II) is provided exclusively in connection with the service; and
      - 518 (B) the service is the true object of the transaction;
    - 519 (v) the retail sale of two services if:
      - 520 (A) one service is provided that is essential to the use or receipt of a second service;
      - 521 (B) the first service is provided exclusively in connection with the second service; and

- 522 (C) the second service is the true object of the transaction;
- 523 (vi) a transaction that includes tangible personal property or a product subject to
- 524 taxation under this chapter and tangible personal property or a product that is not subject to
- 525 taxation under this chapter if the:
- 526 (A) seller's purchase price of the tangible personal property or product subject to
- 527 taxation under this chapter is de minimis; or
- 528 (B) seller's sales price of the tangible personal property or product subject to taxation
- 529 under this chapter is de minimis; and
- 530 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 531 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 532 (A) that retail sale includes:
- 533 (I) food and food ingredients;
- 534 (II) a drug;
- 535 (III) durable medical equipment;
- 536 (IV) mobility enhancing equipment;
- 537 (V) an over-the-counter drug;
- 538 (VI) a prosthetic device; or
- 539 (VII) a medical supply; and
- 540 (B) subject to Subsection (19)(f):
- 541 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 542 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 543 (II) the seller's sales price of the tangible personal property subject to taxation under
- 544 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 545 (c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a
- 546 service that is distinct and identifiable does not include:
- 547 (A) packaging that:
- 548 (I) accompanies the sale of the tangible personal property, product, or service; and
- 549 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
- 550 service;
- 551 (B) tangible personal property, a product, or a service provided free of charge with the
- 552 purchase of another item of tangible personal property, a product, or a service; or

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

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

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

564 (A) a binding sales document; or

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

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

568 (A) a bill of sale;

569 (B) a contract;

570 (C) an invoice;

571 (D) a lease agreement;

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

573 (F) a price list;

574 (G) a rate card;

575 (H) a receipt; or

576 (I) a service agreement.

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

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

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

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

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

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

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

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

596 (20) "Car sharing" means the same as that term is defined in Section 13-48a-101.

597 (21) "Car-sharing program" means the same as that term is defined in Section  
598 13-48a-101.

599 ~~[(20)]~~ (22) "Certified automated system" means software certified by the governing  
600 board of the agreement that:

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

603 (i) on a transaction; and

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

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

607 (c) maintains a record of the transaction described in Subsection ~~[(20)(a)(i)]~~ (22)(a)(i).

608 ~~[(21)]~~ (23) "Certified service provider" means an agent certified:

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

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

614 ~~[(22)]~~ (24) (a) Subject to Subsection ~~[(22)(b)]~~ (24)(b), "clothing" means all human

615 wearing apparel suitable for general use.

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

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

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

621 ~~[(23)]~~ (25) "Coal-to-liquid" means the process of converting coal into a liquid synthetic  
622 fuel.

623 ~~[(24)]~~ (26) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or  
624 other fuels that does not constitute industrial use under Subsection ~~[(57)]~~ (60) or residential use  
625 under Subsection ~~[(112)]~~ (115).

626 ~~[(25)]~~ (27) (a) "Common carrier" means a person engaged in or transacting the  
627 business of transporting passengers, freight, merchandise, or other property for hire within this  
628 state.

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

632 (ii) For purposes of Subsection ~~[(25)(b)(i)]~~ (27)(b)(i), in accordance with Title 63G,  
633 Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining  
634 what constitutes a person's place of employment.

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

637 ~~[(26)]~~ (28) "Component part" includes:

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

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

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

643 (d) feed, seeds, and seedlings.

644 ~~[(27)]~~ (29) "Computer" means an electronic device that accepts information:

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

- 646 (ii) in a form similar to digital form; and
- 647 (b) manipulates that information for a result based on a sequence of instructions.
- 648 ~~[(28)]~~ (30) "Computer software" means a set of coded instructions designed to cause:
- 649 (a) a computer to perform a task; or
- 650 (b) automatic data processing equipment to perform a task.
- 651 ~~[(29)]~~ (31) "Computer software maintenance contract" means a contract that obligates a
- 652 seller of computer software to provide a customer with:
- 653 (a) future updates or upgrades to computer software;
- 654 (b) support services with respect to computer software; or
- 655 (c) a combination of Subsections ~~[(29)(a)]~~ (31)(a) and (b).
- 656 ~~[(30)]~~ (32) (a) "Conference bridging service" means an ancillary service that links two
- 657 or more participants of an audio conference call or video conference call.
- 658 (b) "Conference bridging service" may include providing a telephone number as part of
- 659 the ancillary service described in Subsection ~~[(30)(a)]~~ (32)(a).
- 660 (c) "Conference bridging service" does not include a telecommunications service used
- 661 to reach the ancillary service described in Subsection ~~[(30)(a)]~~ (32)(a).
- 662 ~~[(31)]~~ (33) "Construction materials" means any tangible personal property that will be
- 663 converted into real property.
- 664 ~~[(32)]~~ (34) "Delivered electronically" means delivered to a purchaser by means other
- 665 than tangible storage media.
- 666 ~~[(33)]~~ (35) (a) "Delivery charge" means a charge:
- 667 (i) by a seller of:
- 668 (A) tangible personal property;
- 669 (B) a product transferred electronically; or
- 670 (C) a service; and
- 671 (ii) for preparation and delivery of the tangible personal property, product transferred
- 672 electronically, or services described in Subsection ~~[(33)(a)(i)]~~ (35)(a)(i) to a location designated
- 673 by the purchaser.
- 674 (b) "Delivery charge" includes a charge for the following:
- 675 (i) transportation;
- 676 (ii) shipping;

- 677 (iii) postage;
- 678 (iv) handling;
- 679 (v) crating; or
- 680 (vi) packing.
- 681 [~~(34)~~] (36) "Detailed telecommunications billing service" means an ancillary service of
- 682 separately stating information pertaining to individual calls on a customer's billing statement.
- 683 [~~(35)~~] (37) "Dietary supplement" means a product, other than tobacco, that:
- 684 (a) is intended to supplement the diet;
- 685 (b) contains one or more of the following dietary ingredients:
- 686 (i) a vitamin;
- 687 (ii) a mineral;
- 688 (iii) an herb or other botanical;
- 689 (iv) an amino acid;
- 690 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 691 dietary intake; or
- 692 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 693 described in Subsections [~~(35)(b)(i)~~] (37)(b)(i) through (v);
- 694 (c) (i) except as provided in Subsection [~~(35)(c)(ii)~~] (37)(c)(ii), is intended for
- 695 ingestion in:
- 696 (A) tablet form;
- 697 (B) capsule form;
- 698 (C) powder form;
- 699 (D) softgel form;
- 700 (E) gelcap form; or
- 701 (F) liquid form; or
- 702 (ii) if the product is not intended for ingestion in a form described in Subsections
- 703 [~~(35)(c)(i)(A)~~] (37)(c)(i)(A) through (F), is not represented:
- 704 (A) as conventional food; and
- 705 (B) for use as a sole item of:
- 706 (I) a meal; or
- 707 (II) the diet; and

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

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

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

711 [~~36~~] (38) (a) "Digital audio work" means a work that results from the fixation of a  
712 series of musical, spoken, or other sounds.

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

714 [~~37~~] (39) "Digital audio-visual work" means a series of related images which, when  
715 shown in succession, imparts an impression of motion, together with accompanying sounds, if  
716 any.

717 [~~38~~] (40) "Digital book" means a work that is generally recognized in the ordinary  
718 and usual sense as a book.

719 [~~39~~] (41) (a) "Direct mail" means printed material delivered or distributed by United  
720 States mail or other delivery service:

721 (i) to:

722 (A) a mass audience; or

723 (B) addressees on a mailing list provided:

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

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

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

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

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

731 [~~40~~] (42) "Directory assistance" means an ancillary service of providing:

732 (a) address information; or

733 (b) telephone number information.

734 [~~41~~] (43) (a) "Disposable home medical equipment or supplies" means medical  
735 equipment or supplies that:

736 (i) cannot withstand repeated use; and

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

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



- 739 (B) a health care provider as defined in Section [78B-3-403](#);
- 740 (C) an office of a health care provider described in Subsection ~~[(41)(a)(ii)(B)]~~
- 741 ~~(43)(a)(ii)(B)~~; or
- 742 (D) a person similar to a person described in Subsections ~~[(41)(a)(ii)(A)]~~ (43)(a)(ii)(A)
- 743 through (C).
- 744 (b) "Disposable home medical equipment or supplies" does not include:
- 745 (i) a drug;
- 746 (ii) durable medical equipment;
- 747 (iii) a hearing aid;
- 748 (iv) a hearing aid accessory;
- 749 (v) mobility enhancing equipment; or
- 750 (vi) tangible personal property used to correct impaired vision, including:
- 751 (A) eyeglasses; or
- 752 (B) contact lenses.
- 753 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 754 commission may by rule define what constitutes medical equipment or supplies.
- 755 ~~[(42)]~~ (44) "Drilling equipment manufacturer" means a facility:
- 756 (a) located in the state;
- 757 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 758 consist of manufacturing component parts of drilling equipment;
- 759 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 760 manufacturing process; and
- 761 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 762 manufacturing process.
- 763 ~~[(43)]~~ (45) (a) "Drug" means a compound, substance, or preparation, or a component of
- 764 a compound, substance, or preparation that is:
- 765 (i) recognized in:
- 766 (A) the official United States Pharmacopoeia;
- 767 (B) the official Homeopathic Pharmacopoeia of the United States;
- 768 (C) the official National Formulary; or
- 769 (D) a supplement to a publication listed in Subsections ~~[(43)(a)(i)(A)]~~ (45)(a)(i)(A)

770 through (C);

771 (ii) intended for use in the:

772 (A) diagnosis of disease;

773 (B) cure of disease;

774 (C) mitigation of disease;

775 (D) treatment of disease; or

776 (E) prevention of disease; or

777 (iii) intended to affect:

778 (A) the structure of the body; or

779 (B) any function of the body.

780 (b) "Drug" does not include:

781 (i) food and food ingredients;

782 (ii) a dietary supplement;

783 (iii) an alcoholic beverage; or

784 (iv) a prosthetic device.

785 ~~[(44)]~~ (46) (a) Except as provided in Subsection ~~[(44)(c)]~~ (46)(c), "durable medical

786 equipment" means equipment that:

787 (i) can withstand repeated use;

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

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

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

791 (b) "Durable medical equipment" includes parts used in the repair or replacement of the

792 equipment described in Subsection ~~[(44)(a)]~~ (46)(a).

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

794 ~~[(45)]~~ (47) "Electronic" means:

795 (a) relating to technology; and

796 (b) having:

797 (i) electrical capabilities;

798 (ii) digital capabilities;

799 (iii) magnetic capabilities;

800 (iv) wireless capabilities;

- 801 (v) optical capabilities;
- 802 (vi) electromagnetic capabilities; or
- 803 (vii) capabilities similar to Subsections ~~[(45)(b)(i)]~~ (47)(b)(i) through (vi).
- 804 ~~[(46)]~~ (48) "Electronic financial payment service" means an establishment:
- 805 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 806 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 807 federal Executive Office of the President, Office of Management and Budget; and
- 808 (b) that performs electronic financial payment services.
- 809 ~~[(47)]~~ (49) "Employee" means the same as that term is defined in Section 59-10-401.
- 810 ~~[(48)]~~ (50) "Fixed guideway" means a public transit facility that uses and occupies:
- 811 (a) rail for the use of public transit; or
- 812 (b) a separate right-of-way for the use of public transit.
- 813 ~~[(49)]~~ (51) "Fixed wing turbine powered aircraft" means an aircraft that:
- 814 (a) is powered by turbine engines;
- 815 (b) operates on jet fuel; and
- 816 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 817 ~~[(50)]~~ (52) "Fixed wireless service" means a telecommunications service that provides
- 818 radio communication between fixed points.
- 819 ~~[(51)]~~ (53) (a) "Food and food ingredients" means substances:
- 820 (i) regardless of whether the substances are in:
- 821 (A) liquid form;
- 822 (B) concentrated form;
- 823 (C) solid form;
- 824 (D) frozen form;
- 825 (E) dried form; or
- 826 (F) dehydrated form; and
- 827 (ii) that are:
- 828 (A) sold for:
- 829 (I) ingestion by humans; or
- 830 (II) chewing by humans; and
- 831 (B) consumed for the substance's:

- 832 (I) taste; or
- 833 (II) nutritional value.
- 834 (b) "Food and food ingredients" includes an item described in Subsection [~~(96)(b)(iii)~~
- 835 (99)(b)(iii).
- 836 (c) "Food and food ingredients" does not include:
- 837 (i) an alcoholic beverage;
- 838 (ii) tobacco; or
- 839 (iii) prepared food.
- 840 [~~(52)~~] (54) (a) "Fundraising sales" means sales:
- 841 (i) (A) made by a school; or
- 842 (B) made by a school student;
- 843 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 844 materials, or provide transportation; and
- 845 (iii) that are part of an officially sanctioned school activity.
- 846 (b) For purposes of Subsection [~~(52)(a)(iii)~~] (54)(a)(iii), "officially sanctioned school
- 847 activity" means a school activity:
- 848 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 849 district governing the authorization and supervision of fundraising activities;
- 850 (ii) that does not directly or indirectly compensate an individual teacher or other
- 851 educational personnel by direct payment, commissions, or payment in kind; and
- 852 (iii) the net or gross revenues from which are deposited in a dedicated account
- 853 controlled by the school or school district.
- 854 [~~(53)~~] (55) "Geothermal energy" means energy contained in heat that continuously
- 855 flows outward from the earth that is used as the sole source of energy to produce electricity.
- 856 [~~(54)~~] (56) "Governing board of the agreement" means the governing board of the
- 857 agreement that is:
- 858 (a) authorized to administer the agreement; and
- 859 (b) established in accordance with the agreement.
- 860 [~~(55)~~] (57) (a) For purposes of Subsection 59-12-104(41), "governmental entity"
- 861 means:
- 862 (i) the executive branch of the state, including all departments, institutions, boards,

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

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

866 (iii) the legislative branch of the state, including the House of Representatives, the  
867 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
868 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
869 Analyst;

870 (iv) the National Guard;

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

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

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

875 (i) a school;

876 (ii) the State Board of Education;

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

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

879 ~~[(56)]~~ (58) "Hydroelectric energy" means water used as the sole source of energy to  
880 produce electricity.

