

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: Robert M. Spendlove

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;
- ▶ prohibits certain local taxes, fees, and charges on peer-to-peer car sharing;
- ▶ amends provisions related to taxes 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 a special effective date.

29 This bill provides retrospective operation.

30 **Utah Code Sections Affected:**

31 AMENDS:

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

34 **59-12-103**, as last amended by Laws of Utah 2022, Chapters 77, 106 and 433

35 **59-12-602**, as last amended by Laws of Utah 2020, Chapter 407

36 **59-12-603**, as last amended by Laws of Utah 2020, Chapter 407

37 **59-12-1201**, as last amended by Laws of Utah 2016, Chapters 184, 291

38 ENACTS:

39 **11-26-401**, Utah Code Annotated 1953

40 **13-48a-101**, Utah Code Annotated 1953

41 **13-48a-102**, Utah Code Annotated 1953

42 **13-48a-201**, Utah Code Annotated 1953

43 **13-48a-202**, Utah Code Annotated 1953

44 **13-48a-203**, Utah Code Annotated 1953

45 **13-48a-204**, Utah Code Annotated 1953

46 **13-48a-205**, Utah Code Annotated 1953

47 **13-48a-301**, Utah Code Annotated 1953

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

49 **13-48a-303**, Utah Code Annotated 1953

50 **13-48a-304**, Utah Code Annotated 1953

51 **13-48a-305**, Utah Code Annotated 1953

52 **13-48a-306**, Utah Code Annotated 1953

53 **13-48a-307**, Utah Code Annotated 1953



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

56 Section 1. Section **11-26-401** is enacted to read:

CHAPTER 26. LIMITATIONS ON LOCAL TAXES AND FEES

Part 4. Car Sharing Taxes, Fees, and Charges

11-26-401. Definitions -- Prohibition on car sharing program taxes, fees, and other charges.

(1) As used in this part:

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

(b) "County" means the same as that term is defined in Section [17-50-101](#).

(c) "Municipality" means a city or a town.

(d) "Political subdivision" means the same as that term is defined in Section [11-14-102](#).

(e) "Rental" means the same as the terms lease or rental are defined in Section [59-12-102](#).

(2) A county, municipality, or other political subdivision may not impose a tax, fee, or charge on the gross proceeds or gross income of a car sharing transaction that the jurisdiction does not impose on other transactions involving the rental of a motor vehicle without a driver.

Section 2. Section **13-48a-101** is enacted to read:

CHAPTER 48a. CAR-SHARING PROGRAMS

Part 1. General Provisions

13-48a-101. Definitions.

As used in this chapter:

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

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

(ii) through a car-sharing program.

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

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

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

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

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

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

88 (ii) a short-term rental as that term is defined in Section 59-12-602.

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

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

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

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

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

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

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

99 (i) a motor vehicle rental company, as defined in Section 13-48-102; or

100 (ii) a rental company, as defined in Section 31A-22-311.

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

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

105 (a) the expiration of the agreed upon period of time established for the use of a shared
106 vehicle according to the terms of the car-sharing agreement, if the shared vehicle is delivered to
107 the location agreed upon in the car-sharing agreement;

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

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

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

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

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

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

119 (ii) sales tax or use tax was paid on the purchase in the jurisdiction in which the motor
120 vehicle was purchased.

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

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

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

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

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

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

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

131 (b) "Shared vehicle owner" does not mean a rental company, as defined in Section
132 [31A-22-311](#).

133 Section 3. Section **13-48a-102** is enacted to read:

134 **13-48a-102. Limits on reach of chapter.**

135 Nothing in this chapter:

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

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

143 Section 4. Section **13-48a-201** is enacted to read:

144 **Part 2. Consumer Protection Provisions**

145 **13-48a-201. Notification about possible violation of lienholder agreement.**

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

149 (2) At the time that the owner of a motor vehicle registers to make the owner's motor

150 vehicle available for sharing through a car-sharing program, the car-sharing program shall
151 notify the owner that the use of the owner's motor vehicle through the car-sharing program,
152 including without physical damage coverage, may violate the terms of a lienholder agreement
153 that the motor vehicle may be subject to.

154 Section 5. Section **13-48a-202** is enacted to read:

155 **13-48a-202. Safety recalls.**

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

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

160 (b) notify the motor vehicle owner of the requirements under Subsections (2), (3), and
161 (4).

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

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

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

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

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

177 Section 6. Section **13-48a-203** is enacted to read:

178 **13-48a-203. Required disclosures for a car-sharing agreement.**

179 A car-sharing agreement shall disclose to the shared vehicle owner and the shared
180 vehicle driver:

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

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

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

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

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

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

197 (7) whether there are conditions under which a shared vehicle driver must maintain a
198 personal automobile insurance policy with certain applicable coverage limits on a primary basis
199 in order to book a shared vehicle.

200 Section 7. Section **13-48a-204** is enacted to read:

201 **13-48a-204. Records relating to the use of shared vehicles.**

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

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

210 Section 8. Section **13-48a-205** is enacted to read:

211 **13-48a-205. GPS or other special equipment.**

- 212 (1) A car-sharing program:
213 (a) has sole responsibility for any GPS or other special equipment that the car-sharing
214 company places on or in a shared vehicle to monitor the shared vehicle or facilitate the
215 car-sharing agreement; and
216 (b) shall agree to indemnify and hold harmless the shared vehicle owner for any
217 damage to the shared vehicle that:
218 (i) is a result of damage to or theft of equipment described in Subsection (1)(a);
219 (ii) occurs during the car-sharing period; and
220 (iii) is not caused by the shared vehicle owner.
221 (2) A car-sharing program may seek indemnity from a shared vehicle driver for any
222 loss of or damage to equipment described in Subsection (1)(a) that occurs during the
223 car-sharing period.

224 Section 9. Section **13-48a-301** is enacted to read:

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

226 **13-48a-301. Car-sharing company assumption of liability for a covered loss --**

227 **Exception.**

228 (1) Except as provided in Subsection (2), a car-sharing program shall assume liability
229 of a shared vehicle owner for bodily injury or property damage to third parties or personal
230 injury protection losses during the car-sharing period in an amount stated in the car-sharing
231 agreement, which amount may not be less than those set forth in Section [31A-22-304](#).

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

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

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

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

242 Section 10. Section **13-48a-302** is enacted to read:

243 13-48a-302. Motor vehicle liability insurance.

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

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

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

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

253 (a) a shared vehicle owner;

254 (b) a shared vehicle driver;

255 (c) a car-sharing program; or

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

257 (3) The insurance described in Subsection (1) that is satisfying the insurance
258 requirement of Subsection (1) shall be primary during each car-sharing period and in the event
259 that a claim occurs in another state with minimum financial responsibility limits higher than
260 those in Section 31A-22-304, during the car-sharing period, the coverage maintained under
261 Subsection (2) shall satisfy the difference in minimum coverage amounts, up to the applicable
262 policy limits.

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

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

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

270 (5) If insurance maintained by a shared vehicle owner or shared vehicle driver in
271 accordance with Subsection (2) has lapsed or does not provide the required coverage, insurance
272 maintained by the car-sharing program shall provide the coverage required by Subsection (1)
273 beginning with the first dollar of a claim and have the duty to defend the claim except under

274 circumstances set forth in Subsection [13-48a-301\(2\)](#).

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

278 Section 11. Section **13-48a-303** is enacted to read:

279 **13-48a-303. Certain abilities of insurance companies preserved.**

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

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

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

286 (ii) a claim covered by uninsured motorist coverage described in Section [31A-22-305](#);

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

288 [31A-22-305.5](#);

289 (iv) a claim covered by personal injury protection coverage and benefits described in
290 Section [31A-22-307](#);

291 (v) a claim for medical payments;

292 (vi) a claim for comprehensive physical damage; and

293 (vii) a claim for collision physical damage.

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

296 (a) underwrite an insurance policy; or

297 (b) cancel or fail to renew an insurance policy.

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

301 Section 12. Section **13-48a-304** is enacted to read:

302 **13-48a-304. Insurable interest -- Insurance to cover various liabilities -- No**
303 **liability to maintain certain insurance.**

304 (1) Notwithstanding any other provision of law, a car-sharing program has an insurable

305 interest in a shared vehicle during the car-sharing period.

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

308 (a) a liability assumed by the car-sharing program under a car-sharing agreement;

309 (b) a liability of the shared vehicle owner;

310 (c) a liability of the shared vehicle driver; or

311 (d) damage or loss to a shared vehicle.

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

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

315 **13-48a-305. Recovery for claim excluded from insurance policy.**

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

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

321 (2) excluded under the terms of the policy of the insurance company that defends or
322 indemnifies the claim.

323 Section 14. Section **13-48a-306** is enacted to read:

324 **13-48a-306. Exemption from liability based on operation of a car-sharing**
325 **program or on vehicle ownership.**

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

329 Section 15. Section **13-48a-307** is enacted to read:

330 **13-48a-307. Driver license requirement and records.**

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

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

335 (b) is a nonresident who:

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

338 and

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

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

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

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

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

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

347 Section 16. Section **59-12-102** is amended to read:

348 **59-12-102. Definitions.**

349 As used in this chapter:

350 (1) "800 service" means a telecommunications service that:

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

352 (b) is typically marketed:

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

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

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

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

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

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

359 Federal Communications Commission.

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

361 (i) a subscriber purchases;

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

364 (A) prerecorded announcement; or

365 (B) live service; and

366 (iii) is typically marketed:

- 367 (A) under the name 900 service; or
368 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
369 Communications Commission.
- 370 (b) "900 service" does not include a charge for:
371 (i) a collection service a seller of a telecommunications service provides to a
372 subscriber; or
373 (ii) the following a subscriber sells to the subscriber's customer:
374 (A) a product; or
375 (B) a service.
- 376 (3) (a) "Admission or user fees" includes season passes.
377 (b) "Admission or user fees" does not include:
378 (i) annual membership dues to private organizations; or
379 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
380 facility listed in Subsection 59-12-103(1)(f).
- 381 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
382 person:
383 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
384 person; or
385 (b) is related to the other person because a third person, or a group of third persons who
386 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
387 whether direct or indirect, in the related persons.
- 388 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
389 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
390 Agreement after November 12, 2002.
- 391 (6) "Agreement combined tax rate" means the sum of the tax rates:
392 (a) listed under Subsection (7); and
393 (b) that are imposed within a local taxing jurisdiction.
- 394 (7) "Agreement sales and use tax" means a tax imposed under:
395 (a) Subsection 59-12-103(2)(a)(i)(A);
396 (b) Subsection 59-12-103(2)(b)(i);
397 (c) Subsection 59-12-103(2)(c)(i);

- 398 (d) Subsection 59-12-103(2)(d);
- 399 (e) Subsection 59-12-103(2)(e)(i)(A)(I);
- 400 (f) Section 59-12-204;
- 401 (g) Section 59-12-401;
- 402 (h) Section 59-12-402;
- 403 (i) Section 59-12-402.1;
- 404 (j) Section 59-12-703;
- 405 (k) Section 59-12-802;
- 406 (l) Section 59-12-804;
- 407 (m) Section 59-12-1102;
- 408 (n) Section 59-12-1302;
- 409 (o) Section 59-12-1402;
- 410 (p) Section 59-12-1802;
- 411 (q) Section 59-12-2003;
- 412 (r) Section 59-12-2103;
- 413 (s) Section 59-12-2213;
- 414 (t) Section 59-12-2214;
- 415 (u) Section 59-12-2215;
- 416 (v) Section 59-12-2216;
- 417 (w) Section 59-12-2217;
- 418 (x) Section 59-12-2218;
- 419 (y) Section 59-12-2219; or
- 420 (z) Section 59-12-2220.
- 421 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 422 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 423 (a) except for:
- 424 (i) an airline as defined in Section 59-2-102; or
- 425 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 426 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 427 state, of an airline; and
- 428 (b) that has the workers, expertise, and facilities to perform the following, regardless of

429 whether the business entity performs the following in this state:

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

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

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

433 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft

434 engine;

435 (iii) perform at least the following maintenance on a fixed wing turbine powered

436 aircraft:

437 (A) an inspection;

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

439 (C) changing landing gear; and

440 (D) addressing issues related to an aging fixed wing turbine powered aircraft;

441 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and

442 completely apply new paint to the fixed wing turbine powered aircraft; and

443 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that

444 results in a change in the fixed wing turbine powered aircraft's certification requirements by the

445 authority that certifies the fixed wing turbine powered aircraft.

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

447 (a) is suitable for human consumption; and

448 (b) contains .5% or more alcohol by volume.

449 (11) "Alternative energy" means:

450 (a) biomass energy;

451 (b) geothermal energy;

452 (c) hydroelectric energy;

453 (d) solar energy;

454 (e) wind energy; or

455 (f) energy that is derived from:

456 (i) coal-to-liquids;

457 (ii) nuclear fuel;

458 (iii) oil-impregnated diatomaceous earth;

459 (iv) oil sands;

- 460 (v) oil shale;
- 461 (vi) petroleum coke; or
- 462 (vii) waste heat from:
- 463 (A) an industrial facility; or
- 464 (B) a power station in which an electric generator is driven through a process in which
- 465 water is heated, turns into steam, and spins a steam turbine.

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

467 facility" means a facility that:

- 468 (i) uses alternative energy to produce electricity; and
- 469 (ii) has a production capacity of two megawatts or greater.

470 (b) A facility is an alternative energy electricity production facility regardless of

471 whether the facility is:

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

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

475 provision of telecommunications service.

476 (b) "Ancillary service" includes:

- 477 (i) a conference bridging service;
- 478 (ii) a detailed communications billing service;
- 479 (iii) directory assistance;
- 480 (iv) a vertical service; or
- 481 (v) a voice mail service.

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

483 [62A-3-101](#).

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

485 device that is started and stopped by an individual:

- 486 (a) who is not the purchaser or renter of the right to use or operate the amusement
- 487 device, skill device, or ride device; and
- 488 (b) at the direction of the seller of the right to use the amusement device, skill device,
- 489 or ride device.

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

491 washing of tangible personal property if the cleaning or washing labor is primarily performed
492 by an individual:

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

495 (b) at the direction of the seller of the cleaning or washing of the tangible personal
496 property.

497 (17) "Authorized carrier" means:

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

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

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

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

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

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

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

511 (B) animal waste;

512 (C) waste vegetable oil;

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

516 (E) aquatic plants; and

517 (F) agricultural products.