881 (59) "Individual-owned shared vehicle" means the same as that term is defined in  
882 Section [13-48a-101](#).

883 ~~[(57)]~~ (60) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,  
884 or other fuels:

885 (a) in mining or extraction of minerals;

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

888 (i) commercial greenhouses;

889 (ii) irrigation pumps;

890 (iii) farm machinery;

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

893 (v) other farming activities;

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

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

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

900 (d) by a scrap recycler if:

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

904 (A) iron;

905 (B) steel;

906 (C) nonferrous metal;

907 (D) paper;

908 (E) glass;

909 (F) plastic;

910 (G) textile; or

911 (H) rubber; and

912 (ii) the new products under Subsection [~~(57)(d)(i)~~] (60)(d)(i) would otherwise be made  
913 with nonrecycled materials; or

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

916 [~~(58)~~] (61) (a) Except as provided in Subsection [~~(58)(b)~~] (61)(b), "installation charge"  
917 means a charge for installing:

918 (i) tangible personal property; or

919 (ii) a product transferred electronically.

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

921 (i) repairs or renovations of:

922 (A) tangible personal property; or

923 (B) a product transferred electronically; or

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

- 925 (A) to other tangible personal property; and
- 926 (B) as part of a manufacturing or fabrication process.
- 927 [~~(59)~~] (62) "Institution of higher education" means an institution of higher education
- 928 listed in Section [53B-2-101](#).
- 929 [~~(60)~~] (63) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 930 personal property or a product transferred electronically for:
- 931 (i) (A) a fixed term; or
- 932 (B) an indeterminate term; and
- 933 (ii) consideration.
- 934 (b) "Lease" or "rental" includes:
- 935 (i) an agreement covering a motor vehicle and trailer if the amount of consideration
- 936 may be increased or decreased by reference to the amount realized upon sale or disposition of
- 937 the property as defined in Section 7701(h)(1), Internal Revenue Code~~[-];~~ and
- 938 (ii) car sharing.
- 939 (c) "Lease" or "rental" does not include:
- 940 (i) a transfer of possession or control of property under a security agreement or
- 941 deferred payment plan that requires the transfer of title upon completion of the required
- 942 payments;
- 943 (ii) a transfer of possession or control of property under an agreement that requires the
- 944 transfer of title:
- 945 (A) upon completion of required payments; and
- 946 (B) if the payment of an option price does not exceed the greater of:
- 947 (I) \$100; or
- 948 (II) 1% of the total required payments; or
- 949 (iii) providing tangible personal property along with an operator for a fixed period of
- 950 time or an indeterminate period of time if the operator is necessary for equipment to perform as
- 951 designed.
- 952 (d) For purposes of Subsection [~~(60)(c)(iii)~~] (63)(c)(iii), an operator is necessary for
- 953 equipment to perform as designed if the operator's duties exceed the:
- 954 (i) set-up of tangible personal property;
- 955 (ii) maintenance of tangible personal property; or

956 (iii) inspection of tangible personal property.

957 [~~(61)~~] (64) "Lesson" means a fixed period of time for the duration of which a trained  
958 instructor:

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

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

961 [~~(62)~~] (65) "Life science establishment" means an establishment in this state that is  
962 classified under the following NAICS codes of the 2007 North American Industry  
963 Classification System of the federal Executive Office of the President, Office of Management  
964 and Budget:

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

966 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus  
967 Manufacturing; or

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

969 [~~(63)~~] (66) "Life science research and development facility" means a facility owned,  
970 leased, or rented by a life science establishment if research and development is performed in  
971 51% or more of the total area of the facility.

972 [~~(64)~~] (67) "Load and leave" means delivery to a purchaser by use of a tangible storage  
973 media if the tangible storage media is not physically transferred to the purchaser.

974 [~~(65)~~] (68) "Local taxing jurisdiction" means a:

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

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

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

978 [~~(66)~~] (69) "Manufactured home" means the same as that term is defined in Section  
979 [15A-1-302](#).

980 [~~(67)~~] (70) "Manufacturing facility" means:

981 (a) an establishment described in:

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

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



987 (b) a scrap recycler if:

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

991 (A) iron;

992 (B) steel;

993 (C) nonferrous metal;

994 (D) paper;

995 (E) glass;

996 (F) plastic;

997 (G) textile; or

998 (H) rubber; and

999 (ii) the new products under Subsection [~~(67)(b)(i)~~] (70)(b)(i) would otherwise be made  
1000 with nonrecycled materials; or

1001 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is  
1002 placed in service on or after May 1, 2006.

1003 [~~(68)~~] (71) (a) "Marketplace" means a physical or electronic place, platform, or forum  
1004 where tangible personal property, a product transferred electronically, or a service is offered for  
1005 sale.

1006 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a  
1007 dedicated sales software application.

1008 [~~(69)~~] (72) (a) "Marketplace facilitator" means a person, including an affiliate of the  
1009 person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to  
1010 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or  
1011 controls and that directly or indirectly:

1012 (i) does any of the following:

1013 (A) lists, makes available, or advertises tangible personal property, a product  
1014 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the  
1015 person owns, operates, or controls;

1016 (B) facilitates the sale of a marketplace seller's tangible personal property, product  
1017 transferred electronically, or service by transmitting or otherwise communicating an offer or

1018 acceptance of a retail sale between the marketplace seller and a purchaser using the  
1019 marketplace;

1020 (C) owns, rents, licenses, makes available, or operates any electronic or physical  
1021 infrastructure or any property, process, method, copyright, trademark, or patent that connects a  
1022 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal  
1023 property, a product transferred electronically, or a service;

1024 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible  
1025 personal property, a product transferred electronically, or a service, regardless of ownership or  
1026 control of the tangible personal property, the product transferred electronically, or the service  
1027 that is the subject of the retail sale;

1028 (E) provides software development or research and development activities related to  
1029 any activity described in this Subsection [~~(69)(a)(i)~~] (72)(a)(i), if the software development or  
1030 research and development activity is directly related to the person's marketplace;

1031 (F) provides or offers fulfillment or storage services for a marketplace seller;

1032 (G) sets prices for the sale of tangible personal property, a product transferred  
1033 electronically, or a service by a marketplace seller;

1034 (H) provides or offers customer service to a marketplace seller or a marketplace seller's  
1035 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal  
1036 property, a product transferred electronically, or a service sold by a marketplace seller on the  
1037 person's marketplace; or

1038 (I) brands or otherwise identifies sales as those of the person; and

1039 (ii) does any of the following:

1040 (A) collects the sales price or purchase price of a retail sale of tangible personal  
1041 property, a product transferred electronically, or a service;

1042 (B) provides payment processing services for a retail sale of tangible personal property,  
1043 a product transferred electronically, or a service;

1044 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing  
1045 fee, a fee for inserting or making available tangible personal property, a product transferred  
1046 electronically, or a service on the person's marketplace, or other consideration for the  
1047 facilitation of a retail sale of tangible personal property, a product transferred electronically, or  
1048 a service, regardless of ownership or control of the tangible personal property, the product

1049 transferred electronically, or the service that is the subject of the retail sale;

1050 (D) through terms and conditions, an agreement, or another arrangement with a third  
 1051 person, collects payment from a purchase for a retail sale of tangible personal property, a  
 1052 product transferred electronically, or a service and transmits that payment to the marketplace  
 1053 seller, regardless of whether the third person receives compensation or other consideration in  
 1054 exchange for the service; or

1055 (E) provides a virtual currency for a purchaser to use to purchase tangible personal  
 1056 property, a product transferred electronically, or service offered for sale.

1057 (b) "Marketplace facilitator" does not include:

1058 (i) a person that only provides payment processing services; or

1059 (ii) a person described in Subsection [~~(69)(a)~~] (72)(a) to the extent the person is  
 1060 facilitating a sale for a seller that is a restaurant as defined in Section [59-12-602](#).

1061 [~~(70)~~] (73) "Marketplace seller" means a seller that makes one or more retail sales  
 1062 through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of  
 1063 whether the seller is required to be registered to collect and remit the tax under this part.

1064 [~~(71)~~] (74) "Member of the immediate family of the producer" means a person who is  
 1065 related to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:

1066 (a) child or stepchild, regardless of whether the child or stepchild is:

1067 (i) an adopted child or adopted stepchild; or

1068 (ii) a foster child or foster stepchild;

1069 (b) grandchild or stepgrandchild;

1070 (c) grandparent or stepgrandparent;

1071 (d) nephew or stepnephew;

1072 (e) niece or stepniece;

1073 (f) parent or stepparent;

1074 (g) sibling or stepsibling;

1075 (h) spouse;

1076 (i) person who is the spouse of a person described in Subsections [~~(71)(a)~~] (74)(a)

1077 through (g); or

1078 (j) person similar to a person described in Subsections [~~(71)(a)~~] (74)(a) through (i) as  
 1079 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

1080 Administrative Rulemaking Act.

1081 ~~[(72)]~~ (75) "Mobile home" means the same as that term is defined in Section  
1082 15A-1-302.

1083 ~~[(73)]~~ (76) "Mobile telecommunications service" means the same as that term is  
1084 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1085 ~~[(74)]~~ (77) (a) "Mobile wireless service" means a telecommunications service,  
1086 regardless of the technology used, if:

1087 (i) the origination point of the conveyance, routing, or transmission is not fixed;

1088 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

1089 (iii) the origination point described in Subsection ~~[(74)(a)(i)]~~ (77)(a)(i) and the  
1090 termination point described in Subsection ~~[(74)(a)(ii)]~~ (77)(a)(ii) are not fixed.

1091 (b) "Mobile wireless service" includes a telecommunications service that is provided  
1092 by a commercial mobile radio service provider.

1093 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1094 commission may by rule define "commercial mobile radio service provider."

1095 ~~[(75)]~~ (78) (a) Except as provided in Subsection ~~[(75)(c)]~~ (78)(c), "mobility enhancing  
1096 equipment" means equipment that is:

1097 (i) primarily and customarily used to provide or increase the ability to move from one  
1098 place to another;

1099 (ii) appropriate for use in a:

1100 (A) home; or

1101 (B) motor vehicle; and

1102 (iii) not generally used by persons with normal mobility.

1103 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
1104 the equipment described in Subsection ~~[(75)(a)]~~ (78)(a).

1105 (c) "Mobility enhancing equipment" does not include:

1106 (i) a motor vehicle;

1107 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
1108 vehicle manufacturer;

1109 (iii) durable medical equipment; or

1110 (iv) a prosthetic device.

1111            [~~(76)~~] (79) "Model 1 seller" means a seller registered under the agreement that has  
1112 selected a certified service provider as the seller's agent to perform the seller's sales and use tax  
1113 functions for agreement sales and use taxes, as outlined in the contract between the governing  
1114 board of the agreement and the certified service provider, other than the seller's obligation  
1115 under Section [59-12-124](#) to remit a tax on the seller's own purchases.

1116            [~~(77)~~] (80) "Model 2 seller" means a seller registered under the agreement that:

1117            (a) except as provided in Subsection [~~(77)(b)~~] (80)(b), has selected a certified  
1118 automated system to perform the seller's sales tax functions for agreement sales and use taxes;  
1119 and

1120            (b) retains responsibility for remitting all of the sales tax:

1121            (i) collected by the seller; and

1122            (ii) to the appropriate local taxing jurisdiction.

1123            [~~(78)~~] (81) (a) Subject to Subsection [~~(78)(b)~~] (81)(b), "model 3 seller" means a seller  
1124 registered under the agreement that has:

1125            (i) sales in at least five states that are members of the agreement;

1126            (ii) total annual sales revenues of at least \$500,000,000;

1127            (iii) a proprietary system that calculates the amount of tax:

1128            (A) for an agreement sales and use tax; and

1129            (B) due to each local taxing jurisdiction; and

1130            (iv) entered into a performance agreement with the governing board of the agreement.

1131            (b) For purposes of Subsection [~~(78)(a)~~] (81)(a), "model 3 seller" includes an affiliated  
1132 group of sellers using the same proprietary system.

1133            [~~(79)~~] (82) "Model 4 seller" means a seller that is registered under the agreement and is  
1134 not a model 1 seller, model 2 seller, or model 3 seller.

1135            [~~(80)~~] (83) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

1136            [~~(81)~~] (84) "Motor vehicle" means the same as that term is defined in Section  
1137 [41-1a-102](#).

1138            [~~(82)~~] (85) "Oil sands" means impregnated bituminous sands that:

1139            (a) contain a heavy, thick form of petroleum that is released when heated, mixed with  
1140 other hydrocarbons, or otherwise treated;

1141            (b) yield mixtures of liquid hydrocarbon; and

1142 (c) require further processing other than mechanical blending before becoming finished  
1143 petroleum products.

1144 ~~[(83)]~~ (86) "Oil shale" means a group of fine black to dark brown shales containing  
1145 kerogen material that yields petroleum upon heating and distillation.

1146 ~~[(84)]~~ (87) "Optional computer software maintenance contract" means a computer  
1147 software maintenance contract that a customer is not obligated to purchase as a condition to the  
1148 retail sale of computer software.