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

519 (i) black liquor; or

520 (ii) treated woods.

521 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal

522 property, products, or services if the tangible personal property, products, or services are:
523 (i) distinct and identifiable; and
524 (ii) sold for one nonitemized price.
525 (b) "Bundled transaction" does not include:
526 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
527 the basis of the selection by the purchaser of the items of tangible personal property included in
528 the transaction;
529 (ii) the sale of real property;
530 (iii) the sale of services to real property;
531 (iv) the retail sale of tangible personal property and a service if:
532 (A) the tangible personal property:
533 (I) is essential to the use of the service; and
534 (II) is provided exclusively in connection with the service; and
535 (B) the service is the true object of the transaction;
536 (v) the retail sale of two services if:
537 (A) one service is provided that is essential to the use or receipt of a second service;
538 (B) the first service is provided exclusively in connection with the second service; and
539 (C) the second service is the true object of the transaction;
540 (vi) a transaction that includes tangible personal property or a product subject to
541 taxation under this chapter and tangible personal property or a product that is not subject to
542 taxation under this chapter if the:
543 (A) seller's purchase price of the tangible personal property or product subject to
544 taxation under this chapter is de minimis; or
545 (B) seller's sales price of the tangible personal property or product subject to taxation
546 under this chapter is de minimis; and
547 (vii) the retail sale of tangible personal property that is not subject to taxation under
548 this chapter and tangible personal property that is subject to taxation under this chapter if:
549 (A) that retail sale includes:
550 (I) food and food ingredients;
551 (II) a drug;
552 (III) durable medical equipment;

553 (IV) mobility enhancing equipment;

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

555 (VI) a prosthetic device; or

556 (VII) a medical supply; and

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

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

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

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

564 (A) packaging that:

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

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

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

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

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

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

581 (A) a binding sales document; or

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

583 (ii) For purposes of Subsection (19)(d)(i), a binding sales document or another

584 supporting sales-related document that is available to a purchaser includes:

- 585 (A) a bill of sale;
- 586 (B) a contract;
- 587 (C) an invoice;
- 588 (D) a lease agreement;
- 589 (E) a periodic notice of rates and services;
- 590 (F) a price list;
- 591 (G) a rate card;
- 592 (H) a receipt; or
- 593 (I) a service agreement.

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

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

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

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

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

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

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

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

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

614 (21) "Car-sharing program" means the same as that term is defined in Section

615 [13-48a-101](#).

616 ~~[(20)]~~ (22) "Certified automated system" means software certified by the governing
617 board of the agreement that:

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

620 (i) on a transaction; and

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

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

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

625 ~~[(21)]~~ (23) "Certified service provider" means an agent certified:

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

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

631 ~~[(22)]~~ (24) (a) Subject to Subsection ~~[(22)(b)]~~ (24)(b), "clothing" means all human
632 wearing apparel suitable for general use.

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

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

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

638 ~~[(23)]~~ (25) "Coal-to-liquid" means the process of converting coal into a liquid synthetic
639 fuel.

640 ~~[(24)]~~ (26) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or
641 other fuels that does not constitute industrial use under Subsection ~~[(57)]~~ (60) or residential use
642 under Subsection ~~[(112)]~~ (115).

643 ~~[(25)]~~ (27) (a) "Common carrier" means a person engaged in or transacting the
644 business of transporting passengers, freight, merchandise, or other property for hire within this
645 state.

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

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

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

654 [~~(26)~~] (28) "Component part" includes:

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

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

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

660 (d) feed, seeds, and seedlings.

661 [~~(27)~~] (29) "Computer" means an electronic device that accepts information:

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

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

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

665 [~~(28)~~] (30) "Computer software" means a set of coded instructions designed to cause:

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

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

668 [~~(29)~~] (31) "Computer software maintenance contract" means a contract that obligates a
669 seller of computer software to provide a customer with:

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

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

672 (c) a combination of Subsections [~~(29)(a)~~] (31)(a) and (b).

673 [~~(30)~~] (32) (a) "Conference bridging service" means an ancillary service that links two
674 or more participants of an audio conference call or video conference call.

675 (b) "Conference bridging service" may include providing a telephone number as part of
676 the ancillary service described in Subsection [~~(30)(a)~~] (32)(a).

677 (c) "Conference bridging service" does not include a telecommunications service used
678 to reach the ancillary service described in Subsection [~~(30)(a)~~] (32)(a).

679 [~~(31)~~] (33) "Construction materials" means any tangible personal property that will be
680 converted into real property.

681 [~~(32)~~] (34) "Delivered electronically" means delivered to a purchaser by means other
682 than tangible storage media.

683 [~~(33)~~] (35) (a) "Delivery charge" means a charge:

684 (i) by a seller of:

685 (A) tangible personal property;

686 (B) a product transferred electronically; or

687 (C) a service; and

688 (ii) for preparation and delivery of the tangible personal property, product transferred
689 electronically, or services described in Subsection [~~(33)(a)(i)~~] (35)(a)(i) to a location designated
690 by the purchaser.

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

692 (i) transportation;

693 (ii) shipping;

694 (iii) postage;

695 (iv) handling;

696 (v) crating; or

697 (vi) packing.

698 [~~(34)~~] (36) "Detailed telecommunications billing service" means an ancillary service of
699 separately stating information pertaining to individual calls on a customer's billing statement.

700 [~~(35)~~] (37) "Dietary supplement" means a product, other than tobacco, that:

701 (a) is intended to supplement the diet;

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

703 (i) a vitamin;

704 (ii) a mineral;

705 (iii) an herb or other botanical;

706 (iv) an amino acid;

707 (v) a dietary substance for use by humans to supplement the diet by increasing the total

708 dietary intake; or

709 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
710 described in Subsections ~~[(35)(b)(i)]~~ (37)(b)(i) through (v);

711 (c) (i) except as provided in Subsection ~~[(35)(c)(ii)]~~ (37)(c)(ii), is intended for
712 ingestion in:

713 (A) tablet form;

714 (B) capsule form;

715 (C) powder form;

716 (D) softgel form;

717 (E) gelcap form; or

718 (F) liquid form; or

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

720 ~~[(35)(c)(i)(A)]~~ (37)(c)(i)(A) through (F), is not represented:

721 (A) as conventional food; and

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

723 (I) a meal; or

724 (II) the diet; and

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

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

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

728 ~~[(36)]~~ (38) (a) "Digital audio work" means a work that results from the fixation of a
729 series of musical, spoken, or other sounds.

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

731 ~~[(37)]~~ (39) "Digital audio-visual work" means a series of related images which, when
732 shown in succession, imparts an impression of motion, together with accompanying sounds, if
733 any.

734 ~~[(38)]~~ (40) "Digital book" means a work that is generally recognized in the ordinary
735 and usual sense as a book.

736 ~~[(39)]~~ (41) (a) "Direct mail" means printed material delivered or distributed by United
737 States mail or other delivery service:

738 (i) to:

- 739 (A) a mass audience; or
- 740 (B) addressees on a mailing list provided:
- 741 (I) by a purchaser of the mailing list; or
- 742 (II) at the discretion of the purchaser of the mailing list; and
- 743 (ii) if the cost of the printed material is not billed directly to the recipients.
- 744 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 745 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 746 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 747 single address.
- 748 ~~[(40)]~~ (42) "Directory assistance" means an ancillary service of providing:
- 749 (a) address information; or
- 750 (b) telephone number information.
- 751 ~~[(41)]~~ (43) (a) "Disposable home medical equipment or supplies" means medical
- 752 equipment or supplies that:
- 753 (i) cannot withstand repeated use; and
- 754 (ii) are purchased by, for, or on behalf of a person other than:
- 755 (A) a health care facility as defined in Section 26-21-2;
- 756 (B) a health care provider as defined in Section 78B-3-403;
- 757 (C) an office of a health care provider described in Subsection ~~[(41)(a)(ii)(B)]~~
- 758 (43)(a)(ii)(B); or
- 759 (D) a person similar to a person described in Subsections ~~[(41)(a)(ii)(A)]~~ (43)(a)(ii)(A)
- 760 through (C).
- 761 (b) "Disposable home medical equipment or supplies" does not include:
- 762 (i) a drug;
- 763 (ii) durable medical equipment;
- 764 (iii) a hearing aid;
- 765 (iv) a hearing aid accessory;
- 766 (v) mobility enhancing equipment; or
- 767 (vi) tangible personal property used to correct impaired vision, including:
- 768 (A) eyeglasses; or
- 769 (B) contact lenses.

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

772 [~~(42)~~] (44) "Drilling equipment manufacturer" means a facility:

773 (a) located in the state;

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

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

778 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
779 manufacturing process.

780 [~~(43)~~] (45) (a) "Drug" means a compound, substance, or preparation, or a component of
781 a compound, substance, or preparation that is:

782 (i) recognized in:

783 (A) the official United States Pharmacopoeia;

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

785 (C) the official National Formulary; or

786 (D) a supplement to a publication listed in Subsections [~~(43)(a)(i)(A)~~] (45)(a)(i)(A)
787 through (C);

788 (ii) intended for use in the:

789 (A) diagnosis of disease;

790 (B) cure of disease;

791 (C) mitigation of disease;

792 (D) treatment of disease; or

793 (E) prevention of disease; or

794 (iii) intended to affect:

795 (A) the structure of the body; or

796 (B) any function of the body.

797 (b) "Drug" does not include:

798 (i) food and food ingredients;

799 (ii) a dietary supplement;

800 (iii) an alcoholic beverage; or

- 801 (iv) a prosthetic device.
- 802 ~~[(44)]~~ (46) (a) Except as provided in Subsection ~~[(44)(c)]~~ (46)(c), "durable medical
803 equipment" means equipment that:
- 804 (i) can withstand repeated use;
- 805 (ii) is primarily and customarily used to serve a medical purpose;
- 806 (iii) generally is not useful to a person in the absence of illness or injury; and
- 807 (iv) is not worn in or on the body.
- 808 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
809 equipment described in Subsection ~~[(44)(a)]~~ (46)(a).
- 810 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 811 ~~[(45)]~~ (47) "Electronic" means:
- 812 (a) relating to technology; and
- 813 (b) having:
- 814 (i) electrical capabilities;
- 815 (ii) digital capabilities;
- 816 (iii) magnetic capabilities;
- 817 (iv) wireless capabilities;
- 818 (v) optical capabilities;
- 819 (vi) electromagnetic capabilities; or
- 820 (vii) capabilities similar to Subsections ~~[(45)(b)(i)]~~ (47)(b)(i) through (vi).
- 821 ~~[(46)]~~ (48) "Electronic financial payment service" means an establishment:
- 822 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
823 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
824 federal Executive Office of the President, Office of Management and Budget; and
- 825 (b) that performs electronic financial payment services.
- 826 ~~[(47)]~~ (49) "Employee" means the same as that term is defined in Section 59-10-401.
- 827 ~~[(48)]~~ (50) "Fixed guideway" means a public transit facility that uses and occupies:
- 828 (a) rail for the use of public transit; or
- 829 (b) a separate right-of-way for the use of public transit.
- 830 ~~[(49)]~~ (51) "Fixed wing turbine powered aircraft" means an aircraft that:
- 831 (a) is powered by turbine engines;

- 832 (b) operates on jet fuel; and
- 833 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 834 [~~(50)~~] (52) "Fixed wireless service" means a telecommunications service that provides
- 835 radio communication between fixed points.
- 836 [~~(51)~~] (53) (a) "Food and food ingredients" means substances:
- 837 (i) regardless of whether the substances are in:
- 838 (A) liquid form;
- 839 (B) concentrated form;
- 840 (C) solid form;
- 841 (D) frozen form;
- 842 (E) dried form; or
- 843 (F) dehydrated form; and
- 844 (ii) that are:
- 845 (A) sold for:
- 846 (I) ingestion by humans; or
- 847 (II) chewing by humans; and
- 848 (B) consumed for the substance's:
- 849 (I) taste; or
- 850 (II) nutritional value.
- 851 (b) "Food and food ingredients" includes an item described in Subsection [~~(96)(b)(iii)~~]
- 852 (99)(b)(iii).
- 853 (c) "Food and food ingredients" does not include:
- 854 (i) an alcoholic beverage;
- 855 (ii) tobacco; or
- 856 (iii) prepared food.
- 857 [~~(52)~~] (54) (a) "Fundraising sales" means sales:
- 858 (i) (A) made by a school; or
- 859 (B) made by a school student;
- 860 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 861 materials, or provide transportation; and
- 862 (iii) that are part of an officially sanctioned school activity.

863 (b) For purposes of Subsection [~~(52)(a)(iii)~~] (54)(a)(iii), "officially sanctioned school
864 activity" means a school activity:

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

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

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

871 [~~(53)~~] (55) "Geothermal energy" means energy contained in heat that continuously
872 flows outward from the earth that is used as the sole source of energy to produce electricity.

873 [~~(54)~~] (56) "Governing board of the agreement" means the governing board of the
874 agreement that is:

875 (a) authorized to administer the agreement; and

876 (b) established in accordance with the agreement.