1149 ~~[(85)]~~ (88) (a) "Other fuels" means products that burn independently to produce heat or  
1150 energy.

1151 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
1152 personal property.

1153 ~~[(86)]~~ (89) (a) "Paging service" means a telecommunications service that provides  
1154 transmission of a coded radio signal for the purpose of activating a specific pager.

1155 (b) For purposes of Subsection ~~[(86)(a)]~~ (89)(a), the transmission of a coded radio  
1156 signal includes a transmission by message or sound.

1157 ~~[(87)]~~ (90) "Pawn transaction" means the same as that term is defined in Section  
1158 13-32a-102.

1159 ~~[(88)]~~ (91) "Pawnbroker" means the same as that term is defined in Section  
1160 13-32a-102.

1161 ~~[(89)]~~ (92) (a) "Permanently attached to real property" means that for tangible personal  
1162 property attached to real property:

1163 (i) the attachment of the tangible personal property to the real property:

1164 (A) is essential to the use of the tangible personal property; and

1165 (B) suggests that the tangible personal property will remain attached to the real  
1166 property in the same place over the useful life of the tangible personal property; or

1167 (ii) if the tangible personal property is detached from the real property, the detachment  
1168 would:

1169 (A) cause substantial damage to the tangible personal property; or

1170 (B) require substantial alteration or repair of the real property to which the tangible  
1171 personal property is attached.

1172 (b) "Permanently attached to real property" includes:

1173 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1174 (A) essential to the operation of the tangible personal property; and

1175 (B) attached only to facilitate the operation of the tangible personal property;

1176 (ii) a temporary detachment of tangible personal property from real property for a

1177 repair or renovation if the repair or renovation is performed where the tangible personal

1178 property and real property are located; or

1179 (iii) property attached to oil, gas, or water pipelines, except for the property listed in

1180 Subsection [~~(89)(c)(iii)~~] (92)(c)(iii) or (iv).

1181 (c) "Permanently attached to real property" does not include:

1182 (i) the attachment of portable or movable tangible personal property to real property if

1183 that portable or movable tangible personal property is attached to real property only for:

1184 (A) convenience;

1185 (B) stability; or

1186 (C) for an obvious temporary purpose;

1187 (ii) the detachment of tangible personal property from real property except for the

1188 detachment described in Subsection [~~(89)(b)(ii)~~] (92)(b)(ii);

1189 (iii) an attachment of the following tangible personal property to real property if the

1190 attachment to real property is only through a line that supplies water, electricity, gas,

1191 telecommunications, cable, or supplies a similar item as determined by the commission by rule

1192 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

1193 (A) a computer;

1194 (B) a telephone;

1195 (C) a television; or

1196 (D) tangible personal property similar to Subsections [~~(89)(c)(iii)(A)~~] (92)(c)(iii)(A)

1197 through (C) as determined by the commission by rule made in accordance with Title 63G,

1198 Chapter 3, Utah Administrative Rulemaking Act; or

1199 (iv) an item listed in Subsection [~~(130)(c)~~] (136)(c).

1200 [~~(90)~~] (93) "Person" includes any individual, firm, partnership, joint venture,

1201 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,

1202 city, municipality, district, or other local governmental entity of the state, or any group or

1203 combination acting as a unit.

1204 [~~(91)~~] (94) "Place of primary use":

1205 (a) for telecommunications service other than mobile telecommunications service,  
1206 means the street address representative of where the customer's use of the telecommunications  
1207 service primarily occurs, which shall be:

1208 (i) the residential street address of the customer; or

1209 (ii) the primary business street address of the customer; or

1210 (b) for mobile telecommunications service, means the same as that term is defined in  
1211 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1212 [~~(92)~~] (95) (a) "Postpaid calling service" means a telecommunications service a person  
1213 obtains by making a payment on a call-by-call basis:

1214 (i) through the use of a:

1215 (A) bank card;

1216 (B) credit card;

1217 (C) debit card; or

1218 (D) travel card; or

1219 (ii) by a charge made to a telephone number that is not associated with the origination  
1220 or termination of the telecommunications service.

1221 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
1222 service, that would be a prepaid wireless calling service if the service were exclusively a  
1223 telecommunications service.

1224 [~~(93)~~] (96) "Postproduction" means an activity related to the finishing or duplication of  
1225 a medium described in Subsection [59-12-104\(54\)\(a\)](#).

1226 [~~(94)~~] (97) "Prepaid calling service" means a telecommunications service:

1227 (a) that allows a purchaser access to telecommunications service that is exclusively  
1228 telecommunications service;

1229 (b) that:

1230 (i) is paid for in advance; and

1231 (ii) enables the origination of a call using an:

1232 (A) access number; or

1233 (B) authorization code;

1234 (c) that is dialed:



- 1235 (i) manually; or
- 1236 (ii) electronically; and
- 1237 (d) sold in predetermined units or dollars that decline:
- 1238 (i) by a known amount; and
- 1239 (ii) with use.
- 1240 ~~[(95)]~~ (98) "Prepaid wireless calling service" means a telecommunications service:
- 1241 (a) that provides the right to utilize:
- 1242 (i) mobile wireless service; and
- 1243 (ii) other service that is not a telecommunications service, including:
- 1244 (A) the download of a product transferred electronically;
- 1245 (B) a content service; or
- 1246 (C) an ancillary service;
- 1247 (b) that:
- 1248 (i) is paid for in advance; and
- 1249 (ii) enables the origination of a call using an:
- 1250 (A) access number; or
- 1251 (B) authorization code;
- 1252 (c) that is dialed:
- 1253 (i) manually; or
- 1254 (ii) electronically; and
- 1255 (d) sold in predetermined units or dollars that decline:
- 1256 (i) by a known amount; and
- 1257 (ii) with use.
- 1258 ~~[(96)]~~ (99) (a) "Prepared food" means:
- 1259 (i) food:
- 1260 (A) sold in a heated state; or
- 1261 (B) heated by a seller;
- 1262 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 1263 item; or
- 1264 (iii) except as provided in Subsection ~~[(96)(c)]~~ (99)(c), food sold with an eating utensil
- 1265 provided by the seller, including a:

- 1266 (A) plate;
- 1267 (B) knife;
- 1268 (C) fork;
- 1269 (D) spoon;
- 1270 (E) glass;
- 1271 (F) cup;
- 1272 (G) napkin; or
- 1273 (H) straw.
- 1274 (b) "Prepared food" does not include:
- 1275 (i) food that a seller only:
- 1276 (A) cuts;
- 1277 (B) repackages; or
- 1278 (C) pasteurizes; [~~or~~]
- 1279 (ii) (A) the following:
- 1280 (I) raw egg;
- 1281 (II) raw fish;
- 1282 (III) raw meat;
- 1283 (IV) raw poultry; or
- 1284 (V) a food containing an item described in Subsections [~~(96)(b)(ii)(A)(I)~~
- 1285 (99)(b)(ii)(A)(I) through (IV); and
- 1286 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1287 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1288 Subsection [~~(96)(b)(ii)(A)~~] (99)(b)(ii)(A) to prevent food borne illness; or
- 1289 (iii) the following if sold without eating utensils provided by the seller:
- 1290 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1291 classification under the 2002 North American Industry Classification System of the federal
- 1292 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1293 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1294 Manufacturing;
- 1295 (B) food and food ingredients sold in an unheated state:
- 1296 (I) by weight or volume; and

- 1297 (II) as a single item; or
- 1298 (C) a bakery item, including:
- 1299 (I) a bagel;
- 1300 (II) a bar;
- 1301 (III) a biscuit;
- 1302 (IV) bread;
- 1303 (V) a bun;
- 1304 (VI) a cake;
- 1305 (VII) a cookie;
- 1306 (VIII) a croissant;
- 1307 (IX) a danish;
- 1308 (X) a donut;
- 1309 (XI) a muffin;
- 1310 (XII) a pastry;
- 1311 (XIII) a pie;
- 1312 (XIV) a roll;
- 1313 (XV) a tart;
- 1314 (XVI) a torte; or
- 1315 (XVII) a tortilla.
- 1316 (c) An eating utensil provided by the seller does not include the following used to
- 1317 transport the food:
- 1318 (i) a container; or
- 1319 (ii) packaging.
- 1320 ~~[(97)]~~ (100) "Prescription" means an order, formula, or recipe that is issued:
- 1321 (a) (i) orally;
- 1322 (ii) in writing;
- 1323 (iii) electronically; or
- 1324 (iv) by any other manner of transmission; and
- 1325 (b) by a licensed practitioner authorized by the laws of a state.
- 1326 ~~[(98)]~~ (101) (a) Except as provided in Subsection ~~[(98)(b)(ii)]~~ (101)(b)(ii) or (iii),
- 1327 "prewritten computer software" means computer software that is not designed and developed:

- 1328 (i) by the author or other creator of the computer software; and
- 1329 (ii) to the specifications of a specific purchaser.
- 1330 (b) "Prewritten computer software" includes:
- 1331 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 1332 software is not designed and developed:
- 1333 (A) by the author or other creator of the computer software; and
- 1334 (B) to the specifications of a specific purchaser;
- 1335 (ii) computer software designed and developed by the author or other creator of the
- 1336 computer software to the specifications of a specific purchaser if the computer software is sold
- 1337 to a person other than the purchaser; or
- 1338 (iii) except as provided in Subsection [~~(98)(c)~~] (101)(c), prewritten computer software
- 1339 or a prewritten portion of prewritten computer software:
- 1340 (A) that is modified or enhanced to any degree; and
- 1341 (B) if the modification or enhancement described in Subsection [~~(98)(b)(iii)(A)~~]
- 1342 (101)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.
- 1343 (c) "Prewritten computer software" does not include a modification or enhancement
- 1344 described in Subsection [~~(98)(b)(iii)~~] (101)(b)(iii) if the charges for the modification or
- 1345 enhancement are:
- 1346 (i) reasonable; and
- 1347 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the
- 1348 invoice or other statement of price provided to the purchaser at the time of sale or later, as
- 1349 demonstrated by:
- 1350 (A) the books and records the seller keeps at the time of the transaction in the regular
- 1351 course of business, including books and records the seller keeps at the time of the transaction in
- 1352 the regular course of business for nontax purposes;
- 1353 (B) a preponderance of the facts and circumstances at the time of the transaction; and
- 1354 (C) the understanding of all of the parties to the transaction.
- 1355 [~~(99)~~] (102) (a) "Private communications service" means a telecommunications
- 1356 service:
- 1357 (i) that entitles a customer to exclusive or priority use of one or more communications
- 1358 channels between or among termination points; and

1359 (ii) regardless of the manner in which the one or more communications channels are  
1360 connected.

1361 (b) "Private communications service" includes the following provided in connection  
1362 with the use of one or more communications channels:

1363 (i) an extension line;

1364 (ii) a station;

1365 (iii) switching capacity; or

1366 (iv) another associated service that is provided in connection with the use of one or  
1367 more communications channels as defined in Section 59-12-215.

1368 [~~(100)~~] (103) (a) Except as provided in Subsection [~~(100)(b)~~] (103)(b), "product  
1369 transferred electronically" means a product transferred electronically that would be subject to a  
1370 tax under this chapter if that product was transferred in a manner other than electronically.

1371 (b) "Product transferred electronically" does not include:

1372 (i) an ancillary service;

1373 (ii) computer software; or

1374 (iii) a telecommunications service.

1375 [~~(101)~~] (104) (a) "Prosthetic device" means a device that is worn on or in the body to:

1376 (i) artificially replace a missing portion of the body;

1377 (ii) prevent or correct a physical deformity or physical malfunction; or

1378 (iii) support a weak or deformed portion of the body.

1379 (b) "Prosthetic device" includes:

1380 (i) parts used in the repairs or renovation of a prosthetic device;

1381 (ii) replacement parts for a prosthetic device;

1382 (iii) a dental prosthesis; or

1383 (iv) a hearing aid.

1384 (c) "Prosthetic device" does not include:

1385 (i) corrective eyeglasses; or

1386 (ii) contact lenses.