877 [~~(55)~~] (57) (a) For purposes of Subsection 59-12-104(41), "governmental entity"
878 means:

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

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

883 (iii) the legislative branch of the state, including the House of Representatives, the
884 Senate, the Legislative Printing Office, the Office of Legislative Research and General
885 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
886 Analyst;

887 (iv) the National Guard;

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

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

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

892 (i) a school;

893 (ii) the State Board of Education;

- 894 (iii) the Utah Board of Higher Education; or
- 895 (iv) an institution of higher education described in Section [53B-1-102](#).
- 896 [~~56~~] (58) "Hydroelectric energy" means water used as the sole source of energy to
- 897 produce electricity.
- 898 (59) "Individual-owned shared vehicle" means the same as that term is defined in
- 899 Section [13-48a-101](#).
- 900 [~~57~~] (60) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
- 901 or other fuels:
- 902 (a) in mining or extraction of minerals;
- 903 (b) in agricultural operations to produce an agricultural product up to the time of
- 904 harvest or placing the agricultural product into a storage facility, including:
- 905 (i) commercial greenhouses;
- 906 (ii) irrigation pumps;
- 907 (iii) farm machinery;
- 908 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered
- 909 under Title 41, Chapter 1a, Part 2, Registration; and
- 910 (v) other farming activities;
- 911 (c) in manufacturing tangible personal property at an establishment described in:
- 912 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 913 the federal Executive Office of the President, Office of Management and Budget; or
- 914 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 915 American Industry Classification System of the federal Executive Office of the President,
- 916 Office of Management and Budget;
- 917 (d) by a scrap recycler if:
- 918 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 919 one or more of the following items into prepared grades of processed materials for use in new
- 920 products:
- 921 (A) iron;
- 922 (B) steel;
- 923 (C) nonferrous metal;
- 924 (D) paper;

- 925 (E) glass;
- 926 (F) plastic;
- 927 (G) textile; or
- 928 (H) rubber; and
- 929 (ii) the new products under Subsection [~~(57)(d)(i)~~] (60)(d)(i) would otherwise be made
- 930 with nonrecycled materials; or
- 931 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 932 cogeneration facility as defined in Section 54-2-1.
- 933 [~~(58)~~] (61) (a) Except as provided in Subsection [~~(58)(b)~~] (61)(b), "installation charge"
- 934 means a charge for installing:
 - 935 (i) tangible personal property; or
 - 936 (ii) a product transferred electronically.
- 937 (b) "Installation charge" does not include a charge for:
 - 938 (i) repairs or renovations of:
 - 939 (A) tangible personal property; or
 - 940 (B) a product transferred electronically; or
 - 941 (ii) attaching tangible personal property or a product transferred electronically:
 - 942 (A) to other tangible personal property; and
 - 943 (B) as part of a manufacturing or fabrication process.
- 944 [~~(59)~~] (62) "Institution of higher education" means an institution of higher education
- 945 listed in Section 53B-2-101.
- 946 [~~(60)~~] (63) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 947 personal property or a product transferred electronically for:
 - 948 (i) (A) a fixed term; or
 - 949 (B) an indeterminate term; and
 - 950 (ii) consideration.
- 951 (b) "Lease" or "rental" includes:
 - 952 (i) an agreement covering a motor vehicle and trailer if the amount of consideration
 - 953 may be increased or decreased by reference to the amount realized upon sale or disposition of
 - 954 the property as defined in Section 7701(h)(1), Internal Revenue Code[~~;~~]; and
 - 955 (ii) car sharing.

- 956 (c) "Lease" or "rental" does not include:
- 957 (i) a transfer of possession or control of property under a security agreement or
- 958 deferred payment plan that requires the transfer of title upon completion of the required
- 959 payments;
- 960 (ii) a transfer of possession or control of property under an agreement that requires the
- 961 transfer of title:
- 962 (A) upon completion of required payments; and
- 963 (B) if the payment of an option price does not exceed the greater of:
- 964 (I) \$100; or
- 965 (II) 1% of the total required payments; or
- 966 (iii) providing tangible personal property along with an operator for a fixed period of
- 967 time or an indeterminate period of time if the operator is necessary for equipment to perform as
- 968 designed.
- 969 (d) For purposes of Subsection [~~(60)(c)(iii)~~] (63)(c)(iii), an operator is necessary for
- 970 equipment to perform as designed if the operator's duties exceed the:
- 971 (i) set-up of tangible personal property;
- 972 (ii) maintenance of tangible personal property; or
- 973 (iii) inspection of tangible personal property.
- 974 [~~(61)~~] (64) "Lesson" means a fixed period of time for the duration of which a trained
- 975 instructor:
- 976 (a) is present with a student in person or by video; and
- 977 (b) actively instructs the student, including by providing observation or feedback.
- 978 [~~(62)~~] (65) "Life science establishment" means an establishment in this state that is
- 979 classified under the following NAICS codes of the 2007 North American Industry
- 980 Classification System of the federal Executive Office of the President, Office of Management
- 981 and Budget:
- 982 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 983 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
- 984 Manufacturing; or
- 985 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 986 [~~(63)~~] (66) "Life science research and development facility" means a facility owned,

987 leased, or rented by a life science establishment if research and development is performed in
988 51% or more of the total area of the facility.

989 ~~[(64)]~~ (67) "Load and leave" means delivery to a purchaser by use of a tangible storage
990 media if the tangible storage media is not physically transferred to the purchaser.

991 ~~[(65)]~~ (68) "Local taxing jurisdiction" means a:

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

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

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

995 ~~[(66)]~~ (69) "Manufactured home" means the same as that term is defined in Section
996 15A-1-302.

997 ~~[(67)]~~ (70) "Manufacturing facility" means:

998 (a) an establishment described in:

999 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
1000 the federal Executive Office of the President, Office of Management and Budget; or

1001 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
1002 American Industry Classification System of the federal Executive Office of the President,
1003 Office of Management and Budget;

1004 (b) a scrap recycler if:

1005 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1006 one or more of the following items into prepared grades of processed materials for use in new
1007 products:

1008 (A) iron;

1009 (B) steel;

1010 (C) nonferrous metal;

1011 (D) paper;

1012 (E) glass;

1013 (F) plastic;

1014 (G) textile; or

1015 (H) rubber; and

1016 (ii) the new products under Subsection ~~[(67)(b)(i)]~~ (70)(b)(i) would otherwise be made
1017 with nonrecycled materials; or

1018 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
1019 placed in service on or after May 1, 2006.

1020 ~~[(68)]~~ (71) (a) "Marketplace" means a physical or electronic place, platform, or forum
1021 where tangible personal property, a product transferred electronically, or a service is offered for
1022 sale.

1023 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a
1024 dedicated sales software application.

1025 ~~[(69)]~~ (72) (a) "Marketplace facilitator" means a person, including an affiliate of the
1026 person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to
1027 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or
1028 controls and that directly or indirectly:

1029 (i) does any of the following:

1030 (A) lists, makes available, or advertises tangible personal property, a product
1031 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the
1032 person owns, operates, or controls;

1033 (B) facilitates the sale of a marketplace seller's tangible personal property, product
1034 transferred electronically, or service by transmitting or otherwise communicating an offer or
1035 acceptance of a retail sale between the marketplace seller and a purchaser using the
1036 marketplace;

1037 (C) owns, rents, licenses, makes available, or operates any electronic or physical
1038 infrastructure or any property, process, method, copyright, trademark, or patent that connects a
1039 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal
1040 property, a product transferred electronically, or a service;

1041 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible
1042 personal property, a product transferred electronically, or a service, regardless of ownership or
1043 control of the tangible personal property, the product transferred electronically, or the service
1044 that is the subject of the retail sale;

1045 (E) provides software development or research and development activities related to
1046 any activity described in this Subsection ~~[(69)(a)(i)]~~ (72)(a)(i), if the software development or
1047 research and development activity is directly related to the person's marketplace;

1048 (F) provides or offers fulfillment or storage services for a marketplace seller;

- 1049 (G) sets prices for the sale of tangible personal property, a product transferred
1050 electronically, or a service by a marketplace seller;
- 1051 (H) provides or offers customer service to a marketplace seller or a marketplace seller's
1052 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal
1053 property, a product transferred electronically, or a service sold by a marketplace seller on the
1054 person's marketplace; or
- 1055 (I) brands or otherwise identifies sales as those of the person; and
1056 (ii) does any of the following:
- 1057 (A) collects the sales price or purchase price of a retail sale of tangible personal
1058 property, a product transferred electronically, or a service;
- 1059 (B) provides payment processing services for a retail sale of tangible personal property,
1060 a product transferred electronically, or a service;
- 1061 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing
1062 fee, a fee for inserting or making available tangible personal property, a product transferred
1063 electronically, or a service on the person's marketplace, or other consideration for the
1064 facilitation of a retail sale of tangible personal property, a product transferred electronically, or
1065 a service, regardless of ownership or control of the tangible personal property, the product
1066 transferred electronically, or the service that is the subject of the retail sale;
- 1067 (D) through terms and conditions, an agreement, or another arrangement with a third
1068 person, collects payment from a purchase for a retail sale of tangible personal property, a
1069 product transferred electronically, or a service and transmits that payment to the marketplace
1070 seller, regardless of whether the third person receives compensation or other consideration in
1071 exchange for the service; or
- 1072 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
1073 property, a product transferred electronically, or service offered for sale.
- 1074 (b) "Marketplace facilitator" does not include:
- 1075 (i) a person that only provides payment processing services; or
1076 (ii) a person described in Subsection ~~[(69)(a)]~~ (72)(a) to the extent the person is
1077 facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.
- 1078 ~~[(70)]~~ (73) "Marketplace seller" means a seller that makes one or more retail sales
1079 through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of

1080 whether the seller is required to be registered to collect and remit the tax under this part.

1081 ~~[(71)]~~ (74) "Member of the immediate family of the producer" means a person who is
1082 related to a producer described in Subsection 59-12-104(20)(a) as a:

1083 (a) child or stepchild, regardless of whether the child or stepchild is:

1084 (i) an adopted child or adopted stepchild; or

1085 (ii) a foster child or foster stepchild;

1086 (b) grandchild or stepgrandchild;

1087 (c) grandparent or stepgrandparent;

1088 (d) nephew or stepnephew;

1089 (e) niece or stepniece;

1090 (f) parent or stepparent;

1091 (g) sibling or stepsibling;

1092 (h) spouse;

1093 (i) person who is the spouse of a person described in Subsections ~~[(71)(a)]~~ (74)(a)

1094 through (g); or

1095 (j) person similar to a person described in Subsections ~~[(71)(a)]~~ (74)(a) through (i) as
1096 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
1097 Administrative Rulemaking Act.

1098 ~~[(72)]~~ (75) "Mobile home" means the same as that term is defined in Section
1099 15A-1-302.

1100 ~~[(73)]~~ (76) "Mobile telecommunications service" means the same as that term is
1101 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1102 ~~[(74)]~~ (77) (a) "Mobile wireless service" means a telecommunications service,
1103 regardless of the technology used, if:

1104 (i) the origination point of the conveyance, routing, or transmission is not fixed;

1105 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

1106 (iii) the origination point described in Subsection ~~[(74)(a)(i)]~~ (77)(a)(i) and the
1107 termination point described in Subsection ~~[(74)(a)(ii)]~~ (77)(a)(ii) are not fixed.

1108 (b) "Mobile wireless service" includes a telecommunications service that is provided
1109 by a commercial mobile radio service provider.

1110 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1111 commission may by rule define "commercial mobile radio service provider."

1112 ~~[(75)]~~ (78) (a) Except as provided in Subsection ~~[(75)(c)]~~ (78)(c), "mobility enhancing
1113 equipment" means equipment that is:

1114 (i) primarily and customarily used to provide or increase the ability to move from one
1115 place to another;

1116 (ii) appropriate for use in a:

1117 (A) home; or

1118 (B) motor vehicle; and

1119 (iii) not generally used by persons with normal mobility.

1120 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
1121 the equipment described in Subsection ~~[(75)(a)]~~ (78)(a).

1122 (c) "Mobility enhancing equipment" does not include:

1123 (i) a motor vehicle;

1124 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
1125 vehicle manufacturer;

1126 (iii) durable medical equipment; or

1127 (iv) a prosthetic device.

1128 ~~[(76)]~~ (79) "Model 1 seller" means a seller registered under the agreement that has
1129 selected a certified service provider as the seller's agent to perform the seller's sales and use tax
1130 functions for agreement sales and use taxes, as outlined in the contract between the governing
1131 board of the agreement and the certified service provider, other than the seller's obligation
1132 under Section 59-12-124 to remit a tax on the seller's own purchases.

1133 ~~[(77)]~~ (80) "Model 2 seller" means a seller registered under the agreement that:

1134 (a) except as provided in Subsection ~~[(77)(b)]~~ (80)(b), has selected a certified
1135 automated system to perform the seller's sales tax functions for agreement sales and use taxes;
1136 and

1137 (b) retains responsibility for remitting all of the sales tax:

1138 (i) collected by the seller; and

1139 (ii) to the appropriate local taxing jurisdiction.

1140 ~~[(78)]~~ (81) (a) Subject to Subsection ~~[(78)(b)]~~ (81)(b), "model 3 seller" means a seller
1141 registered under the agreement that has:

- 1142 (i) sales in at least five states that are members of the agreement;
- 1143 (ii) total annual sales revenues of at least \$500,000,000;
- 1144 (iii) a proprietary system that calculates the amount of tax:
- 1145 (A) for an agreement sales and use tax; and
- 1146 (B) due to each local taxing jurisdiction; and
- 1147 (iv) entered into a performance agreement with the governing board of the agreement.
- 1148 (b) For purposes of Subsection ~~[(78)(a)]~~ (81)(a), "model 3 seller" includes an affiliated
- 1149 group of sellers using the same proprietary system.
- 1150 ~~[(79)]~~ (82) "Model 4 seller" means a seller that is registered under the agreement and is
- 1151 not a model 1 seller, model 2 seller, or model 3 seller.
- 1152 ~~[(80)]~~ (83) "Modular home" means a modular unit as defined in Section [15A-1-302](#).
- 1153 ~~[(81)]~~ (84) "Motor vehicle" means the same as that term is defined in Section
- 1154 [41-1a-102](#).
- 1155 ~~[(82)]~~ (85) "Oil sands" means impregnated bituminous sands that:
- 1156 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 1157 other hydrocarbons, or otherwise treated;
- 1158 (b) yield mixtures of liquid hydrocarbon; and
- 1159 (c) require further processing other than mechanical blending before becoming finished
- 1160 petroleum products.
- 1161 ~~[(83)]~~ (86) "Oil shale" means a group of fine black to dark brown shales containing
- 1162 kerogen material that yields petroleum upon heating and distillation.
- 1163 ~~[(84)]~~ (87) "Optional computer software maintenance contract" means a computer
- 1164 software maintenance contract that a customer is not obligated to purchase as a condition to the
- 1165 retail sale of computer software.
- 1166 ~~[(85)]~~ (88) (a) "Other fuels" means products that burn independently to produce heat or
- 1167 energy.
- 1168 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 1169 personal property.
- 1170 ~~[(86)]~~ (89) (a) "Paging service" means a telecommunications service that provides
- 1171 transmission of a coded radio signal for the purpose of activating a specific pager.
- 1172 (b) For purposes of Subsection ~~[(86)(a)]~~ (89)(a), the transmission of a coded radio

1173 signal includes a transmission by message or sound.

1174 ~~[(87)]~~ (90) "Pawn transaction" means the same as that term is defined in Section
1175 13-32a-102.

1176 ~~[(88)]~~ (91) "Pawnbroker" means the same as that term is defined in Section
1177 13-32a-102.

1178 ~~[(89)]~~ (92) (a) "Permanently attached to real property" means that for tangible personal
1179 property attached to real property:

1180 (i) the attachment of the tangible personal property to the real property:

1181 (A) is essential to the use of the tangible personal property; and

1182 (B) suggests that the tangible personal property will remain attached to the real
1183 property in the same place over the useful life of the tangible personal property; or

1184 (ii) if the tangible personal property is detached from the real property, the detachment
1185 would:

1186 (A) cause substantial damage to the tangible personal property; or

1187 (B) require substantial alteration or repair of the real property to which the tangible
1188 personal property is attached.

1189 (b) "Permanently attached to real property" includes:

1190 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1191 (A) essential to the operation of the tangible personal property; and

1192 (B) attached only to facilitate the operation of the tangible personal property;

1193 (ii) a temporary detachment of tangible personal property from real property for a
1194 repair or renovation if the repair or renovation is performed where the tangible personal
1195 property and real property are located; or

1196 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
1197 Subsection ~~[(89)(c)(iii)]~~ (92)(c)(iii) or (iv).

1198 (c) "Permanently attached to real property" does not include:

1199 (i) the attachment of portable or movable tangible personal property to real property if
1200 that portable or movable tangible personal property is attached to real property only for:

1201 (A) convenience;

1202 (B) stability; or

1203 (C) for an obvious temporary purpose;

1204 (ii) the detachment of tangible personal property from real property except for the
1205 detachment described in Subsection [~~(89)(b)(ii)~~] (92)(b)(ii);

1206 (iii) an attachment of the following tangible personal property to real property if the
1207 attachment to real property is only through a line that supplies water, electricity, gas,
1208 telecommunications, cable, or supplies a similar item as determined by the commission by rule
1209 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

1210 (A) a computer;

1211 (B) a telephone;

1212 (C) a television; or

1213 (D) tangible personal property similar to Subsections [~~(89)(c)(iii)(A)~~] (92)(c)(iii)(A)
1214 through (C) as determined by the commission by rule made in accordance with Title 63G,
1215 Chapter 3, Utah Administrative Rulemaking Act; or

1216 (iv) an item listed in Subsection [~~(130)(c)~~] (136)(c).

1217 [~~(90)~~] (93) "Person" includes any individual, firm, partnership, joint venture,
1218 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
1219 city, municipality, district, or other local governmental entity of the state, or any group or
1220 combination acting as a unit.

1221 [~~(91)~~] (94) "Place of primary use":

1222 (a) for telecommunications service other than mobile telecommunications service,
1223 means the street address representative of where the customer's use of the telecommunications
1224 service primarily occurs, which shall be:

1225 (i) the residential street address of the customer; or

1226 (ii) the primary business street address of the customer; or

1227 (b) for mobile telecommunications service, means the same as that term is defined in
1228 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1229 [~~(92)~~] (95) (a) "Postpaid calling service" means a telecommunications service a person
1230 obtains by making a payment on a call-by-call basis:

1231 (i) through the use of a:

1232 (A) bank card;

1233 (B) credit card;

1234 (C) debit card; or

1235 (D) travel card; or
1236 (ii) by a charge made to a telephone number that is not associated with the origination
1237 or termination of the telecommunications service.

1238 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
1239 service, that would be a prepaid wireless calling service if the service were exclusively a
1240 telecommunications service.

1241 [~~93~~] (96) "Postproduction" means an activity related to the finishing or duplication of
1242 a medium described in Subsection 59-12-104(54)(a).

1243 [~~94~~] (97) "Prepaid calling service" means a telecommunications service:

1244 (a) that allows a purchaser access to telecommunications service that is exclusively
1245 telecommunications service;

1246 (b) that:

1247 (i) is paid for in advance; and

1248 (ii) enables the origination of a call using an:

1249 (A) access number; or

1250 (B) authorization code;

1251 (c) that is dialed:

1252 (i) manually; or

1253 (ii) electronically; and

1254 (d) sold in predetermined units or dollars that decline:

1255 (i) by a known amount; and

1256 (ii) with use.

1257 [~~95~~] (98) "Prepaid wireless calling service" means a telecommunications service:

1258 (a) that provides the right to utilize:

1259 (i) mobile wireless service; and

1260 (ii) other service that is not a telecommunications service, including:

1261 (A) the download of a product transferred electronically;

1262 (B) a content service; or

1263 (C) an ancillary service;

1264 (b) that:

1265 (i) is paid for in advance; and

- 1266 (ii) enables the origination of a call using an:
- 1267 (A) access number; or
- 1268 (B) authorization code;
- 1269 (c) that is dialed:
- 1270 (i) manually; or
- 1271 (ii) electronically; and
- 1272 (d) sold in predetermined units or dollars that decline:
- 1273 (i) by a known amount; and
- 1274 (ii) with use.
- 1275 ~~[(96)]~~ (99) (a) "Prepared food" means:
- 1276 (i) food:
- 1277 (A) sold in a heated state; or
- 1278 (B) heated by a seller;
- 1279 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 1280 item; or
- 1281 (iii) except as provided in Subsection ~~[(96)(c)]~~ (99)(c), food sold with an eating utensil
- 1282 provided by the seller, including a:
- 1283 (A) plate;
- 1284 (B) knife;
- 1285 (C) fork;
- 1286 (D) spoon;
- 1287 (E) glass;
- 1288 (F) cup;
- 1289 (G) napkin; or
- 1290 (H) straw.
- 1291 (b) "Prepared food" does not include:
- 1292 (i) food that a seller only:
- 1293 (A) cuts;
- 1294 (B) repackages; or
- 1295 (C) pasteurizes; ~~[or]~~
- 1296 (ii) (A) the following:

- 1297 (I) raw egg;
- 1298 (II) raw fish;
- 1299 (III) raw meat;
- 1300 (IV) raw poultry; or
- 1301 (V) a food containing an item described in Subsections [~~(96)(b)(ii)(A)(I)~~
- 1302 (99)(b)(ii)(A)(I) through (IV); and
- 1303 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1304 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1305 Subsection [~~(96)(b)(ii)(A)~~] (99)(b)(ii)(A) to prevent food borne illness; or
- 1306 (iii) the following if sold without eating utensils provided by the seller:
- 1307 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1308 classification under the 2002 North American Industry Classification System of the federal
- 1309 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1310 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1311 Manufacturing;
- 1312 (B) food and food ingredients sold in an unheated state:
- 1313 (I) by weight or volume; and
- 1314 (II) as a single item; or
- 1315 (C) a bakery item, including:
- 1316 (I) a bagel;
- 1317 (II) a bar;
- 1318 (III) a biscuit;
- 1319 (IV) bread;
- 1320 (V) a bun;
- 1321 (VI) a cake;
- 1322 (VII) a cookie;
- 1323 (VIII) a croissant;
- 1324 (IX) a danish;
- 1325 (X) a donut;
- 1326 (XI) a muffin;
- 1327 (XII) a pastry;

- 1328 (XIII) a pie;
- 1329 (XIV) a roll;
- 1330 (XV) a tart;
- 1331 (XVI) a torte; or
- 1332 (XVII) a tortilla.
- 1333 (c) An eating utensil provided by the seller does not include the following used to
- 1334 transport the food:
 - 1335 (i) a container; or
 - 1336 (ii) packaging.
- 1337 [(97)] (100) "Prescription" means an order, formula, or recipe that is issued:
- 1338 (a) (i) orally;
- 1339 (ii) in writing;
- 1340 (iii) electronically; or
- 1341 (iv) by any other manner of transmission; and
- 1342 (b) by a licensed practitioner authorized by the laws of a state.
- 1343 [(98)] (101) (a) Except as provided in Subsection [(98)(b)(ii)] (101)(b)(ii) or (iii),
- 1344 "prewritten computer software" means computer software that is not designed and developed:
 - 1345 (i) by the author or other creator of the computer software; and
 - 1346 (ii) to the specifications of a specific purchaser.
- 1347 (b) "Prewritten computer software" includes:
 - 1348 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
 - 1349 software is not designed and developed:
 - 1350 (A) by the author or other creator of the computer software; and
 - 1351 (B) to the specifications of a specific purchaser;
 - 1352 (ii) computer software designed and developed by the author or other creator of the
 - 1353 computer software to the specifications of a specific purchaser if the computer software is sold
 - 1354 to a person other than the purchaser; or
 - 1355 (iii) except as provided in Subsection [(98)(c)] (101)(c), prewritten computer software
 - 1356 or a prewritten portion of prewritten computer software:
 - 1357 (A) that is modified or enhanced to any degree; and
 - 1358 (B) if the modification or enhancement described in Subsection [(98)(b)(iii)(A)]

1359 (101)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

1360 (c) "Prewritten computer software" does not include a modification or enhancement
1361 described in Subsection [~~(98)(b)(iii)~~] (101)(b)(iii) if the charges for the modification or
1362 enhancement are:

1363 (i) reasonable; and

1364 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the
1365 invoice or other statement of price provided to the purchaser at the time of sale or later, as
1366 demonstrated by:

1367 (A) the books and records the seller keeps at the time of the transaction in the regular
1368 course of business, including books and records the seller keeps at the time of the transaction in
1369 the regular course of business for nontax purposes;

1370 (B) a preponderance of the facts and circumstances at the time of the transaction; and

1371 (C) the understanding of all of the parties to the transaction.

1372 [~~(99)~~] (102) (a) "Private communications service" means a telecommunications
1373 service:

1374 (i) that entitles a customer to exclusive or priority use of one or more communications
1375 channels between or among termination points; and

1376 (ii) regardless of the manner in which the one or more communications channels are
1377 connected.

1378 (b) "Private communications service" includes the following provided in connection
1379 with the use of one or more communications channels:

1380 (i) an extension line;

1381 (ii) a station;

1382 (iii) switching capacity; or

1383 (iv) another associated service that is provided in connection with the use of one or
1384 more communications channels as defined in Section 59-12-215.

1385 [~~(100)~~] (103) (a) Except as provided in Subsection [~~(100)(b)~~] (103)(b), "product
1386 transferred electronically" means a product transferred electronically that would be subject to a
1387 tax under this chapter if that product was transferred in a manner other than electronically.

1388 (b) "Product transferred electronically" does not include:

1389 (i) an ancillary service;

- 1390 (ii) computer software; or
- 1391 (iii) a telecommunications service.
- 1392 [~~(101)~~] (104) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 1393 (i) artificially replace a missing portion of the body;
- 1394 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1395 (iii) support a weak or deformed portion of the body.
- 1396 (b) "Prosthetic device" includes:
- 1397 (i) parts used in the repairs or renovation of a prosthetic device;
- 1398 (ii) replacement parts for a prosthetic device;
- 1399 (iii) a dental prosthesis; or
- 1400 (iv) a hearing aid.
- 1401 (c) "Prosthetic device" does not include:
- 1402 (i) corrective eyeglasses; or
- 1403 (ii) contact lenses.
- 1404 [~~(102)~~] (105) (a) "Protective equipment" means an item:
- 1405 (i) for human wear; and
- 1406 (ii) that is:
- 1407 (A) designed as protection:
- 1408 (I) to the wearer against injury or disease; or
- 1409 (II) against damage or injury of other persons or property; and
- 1410 (B) not suitable for general use.
- 1411 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1412 commission shall make rules:
- 1413 (i) listing the items that constitute "protective equipment"; and
- 1414 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1415 under the agreement.
- 1416 [~~(103)~~] (106) (a) For purposes of Subsection [59-12-104\(41\)](#), "publication" means any
- 1417 written or printed matter, other than a photocopy:
- 1418 (i) regardless of:
- 1419 (A) characteristics;
- 1420 (B) copyright;

- 1421 (C) form;
- 1422 (D) format;
- 1423 (E) method of reproduction; or
- 1424 (F) source; and
- 1425 (ii) made available in printed or electronic format.
- 1426 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1427 commission may by rule define the term "photocopy."
- 1428 ~~[(104)]~~ (107) (a) "Purchase price" and "sales price" mean the total amount of
- 1429 consideration:
- 1430 (i) valued in money; and
- 1431 (ii) for which tangible personal property, a product transferred electronically, or
- 1432 services are:
- 1433 (A) sold;
- 1434 (B) leased; or
- 1435 (C) rented.
- 1436 (b) "Purchase price" and "sales price" include:
- 1437 (i) the seller's cost of the tangible personal property, a product transferred
- 1438 electronically, or services sold;
- 1439 (ii) expenses of the seller, including:
- 1440 (A) the cost of materials used;
- 1441 (B) a labor cost;
- 1442 (C) a service cost;
- 1443 (D) interest;
- 1444 (E) a loss;
- 1445 (F) the cost of transportation to the seller; or
- 1446 (G) a tax imposed on the seller;
- 1447 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1448 (iv) consideration a seller receives from a person other than the purchaser if:
- 1449 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 1450 and
- 1451 (II) the consideration described in Subsection ~~[(104)(b)(iv)(A)(I)]~~ (107)(b)(iv)(A)(I) is

1452 directly related to a price reduction or discount on the sale;

1453 (B) the seller has an obligation to pass the price reduction or discount through to the
1454 purchaser;

1455 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1456 the seller at the time of the sale to the purchaser; and

1457 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1458 seller to claim a price reduction or discount; and

1459 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1460 coupon, or other documentation with the understanding that the person other than the seller
1461 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1462 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1463 organization allowed a price reduction or discount, except that a preferred customer card that is
1464 available to any patron of a seller does not constitute membership in a group or organization
1465 allowed a price reduction or discount; or

1466 (III) the price reduction or discount is identified as a third party price reduction or
1467 discount on the:

1468 (Aa) invoice the purchaser receives; or

1469 (Bb) certificate, coupon, or other documentation the purchaser presents.