1387 [~~(102)~~] (105) (a) "Protective equipment" means an item:

1388 (i) for human wear; and

1389 (ii) that is:

- 1390 (A) designed as protection:
- 1391 (I) to the wearer against injury or disease; or
- 1392 (II) against damage or injury of other persons or property; and
- 1393 (B) not suitable for general use.
- 1394 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1395 commission shall make rules:
- 1396 (i) listing the items that constitute "protective equipment"; and
- 1397 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1398 under the agreement.
- 1399 [~~(103)~~] (106) (a) For purposes of Subsection 59-12-104(41), "publication" means any
- 1400 written or printed matter, other than a photocopy:
- 1401 (i) regardless of:
- 1402 (A) characteristics;
- 1403 (B) copyright;
- 1404 (C) form;
- 1405 (D) format;
- 1406 (E) method of reproduction; or
- 1407 (F) source; and
- 1408 (ii) made available in printed or electronic format.
- 1409 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1410 commission may by rule define the term "photocopy."
- 1411 [~~(104)~~] (107) (a) "Purchase price" and "sales price" mean the total amount of
- 1412 consideration:
- 1413 (i) valued in money; and
- 1414 (ii) for which tangible personal property, a product transferred electronically, or
- 1415 services are:
- 1416 (A) sold;
- 1417 (B) leased; or
- 1418 (C) rented.
- 1419 (b) "Purchase price" and "sales price" include:
- 1420 (i) the seller's cost of the tangible personal property, a product transferred

- 1421 electronically, or services sold;
- 1422 (ii) expenses of the seller, including:
  - 1423 (A) the cost of materials used;
  - 1424 (B) a labor cost;
  - 1425 (C) a service cost;
  - 1426 (D) interest;
  - 1427 (E) a loss;
  - 1428 (F) the cost of transportation to the seller; or
  - 1429 (G) a tax imposed on the seller;
- 1430 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1431 (iv) consideration a seller receives from a person other than the purchaser if:
  - 1432 (A) (I) the seller actually receives consideration from a person other than the purchaser;
  - 1433 and
  - 1434 (II) the consideration described in Subsection [~~(104)(b)(iv)(A)(i)~~ (107)(b)(iv)(A)(I) is
  - 1435 directly related to a price reduction or discount on the sale;
  - 1436 (B) the seller has an obligation to pass the price reduction or discount through to the
  - 1437 purchaser;
  - 1438 (C) the amount of the consideration attributable to the sale is fixed and determinable by
  - 1439 the seller at the time of the sale to the purchaser; and
  - 1440 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
  - 1441 seller to claim a price reduction or discount; and
  - 1442 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
  - 1443 coupon, or other documentation with the understanding that the person other than the seller
  - 1444 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
  - 1445 (II) the purchaser identifies that purchaser to the seller as a member of a group or
  - 1446 organization allowed a price reduction or discount, except that a preferred customer card that is
  - 1447 available to any patron of a seller does not constitute membership in a group or organization
  - 1448 allowed a price reduction or discount; or
  - 1449 (III) the price reduction or discount is identified as a third party price reduction or
  - 1450 discount on the:
  - 1451 (Aa) invoice the purchaser receives; or

- 1452 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1453 (c) "Purchase price" and "sales price" do not include:
- 1454 (i) a discount:
- 1455 (A) in a form including:
- 1456 (I) cash;
- 1457 (II) term; or
- 1458 (III) coupon;
- 1459 (B) that is allowed by a seller;
- 1460 (C) taken by a purchaser on a sale; and
- 1461 (D) that is not reimbursed by a third party; or
- 1462 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately
- 1463 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
- 1464 sale or later, as demonstrated by the books and records the seller keeps at the time of the
- 1465 transaction in the regular course of business, including books and records the seller keeps at the
- 1466 time of the transaction in the regular course of business for nontax purposes, by a
- 1467 preponderance of the facts and circumstances at the time of the transaction, and by the
- 1468 understanding of all of the parties to the transaction:
- 1469 (A) the following from credit extended on the sale of tangible personal property or
- 1470 services:
- 1471 (I) a carrying charge;
- 1472 (II) a financing charge; or
- 1473 (III) an interest charge;
- 1474 (B) a delivery charge;
- 1475 (C) an installation charge;
- 1476 (D) a manufacturer rebate on a motor vehicle; or
- 1477 (E) a tax or fee legally imposed directly on the consumer.
- 1478 [~~(105)~~] (108) "Purchaser" means a person to whom:
- 1479 (a) a sale of tangible personal property is made;
- 1480 (b) a product is transferred electronically; or
- 1481 (c) a service is furnished.
- 1482 [~~(106)~~] (109) "Qualifying data center" means a data center facility that:



1483 (a) houses a group of networked server computers in one physical location in order to  
1484 disseminate, manage, and store data and information;

1485 (b) is located in the state;

1486 (c) is a new operation constructed on or after July 1, 2016;

1487 (d) consists of one or more buildings that total 150,000 or more square feet;

1488 (e) is owned or leased by:

1489 (i) the operator of the data center facility; or

1490 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator  
1491 of the data center facility; and

1492 (f) is located on one or more parcels of land that are owned or leased by:

1493 (i) the operator of the data center facility; or

1494 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator  
1495 of the data center facility.

1496 ~~[(107)]~~ (110) "Regularly rented" means:

1497 (a) rented to a guest for value three or more times during a calendar year; or

1498 (b) advertised or held out to the public as a place that is regularly rented to guests for  
1499 value.

1500 ~~[(108)]~~ (111) "Rental" means the same as that term is defined in Subsection ~~[(60)]~~ (63).

1501 ~~[(109)]~~ (112) (a) Except as provided in Subsection ~~[(109)(b)]~~ (112)(b), "repairs or  
1502 renovations of tangible personal property" means:

1503 (i) a repair or renovation of tangible personal property that is not permanently attached  
1504 to real property; or

1505 (ii) attaching tangible personal property or a product transferred electronically to other  
1506 tangible personal property or detaching tangible personal property or a product transferred  
1507 electronically from other tangible personal property if:

1508 (A) the other tangible personal property to which the tangible personal property or  
1509 product transferred electronically is attached or from which the tangible personal property or  
1510 product transferred electronically is detached is not permanently attached to real property; and

1511 (B) the attachment of tangible personal property or a product transferred electronically  
1512 to other tangible personal property or detachment of tangible personal property or a product  
1513 transferred electronically from other tangible personal property is made in conjunction with a

1514 repair or replacement of tangible personal property or a product transferred electronically.

1515 (b) "Repairs or renovations of tangible personal property" does not include:

1516 (i) attaching prewritten computer software to other tangible personal property if the  
1517 other tangible personal property to which the prewritten computer software is attached is not  
1518 permanently attached to real property; or

1519 (ii) detaching prewritten computer software from other tangible personal property if the  
1520 other tangible personal property from which the prewritten computer software is detached is  
1521 not permanently attached to real property.

1522 [~~(110)~~] (113) "Research and development" means the process of inquiry or  
1523 experimentation aimed at the discovery of facts, devices, technologies, or applications and the  
1524 process of preparing those devices, technologies, or applications for marketing.

1525 [~~(111)~~] (114) (a) "Residential telecommunications services" means a  
1526 telecommunications service or an ancillary service that is provided to an individual for personal  
1527 use:

1528 (i) at a residential address; or

1529 (ii) at an institution, including a nursing home or a school, if the telecommunications  
1530 service or ancillary service is provided to and paid for by the individual residing at the  
1531 institution rather than the institution.

1532 (b) For purposes of Subsection [~~(111)(a)(i)~~] (114)(a)(i), a residential address includes  
1533 an:

1534 (i) apartment; or

1535 (ii) other individual dwelling unit.

1536 [~~(112)~~] (115) "Residential use" means the use in or around a home, apartment building,  
1537 sleeping quarters, and similar facilities or accommodations.

1538 [~~(113)~~] (116) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose  
1539 other than:

1540 (a) resale;

1541 (b) sublease; or

1542 (c) subrent.

1543 [~~(114)~~] (117) (a) "Retailer" means any person, unless prohibited by the Constitution of  
1544 the United States or federal law, that is engaged in a regularly organized business in tangible

1545 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is  
1546 selling to the user or consumer and not for resale.

1547 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1548 engaged in the business of selling to users or consumers within the state.

1549 ~~[(H5)]~~ (118) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1550 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1551 Subsection 59-12-103(1), for consideration.

1552 (b) "Sale" includes:

1553 (i) installment and credit sales;

1554 (ii) any closed transaction constituting a sale;

1555 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
1556 chapter;

1557 (iv) any transaction if the possession of property is transferred but the seller retains the  
1558 title as security for the payment of the price; and

1559 (v) any transaction under which right to possession, operation, or use of any article of  
1560 tangible personal property is granted under a lease or contract and the transfer of possession  
1561 would be taxable if an outright sale were made.

1562 ~~[(H6)]~~ (119) "Sale at retail" means the same as that term is defined in Subsection  
1563 ~~[(H3)]~~ (116).

1564 ~~[(H7)]~~ (120) "Sale-leaseback transaction" means a transaction by which title to  
1565 tangible personal property or a product transferred electronically that is subject to a tax under  
1566 this chapter is transferred:

1567 (a) by a purchaser-lessee;

1568 (b) to a lessor;

1569 (c) for consideration; and

1570 (d) if:

1571 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
1572 of the tangible personal property or product transferred electronically;

1573 (ii) the sale of the tangible personal property or product transferred electronically to the  
1574 lessor is intended as a form of financing:

1575 (A) for the tangible personal property or product transferred electronically; and

1576 (B) to the purchaser-lessee; and  
1577 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
1578 is required to:

1579 (A) capitalize the tangible personal property or product transferred electronically for  
1580 financial reporting purposes; and

1581 (B) account for the lease payments as payments made under a financing arrangement.

1582 (121) "Sales and use tax" means a tax imposed under this chapter.

1583 [~~(118)~~] (122) "Sales price" means the same as that term is defined in Subsection

1584 [~~(104)~~] (107).

1585 [~~(119)~~] (123) (a) "Sales relating to schools" means the following sales by, amounts  
1586 paid to, or amounts charged by a school:

1587 (i) sales that are directly related to the school's educational functions or activities

1588 including:

1589 (A) the sale of:

1590 (I) textbooks;

1591 (II) textbook fees;

1592 (III) laboratory fees;

1593 (IV) laboratory supplies; or

1594 (V) safety equipment;

1595 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1596 that:

1597 (I) a student is specifically required to wear as a condition of participation in a

1598 school-related event or school-related activity; and

1599 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
1600 place of ordinary clothing;

1601 (C) sales of the following if the net or gross revenues generated by the sales are

1602 deposited into a school district fund or school fund dedicated to school meals:

1603 (I) food and food ingredients; or

1604 (II) prepared food; or

1605 (D) transportation charges for official school activities; or

1606 (ii) amounts paid to or amounts charged by a school for admission to a school-related

- 1607 event or school-related activity.
- 1608 (b) "Sales relating to schools" does not include:
- 1609 (i) bookstore sales of items that are not educational materials or supplies;
- 1610 (ii) except as provided in Subsection [~~(119)(a)(i)(B)~~] (123)(a)(i)(B):
- 1611 (A) clothing;
- 1612 (B) clothing accessories or equipment;
- 1613 (C) protective equipment; or
- 1614 (D) sports or recreational equipment; or
- 1615 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1616 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1617 (A) other than a:
- 1618 (I) school;
- 1619 (II) nonprofit organization authorized by a school board or a governing body of a
- 1620 private school to organize and direct a competitive secondary school activity; or
- 1621 (III) nonprofit association authorized by a school board or a governing body of a
- 1622 private school to organize and direct a competitive secondary school activity; and
- 1623 (B) that is required to collect sales and use taxes under this chapter.
- 1624 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1625 commission may make rules defining the term "passed through."
- 1626 [~~(120)~~] (124) For purposes of this section and Section [59-12-104](#), "school" means:
- 1627 (a) an elementary school or a secondary school that:
- 1628 (i) is a:
- 1629 (A) public school; or
- 1630 (B) private school; and
- 1631 (ii) provides instruction for one or more grades kindergarten through 12; or
- 1632 (b) a public school district.
- 1633 [~~(121)~~] (125) (a) "Seller" means a person that makes a sale, lease, or rental of:
- 1634 (i) tangible personal property;
- 1635 (ii) a product transferred electronically; or
- 1636 (iii) a service.
- 1637 (b) "Seller" includes a marketplace facilitator.

1638            [~~(122)~~] (126) (a) "Semiconductor fabricating, processing, research, or development  
1639 materials" means tangible personal property or a product transferred electronically if the  
1640 tangible personal property or product transferred electronically is:

1641            (i) used primarily in the process of:

1642            (A) (I) manufacturing a semiconductor;

1643            (II) fabricating a semiconductor; or

1644            (III) research or development of a:

1645            (Aa) semiconductor; or

1646            (Bb) semiconductor manufacturing process; or

1647            (B) maintaining an environment suitable for a semiconductor; or

1648            (ii) consumed primarily in the process of:

1649            (A) (I) manufacturing a semiconductor;

1650            (II) fabricating a semiconductor; or

1651            (III) research or development of a:

1652            (Aa) semiconductor; or

1653            (Bb) semiconductor manufacturing process; or

1654            (B) maintaining an environment suitable for a semiconductor.

1655            (b) "Semiconductor fabricating, processing, research, or development materials"

1656 includes:

1657            (i) parts used in the repairs or renovations of tangible personal property or a product  
1658 transferred electronically described in Subsection [~~(122)~~](a) (126)(a); or

1659            (ii) a chemical, catalyst, or other material used to:

1660            (A) produce or induce in a semiconductor a:

1661            (I) chemical change; or

1662            (II) physical change;

1663            (B) remove impurities from a semiconductor; or

1664            (C) improve the marketable condition of a semiconductor.

1665            [~~(123)~~] (127) "Senior citizen center" means a facility having the primary purpose of  
1666 providing services to the aged as defined in Section [62A-3-101](#).

1667            (128) "Shared vehicle" means the same as that term is defined in Section [13-48a-101](#).

1668            (129) "Shared vehicle driver" means the same as that term is defined in Section

1669 [13-48a-101.](#)

1670 (130) "Shared vehicle owner" means the same as that term is defined in Section

1671 [13-48a-101.](#)

1672 [~~(124)~~] (131) (a) Subject to Subsections [~~(124)(b)~~] (131)(b) and (c), "short-term  
1673 lodging consumable" means tangible personal property that:

1674 (i) a business that provides accommodations and services described in Subsection  
1675 [59-12-103\(1\)\(i\)](#) purchases as part of a transaction to provide the accommodations and services  
1676 to a purchaser;

1677 (ii) is intended to be consumed by the purchaser; and

1678 (iii) is:

1679 (A) included in the purchase price of the accommodations and services; and

1680 (B) not separately stated on an invoice, bill of sale, or other similar document provided  
1681 to the purchaser.