1470 (c) "Purchase price" and "sales price" do not include:

1471 (i) a discount:

1472 (A) in a form including:

1473 (I) cash;

1474 (II) term; or

1475 (III) coupon;

1476 (B) that is allowed by a seller;

1477 (C) taken by a purchaser on a sale; and

1478 (D) that is not reimbursed by a third party; or

1479 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately
1480 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
1481 sale or later, as demonstrated by the books and records the seller keeps at the time of the
1482 transaction in the regular course of business, including books and records the seller keeps at the

1483 time of the transaction in the regular course of business for nontax purposes, by a
1484 preponderance of the facts and circumstances at the time of the transaction, and by the
1485 understanding of all of the parties to the transaction:

1486 (A) the following from credit extended on the sale of tangible personal property or
1487 services:

- 1488 (I) a carrying charge;
- 1489 (II) a financing charge; or
- 1490 (III) an interest charge;
- 1491 (B) a delivery charge;
- 1492 (C) an installation charge;
- 1493 (D) a manufacturer rebate on a motor vehicle; or
- 1494 (E) a tax or fee legally imposed directly on the consumer.

1495 ~~[(105)]~~ (108) "Purchaser" means a person to whom:

- 1496 (a) a sale of tangible personal property is made;
- 1497 (b) a product is transferred electronically; or
- 1498 (c) a service is furnished.

1499 ~~[(106)]~~ (109) "Qualifying data center" means a data center facility that:

1500 (a) houses a group of networked server computers in one physical location in order to
1501 disseminate, manage, and store data and information;

- 1502 (b) is located in the state;
- 1503 (c) is a new operation constructed on or after July 1, 2016;
- 1504 (d) consists of one or more buildings that total 150,000 or more square feet;
- 1505 (e) is owned or leased by:

- 1506 (i) the operator of the data center facility; or
- 1507 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
1508 of the data center facility; and

1509 (f) is located on one or more parcels of land that are owned or leased by:

- 1510 (i) the operator of the data center facility; or
- 1511 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
1512 of the data center facility.

1513 ~~[(107)]~~ (110) "Regularly rented" means:

1514 (a) rented to a guest for value three or more times during a calendar year; or
1515 (b) advertised or held out to the public as a place that is regularly rented to guests for
1516 value.

1517 ~~[(108)]~~ (111) "Rental" means the same as that term is defined in Subsection ~~[(60)]~~ (63).
1518 ~~[(109)]~~ (112) (a) Except as provided in Subsection ~~[(109)(b)]~~ (112)(b), "repairs or
1519 renovations of tangible personal property" means:

1520 (i) a repair or renovation of tangible personal property that is not permanently attached
1521 to real property; or

1522 (ii) attaching tangible personal property or a product transferred electronically to other
1523 tangible personal property or detaching tangible personal property or a product transferred
1524 electronically from other tangible personal property if:

1525 (A) the other tangible personal property to which the tangible personal property or
1526 product transferred electronically is attached or from which the tangible personal property or
1527 product transferred electronically is detached is not permanently attached to real property; and

1528 (B) the attachment of tangible personal property or a product transferred electronically
1529 to other tangible personal property or detachment of tangible personal property or a product
1530 transferred electronically from other tangible personal property is made in conjunction with a
1531 repair or replacement of tangible personal property or a product transferred electronically.

1532 (b) "Repairs or renovations of tangible personal property" does not include:

1533 (i) attaching prewritten computer software to other tangible personal property if the
1534 other tangible personal property to which the prewritten computer software is attached is not
1535 permanently attached to real property; or

1536 (ii) detaching prewritten computer software from other tangible personal property if the
1537 other tangible personal property from which the prewritten computer software is detached is
1538 not permanently attached to real property.

1539 ~~[(110)]~~ (113) "Research and development" means the process of inquiry or
1540 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
1541 process of preparing those devices, technologies, or applications for marketing.

1542 ~~[(111)]~~ (114) (a) "Residential telecommunications services" means a
1543 telecommunications service or an ancillary service that is provided to an individual for personal
1544 use:

1545 (i) at a residential address; or

1546 (ii) at an institution, including a nursing home or a school, if the telecommunications
1547 service or ancillary service is provided to and paid for by the individual residing at the
1548 institution rather than the institution.

1549 (b) For purposes of Subsection [~~(111)~~(a)(i)] (114)(a)(i), a residential address includes
1550 an:

1551 (i) apartment; or

1552 (ii) other individual dwelling unit.

1553 [~~(112)~~] (115) "Residential use" means the use in or around a home, apartment building,
1554 sleeping quarters, and similar facilities or accommodations.

1555 [~~(113)~~] (116) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
1556 other than:

1557 (a) resale;

1558 (b) sublease; or

1559 (c) subrent.

1560 [~~(114)~~] (117) (a) "Retailer" means any person, unless prohibited by the Constitution of
1561 the United States or federal law, that is engaged in a regularly organized business in tangible
1562 personal property or any other taxable transaction under Subsection [59-12-103\(1\)](#), and who is
1563 selling to the user or consumer and not for resale.

1564 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1565 engaged in the business of selling to users or consumers within the state.

1566 [~~(115)~~] (118) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1567 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1568 Subsection [59-12-103\(1\)](#), for consideration.

1569 (b) "Sale" includes:

1570 (i) installment and credit sales;

1571 (ii) any closed transaction constituting a sale;

1572 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1573 chapter;

1574 (iv) any transaction if the possession of property is transferred but the seller retains the
1575 title as security for the payment of the price; and

1576 (v) any transaction under which right to possession, operation, or use of any article of
1577 tangible personal property is granted under a lease or contract and the transfer of possession
1578 would be taxable if an outright sale were made.

1579 [~~(116)~~] (119) "Sale at retail" means the same as that term is defined in Subsection
1580 [~~(113)~~] (116).

1581 [~~(117)~~] (120) "Sale-leaseback transaction" means a transaction by which title to
1582 tangible personal property or a product transferred electronically that is subject to a tax under
1583 this chapter is transferred:

1584 (a) by a purchaser-lessee;

1585 (b) to a lessor;

1586 (c) for consideration; and

1587 (d) if:

1588 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1589 of the tangible personal property or product transferred electronically;

1590 (ii) the sale of the tangible personal property or product transferred electronically to the
1591 lessor is intended as a form of financing:

1592 (A) for the tangible personal property or product transferred electronically; and

1593 (B) to the purchaser-lessee; and

1594 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1595 is required to:

1596 (A) capitalize the tangible personal property or product transferred electronically for
1597 financial reporting purposes; and

1598 (B) account for the lease payments as payments made under a financing arrangement.

1599 (121) "Sales and use tax" means a tax imposed under this chapter.

1600 [~~(118)~~] (122) "Sales price" means the same as that term is defined in Subsection
1601 [~~(104)~~] (107).

1602 [~~(119)~~] (123) (a) "Sales relating to schools" means the following sales by, amounts
1603 paid to, or amounts charged by a school:

1604 (i) sales that are directly related to the school's educational functions or activities
1605 including:

1606 (A) the sale of:

- 1607 (I) textbooks;
- 1608 (II) textbook fees;
- 1609 (III) laboratory fees;
- 1610 (IV) laboratory supplies; or
- 1611 (V) safety equipment;
- 1612 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 1613 that:
- 1614 (I) a student is specifically required to wear as a condition of participation in a
- 1615 school-related event or school-related activity; and
- 1616 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 1617 place of ordinary clothing;
- 1618 (C) sales of the following if the net or gross revenues generated by the sales are
- 1619 deposited into a school district fund or school fund dedicated to school meals:
- 1620 (I) food and food ingredients; or
- 1621 (II) prepared food; or
- 1622 (D) transportation charges for official school activities; or
- 1623 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1624 event or school-related activity.
- 1625 (b) "Sales relating to schools" does not include:
- 1626 (i) bookstore sales of items that are not educational materials or supplies;
- 1627 (ii) except as provided in Subsection [~~(119)(a)(i)(B)~~] (123)(a)(i)(B):
- 1628 (A) clothing;
- 1629 (B) clothing accessories or equipment;
- 1630 (C) protective equipment; or
- 1631 (D) sports or recreational equipment; or
- 1632 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1633 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1634 (A) other than a:
- 1635 (I) school;
- 1636 (II) nonprofit organization authorized by a school board or a governing body of a
- 1637 private school to organize and direct a competitive secondary school activity; or

1638 (III) nonprofit association authorized by a school board or a governing body of a
1639 private school to organize and direct a competitive secondary school activity; and

1640 (B) that is required to collect sales and use taxes under this chapter.

1641 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1642 commission may make rules defining the term "passed through."

1643 [~~(120)~~] (124) For purposes of this section and Section 59-12-104, "school" means:

1644 (a) an elementary school or a secondary school that:

1645 (i) is a:

1646 (A) public school; or

1647 (B) private school; and

1648 (ii) provides instruction for one or more grades kindergarten through 12; or

1649 (b) a public school district.

1650 [~~(121)~~] (125) (a) "Seller" means a person that makes a sale, lease, or rental of:

1651 (i) tangible personal property;

1652 (ii) a product transferred electronically; or

1653 (iii) a service.

1654 (b) "Seller" includes a marketplace facilitator.

1655 [~~(122)~~] (126) (a) "Semiconductor fabricating, processing, research, or development
1656 materials" means tangible personal property or a product transferred electronically if the
1657 tangible personal property or product transferred electronically is:

1658 (i) used primarily in the process of:

1659 (A) (I) manufacturing a semiconductor;

1660 (II) fabricating a semiconductor; or

1661 (III) research or development of a:

1662 (Aa) semiconductor; or

1663 (Bb) semiconductor manufacturing process; or

1664 (B) maintaining an environment suitable for a semiconductor; or

1665 (ii) consumed primarily in the process of:

1666 (A) (I) manufacturing a semiconductor;

1667 (II) fabricating a semiconductor; or

1668 (III) research or development of a:

- 1669 (Aa) semiconductor; or
- 1670 (Bb) semiconductor manufacturing process; or
- 1671 (B) maintaining an environment suitable for a semiconductor.
- 1672 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1673 includes:
- 1674 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1675 transferred electronically described in Subsection [~~(122)(a)~~] (126)(a); or
- 1676 (ii) a chemical, catalyst, or other material used to:
- 1677 (A) produce or induce in a semiconductor a:
- 1678 (I) chemical change; or
- 1679 (II) physical change;
- 1680 (B) remove impurities from a semiconductor; or
- 1681 (C) improve the marketable condition of a semiconductor.
- 1682 [~~(123)~~] (127) "Senior citizen center" means a facility having the primary purpose of
- 1683 providing services to the aged as defined in Section [62A-3-101](#).
- 1684 (128) "Shared vehicle" means the same as that term is defined in Section [13-48a-101](#).
- 1685 (129) "Shared vehicle driver" means the same as that term is defined in Section
- 1686 [13-48a-101](#).
- 1687 (130) "Shared vehicle owner" means the same as that term is defined in Section
- 1688 [13-48a-101](#).
- 1689 [~~(124)~~] (131) (a) Subject to Subsections [~~(124)(b)~~] (131)(b) and (c), "short-term
- 1690 lodging consumable" means tangible personal property that:
- 1691 (i) a business that provides accommodations and services described in Subsection
- 1692 [59-12-103\(1\)\(i\)](#) purchases as part of a transaction to provide the accommodations and services
- 1693 to a purchaser;
- 1694 (ii) is intended to be consumed by the purchaser; and
- 1695 (iii) is:
- 1696 (A) included in the purchase price of the accommodations and services; and
- 1697 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 1698 to the purchaser.
- 1699 (b) "Short-term lodging consumable" includes:

- 1700 (i) a beverage;
- 1701 (ii) a brush or comb;
- 1702 (iii) a cosmetic;
- 1703 (iv) a hair care product;
- 1704 (v) lotion;
- 1705 (vi) a magazine;
- 1706 (vii) makeup;
- 1707 (viii) a meal;
- 1708 (ix) mouthwash;
- 1709 (x) nail polish remover;
- 1710 (xi) a newspaper;
- 1711 (xii) a notepad;
- 1712 (xiii) a pen;
- 1713 (xiv) a pencil;
- 1714 (xv) a razor;
- 1715 (xvi) saline solution;
- 1716 (xvii) a sewing kit;
- 1717 (xviii) shaving cream;
- 1718 (xix) a shoe shine kit;
- 1719 (xx) a shower cap;
- 1720 (xxi) a snack item;
- 1721 (xxii) soap;
- 1722 (xxiii) toilet paper;
- 1723 (xxiv) a toothbrush;
- 1724 (xxv) toothpaste; or
- 1725 (xxvi) an item similar to Subsections [~~(124)(b)(i)~~] (131)(b)(i) through (xxv) as the
- 1726 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah
- 1727 Administrative Rulemaking Act.
- 1728 (c) "Short-term lodging consumable" does not include:
- 1729 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1730 property to be reused; or

- 1731 (ii) a product transferred electronically.
- 1732 [~~(125)~~] (132) "Simplified electronic return" means the electronic return:
- 1733 (a) described in Section 318(C) of the agreement; and
- 1734 (b) approved by the governing board of the agreement.
- 1735 [~~(126)~~] (133) "Solar energy" means the sun used as the sole source of energy for
- 1736 producing electricity.
- 1737 [~~(127)~~] (134) (a) "Sports or recreational equipment" means an item:
- 1738 (i) designed for human use; and
- 1739 (ii) that is:
- 1740 (A) worn in conjunction with:
- 1741 (I) an athletic activity; or
- 1742 (II) a recreational activity; and
- 1743 (B) not suitable for general use.
- 1744 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1745 commission shall make rules:
- 1746 (i) listing the items that constitute "sports or recreational equipment"; and
- 1747 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1748 equipment" under the agreement.
- 1749 [~~(128)~~] (135) "State" means the state of Utah, its departments, and agencies.
- 1750 [~~(129)~~] (136) "Storage" means any keeping or retention of tangible personal property or
- 1751 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 1752 except sale in the regular course of business.
- 1753 [~~(130)~~] (137) (a) Except as provided in Subsection [~~(130)(d)~~] (137)(d) or (e), "tangible
- 1754 personal property" means personal property that:
- 1755 (i) may be:
- 1756 (A) seen;
- 1757 (B) weighed;
- 1758 (C) measured;
- 1759 (D) felt; or
- 1760 (E) touched; or
- 1761 (ii) is in any manner perceptible to the senses.

1762 (b) "Tangible personal property" includes:

1763 (i) electricity;

1764 (ii) water;

1765 (iii) gas;

1766 (iv) steam; or

1767 (v) prewritten computer software, regardless of the manner in which the prewritten
1768 computer software is transferred.