1682 (b) "Short-term lodging consumable" includes:

1683 (i) a beverage;

1684 (ii) a brush or comb;

1685 (iii) a cosmetic;

1686 (iv) a hair care product;

1687 (v) lotion;

1688 (vi) a magazine;

1689 (vii) makeup;

1690 (viii) a meal;

1691 (ix) mouthwash;

1692 (x) nail polish remover;

1693 (xi) a newspaper;

1694 (xii) a notepad;

1695 (xiii) a pen;

1696 (xiv) a pencil;

1697 (xv) a razor;

1698 (xvi) saline solution;

1699 (xvii) a sewing kit;

- 1700 (xviii) shaving cream;
- 1701 (xix) a shoe shine kit;
- 1702 (xx) a shower cap;
- 1703 (xxi) a snack item;
- 1704 (xxii) soap;
- 1705 (xxiii) toilet paper;
- 1706 (xxiv) a toothbrush;
- 1707 (xxv) toothpaste; or
- 1708 (xxvi) an item similar to Subsections [~~(124)(b)(i)~~] (131)(b)(i) through (xxv) as the
- 1709 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah
- 1710 Administrative Rulemaking Act.
- 1711 (c) "Short-term lodging consumable" does not include:
- 1712 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1713 property to be reused; or
- 1714 (ii) a product transferred electronically.
- 1715 [~~(125)~~] (132) "Simplified electronic return" means the electronic return:
- 1716 (a) described in Section 318(C) of the agreement; and
- 1717 (b) approved by the governing board of the agreement.
- 1718 [~~(126)~~] (133) "Solar energy" means the sun used as the sole source of energy for
- 1719 producing electricity.
- 1720 [~~(127)~~] (134) (a) "Sports or recreational equipment" means an item:
- 1721 (i) designed for human use; and
- 1722 (ii) that is:
- 1723 (A) worn in conjunction with:
- 1724 (I) an athletic activity; or
- 1725 (II) a recreational activity; and
- 1726 (B) not suitable for general use.
- 1727 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1728 commission shall make rules:
- 1729 (i) listing the items that constitute "sports or recreational equipment"; and
- 1730 (ii) that are consistent with the list of items that constitute "sports or recreational



1731 equipment" under the agreement.

1732 [~~(128)~~] (135) "State" means the state of Utah, its departments, and agencies.

1733 [~~(129)~~] (136) "Storage" means any keeping or retention of tangible personal property or

1734 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose

1735 except sale in the regular course of business.

1736 [~~(130)~~] (137) (a) Except as provided in Subsection [~~(130)(d)~~] (137)(d) or (e), "tangible

1737 personal property" means personal property that:

1738 (i) may be:

1739 (A) seen;

1740 (B) weighed;

1741 (C) measured;

1742 (D) felt; or

1743 (E) touched; or

1744 (ii) is in any manner perceptible to the senses.

1745 (b) "Tangible personal property" includes:

1746 (i) electricity;

1747 (ii) water;

1748 (iii) gas;

1749 (iv) steam; or

1750 (v) prewritten computer software, regardless of the manner in which the prewritten

1751 computer software is transferred.

1752 (c) "Tangible personal property" includes the following regardless of whether the item

1753 is attached to real property:

1754 (i) a dishwasher;

1755 (ii) a dryer;

1756 (iii) a freezer;

1757 (iv) a microwave;

1758 (v) a refrigerator;

1759 (vi) a stove;

1760 (vii) a washer; or

1761 (viii) an item similar to Subsections [~~(130)(e)(i)~~] (137)(c)(i) through (vii) as

1762 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
1763 Administrative Rulemaking Act.

1764 (d) "Tangible personal property" does not include a product that is transferred  
1765 electronically.

1766 (e) "Tangible personal property" does not include the following if attached to real  
1767 property, regardless of whether the attachment to real property is only through a line that  
1768 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the  
1769 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1770 Rulemaking Act:

1771 (i) a hot water heater;

1772 (ii) a water filtration system; or

1773 (iii) a water softener system.

1774 ~~[(131)]~~ (138) (a) "Telecommunications enabling or facilitating equipment, machinery,  
1775 or software" means an item listed in Subsection ~~[(131)(b)]~~ (138)(b) if that item is purchased or  
1776 leased primarily to enable or facilitate one or more of the following to function:

1777 (i) telecommunications switching or routing equipment, machinery, or software; or

1778 (ii) telecommunications transmission equipment, machinery, or software.

1779 (b) The following apply to Subsection ~~[(131)(a)]~~ (138)(a):

1780 (i) a pole;

1781 (ii) software;

1782 (iii) a supplementary power supply;

1783 (iv) temperature or environmental equipment or machinery;

1784 (v) test equipment;

1785 (vi) a tower; or

1786 (vii) equipment, machinery, or software that functions similarly to an item listed in  
1787 Subsections ~~[(131)(b)(i)]~~ (138)(b)(i) through (vi) as determined by the commission by rule  
1788 made in accordance with Subsection ~~[(131)(c)]~~ (138)(c).

1789 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1790 commission may by rule define what constitutes equipment, machinery, or software that  
1791 functions similarly to an item listed in Subsections ~~[(131)(b)(i)]~~ (138)(b)(i) through (vi).

1792 ~~[(132)]~~ (139) "Telecommunications equipment, machinery, or software required for

1793 911 service" means equipment, machinery, or software that is required to comply with 47  
1794 C.F.R. Sec. 20.18.

1795 ~~[(133)]~~ (140) "Telecommunications maintenance or repair equipment, machinery, or  
1796 software" means equipment, machinery, or software purchased or leased primarily to maintain  
1797 or repair one or more of the following, regardless of whether the equipment, machinery, or  
1798 software is purchased or leased as a spare part or as an upgrade or modification to one or more  
1799 of the following:

- 1800 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1801 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1802 (c) telecommunications transmission equipment, machinery, or software.

1803 ~~[(134)]~~ (141) (a) "Telecommunications service" means the electronic conveyance,  
1804 routing, or transmission of audio, data, video, voice, or any other information or signal to a  
1805 point, or among or between points.

1806 (b) "Telecommunications service" includes:

1807 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
1808 processing application is used to act:

1809 (A) on the code, form, or protocol of the content;

1810 (B) for the purpose of electronic conveyance, routing, or transmission; and

1811 (C) regardless of whether the service:

1812 (I) is referred to as voice over Internet protocol service; or

1813 (II) is classified by the Federal Communications Commission as enhanced or value  
1814 added;

1815 (ii) an 800 service;

1816 (iii) a 900 service;

1817 (iv) a fixed wireless service;

1818 (v) a mobile wireless service;

1819 (vi) a postpaid calling service;

1820 (vii) a prepaid calling service;

1821 (viii) a prepaid wireless calling service; or

1822 (ix) a private communications service.

1823 (c) "Telecommunications service" does not include:

- 1824 (i) advertising, including directory advertising;
- 1825 (ii) an ancillary service;
- 1826 (iii) a billing and collection service provided to a third party;
- 1827 (iv) a data processing and information service if:
  - 1828 (A) the data processing and information service allows data to be:
  - 1829 (I) (Aa) acquired;
  - 1830 (Bb) generated;
  - 1831 (Cc) processed;
  - 1832 (Dd) retrieved; or
  - 1833 (Ee) stored; and
  - 1834 (II) delivered by an electronic transmission to a purchaser; and
  - 1835 (B) the purchaser's primary purpose for the underlying transaction is the processed data
  - 1836 or information;
- 1837 (v) installation or maintenance of the following on a customer's premises:
  - 1838 (A) equipment; or
  - 1839 (B) wiring;
- 1840 (vi) Internet access service;
- 1841 (vii) a paging service;
- 1842 (viii) a product transferred electronically, including:
  - 1843 (A) music;
  - 1844 (B) reading material;
  - 1845 (C) a ring tone;
  - 1846 (D) software; or
  - 1847 (E) video;
- 1848 (ix) a radio and television audio and video programming service:
  - 1849 (A) regardless of the medium; and
  - 1850 (B) including:
    - 1851 (I) furnishing conveyance, routing, or transmission of a television audio and video
    - 1852 programming service by a programming service provider;
    - 1853 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
    - 1854 (III) audio and video programming services delivered by a commercial mobile radio

1855 service provider as defined in 47 C.F.R. Sec. 20.3;

1856 (x) a value-added nonvoice data service; or

1857 (xi) tangible personal property.

1858 [~~(135)~~] (142) (a) "Telecommunications service provider" means a person that:

1859 (i) owns, controls, operates, or manages a telecommunications service; and

1860 (ii) engages in an activity described in Subsection [~~(135)(a)(i)~~] (142)(a)(i) for the  
1861 shared use with or resale to any person of the telecommunications service.

1862 (b) A person described in Subsection [~~(135)(a)~~] (142)(a) is a telecommunications  
1863 service provider whether or not the Public Service Commission of Utah regulates:

1864 (i) that person; or

1865 (ii) the telecommunications service that the person owns, controls, operates, or  
1866 manages.

1867 [~~(136)~~] (143) (a) "Telecommunications switching or routing equipment, machinery, or  
1868 software" means an item listed in Subsection [~~(136)(b)~~] (143)(b) if that item is purchased or  
1869 leased primarily for switching or routing:

1870 (i) an ancillary service;

1871 (ii) data communications;

1872 (iii) voice communications; or

1873 (iv) telecommunications service.

1874 (b) The following apply to Subsection [~~(136)(a)~~] (143)(a):

1875 (i) a bridge;

1876 (ii) a computer;

1877 (iii) a cross connect;

1878 (iv) a modem;

1879 (v) a multiplexer;

1880 (vi) plug in circuitry;

1881 (vii) a router;

1882 (viii) software;

1883 (ix) a switch; or

1884 (x) equipment, machinery, or software that functions similarly to an item listed in

1885 Subsections [~~(136)(b)(i)~~] (143)(b)(i) through (ix) as determined by the commission by rule

1886 made in accordance with Subsection [~~(136)(c)~~] (143)(c).

1887 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1888 commission may by rule define what constitutes equipment, machinery, or software that  
1889 functions similarly to an item listed in Subsections [~~(136)(b)(i)~~] (143)(b)(i) through (ix).

1890 [~~(137)~~] (144) (a) "Telecommunications transmission equipment, machinery, or  
1891 software" means an item listed in Subsection [~~(137)(b)~~] (144)(b) if that item is purchased or  
1892 leased primarily for sending, receiving, or transporting:

1893 (i) an ancillary service;

1894 (ii) data communications;

1895 (iii) voice communications; or

1896 (iv) telecommunications service.

1897 (b) The following apply to Subsection [~~(137)(a)~~] (144)(a):

1898 (i) an amplifier;

1899 (ii) a cable;

1900 (iii) a closure;

1901 (iv) a conduit;

1902 (v) a controller;

1903 (vi) a duplexer;

1904 (vii) a filter;

1905 (viii) an input device;

1906 (ix) an input/output device;

1907 (x) an insulator;

1908 (xi) microwave machinery or equipment;

1909 (xii) an oscillator;

1910 (xiii) an output device;

1911 (xiv) a pedestal;

1912 (xv) a power converter;

1913 (xvi) a power supply;

1914 (xvii) a radio channel;

1915 (xviii) a radio receiver;

1916 (xix) a radio transmitter;

1917 (xx) a repeater;  
 1918 (xxi) software;  
 1919 (xxii) a terminal;  
 1920 (xxiii) a timing unit;  
 1921 (xxiv) a transformer;  
 1922 (xxv) a wire; or  
 1923 (xxvi) equipment, machinery, or software that functions similarly to an item listed in  
 1924 Subsections ~~[(137)(b)(i)]~~ (144)(b)(i) through (xxv) as determined by the commission by rule  
 1925 made in accordance with Subsection ~~[(137)(c)]~~ (144)(c).

1926 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 1927 commission may by rule define what constitutes equipment, machinery, or software that  
 1928 functions similarly to an item listed in Subsections ~~[(137)(b)(i)]~~ (144)(b)(i) through (xxv).

1929 ~~[(138)]~~ (145) (a) "Textbook for a higher education course" means a textbook or other  
 1930 printed material that is required for a course:

- 1931 (i) offered by an institution of higher education; and
- 1932 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1933 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1934 ~~[(139)]~~ (146) "Tobacco" means:

- 1935 (a) a cigarette;
- 1936 (b) a cigar;
- 1937 (c) chewing tobacco;
- 1938 (d) pipe tobacco; or
- 1939 (e) any other item that contains tobacco.

1940 ~~[(140)]~~ (147) "Unassisted amusement device" means an amusement device, skill  
 1941 device, or ride device that is started and stopped by the purchaser or renter of the right to use or  
 1942 operate the amusement device, skill device, or ride device.

1943 ~~[(141)]~~ (148) (a) "Use" means the exercise of any right or power over tangible personal  
 1944 property, a product transferred electronically, or a service under Subsection 59-12-103(1),  
 1945 incident to the ownership or the leasing of that tangible personal property, product transferred  
 1946 electronically, or service.

1947 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal

1948 property, a product transferred electronically, or a service in the regular course of business and  
1949 held for resale.

1950 ~~[(142)]~~ (149) "Value-added nonvoice data service" means a service:

1951 (a) that otherwise meets the definition of a telecommunications service except that a  
1952 computer processing application is used to act primarily for a purpose other than conveyance,  
1953 routing, or transmission; and

1954 (b) with respect to which a computer processing application is used to act on data or  
1955 information:

- 1956 (i) code;
- 1957 (ii) content;
- 1958 (iii) form; or
- 1959 (iv) protocol.

1960 ~~[(143)]~~ (150) (a) Subject to Subsection ~~[(143)(b)]~~ (150)(b), "vehicle" means the  
1961 following that are required to be titled, registered, or titled and registered:

- 1962 (i) an aircraft as defined in Section 72-10-102;
- 1963 (ii) a vehicle as defined in Section 41-1a-102;
- 1964 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1965 (iv) a vessel as defined in Section 41-1a-102.

1966 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1967 (i) a vehicle described in Subsection ~~[(143)(a)]~~ (150)(a); or
- 1968 (ii) (A) a locomotive;
- 1969 (B) a freight car;
- 1970 (C) railroad work equipment; or
- 1971 (D) other railroad rolling stock.