1769 (c) "Tangible personal property" includes the following regardless of whether the item
1770 is attached to real property:

1771 (i) a dishwasher;

1772 (ii) a dryer;

1773 (iii) a freezer;

1774 (iv) a microwave;

1775 (v) a refrigerator;

1776 (vi) a stove;

1777 (vii) a washer; or

1778 (viii) an item similar to Subsections [~~(130)(c)(i)~~] (137)(c)(i) through (vii) as

1779 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
1780 Administrative Rulemaking Act.

1781 (d) "Tangible personal property" does not include a product that is transferred
1782 electronically.

1783 (e) "Tangible personal property" does not include the following if attached to real
1784 property, regardless of whether the attachment to real property is only through a line that
1785 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1786 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1787 Rulemaking Act:

1788 (i) a hot water heater;

1789 (ii) a water filtration system; or

1790 (iii) a water softener system.

1791 [~~(131)~~] (138) (a) "Telecommunications enabling or facilitating equipment, machinery,
1792 or software" means an item listed in Subsection [~~(131)(b)~~] (138)(b) if that item is purchased or

1793 leased primarily to enable or facilitate one or more of the following to function:

1794 (i) telecommunications switching or routing equipment, machinery, or software; or

1795 (ii) telecommunications transmission equipment, machinery, or software.

1796 (b) The following apply to Subsection [~~(131)(a)~~] (138)(a):

1797 (i) a pole;

1798 (ii) software;

1799 (iii) a supplementary power supply;

1800 (iv) temperature or environmental equipment or machinery;

1801 (v) test equipment;

1802 (vi) a tower; or

1803 (vii) equipment, machinery, or software that functions similarly to an item listed in

1804 Subsections [~~(131)(b)(i)~~] (138)(b)(i) through (vi) as determined by the commission by rule

1805 made in accordance with Subsection [~~(131)(c)~~] (138)(c).

1806 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1807 commission may by rule define what constitutes equipment, machinery, or software that

1808 functions similarly to an item listed in Subsections [~~(131)(b)(i)~~] (138)(b)(i) through (vi).

1809 [~~(132)~~] (139) "Telecommunications equipment, machinery, or software required for

1810 911 service" means equipment, machinery, or software that is required to comply with 47

1811 C.F.R. Sec. 20.18.

1812 [~~(133)~~] (140) "Telecommunications maintenance or repair equipment, machinery, or

1813 software" means equipment, machinery, or software purchased or leased primarily to maintain

1814 or repair one or more of the following, regardless of whether the equipment, machinery, or

1815 software is purchased or leased as a spare part or as an upgrade or modification to one or more

1816 of the following:

1817 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1818 (b) telecommunications switching or routing equipment, machinery, or software; or

1819 (c) telecommunications transmission equipment, machinery, or software.

1820 [~~(134)~~] (141) (a) "Telecommunications service" means the electronic conveyance,

1821 routing, or transmission of audio, data, video, voice, or any other information or signal to a

1822 point, or among or between points.

1823 (b) "Telecommunications service" includes:

- 1824 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1825 processing application is used to act:
- 1826 (A) on the code, form, or protocol of the content;
1827 (B) for the purpose of electronic conveyance, routing, or transmission; and
1828 (C) regardless of whether the service:
1829 (I) is referred to as voice over Internet protocol service; or
1830 (II) is classified by the Federal Communications Commission as enhanced or value
1831 added;
- 1832 (ii) an 800 service;
1833 (iii) a 900 service;
1834 (iv) a fixed wireless service;
1835 (v) a mobile wireless service;
1836 (vi) a postpaid calling service;
1837 (vii) a prepaid calling service;
1838 (viii) a prepaid wireless calling service; or
1839 (ix) a private communications service.
- 1840 (c) "Telecommunications service" does not include:
1841 (i) advertising, including directory advertising;
1842 (ii) an ancillary service;
1843 (iii) a billing and collection service provided to a third party;
1844 (iv) a data processing and information service if:
1845 (A) the data processing and information service allows data to be:
1846 (I) (Aa) acquired;
1847 (Bb) generated;
1848 (Cc) processed;
1849 (Dd) retrieved; or
1850 (Ee) stored; and
1851 (II) delivered by an electronic transmission to a purchaser; and
1852 (B) the purchaser's primary purpose for the underlying transaction is the processed data
1853 or information;
1854 (v) installation or maintenance of the following on a customer's premises:

- 1855 (A) equipment; or
- 1856 (B) wiring;
- 1857 (vi) Internet access service;
- 1858 (vii) a paging service;
- 1859 (viii) a product transferred electronically, including:
 - 1860 (A) music;
 - 1861 (B) reading material;
 - 1862 (C) a ring tone;
 - 1863 (D) software; or
 - 1864 (E) video;
 - 1865 (ix) a radio and television audio and video programming service:
 - 1866 (A) regardless of the medium; and
 - 1867 (B) including:
 - 1868 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 1869 programming service by a programming service provider;
 - 1870 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 1871 (III) audio and video programming services delivered by a commercial mobile radio
 - 1872 service provider as defined in 47 C.F.R. Sec. 20.3;
 - 1873 (x) a value-added nonvoice data service; or
 - 1874 (xi) tangible personal property.
- 1875 ~~[(135)]~~ (142) (a) "Telecommunications service provider" means a person that:
 - 1876 (i) owns, controls, operates, or manages a telecommunications service; and
 - 1877 (ii) engages in an activity described in Subsection ~~[(135)(a)(i)]~~ (142)(a)(i) for the
 - 1878 shared use with or resale to any person of the telecommunications service.
- 1879 (b) A person described in Subsection ~~[(135)(a)]~~ (142)(a) is a telecommunications
- 1880 service provider whether or not the Public Service Commission of Utah regulates:
 - 1881 (i) that person; or
 - 1882 (ii) the telecommunications service that the person owns, controls, operates, or
 - 1883 manages.
- 1884 ~~[(136)]~~ (143) (a) "Telecommunications switching or routing equipment, machinery, or
- 1885 software" means an item listed in Subsection ~~[(136)(b)]~~ (143)(b) if that item is purchased or

1886 leased primarily for switching or routing:

- 1887 (i) an ancillary service;
- 1888 (ii) data communications;
- 1889 (iii) voice communications; or
- 1890 (iv) telecommunications service.

1891 (b) The following apply to Subsection [~~(136)(a)~~] (143)(a):

- 1892 (i) a bridge;
- 1893 (ii) a computer;
- 1894 (iii) a cross connect;
- 1895 (iv) a modem;
- 1896 (v) a multiplexer;
- 1897 (vi) plug in circuitry;
- 1898 (vii) a router;
- 1899 (viii) software;
- 1900 (ix) a switch; or

1901 (x) equipment, machinery, or software that functions similarly to an item listed in
1902 Subsections [~~(136)(b)(i)~~] (143)(b)(i) through (ix) as determined by the commission by rule
1903 made in accordance with Subsection [~~(136)(c)~~] (143)(c).

1904 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1905 commission may by rule define what constitutes equipment, machinery, or software that
1906 functions similarly to an item listed in Subsections [~~(136)(b)(i)~~] (143)(b)(i) through (ix).

1907 [~~(137)~~] (144) (a) "Telecommunications transmission equipment, machinery, or
1908 software" means an item listed in Subsection [~~(137)(b)~~] (144)(b) if that item is purchased or
1909 leased primarily for sending, receiving, or transporting:

- 1910 (i) an ancillary service;
- 1911 (ii) data communications;
- 1912 (iii) voice communications; or
- 1913 (iv) telecommunications service.

1914 (b) The following apply to Subsection [~~(137)(a)~~] (144)(a):

- 1915 (i) an amplifier;
- 1916 (ii) a cable;

- 1917 (iii) a closure;
- 1918 (iv) a conduit;
- 1919 (v) a controller;
- 1920 (vi) a duplexer;
- 1921 (vii) a filter;
- 1922 (viii) an input device;
- 1923 (ix) an input/output device;
- 1924 (x) an insulator;
- 1925 (xi) microwave machinery or equipment;
- 1926 (xii) an oscillator;
- 1927 (xiii) an output device;
- 1928 (xiv) a pedestal;
- 1929 (xv) a power converter;
- 1930 (xvi) a power supply;
- 1931 (xvii) a radio channel;
- 1932 (xviii) a radio receiver;
- 1933 (xix) a radio transmitter;
- 1934 (xx) a repeater;
- 1935 (xxi) software;
- 1936 (xxii) a terminal;
- 1937 (xxiii) a timing unit;
- 1938 (xxiv) a transformer;
- 1939 (xxv) a wire; or

1940 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
 1941 Subsections [~~(137)(b)(i)~~] (144)(b)(i) through (xxv) as determined by the commission by rule
 1942 made in accordance with Subsection [~~(137)(c)~~] (144)(c).

1943 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 1944 commission may by rule define what constitutes equipment, machinery, or software that
 1945 functions similarly to an item listed in Subsections [~~(137)(b)(i)~~] (144)(b)(i) through (xxv).

1946 [~~(138)~~] (145) (a) "Textbook for a higher education course" means a textbook or other
 1947 printed material that is required for a course:

1948 (i) offered by an institution of higher education; and
1949 (ii) that the purchaser of the textbook or other printed material attends or will attend.
1950 (b) "Textbook for a higher education course" includes a textbook in electronic format.
1951 [~~(139)~~] (146) "Tobacco" means:
1952 (a) a cigarette;
1953 (b) a cigar;
1954 (c) chewing tobacco;
1955 (d) pipe tobacco; or
1956 (e) any other item that contains tobacco.
1957 [~~(140)~~] (147) "Unassisted amusement device" means an amusement device, skill
1958 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
1959 operate the amusement device, skill device, or ride device.
1960 [~~(141)~~] (148) (a) "Use" means the exercise of any right or power over tangible personal
1961 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1962 incident to the ownership or the leasing of that tangible personal property, product transferred
1963 electronically, or service.
1964 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1965 property, a product transferred electronically, or a service in the regular course of business and
1966 held for resale.
1967 [~~(142)~~] (149) "Value-added nonvoice data service" means a service:
1968 (a) that otherwise meets the definition of a telecommunications service except that a
1969 computer processing application is used to act primarily for a purpose other than conveyance,
1970 routing, or transmission; and
1971 (b) with respect to which a computer processing application is used to act on data or
1972 information:
1973 (i) code;
1974 (ii) content;
1975 (iii) form; or
1976 (iv) protocol.
1977 [~~(143)~~] (150) (a) Subject to Subsection [~~(143)(b)~~] (150)(b), "vehicle" means the
1978 following that are required to be titled, registered, or titled and registered:

- 1979 (i) an aircraft as defined in Section [72-10-102](#);
- 1980 (ii) a vehicle as defined in Section [41-1a-102](#);
- 1981 (iii) an off-highway vehicle as defined in Section [41-22-2](#); or
- 1982 (iv) a vessel as defined in Section [41-1a-102](#).
- 1983 (b) For purposes of Subsection [59-12-104\(33\)](#) only, "vehicle" includes:
- 1984 (i) a vehicle described in Subsection [~~(143)~~(a)] [\(150\)\(a\)](#); or
- 1985 (ii) (A) a locomotive;
- 1986 (B) a freight car;
- 1987 (C) railroad work equipment; or
- 1988 (D) other railroad rolling stock.
- 1989 [~~(144)~~] [\(151\)](#) "Vehicle dealer" means a person engaged in the business of buying,
- 1990 selling, or exchanging a vehicle as defined in Subsection [~~(143)~~] [\(150\)](#).
- 1991 [~~(145)~~] [\(152\)](#) (a) "Vertical service" means an ancillary service that:
- 1992 (i) is offered in connection with one or more telecommunications services; and
- 1993 (ii) offers an advanced calling feature that allows a customer to:
- 1994 (A) identify a caller; and
- 1995 (B) manage multiple calls and call connections.
- 1996 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 1997 conference bridging service.
- 1998 [~~(146)~~] [\(153\)](#) (a) "Voice mail service" means an ancillary service that enables a
- 1999 customer to receive, send, or store a recorded message.
- 2000 (b) "Voice mail service" does not include a vertical service that a customer is required
- 2001 to have in order to utilize a voice mail service.
- 2002 [~~(147)~~] [\(154\)](#) (a) Except as provided in Subsection [~~(147)~~(b)] [\(154\)\(b\)](#), "waste energy
- 2003 facility" means a facility that generates electricity:
- 2004 (i) using as the primary source of energy waste materials that would be placed in a
- 2005 landfill or refuse pit if it were not used to generate electricity, including:
- 2006 (A) tires;
- 2007 (B) waste coal;
- 2008 (C) oil shale; or
- 2009 (D) municipal solid waste; and

- 2010 (ii) in amounts greater than actually required for the operation of the facility.
- 2011 (b) "Waste energy facility" does not include a facility that incinerates:
- 2012 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 2013 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 2014 [~~(148)~~] (155) "Watercraft" means a vessel as defined in Section 73-18-2.
- 2015 [~~(149)~~] (156) "Wind energy" means wind used as the sole source of energy to produce
- 2016 electricity.
- 2017 [~~(150)~~] (157) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
- 2018 geographic location by the United States Postal Service.
- 2019 Section 17. Section **59-12-103** is amended to read:
- 2020 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
- 2021 **tax revenues.**
- 2022 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
- 2023 sales price for amounts paid or charged for the following transactions:
- 2024 (a) retail sales of tangible personal property made within the state;
- 2025 (b) amounts paid for:
- 2026 (i) telecommunications service, other than mobile telecommunications service, that
- 2027 originates and terminates within the boundaries of this state;
- 2028 (ii) mobile telecommunications service that originates and terminates within the
- 2029 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 2030 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 2031 (iii) an ancillary service associated with a:
- 2032 (A) telecommunications service described in Subsection (1)(b)(i); or
- 2033 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 2034 (c) sales of the following for commercial use:
- 2035 (i) gas;
- 2036 (ii) electricity;
- 2037 (iii) heat;
- 2038 (iv) coal;
- 2039 (v) fuel oil; or
- 2040 (vi) other fuels;

- 2041 (d) sales of the following for residential use:
- 2042 (i) gas;
- 2043 (ii) electricity;
- 2044 (iii) heat;
- 2045 (iv) coal;
- 2046 (v) fuel oil; or
- 2047 (vi) other fuels;
- 2048 (e) sales of prepared food;
- 2049 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 2050 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 2051 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 2052 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 2053 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 2054 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 2055 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 2056 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 2057 exhibition, cultural, or athletic activity;
- 2058 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 2059 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 2060 (i) the tangible personal property; and
- 2061 (ii) parts used in the repairs or renovations of the tangible personal property described
- 2062 in Subsection (1)(g)(i), regardless of whether:
- 2063 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 2064 property; or
- 2065 (B) the particular parts used in the repairs or renovations of that tangible personal
- 2066 property are exempt from a tax under this chapter;
- 2067 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 2068 assisted cleaning or washing of tangible personal property;
- 2069 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 2070 accommodations and services that are regularly rented for less than 30 consecutive days;
- 2071 (j) amounts paid or charged for laundry or dry cleaning services;

2072 (k) amounts paid or charged for leases or rentals of tangible personal property if within
2073 this state the tangible personal property is:

2074 (i) stored;

2075 (ii) used; or

2076 (iii) otherwise consumed;

2077 (l) amounts paid or charged for tangible personal property if within this state the
2078 tangible personal property is:

2079 (i) stored;

2080 (ii) used; or

2081 (iii) consumed; and

2082 (m) amounts paid or charged for a sale:

2083 (i) (A) of a product transferred electronically; or

2084 (B) of a repair or renovation of a product transferred electronically; and

2085 (ii) regardless of whether the sale provides:

2086 (A) a right of permanent use of the product; or

2087 (B) a right to use the product that is less than a permanent use, including a right:

2088 (I) for a definite or specified length of time; and

2089 (II) that terminates upon the occurrence of a condition.