1972 ~~[(144)]~~ (151) "Vehicle dealer" means a person engaged in the business of buying,  
1973 selling, or exchanging a vehicle as defined in Subsection ~~[(143)]~~ (150).

1974 ~~[(145)]~~ (152) (a) "Vertical service" means an ancillary service that:

- 1975 (i) is offered in connection with one or more telecommunications services; and
- 1976 (ii) offers an advanced calling feature that allows a customer to:
  - 1977 (A) identify a caller; and
  - 1978 (B) manage multiple calls and call connections.



1979 (b) "Vertical service" includes an ancillary service that allows a customer to manage a  
1980 conference bridging service.

1981 ~~[(146)]~~ (153) (a) "Voice mail service" means an ancillary service that enables a  
1982 customer to receive, send, or store a recorded message.

1983 (b) "Voice mail service" does not include a vertical service that a customer is required  
1984 to have in order to utilize a voice mail service.

1985 ~~[(147)]~~ (154) (a) Except as provided in Subsection ~~[(147)(b)]~~ (154)(b), "waste energy  
1986 facility" means a facility that generates electricity:

1987 (i) using as the primary source of energy waste materials that would be placed in a  
1988 landfill or refuse pit if it were not used to generate electricity, including:

1989 (A) tires;

1990 (B) waste coal;

1991 (C) oil shale; or

1992 (D) municipal solid waste; and

1993 (ii) in amounts greater than actually required for the operation of the facility.

1994 (b) "Waste energy facility" does not include a facility that incinerates:

1995 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1996 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1997 ~~[(148)]~~ (155) "Watercraft" means a vessel as defined in Section 73-18-2.

1998 ~~[(149)]~~ (156) "Wind energy" means wind used as the sole source of energy to produce  
1999 electricity.

2000 ~~[(150)]~~ (157) "ZIP Code" means a Zoning Improvement Plan Code assigned to a  
2001 geographic location by the United States Postal Service.

2002 Section 16. Section **59-12-103** is amended to read:

2003 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**  
2004 **tax revenues.**

2005 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or  
2006 sales price for amounts paid or charged for the following transactions:

2007 (a) retail sales of tangible personal property made within the state;

2008 (b) amounts paid for:

2009 (i) telecommunications service, other than mobile telecommunications service, that

2010 originates and terminates within the boundaries of this state;

2011           (ii) mobile telecommunications service that originates and terminates within the

2012 boundaries of one state only to the extent permitted by the Mobile Telecommunications

2013 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

2014           (iii) an ancillary service associated with a:

2015           (A) telecommunications service described in Subsection (1)(b)(i); or

2016           (B) mobile telecommunications service described in Subsection (1)(b)(ii);

2017           (c) sales of the following for commercial use:

2018           (i) gas;

2019           (ii) electricity;

2020           (iii) heat;

2021           (iv) coal;

2022           (v) fuel oil; or

2023           (vi) other fuels;

2024           (d) sales of the following for residential use:

2025           (i) gas;

2026           (ii) electricity;

2027           (iii) heat;

2028           (iv) coal;

2029           (v) fuel oil; or

2030           (vi) other fuels;

2031           (e) sales of prepared food;

2032           (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or

2033 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,

2034 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,

2035 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit

2036 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf

2037 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,

2038 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,

2039 horseback rides, sports activities, or any other amusement, entertainment, recreation,

2040 exhibition, cultural, or athletic activity;

2041 (g) amounts paid or charged for services for repairs or renovations of tangible personal  
2042 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

2043 (i) the tangible personal property; and

2044 (ii) parts used in the repairs or renovations of the tangible personal property described  
2045 in Subsection (1)(g)(i), regardless of whether:

2046 (A) any parts are actually used in the repairs or renovations of that tangible personal  
2047 property; or

2048 (B) the particular parts used in the repairs or renovations of that tangible personal  
2049 property are exempt from a tax under this chapter;

2050 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for  
2051 assisted cleaning or washing of tangible personal property;

2052 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court  
2053 accommodations and services that are regularly rented for less than 30 consecutive days;

2054 (j) amounts paid or charged for laundry or dry cleaning services;

2055 (k) amounts paid or charged for leases or rentals of tangible personal property if within  
2056 this state the tangible personal property is:

2057 (i) stored;

2058 (ii) used; or

2059 (iii) otherwise consumed;

2060 (l) amounts paid or charged for tangible personal property if within this state the  
2061 tangible personal property is:

2062 (i) stored;

2063 (ii) used; or

2064 (iii) consumed; and

2065 (m) amounts paid or charged for a sale:

2066 (i) (A) of a product transferred electronically; or

2067 (B) of a repair or renovation of a product transferred electronically; and

2068 (ii) regardless of whether the sale provides:

2069 (A) a right of permanent use of the product; or

2070 (B) a right to use the product that is less than a permanent use, including a right:

2071 (I) for a definite or specified length of time; and

2072 (II) that terminates upon the occurrence of a condition.

2073 (2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax  
2074 are imposed on a transaction described in Subsection (1) equal to the sum of:

2075 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

2076 (A) 4.70% plus the rate specified in Subsection (12)(a); and

2077 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales  
2078 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
2079 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional  
2080 State Sales and Use Tax Act; and

2081 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
2082 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
2083 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state  
2084 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2085 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
2086 transaction under this chapter other than this part.

2087 (b) Except as provided in Subsection [~~(2)(e) or (f)~~] (2)(f) or (g) and subject to  
2088 Subsection [~~(2)(k)~~] (2)(l), a state tax and a local tax are imposed on a transaction described in  
2089 Subsection (1)(d) equal to the sum of:

2090 (i) a state tax imposed on the transaction at a tax rate of 2%; and

2091 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
2092 transaction under this chapter other than this part.

2093 (c) Except as provided in Subsection [~~(2)(e) or (f)~~] (2)(f) or (g), a state tax and a local  
2094 tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

2095 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at  
2096 a tax rate of 1.75%; and

2097 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
2098 amounts paid or charged for food and food ingredients under this chapter other than this part.

2099 (d) Except as provided in Subsection [~~(2)(e) or (f)~~] (2)(f) or (g), a state tax is imposed  
2100 on amounts paid or charged for fuel to a common carrier that is a railroad for use in a  
2101 locomotive engine at a rate of 4.85%.

2102 (e) (i) If a shared vehicle is an individual-owned shared vehicle, a tax imposed under

2103 Subsection (2)(a)(i) does not apply to car sharing, a car-sharing program, a shared vehicle  
2104 driver, or a shared vehicle owner.

2105 (ii) A tax imposed under Subsection (2)(a)(ii) applies to car sharing.

2106 ~~[(e)]~~ (f) (i) For a bundled transaction that is attributable to food and food ingredients  
2107 and tangible personal property other than food and food ingredients, a state tax and a local tax  
2108 is imposed on the entire bundled transaction equal to the sum of:

2109 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

2110 (I) the tax rate described in Subsection (2)(a)(i)(A); and

2111 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
2112 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
2113 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
2114 Additional State Sales and Use Tax Act; and

2115 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
2116 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
2117 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which  
2118 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2119 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates  
2120 described in Subsection (2)(a)(ii).

2121 (ii) If an optional computer software maintenance contract is a bundled transaction that  
2122 consists of taxable and nontaxable products that are not separately itemized on an invoice or  
2123 similar billing document, the purchase of the optional computer software maintenance contract  
2124 is 40% taxable under this chapter and 60% nontaxable under this chapter.

2125 (iii) Subject to Subsection ~~[(2)(e)(iv)]~~ (2)(f)(iv), for a bundled transaction other than a  
2126 bundled transaction described in Subsection ~~[(2)(e)(i)]~~ (2)(f)(i) or (ii):

2127 (A) if the sales price of the bundled transaction is attributable to tangible personal  
2128 property, a product, or a service that is subject to taxation under this chapter and tangible  
2129 personal property, a product, or service that is not subject to taxation under this chapter, the  
2130 entire bundled transaction is subject to taxation under this chapter unless:

2131 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
2132 personal property, product, or service that is not subject to taxation under this chapter from the  
2133 books and records the seller keeps in the seller's regular course of business; or

2134 (II) state or federal law provides otherwise; or

2135 (B) if the sales price of a bundled transaction is attributable to two or more items of  
2136 tangible personal property, products, or services that are subject to taxation under this chapter  
2137 at different rates, the entire bundled transaction is subject to taxation under this chapter at the  
2138 higher tax rate unless:

2139 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
2140 personal property, product, or service that is subject to taxation under this chapter at the lower  
2141 tax rate from the books and records the seller keeps in the seller's regular course of business; or

2142 (II) state or federal law provides otherwise.

2143 (iv) For purposes of Subsection [~~(2)(e)(iii)~~] (2)(f)(iii), books and records that a seller  
2144 keeps in the seller's regular course of business includes books and records the seller keeps in  
2145 the regular course of business for nontax purposes.

2146 [~~(f)~~] (g) (i) Except as otherwise provided in this chapter and subject to Subsections  
2147 [~~(2)(f)(ii)~~] (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible  
2148 personal property, a product, or a service that is subject to taxation under this chapter, and the  
2149 sale, lease, or rental of tangible personal property, other property, a product, or a service that is  
2150 not subject to taxation under this chapter, the entire transaction is subject to taxation under this  
2151 chapter unless the seller, at the time of the transaction:

2152 (A) separately states the portion of the transaction that is not subject to taxation under  
2153 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

2154 (B) is able to identify by reasonable and verifiable standards, from the books and  
2155 records the seller keeps in the seller's regular course of business, the portion of the transaction  
2156 that is not subject to taxation under this chapter.

2157 (ii) A purchaser and a seller may correct the taxability of a transaction if:

2158 (A) after the transaction occurs, the purchaser and the seller discover that the portion of  
2159 the transaction that is not subject to taxation under this chapter was not separately stated on an  
2160 invoice, bill of sale, or similar document provided to the purchaser because of an error or  
2161 ignorance of the law; and

2162 (B) the seller is able to identify by reasonable and verifiable standards, from the books  
2163 and records the seller keeps in the seller's regular course of business, the portion of the  
2164 transaction that is not subject to taxation under this chapter.

2165 (iii) For purposes of Subsections [~~(2)(f)(i)~~] (2)(g)(i) and (ii), books and records that a  
 2166 seller keeps in the seller's regular course of business includes books and records the seller  
 2167 keeps in the regular course of business for nontax purposes.

2168 [~~(g)~~] (h) (i) If the sales price of a transaction is attributable to two or more items of  
 2169 tangible personal property, products, or services that are subject to taxation under this chapter  
 2170 at different rates, the entire purchase is subject to taxation under this chapter at the higher tax  
 2171 rate unless the seller, at the time of the transaction:

2172 (A) separately states the items subject to taxation under this chapter at each of the  
 2173 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

2174 (B) is able to identify by reasonable and verifiable standards the tangible personal  
 2175 property, product, or service that is subject to taxation under this chapter at the lower tax rate  
 2176 from the books and records the seller keeps in the seller's regular course of business.

2177 (ii) For purposes of Subsection [~~(2)(g)(i)~~] (2)(h)(i), books and records that a seller  
 2178 keeps in the seller's regular course of business includes books and records the seller keeps in  
 2179 the regular course of business for nontax purposes.

2180 [~~(h)~~] (i) Subject to Subsections [~~(2)(i) and (j)~~] (2)(j) and (k), a tax rate repeal or tax rate  
 2181 change for a tax rate imposed under the following shall take effect on the first day of a calendar  
 2182 quarter:

2183 (i) Subsection (2)(a)(i)(A);

2184 (ii) Subsection (2)(b)(i);

2185 (iii) Subsection (2)(c)(i); or

2186 (iv) Subsection [~~(2)(e)(i)(A)(I)~~] (2)(f)(i)(A)(I).

2187 [~~(i)~~] (j) (i) A tax rate increase takes effect on the first day of the first billing period that  
 2188 begins on or after the effective date of the tax rate increase if the billing period for the  
 2189 transaction begins before the effective date of a tax rate increase imposed under:

2190 (A) Subsection (2)(a)(i)(A);

2191 (B) Subsection (2)(b)(i);

2192 (C) Subsection (2)(c)(i); or

2193 (D) Subsection [~~(2)(e)(i)(A)(I)~~] (2)(f)(i)(A)(I).

2194 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing  
 2195 statement for the billing period is rendered on or after the effective date of the repeal of the tax

2196 or the tax rate decrease imposed under:

2197 (A) Subsection (2)(a)(i)(A);

2198 (B) Subsection (2)(b)(i);

2199 (C) Subsection (2)(c)(i); or

2200 (D) Subsection ~~[(2)(e)(i)(A)(f)]~~ (2)(f)(i)(A)(I).

2201 ~~[(j)]~~ (k) (i) For a tax rate described in Subsection ~~[(2)(j)(ii)]~~ (2)(k)(ii), if a tax due on a  
 2202 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a  
 2203 tax rate repeal or change in a tax rate takes effect:

2204 (A) on the first day of a calendar quarter; and

2205 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

2206 (ii) Subsection ~~[(2)(j)(i)]~~ (2)(k)(i) applies to the tax rates described in the following:

2207 (A) Subsection (2)(a)(i)(A);

2208 (B) Subsection (2)(b)(i);

2209 (C) Subsection (2)(c)(i); or

2210 (D) Subsection ~~[(2)(e)(i)(A)(f)]~~ (2)(f)(i)(A)(I).

2211 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
 2212 the commission may by rule define the term "catalogue sale."

2213 ~~[(k)]~~ (l) (i) For a location described in Subsection ~~[(2)(k)(ii)]~~ (2)(l)(ii), the commission  
 2214 shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel  
 2215 based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the  
 2216 location.

2217 (ii) Subsection ~~[(2)(k)(i)]~~ (2)(l)(i) applies to a location where gas, electricity, heat, coal,  
 2218 fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

2219 (A) a commercial use;

2220 (B) an industrial use; or

2221 (C) a residential use.

2222 (3) (a) The following state taxes shall be deposited into the General Fund:

2223 (i) the tax imposed by Subsection (2)(a)(i)(A);

2224 (ii) the tax imposed by Subsection (2)(b)(i);

2225 (iii) the tax imposed by Subsection (2)(c)(i); and

2226 (iv) the tax imposed by Subsection ~~[(2)(e)(i)(A)(f)]~~ (2)(f)(i)(A)(I).



2227 (b) The following local taxes shall be distributed to a county, city, or town as provided  
2228 in this chapter:

- 2229 (i) the tax imposed by Subsection (2)(a)(ii);
- 2230 (ii) the tax imposed by Subsection (2)(b)(ii);
- 2231 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 2232 (iv) the tax imposed by Subsection [~~(2)(e)(i)(B)~~] (2)(f)(i)(B).

2233 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General  
2234 Fund.

2235 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
2236 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)  
2237 through (g):

- 2238 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
  - 2239 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
  - 2240 (B) for the fiscal year; or
- 2241 (ii) \$17,500,000.

2242 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
2243 described in Subsection (4)(a) shall be transferred each year as designated sales and use tax  
2244 revenue to the Department of Natural Resources to:

- 2245 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to  
2246 protect sensitive plant and animal species; or
- 2247 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
2248 act, to political subdivisions of the state to implement the measures described in Subsections  
2249 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

2250 (ii) Money transferred to the Department of Natural Resources under Subsection  
2251 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
2252 person to list or attempt to have listed a species as threatened or endangered under the  
2253 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

- 2254 (iii) At the end of each fiscal year:
  - 2255 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the  
2256 Water Resources Conservation and Development Fund created in Section 73-10-24;
  - 2257 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the

2258 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

2259 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the  
2260 Drinking Water Loan Program Subaccount created in Section 73-10c-5.

2261 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
2262 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund  
2263 created in Section 4-18-106.

2264 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described  
2265 in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to  
2266 the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for  
2267 the adjudication of water rights.

2268 (ii) At the end of each fiscal year:

2269 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the  
2270 Water Resources Conservation and Development Fund created in Section 73-10-24;

2271 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the  
2272 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

2273 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the  
2274 Drinking Water Loan Program Subaccount created in Section 73-10c-5.

2275 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described  
2276 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and  
2277 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

2278 (ii) In addition to the uses allowed of the Water Resources Conservation and  
2279 Development Fund under Section 73-10-24, the Water Resources Conservation and  
2280 Development Fund may also be used to:

2281 (A) conduct hydrologic and geotechnical investigations by the Division of Water  
2282 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
2283 quantifying surface and ground water resources and describing the hydrologic systems of an  
2284 area in sufficient detail so as to enable local and state resource managers to plan for and  
2285 accommodate growth in water use without jeopardizing the resource;

2286 (B) fund state required dam safety improvements; and

2287 (C) protect the state's interest in interstate water compact allocations, including the  
2288 hiring of technical and legal staff.

2289 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
2290 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount  
2291 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2292 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
2293 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount  
2294 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2295 (i) provide for the installation and repair of collection, treatment, storage, and  
2296 distribution facilities for any public water system, as defined in Section 19-4-102;

2297 (ii) develop underground sources of water, including springs and wells; and

2298 (iii) develop surface water sources.

2299 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
2300 2006, the difference between the following amounts shall be expended as provided in this  
2301 Subsection (5), if that difference is greater than \$1:

2302 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
2303 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

2304 (ii) \$17,500,000.

2305 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

2306 (A) transferred each fiscal year to the Department of Natural Resources as designated  
2307 sales and use tax revenue; and

2308 (B) expended by the Department of Natural Resources for watershed rehabilitation or  
2309 restoration.

2310 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use  
2311 tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation  
2312 and Development Fund created in Section 73-10-24.

2313 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
2314 remaining difference described in Subsection (5)(a) shall be:

2315 (A) transferred each fiscal year to the Division of Water Resources as designated sales  
2316 and use tax revenue; and

2317 (B) expended by the Division of Water Resources for cloud-seeding projects  
2318 authorized by Title 73, Chapter 15, Modification of Weather.

2319 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use

2320 tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation  
2321 and Development Fund created in Section 73-10-24.

2322 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the  
2323 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
2324 Resources Conservation and Development Fund created in Section 73-10-24 for use by the  
2325 Division of Water Resources for:

2326 (i) preconstruction costs:

2327 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
2328 26, Bear River Development Act; and

2329 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project  
2330 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2331 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
2332 Chapter 26, Bear River Development Act;

2333 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
2334 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2335 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and  
2336 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2337 (e) After making the transfers required by Subsections (5)(b) and (c), 15% of the  
2338 remaining difference described in Subsection (5)(a) shall be deposited each year into the Water  
2339 Rights Restricted Account created by Section 73-2-1.6.

2340 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the  
2341 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection  
2342 (1) for the fiscal year shall be deposited as follows:

2343 (a) for fiscal year 2020-21 only:

2344 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the  
2345 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2346 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the  
2347 Water Infrastructure Restricted Account created by Section 73-10g-103; and

2348 (b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described  
2349 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account  
2350 created by Section 73-10g-103.

2351 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in  
2352 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,  
2353 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005  
2354 created by Section [72-2-124](#):

2355 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of  
2356 the revenues collected from the following taxes, which represents a portion of the  
2357 approximately 17% of sales and use tax revenues generated annually by the sales and use tax  
2358 on vehicles and vehicle-related products:

2359 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2360 (B) the tax imposed by Subsection (2)(b)(i);

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

2362 (D) the tax imposed by Subsection [~~(2)(c)(i)(A)(I)~~] (2)(c)(i)(A)(I); plus

2363 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the  
2364 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through  
2365 (D) that exceeds the amount collected from the sales and use taxes described in Subsections  
2366 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

2367 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of  
2368 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total  
2369 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)  
2370 generated in the current fiscal year than the total percentage of sales and use taxes deposited in  
2371 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection  
2372 (7)(a) equal to the product of:

2373 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the  
2374 previous fiscal year; and

2375 (B) the total sales and use tax revenue generated by the taxes described in Subsections  
2376 (7)(a)(i)(A) through (D) in the current fiscal year.

2377 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under  
2378 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes  
2379 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of  
2380 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in  
2381 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

2382 (iii) Subject to Subsection (7)(b)(iv)(E), in all subsequent fiscal years after a year in  
2383 which 17% of the revenues collected from the sales and use taxes described in Subsections  
2384 (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall  
2385 annually deposit 17% of the revenues collected from the sales and use taxes described in  
2386 Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

2387 (iv) (A) As used in this Subsection (7)(b)(iv), "additional growth revenue" means the  
2388 amount of relevant revenue collected in the current fiscal year that exceeds by more than 3%  
2389 the relevant revenue collected in the previous fiscal year.

2390 (B) As used in this Subsection (7)(b)(iv), "combined amount" means the combined  
2391 total amount of money deposited into the Cottonwood Canyons fund under Subsections  
2392 (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

2393 (C) As used in this Subsection (7)(b)(iv), "Cottonwood Canyons fund" means the  
2394 Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

2395 (D) As used in this Subsection (7)(b)(iv), "relevant revenue" means the portion of taxes  
2396 listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in  
2397 Subsections (7)(a)(i)(A) through (D).

2398 (E) For a fiscal year beginning on or after July 1, 2020, the commission shall annually  
2399 reduce the deposit under Subsection (7)(b)(iii) into the Transportation Investment Fund of 2005  
2400 by an amount equal to the amount of the deposit under this Subsection (7)(b)(iv) to the  
2401 Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue,  
2402 subject to the limit in Subsection (7)(b)(iv)(F).

2403 (F) The commission shall annually deposit the amount described in Subsection  
2404 (7)(b)(iv)(E) into the Cottonwood Canyons fund, subject to an annual maximum combined  
2405 amount for any single fiscal year of \$20,000,000.

2406 (G) If the amount of relevant revenue declines in a fiscal year compared to the previous  
2407 fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood  
2408 Canyons fund under this Subsection (7)(b)(iv) in the same proportion as the decline in relevant  
2409 revenue.

2410 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under  
2411 Subsections (6) and (7), and subject to Subsections (8)(b) and (d)(v), for a fiscal year beginning  
2412 on or after July 1, 2018, the commission shall annually deposit into the Transportation

2413 Investment Fund of 2005 created by Section [72-2-124](#) a portion of the taxes listed under  
2414 Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following  
2415 taxes:

2416 (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2417 (ii) the tax imposed by Subsection (2)(b)(i);

2418 (iii) the tax imposed by Subsection (2)(c)(i); and

2419 (iv) the tax imposed by Subsection [~~(2)(e)(i)(A)(F)~~] (2)(f)(i)(A)(I).

2420 (b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually  
2421 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by  
2422 an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by  
2423 the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale  
2424 or use in this state that exceeds 29.4 cents per gallon.

2425 (c) The commission shall annually deposit the amount described in Subsection (8)(b)  
2426 into the Transit Transportation Investment Fund created in Section [72-2-124](#).

2427 (d) (i) As used in this Subsection (8)(d), "additional growth revenue" means the  
2428 amount of relevant revenue collected in the current fiscal year that exceeds by more than 3%  
2429 the relevant revenue collected in the previous fiscal year.

2430 (ii) As used in this Subsection (8)(d), "combined amount" means the combined total  
2431 amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F)  
2432 and (8)(d)(vi) in any single fiscal year.

2433 (iii) As used in this Subsection (8)(d), "Cottonwood Canyons fund" means the  
2434 Cottonwood Canyons Transportation Investment Fund created in Subsection [72-2-124](#)(10).

2435 (iv) As used in this Subsection (8)(d), "relevant revenue" means the portion of taxes  
2436 listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described  
2437 in Subsections (8)(a)(i) through (iv).

2438 (v) For a fiscal year beginning on or after July 1, 2020, the commission shall annually  
2439 reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by  
2440 an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood  
2441 Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the  
2442 limit in Subsection (8)(d)(vi).

2443 (vi) The commission shall annually deposit the amount described in Subsection

2444 (8)(d)(v) into the Cottonwood Canyons fund, subject to an annual maximum combined amount  
2445 for any single fiscal year of \$20,000,000.

2446 (vii) If the amount of relevant revenue declines in a fiscal year compared to the  
2447 previous fiscal year, the commission shall decrease the amount of the contribution to the  
2448 Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in  
2449 relevant revenue.

2450 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
2451 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund  
2452 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

2453 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(b),  
2454 and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of  
2455 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section  
2456 72-2-124 the amount of revenue described as follows:

2457 (i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05%  
2458 tax rate on the transactions described in Subsection (1); and

2459 (ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%  
2460 tax rate on the transactions described in Subsection (1).

2461 (b) For purposes of Subsection (10)(a), the Division of Finance may not deposit into  
2462 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or  
2463 charged for food and food ingredients, except for tax revenue generated by a bundled  
2464 transaction attributable to food and food ingredients and tangible personal property other than  
2465 food and food ingredients described in Subsection [~~(2)(e)~~] (2)(f).

2466 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the  
2467 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that  
2468 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of  
2469 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue  
2470 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,  
2471 created in Section 63N-2-512.

2472 (12) (a) The rate specified in this subsection is 0.15%.

2473 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year  
2474 beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the



2475 rate described in Subsection (12)(a) on the transactions that are subject to the sales and use tax  
 2476 under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section  
 2477 [26-36b-208](#).

2478 (13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
 2479 2020-21, the Division of Finance shall deposit \$200,000 into the General Fund as a dedicated  
 2480 credit solely for use of the Search and Rescue Financial Assistance Program created in, and  
 2481 expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

2482 (14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of  
 2483 Finance shall annually transfer \$1,813,400 of the revenue deposited into the Transportation  
 2484 Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

2485 (b) If the total revenue deposited into the Transportation Investment Fund of 2005  
 2486 under Subsections (6) through (8) is less than \$1,813,400 for a fiscal year, the Division of  
 2487 Finance shall transfer the total revenue deposited into the Transportation Investment Fund of  
 2488 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

2489 (15) Notwithstanding Subsection (3)(a), and as described in Section [63N-3-610](#),  
 2490 beginning the first day of the calendar quarter one year after the sales and use tax boundary for  
 2491 a housing and transit reinvestment zone is established, the commission, at least annually, shall  
 2492 transfer an amount equal to 15% of the sales and use tax increment within an established sales  
 2493 and use tax boundary, as defined in Section [63N-3-602](#), into the Transit Transportation  
 2494 Investment Fund created in Section [72-2-124](#).

2495 (16) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year  
 2496 beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure  
 2497 Restricted Account, created in Section [51-9-902](#), a portion of the taxes listed under Subsection  
 2498 (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

- 2499 (a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
- 2500 (b) the tax imposed by Subsection (2)(b)(i);
- 2501 (c) the tax imposed by Subsection (2)(c)(i); and
- 2502 (d) the tax imposed by Subsection [~~(2)(e)(i)(A)(I)~~] (2)(f)(i)(A)(I).

2503 Section 17. Section **59-12-602** is amended to read:

2504 **59-12-602. Definitions.**

2505 As used in this part:

2506 (1) (a) Subject to Subsection (1)(b), "airport facility" means an airport of regional  
2507 significance, as defined by the Transportation Commission by rule made in accordance with  
2508 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2509 (b) "Airport facility" includes:

2510 (i) an appurtenance to an airport, including a fixed guideway that provides  
2511 transportation service to or from the airport;

2512 (ii) a control tower, including a radar system;

2513 (iii) a public area of an airport; or

2514 (iv) a terminal facility.