2090 (2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax
2091 are imposed on a transaction described in Subsection (1) equal to the sum of:

2092 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

2093 (A) 4.70% plus the rate specified in Subsection (12)(a); and

2094 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
2095 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
2096 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
2097 State Sales and Use Tax Act; and

2098 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
2099 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
2100 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
2101 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2102 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

2103 transaction under this chapter other than this part.

2104 (b) Except as provided in Subsection [~~(2)(e) or (f)~~] (2)(f) or (g) and subject to
2105 Subsection [~~(2)(k)~~] (2)(l), a state tax and a local tax are imposed on a transaction described in
2106 Subsection (1)(d) equal to the sum of:

2107 (i) a state tax imposed on the transaction at a tax rate of 2%; and

2108 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2109 transaction under this chapter other than this part.

2110 (c) Except as provided in Subsection [~~(2)(e) or (f)~~] (2)(f) or (g), a state tax and a local
2111 tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

2112 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
2113 a tax rate of 1.75%; and

2114 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2115 amounts paid or charged for food and food ingredients under this chapter other than this part.

2116 (d) Except as provided in Subsection [~~(2)(e) or (f)~~] (2)(f) or (g), a state tax is imposed
2117 on amounts paid or charged for fuel to a common carrier that is a railroad for use in a
2118 locomotive engine at a rate of 4.85%.

2119 (e) (i) (A) If a shared vehicle owner certifies to the commission, on a form prescribed
2120 by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax
2121 imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a
2122 shared vehicle driver, or a shared vehicle owner.

2123 (B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is
2124 required once during the time that the shared vehicle owner owns the shared vehicle.

2125 (C) The commission shall verify that a shared vehicle is an individual-owned shared
2126 vehicle by verifying that the applicable sales and use taxes were paid on the purchase of the
2127 shared vehicle.

2128 (ii) A tax imposed under Subsection (2)(a)(ii) applies to car sharing.

2129 (iii) (A) A car-sharing program may rely in good faith on a shared vehicle owner's
2130 representation that the shared vehicle is an individual-owned shared vehicle certified with the
2131 commission as described in Subsection (2)(e)(i).

2132 (B) If a car-sharing program relies in good faith on a shared vehicle owner's
2133 representation that the shared vehicle is an individual-owned shared vehicle certified with the

2134 commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any
2135 tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

2136 ~~(e)~~ (f) (i) For a bundled transaction that is attributable to food and food ingredients
2137 and tangible personal property other than food and food ingredients, a state tax and a local tax
2138 is imposed on the entire bundled transaction equal to the sum of:

2139 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

2140 (I) the tax rate described in Subsection (2)(a)(i)(A); and

2141 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
2142 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2143 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
2144 Additional State Sales and Use Tax Act; and

2145 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
2146 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2147 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
2148 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2149 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
2150 described in Subsection (2)(a)(ii).

2151 (ii) If an optional computer software maintenance contract is a bundled transaction that
2152 consists of taxable and nontaxable products that are not separately itemized on an invoice or
2153 similar billing document, the purchase of the optional computer software maintenance contract
2154 is 40% taxable under this chapter and 60% nontaxable under this chapter.

2155 (iii) Subject to Subsection ~~(2)(e)(iv)~~ (2)(f)(iv), for a bundled transaction other than a
2156 bundled transaction described in Subsection ~~(2)(e)(i)~~ (2)(f)(i) or (ii):

2157 (A) if the sales price of the bundled transaction is attributable to tangible personal
2158 property, a product, or a service that is subject to taxation under this chapter and tangible
2159 personal property, a product, or service that is not subject to taxation under this chapter, the
2160 entire bundled transaction is subject to taxation under this chapter unless:

2161 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2162 personal property, product, or service that is not subject to taxation under this chapter from the
2163 books and records the seller keeps in the seller's regular course of business; or

2164 (II) state or federal law provides otherwise; or

2165 (B) if the sales price of a bundled transaction is attributable to two or more items of
2166 tangible personal property, products, or services that are subject to taxation under this chapter
2167 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
2168 higher tax rate unless:

2169 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2170 personal property, product, or service that is subject to taxation under this chapter at the lower
2171 tax rate from the books and records the seller keeps in the seller's regular course of business; or

2172 (II) state or federal law provides otherwise.

2173 (iv) For purposes of Subsection [~~(2)(e)(iii)~~] (2)(f)(iii), books and records that a seller
2174 keeps in the seller's regular course of business includes books and records the seller keeps in
2175 the regular course of business for nontax purposes.

2176 [~~(f)~~] (g) (i) Except as otherwise provided in this chapter and subject to Subsections
2177 [~~(2)(f)(ii)~~] (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible
2178 personal property, a product, or a service that is subject to taxation under this chapter, and the
2179 sale, lease, or rental of tangible personal property, other property, a product, or a service that is
2180 not subject to taxation under this chapter, the entire transaction is subject to taxation under this
2181 chapter unless the seller, at the time of the transaction:

2182 (A) separately states the portion of the transaction that is not subject to taxation under
2183 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

2184 (B) is able to identify by reasonable and verifiable standards, from the books and
2185 records the seller keeps in the seller's regular course of business, the portion of the transaction
2186 that is not subject to taxation under this chapter.

2187 (ii) A purchaser and a seller may correct the taxability of a transaction if:

2188 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
2189 the transaction that is not subject to taxation under this chapter was not separately stated on an
2190 invoice, bill of sale, or similar document provided to the purchaser because of an error or
2191 ignorance of the law; and

2192 (B) the seller is able to identify by reasonable and verifiable standards, from the books
2193 and records the seller keeps in the seller's regular course of business, the portion of the
2194 transaction that is not subject to taxation under this chapter.

2195 (iii) For purposes of Subsections [~~(2)(f)(i)~~] (2)(g)(i) and (ii), books and records that a

2196 seller keeps in the seller's regular course of business includes books and records the seller
2197 keeps in the regular course of business for nontax purposes.

2198 ~~[(g)]~~ (h) (i) If the sales price of a transaction is attributable to two or more items of
2199 tangible personal property, products, or services that are subject to taxation under this chapter
2200 at different rates, the entire purchase is subject to taxation under this chapter at the higher tax
2201 rate unless the seller, at the time of the transaction:

2202 (A) separately states the items subject to taxation under this chapter at each of the
2203 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

2204 (B) is able to identify by reasonable and verifiable standards the tangible personal
2205 property, product, or service that is subject to taxation under this chapter at the lower tax rate
2206 from the books and records the seller keeps in the seller's regular course of business.

2207 (ii) For purposes of Subsection ~~[(2)(g)(i)]~~ (2)(h)(i), books and records that a seller
2208 keeps in the seller's regular course of business includes books and records the seller keeps in
2209 the regular course of business for nontax purposes.

2210 ~~[(h)]~~ (i) Subject to Subsections ~~[(2)(i) and (j)]~~ (2)(j) and (k), a tax rate repeal or tax rate
2211 change for a tax rate imposed under the following shall take effect on the first day of a calendar
2212 quarter:

2213 (i) Subsection (2)(a)(i)(A);

2214 (ii) Subsection (2)(b)(i);

2215 (iii) Subsection (2)(c)(i); or

2216 (iv) Subsection ~~[(2)(e)(i)(A)(i)]~~ (2)(f)(i)(A)(I).

2217 ~~[(i)]~~ (j) (i) A tax rate increase takes effect on the first day of the first billing period that
2218 begins on or after the effective date of the tax rate increase if the billing period for the
2219 transaction begins before the effective date of a tax rate increase imposed under:

2220 (A) Subsection (2)(a)(i)(A);

2221 (B) Subsection (2)(b)(i);

2222 (C) Subsection (2)(c)(i); or

2223 (D) Subsection ~~[(2)(e)(i)(A)(i)]~~ (2)(f)(i)(A)(I).

2224 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
2225 statement for the billing period is rendered on or after the effective date of the repeal of the tax
2226 or the tax rate decrease imposed under:

- 2227 (A) Subsection (2)(a)(i)(A);
- 2228 (B) Subsection (2)(b)(i);
- 2229 (C) Subsection (2)(c)(i); or
- 2230 (D) Subsection ~~[(2)(e)(i)(A)(F)]~~ (2)(f)(i)(A)(I).
- 2231 ~~[(j)]~~ (k) (i) For a tax rate described in Subsection ~~[(2)(j)(ii)]~~ (2)(k)(ii), if a tax due on a
- 2232 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a
- 2233 tax rate repeal or change in a tax rate takes effect:
- 2234 (A) on the first day of a calendar quarter; and
- 2235 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 2236 (ii) Subsection ~~[(2)(j)(i)]~~ (2)(k)(i) applies to the tax rates described in the following:
- 2237 (A) Subsection (2)(a)(i)(A);
- 2238 (B) Subsection (2)(b)(i);
- 2239 (C) Subsection (2)(c)(i); or
- 2240 (D) Subsection ~~[(2)(e)(i)(A)(F)]~~ (2)(f)(i)(A)(I).
- 2241 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 2242 the commission may by rule define the term "catalogue sale."
- 2243 ~~[(k)]~~ (l) (i) For a location described in Subsection ~~[(2)(k)(ii)]~~ (2)(l)(ii), the commission
- 2244 shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel
- 2245 based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the
- 2246 location.
- 2247 (ii) Subsection ~~[(2)(k)(i)]~~ (2)(l)(i) applies to a location where gas, electricity, heat, coal,
- 2248 fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:
- 2249 (A) a commercial use;
- 2250 (B) an industrial use; or
- 2251 (C) a residential use.
- 2252 (3) (a) The following state taxes shall be deposited into the General Fund:
- 2253 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 2254 (ii) the tax imposed by Subsection (2)(b)(i);
- 2255 (iii) the tax imposed by Subsection (2)(c)(i); and
- 2256 (iv) the tax imposed by Subsection ~~[(2)(e)(i)(A)(F)]~~ (2)(f)(i)(A)(I).
- 2257 (b) The following local taxes shall be distributed to a county, city, or town as provided

2258 in this chapter:

2259 (i) the tax imposed by Subsection (2)(a)(ii);

2260 (ii) the tax imposed by Subsection (2)(b)(ii);

2261 (iii) the tax imposed by Subsection (2)(c)(ii); and

2262 (iv) the tax imposed by Subsection [~~(2)(e)(i)(B)~~] (2)(f)(i)(B).

2263 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General
2264 Fund.

2265 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2266 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
2267 through (g):

2268 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

2269 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

2270 (B) for the fiscal year; or

2271 (ii) \$17,500,000.

2272 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
2273 described in Subsection (4)(a) shall be transferred each year as designated sales and use tax
2274 revenue to the Department of Natural Resources to:

2275 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
2276 protect sensitive plant and animal species; or

2277 (B) award grants, up to the amount authorized by the Legislature in an appropriations
2278 act, to political subdivisions of the state to implement the measures described in Subsections
2279 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

2280 (ii) Money transferred to the Department of Natural Resources under Subsection
2281 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
2282 person to list or attempt to have listed a species as threatened or endangered under the
2283 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

2284 (iii) At the end of each fiscal year:

2285 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the
2286 Water Resources Conservation and Development Fund created in Section 73-10-24;

2287 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the
2288 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

2289 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the
2290 Drinking Water Loan Program Subaccount created in Section 73-10c-5.

2291 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
2292 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
2293 created in Section 4-18-106.

2294 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
2295 in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to
2296 the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for
2297 the adjudication of water rights.

2298 (ii) At the end of each fiscal year:

2299 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the
2300 Water Resources Conservation and Development Fund created in Section 73-10-24;

2301 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the
2302 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

2303 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the
2304 Drinking Water Loan Program Subaccount created in Section 73-10c-5.

2305 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
2306 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
2307 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

2308 (ii) In addition to the uses allowed of the Water Resources Conservation and
2309 Development Fund under Section 73-10-24, the Water Resources Conservation and
2310 Development Fund may also be used to:

2311 (A) conduct hydrologic and geotechnical investigations by the Division of Water
2312 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
2313 quantifying surface and ground water resources and describing the hydrologic systems of an
2314 area in sufficient detail so as to enable local and state resource managers to plan for and
2315 accommodate growth in water use without jeopardizing the resource;

2316 (B) fund state required dam safety improvements; and

2317 (C) protect the state's interest in interstate water compact allocations, including the
2318 hiring of technical and legal staff.

2319 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described

2320 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
2321 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2322 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2323 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
2324 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2325 (i) provide for the installation and repair of collection, treatment, storage, and
2326 distribution facilities for any public water system, as defined in Section 19-4-102;

2327 (ii) develop underground sources of water, including springs and wells; and

2328 (iii) develop surface water sources.