2515 (2) "All-terrain type I vehicle" means the same as that term is defined in Section  
2516 [41-22-2](#).

2517 (3) "All-terrain type II vehicle" means the same as that term is defined in Section  
2518 [41-22-2](#).

2519 (4) "All-terrain type III vehicle" means the same as that term is defined in Section  
2520 [41-22-2](#).

2521 (5) "Convention facility" means any publicly owned or operated convention center,  
2522 sports arena, or other facility at which conventions, conferences, and other gatherings are held  
2523 and whose primary business or function is to host such conventions, conferences, and other  
2524 gatherings.

2525 (6) "Cultural facility" means any publicly owned or operated museum, theater, art  
2526 center, music hall, or other cultural or arts facility.

2527 (7) (a) Except as provided in Subsection (7)(b), "off-highway vehicle" means any  
2528 snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or  
2529 motorcycle.

2530 (b) "Off-highway vehicle" does not include a vehicle that is a motor vehicle under  
2531 Section [41-1a-102](#).

2532 (8) "Motorcycle" means the same as that term is defined in Section [41-22-2](#).

2533 (9) "Recreation facility" or "tourist facility" means any publicly owned or operated  
2534 park, campground, marina, dock, golf course, water park, historic park, monument,  
2535 planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

2536 (10) (a) Except as provided in Subsection (10)(c), "recreational vehicle" means a

2537 vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel,  
2538 recreational, or vacation use, that is pulled by another vehicle.

2539 (b) "Recreational vehicle" includes:

2540 (i) a travel trailer;

2541 (ii) a camping trailer; and

2542 (iii) a fifth wheel trailer.

2543 (c) "Recreational vehicle" does not include a vehicle that is a motor vehicle under  
2544 Section [41-1a-102](#).

2545 (11) (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda fountain,  
2546 or fast-food service where food is prepared for immediate consumption.

2547 (b) "Restaurant" does not include:

2548 (i) any retail establishment whose primary business or function is the sale of fuel or  
2549 food items for off-premise, but not immediate, consumption; and

2550 (ii) a theater that sells food items, but not a dinner theater.

2551 (12) (a) "Short-term rental" means a lease or rental that is 30 days or less.

2552 (b) "Short-term rental" does not include car sharing as that term is defined in Section  
2553 [13-48a-101](#).

2554 (13) "Snowmobile" means the same as that term is defined in Section [41-22-2](#).

2555 (14) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle  
2556 without motive power, designed as a temporary dwelling for travel, recreational, or vacation  
2557 use that does not require a special highway movement permit when drawn by a self-propelled  
2558 motor vehicle.

2559 Section 18. Section **59-12-603** is amended to read:

2560 **59-12-603. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance**  
2561 **required -- Advisory board -- Administration -- Collection -- Administrative charge --**  
2562 **Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice**  
2563 **requirements.**

2564 (1) (a) In addition to any other taxes, a county legislative body may, as provided in this  
2565 part, impose a tax as follows:

2566 (i) (A) a county legislative body of any county may impose a tax of not to exceed 3%  
2567 on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles

2568 made for the purpose of temporarily replacing a person's motor vehicle that is being repaired  
2569 pursuant to a repair or an insurance agreement; and

2570 (B) a county legislative body of any county imposing a tax under Subsection  
2571 (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of  
2572 not to exceed 4% on all short-term rentals of motor vehicles, except for short-term rentals of  
2573 motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is  
2574 being repaired pursuant to a repair or an insurance agreement;

2575 (ii) beginning on January 1, 2021, a county legislative body of any county may impose  
2576 a tax of not to exceed 7% on all short-term rentals of off-highway vehicles and recreational  
2577 vehicles;

2578 (iii) a county legislative body of any county may impose a tax of not to exceed 1% of  
2579 all sales of the following that are sold by a restaurant:

2580 (A) alcoholic beverages;

2581 (B) food and food ingredients; or

2582 (C) prepared food; ~~and~~

2583 (iv) a county legislative body of a county of the first class may impose a tax of not to  
2584 exceed .5% on charges for the accommodations and services described in Subsection  
2585 59-12-103(1)(i)[-]; and

2586 (v) (A) beginning on July 1, 2023, a county legislative body of any county may impose  
2587 a tax of not to exceed 3% on all car sharing, except for car sharing for the purpose of  
2588 temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an  
2589 insurance agreement; and

2590 (B) a county legislative body of any county imposing a tax under Subsection  
2591 (1)(a)(v)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of  
2592 not to exceed 4% on all car sharing, except for short-term rentals of motor vehicles made for  
2593 the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to  
2594 a repair or an insurance agreement.

2595 (b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section  
2596 17-31-5.5.

2597 (2) (a) Subject to Subsection (2)(b), a county may use revenue from the imposition of a  
2598 tax under Subsection (1) for:

- 2599 (i) financing tourism promotion; and  
2600 (ii) the development, operation, and maintenance of:  
2601 (A) an airport facility;  
2602 (B) a convention facility;  
2603 (C) a cultural facility;  
2604 (D) a recreation facility; or  
2605 (E) a tourist facility.
- 2606 (b) A county of the first class shall expend at least \$450,000 each year of the revenue  
2607 from the imposition of a tax authorized by Subsection (1)(a)(iv) within the county to fund a  
2608 marketing and ticketing system designed to:
- 2609 (i) promote tourism in ski areas within the county by persons that do not reside within  
2610 the state; and  
2611 (ii) combine the sale of:  
2612 (A) ski lift tickets; and  
2613 (B) accommodations and services described in Subsection [59-12-103\(1\)\(i\)](#).
- 2614 (3) A tax imposed under this part may be pledged as security for bonds, notes, or other  
2615 evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local  
2616 Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1,  
2617 Part 5, Agency Bonds, to finance:
- 2618 (a) an airport facility;  
2619 (b) a convention facility;  
2620 (c) a cultural facility;  
2621 (d) a recreation facility; or  
2622 (e) a tourist facility.
- 2623 (4) (a) To impose a tax under Subsection (1), the county legislative body shall adopt an  
2624 ordinance imposing the tax.
- 2625 (b) The ordinance under Subsection (4)(a) shall include provisions substantially the  
2626 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on  
2627 those items and sales described in Subsection (1).
- 2628 (c) The name of the county as the taxing agency shall be substituted for that of the state  
2629 where necessary, and an additional license is not required if one has been or is issued under

2630 Section 59-12-106.

2631 (5) To maintain in effect a tax ordinance adopted under this part, each county  
2632 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,  
2633 Tax Collection, adopt amendments to the county's tax ordinance to conform with the applicable  
2634 amendments to Part 1, Tax Collection.

2635 (6) (a) Regardless of whether a county of the first class creates a tourism tax advisory  
2636 board in accordance with Section 17-31-8, the county legislative body of the county of the first  
2637 class shall create a tax advisory board in accordance with this Subsection (6).

2638 (b) The tax advisory board shall be composed of nine members appointed as follows:

2639 (i) four members shall be residents of a county of the first class appointed by the  
2640 county legislative body of the county of the first class; and

2641 (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or  
2642 towns within the county of the first class appointed by an organization representing all mayors  
2643 of cities and towns within the county of the first class.

2644 (c) Five members of the tax advisory board constitute a quorum.

2645 (d) The county legislative body of the county of the first class shall determine:

2646 (i) terms of the members of the tax advisory board;

2647 (ii) procedures and requirements for removing a member of the tax advisory board;

2648 (iii) voting requirements, except that action of the tax advisory board shall be by at  
2649 least a majority vote of a quorum of the tax advisory board;

2650 (iv) chairs or other officers of the tax advisory board;

2651 (v) how meetings are to be called and the frequency of meetings; and

2652 (vi) the compensation, if any, of members of the tax advisory board.

2653 (e) The tax advisory board under this Subsection (6) shall advise the county legislative  
2654 body of the county of the first class on the expenditure of revenue collected within the county  
2655 of the first class from the taxes described in Subsection (1)(a).

2656 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part  
2657 shall be administered, collected, and enforced in accordance with:

2658 (A) the same procedures used to administer, collect, and enforce the tax under:

2659 (I) Part 1, Tax Collection; or

2660 (II) Part 2, Local Sales and Use Tax Act; and

2661 (B) Chapter 1, General Taxation Policies.

2662 (ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or

2663 Subsections 59-12-205(2) through (6).

2664 (b) Except as provided in Subsection (7)(c):

2665 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the

2666 commission shall distribute the revenue to the county imposing the tax; and

2667 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue

2668 according to the distribution formula provided in Subsection (8).

2669 (c) The commission shall retain and deposit an administrative charge in accordance

2670 with Section 59-1-306 from the revenue the commission collects from a tax under this part.

2671 (8) The commission shall distribute the revenue generated by the tax under Subsection

2672 (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the

2673 following formula:

2674 (a) the commission shall distribute 70% of the revenue based on the percentages

2675 generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by

2676 the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

2677 (b) the commission shall distribute 30% of the revenue based on the percentages

2678 generated by dividing the population of each county collecting a tax under Subsection

2679 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

2680 (9) (a) For purposes of this Subsection (9):

2681 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2,

2682 County Annexation.

2683 (ii) "Annexing area" means an area that is annexed into a county.

2684 (b) (i) Except as provided in Subsection (9)(c), if a county enacts or repeals a tax or

2685 changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

2686 (A) on the first day of a calendar quarter; and

2687 (B) after a 90-day period beginning on the day on which the commission receives

2688 notice meeting the requirements of Subsection (9)(b)(ii) from the county.

2689 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

2690 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

2691 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

2692 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and  
2693 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
2694 (9)(b)(ii)(A), the rate of the tax.

2695 (c) (i) If the billing period for a transaction begins before the effective date of the  
2696 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of  
2697 the tax or the tax rate increase shall take effect on the first day of the first billing period that  
2698 begins after the effective date of the enactment of the tax or the tax rate increase.

2699 (ii) If the billing period for a transaction begins before the effective date of the repeal  
2700 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax  
2701 rate decrease shall take effect on the first day of the last billing period that began before the  
2702 effective date of the repeal of the tax or the tax rate decrease.

2703 (d) (i) Except as provided in Subsection (9)(e), if the annexation will result in the  
2704 enactment, repeal, or change in the rate of a tax under this part for an annexing area, the  
2705 enactment, repeal, or change shall take effect:

2706 (A) on the first day of a calendar quarter; and

2707 (B) after a 90-day period beginning on the day on which the commission receives  
2708 notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the  
2709 annexing area.

2710 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

2711 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,  
2712 repeal, or change in the rate of a tax under this part for the annexing area;

2713 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

2714 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

2715 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
2716 (9)(d)(ii)(A), the rate of the tax.

2717 (e) (i) If the billing period for a transaction begins before the effective date of the  
2718 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of  
2719 the tax or the tax rate increase shall take effect on the first day of the first billing period that  
2720 begins after the effective date of the enactment of the tax or the tax rate increase.

2721 (ii) If the billing period for a transaction begins before the effective date of the repeal  
2722 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax



2723 rate decrease shall take effect on the first day of the last billing period that began before the  
2724 effective date of the repeal of the tax or the tax rate decrease.

2725 Section 19. Section **59-12-1201** is amended to read:

2726 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**  
2727 **collection, and enforcement of tax -- Administrative charge -- Deposits.**

2728 (1) (a) Except as provided in [~~Subsection (3)~~] Subsections (3) and (4), there is imposed  
2729 a tax of 2.5% on all short-term leases and rentals of motor vehicles not exceeding 30 days.

2730 (b) The tax imposed in this section is in addition to all other state, county, or municipal  
2731 fees and taxes imposed on rentals of motor vehicles.

2732 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax  
2733 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

2734 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall  
2735 take effect on the first day of the first billing period:

2736 (A) that begins after the effective date of the tax rate increase; and

2737 (B) if the billing period for the transaction begins before the effective date of a tax rate  
2738 increase imposed under Subsection (1).

2739 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax  
2740 rate decrease shall take effect on the first day of the last billing period:

2741 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
2742 and

2743 (B) if the billing period for the transaction begins before the effective date of the repeal  
2744 of the tax or the tax rate decrease imposed under Subsection (1).

2745 (3) Beginning on July 1, 2023, a tax imposed under Subsection (1) applies to car  
2746 sharing.

2747 [~~(3)~~] (4) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

2748 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

2749 (b) the motor vehicle is rented as a personal household goods moving van; or

2750 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily  
2751 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an  
2752 insurance agreement.

2753 [~~(4)~~] (5) (a) (i) The tax authorized under this section shall be administered, collected,

2754 and enforced in accordance with:

2755 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,  
2756 Tax Collection; and

2757 (B) Chapter 1, General Taxation Policies.

2758 (ii) Notwithstanding Subsection [~~(4)(a)(i)~~] (5)(a)(i), a tax under this part is not subject  
2759 to Subsections 59-12-103(4) through (10) or Section 59-12-107.1 or 59-12-123.

2760 (b) The commission shall retain and deposit an administrative charge in accordance  
2761 with Section 59-1-306 from the revenues the commission collects from a tax under this part.

2762 (c) Except as provided under Subsection [~~(4)(b)~~] (5)(b), all revenue received by the  
2763 commission under this section shall be deposited daily with the state treasurer and credited  
2764 monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

2765 Section 20. **Retrospective operation.**

2766 (1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.

2767 (2) The changes to the following sections have retrospective operation to January 1,  
2768 2019, for a transaction that is the subject of an appeal pending on or filed after January 1, 2023:

2769 (a) Section 59-12-603; and

2770 (b) Section 59-12-1201.