2329 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2330 2006, the difference between the following amounts shall be expended as provided in this
2331 Subsection (5), if that difference is greater than \$1:

2332 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
2333 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

2334 (ii) \$17,500,000.

2335 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

2336 (A) transferred each fiscal year to the Department of Natural Resources as designated
2337 sales and use tax revenue; and

2338 (B) expended by the Department of Natural Resources for watershed rehabilitation or
2339 restoration.

2340 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use
2341 tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation
2342 and Development Fund created in Section 73-10-24.

2343 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
2344 remaining difference described in Subsection (5)(a) shall be:

2345 (A) transferred each fiscal year to the Division of Water Resources as designated sales
2346 and use tax revenue; and

2347 (B) expended by the Division of Water Resources for cloud-seeding projects
2348 authorized by Title 73, Chapter 15, Modification of Weather.

2349 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use
2350 tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation

2351 and Development Fund created in Section 73-10-24.

2352 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
2353 remaining difference described in Subsection (5)(a) shall be deposited into the Water
2354 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
2355 Division of Water Resources for:

2356 (i) preconstruction costs:

2357 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
2358 26, Bear River Development Act; and

2359 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
2360 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2361 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
2362 Chapter 26, Bear River Development Act;

2363 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
2364 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2365 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
2366 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2367 (e) After making the transfers required by Subsections (5)(b) and (c), 15% of the
2368 remaining difference described in Subsection (5)(a) shall be deposited each year into the Water
2369 Rights Restricted Account created by Section 73-2-1.6.

2370 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
2371 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
2372 (1) for the fiscal year shall be deposited as follows:

2373 (a) for fiscal year 2020-21 only:

2374 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
2375 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2376 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
2377 Water Infrastructure Restricted Account created by Section 73-10g-103; and

2378 (b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
2379 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
2380 created by Section 73-10g-103.

2381 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in

2382 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
2383 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
2384 created by Section [72-2-124](#):

2385 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
2386 the revenues collected from the following taxes, which represents a portion of the
2387 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
2388 on vehicles and vehicle-related products:

2389 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2390 (B) the tax imposed by Subsection (2)(b)(i);

2391 (C) the tax imposed by Subsection (2)(c)(i); and

2392 (D) the tax imposed by Subsection ~~[(2)(e)(i)(A)(B)]~~ (2)(f)(i)(A)(D); plus

2393 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
2394 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
2395 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
2396 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

2397 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
2398 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
2399 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
2400 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
2401 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
2402 (7)(a) equal to the product of:

2403 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
2404 previous fiscal year; and

2405 (B) the total sales and use tax revenue generated by the taxes described in Subsections
2406 (7)(a)(i)(A) through (D) in the current fiscal year.

2407 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
2408 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
2409 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of
2410 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
2411 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

2412 (iii) Subject to Subsection (7)(b)(iv)(E), in all subsequent fiscal years after a year in

2413 which 17% of the revenues collected from the sales and use taxes described in Subsections
2414 (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall
2415 annually deposit 17% of the revenues collected from the sales and use taxes described in
2416 Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

2417 (iv) (A) As used in this Subsection (7)(b)(iv), "additional growth revenue" means the
2418 amount of relevant revenue collected in the current fiscal year that exceeds by more than 3%
2419 the relevant revenue collected in the previous fiscal year.

2420 (B) As used in this Subsection (7)(b)(iv), "combined amount" means the combined
2421 total amount of money deposited into the Cottonwood Canyons fund under Subsections
2422 (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

2423 (C) As used in this Subsection (7)(b)(iv), "Cottonwood Canyons fund" means the
2424 Cottonwood Canyons Transportation Investment Fund created in Subsection [72-2-124](#)(10).

2425 (D) As used in this Subsection (7)(b)(iv), "relevant revenue" means the portion of taxes
2426 listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in
2427 Subsections (7)(a)(i)(A) through (D).

2428 (E) For a fiscal year beginning on or after July 1, 2020, the commission shall annually
2429 reduce the deposit under Subsection (7)(b)(iii) into the Transportation Investment Fund of 2005
2430 by an amount equal to the amount of the deposit under this Subsection (7)(b)(iv) to the
2431 Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue,
2432 subject to the limit in Subsection (7)(b)(iv)(F).

2433 (F) The commission shall annually deposit the amount described in Subsection
2434 (7)(b)(iv)(E) into the Cottonwood Canyons fund, subject to an annual maximum combined
2435 amount for any single fiscal year of \$20,000,000.

2436 (G) If the amount of relevant revenue declines in a fiscal year compared to the previous
2437 fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood
2438 Canyons fund under this Subsection (7)(b)(iv) in the same proportion as the decline in relevant
2439 revenue.

2440 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
2441 Subsections (6) and (7), and subject to Subsections (8)(b) and (d)(v), for a fiscal year beginning
2442 on or after July 1, 2018, the commission shall annually deposit into the Transportation
2443 Investment Fund of 2005 created by Section [72-2-124](#) a portion of the taxes listed under

2444 Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following
2445 taxes:

2446 (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2447 (ii) the tax imposed by Subsection (2)(b)(i);

2448 (iii) the tax imposed by Subsection (2)(c)(i); and

2449 (iv) the tax imposed by Subsection [~~(2)(e)(i)(A)(F)~~] (2)(f)(i)(A)(I).

2450 (b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
2451 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by
2452 an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by
2453 the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale
2454 or use in this state that exceeds 29.4 cents per gallon.

2455 (c) The commission shall annually deposit the amount described in Subsection (8)(b)
2456 into the Transit Transportation Investment Fund created in Section [72-2-124](#).

2457 (d) (i) As used in this Subsection (8)(d), "additional growth revenue" means the
2458 amount of relevant revenue collected in the current fiscal year that exceeds by more than 3%
2459 the relevant revenue collected in the previous fiscal year.

2460 (ii) As used in this Subsection (8)(d), "combined amount" means the combined total
2461 amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F)
2462 and (8)(d)(vi) in any single fiscal year.

2463 (iii) As used in this Subsection (8)(d), "Cottonwood Canyons fund" means the
2464 Cottonwood Canyons Transportation Investment Fund created in Subsection [72-2-124](#)(10).

2465 (iv) As used in this Subsection (8)(d), "relevant revenue" means the portion of taxes
2466 listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described
2467 in Subsections (8)(a)(i) through (iv).

2468 (v) For a fiscal year beginning on or after July 1, 2020, the commission shall annually
2469 reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by
2470 an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood
2471 Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the
2472 limit in Subsection (8)(d)(vi).

2473 (vi) The commission shall annually deposit the amount described in Subsection
2474 (8)(d)(v) into the Cottonwood Canyons fund, subject to an annual maximum combined amount

2475 for any single fiscal year of \$20,000,000.

2476 (vii) If the amount of relevant revenue declines in a fiscal year compared to the
2477 previous fiscal year, the commission shall decrease the amount of the contribution to the
2478 Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in
2479 relevant revenue.

2480 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2481 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
2482 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

2483 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(b),
2484 and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of
2485 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
2486 72-2-124 the amount of revenue described as follows:

2487 (i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05%
2488 tax rate on the transactions described in Subsection (1); and

2489 (ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
2490 tax rate on the transactions described in Subsection (1).

2491 (b) For purposes of Subsection (10)(a), the Division of Finance may not deposit into
2492 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
2493 charged for food and food ingredients, except for tax revenue generated by a bundled
2494 transaction attributable to food and food ingredients and tangible personal property other than
2495 food and food ingredients described in Subsection ~~[(2)(e)]~~ (2)(f).

2496 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
2497 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
2498 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
2499 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
2500 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
2501 created in Section 63N-2-512.

2502 (12) (a) The rate specified in this subsection is 0.15%.

2503 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year
2504 beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the
2505 rate described in Subsection (12)(a) on the transactions that are subject to the sales and use tax

2506 under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section
2507 [26-36b-208](#).

2508 (13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2509 2020-21, the Division of Finance shall deposit \$200,000 into the General Fund as a dedicated
2510 credit solely for use of the Search and Rescue Financial Assistance Program created in, and
2511 expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

2512 (14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of
2513 Finance shall annually transfer \$1,813,400 of the revenue deposited into the Transportation
2514 Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

2515 (b) If the total revenue deposited into the Transportation Investment Fund of 2005
2516 under Subsections (6) through (8) is less than \$1,813,400 for a fiscal year, the Division of
2517 Finance shall transfer the total revenue deposited into the Transportation Investment Fund of
2518 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

2519 (15) Notwithstanding Subsection (3)(a), and as described in Section [63N-3-610](#),
2520 beginning the first day of the calendar quarter one year after the sales and use tax boundary for
2521 a housing and transit reinvestment zone is established, the commission, at least annually, shall
2522 transfer an amount equal to 15% of the sales and use tax increment within an established sales
2523 and use tax boundary, as defined in Section [63N-3-602](#), into the Transit Transportation
2524 Investment Fund created in Section [72-2-124](#).

2525 (16) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year
2526 beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure
2527 Restricted Account, created in Section [51-9-902](#), a portion of the taxes listed under Subsection
2528 (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

- 2529 (a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
- 2530 (b) the tax imposed by Subsection (2)(b)(i);
- 2531 (c) the tax imposed by Subsection (2)(c)(i); and
- 2532 (d) the tax imposed by Subsection [~~(2)(e)(i)(A)(I)~~] (2)(f)(i)(A)(I).

2533 Section 18. Section **59-12-602** is amended to read:

2534 **59-12-602. Definitions.**

2535 As used in this part:

- 2536 (1) (a) Subject to Subsection (1)(b), "airport facility" means an airport of regional

2537 significance, as defined by the Transportation Commission by rule made in accordance with
2538 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2539 (b) "Airport facility" includes:

2540 (i) an appurtenance to an airport, including a fixed guideway that provides

2541 transportation service to or from the airport;

2542 (ii) a control tower, including a radar system;

2543 (iii) a public area of an airport; or

2544 (iv) a terminal facility.

2545 (2) "All-terrain type I vehicle" means the same as that term is defined in Section
2546 [41-22-2](#).

2547 (3) "All-terrain type II vehicle" means the same as that term is defined in Section
2548 [41-22-2](#).

2549 (4) "All-terrain type III vehicle" means the same as that term is defined in Section
2550 [41-22-2](#).

2551 (5) "Convention facility" means any publicly owned or operated convention center,
2552 sports arena, or other facility at which conventions, conferences, and other gatherings are held
2553 and whose primary business or function is to host such conventions, conferences, and other
2554 gatherings.

2555 (6) "Cultural facility" means any publicly owned or operated museum, theater, art
2556 center, music hall, or other cultural or arts facility.

2557 (7) (a) Except as provided in Subsection (7)(b), "off-highway vehicle" means any
2558 snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or
2559 motorcycle.

2560 (b) "Off-highway vehicle" does not include a vehicle that is a motor vehicle under
2561 Section [41-1a-102](#).

2562 (8) "Motorcycle" means the same as that term is defined in Section [41-22-2](#).

2563 (9) "Recreation facility" or "tourist facility" means any publicly owned or operated
2564 park, campground, marina, dock, golf course, water park, historic park, monument,
2565 planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

2566 (10) (a) Except as provided in Subsection (10)(c), "recreational vehicle" means a
2567 vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel,

2568 recreational, or vacation use, that is pulled by another vehicle.

2569 (b) "Recreational vehicle" includes:

2570 (i) a travel trailer;

2571 (ii) a camping trailer; and

2572 (iii) a fifth wheel trailer.

2573 (c) "Recreational vehicle" does not include a vehicle that is a motor vehicle under

2574 Section [41-1a-102](#).

2575 (11) (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda fountain,
2576 or fast-food service where food is prepared for immediate consumption.

2577 (b) "Restaurant" does not include:

2578 (i) any retail establishment whose primary business or function is the sale of fuel or
2579 food items for off-premise, but not immediate, consumption; and

2580 (ii) a theater that sells food items, but not a dinner theater.

2581 (12) (a) "Short-term rental" means a lease or rental that is 30 days or less.

2582 (b) "Short-term rental" does not include car sharing as that term is defined in Section
2583 [13-48a-101](#).

2584 (13) "Snowmobile" means the same as that term is defined in Section [41-22-2](#).

2585 (14) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle
2586 without motive power, designed as a temporary dwelling for travel, recreational, or vacation
2587 use that does not require a special highway movement permit when drawn by a self-propelled
2588 motor vehicle.

2589 Section 19. Section **59-12-603** is amended to read:

2590 **59-12-603. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance**
2591 **required -- Advisory board -- Administration -- Collection -- Administrative charge --**
2592 **Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice**
2593 **requirements.**

2594 (1) (a) In addition to any other taxes, a county legislative body may, as provided in this
2595 part, impose a tax as follows:

2596 (i) (A) a county legislative body of any county may impose a tax of not to exceed 3%
2597 on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles
2598 made for the purpose of temporarily replacing a person's motor vehicle that is being repaired

2599 pursuant to a repair or an insurance agreement; and

2600 (B) a county legislative body of any county imposing a tax under Subsection
2601 (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of
2602 not to exceed 4% on all short-term rentals of motor vehicles, except for short-term rentals of
2603 motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is
2604 being repaired pursuant to a repair or an insurance agreement;

2605 (ii) beginning on January 1, 2021, a county legislative body of any county may impose
2606 a tax of not to exceed 7% on all short-term rentals of off-highway vehicles and recreational
2607 vehicles;

2608 (iii) a county legislative body of any county may impose a tax of not to exceed 1% of
2609 all sales of the following that are sold by a restaurant:

2610 (A) alcoholic beverages;

2611 (B) food and food ingredients; or

2612 (C) prepared food; ~~and~~

2613 (iv) a county legislative body of a county of the first class may impose a tax of not to
2614 exceed .5% on charges for the accommodations and services described in Subsection

2615 59-12-103(1)(i)[-]; and

2616 (v) beginning on July 1, 2023, if a county legislative body of any county imposes a tax
2617 under Subsection (1)(a)(i), a tax at the same rate applies to car sharing, except for:

2618 (A) car sharing for the purpose of temporarily replacing a person's motor vehicle that is
2619 being repaired pursuant to a repair or an insurance agreement; and

2620 (B) car sharing for more than 30 days.

2621 (b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section
2622 17-31-5.5.

2623 (2) (a) Subject to Subsection (2)(b), a county may use revenue from the imposition of a
2624 tax under Subsection (1) for:

2625 (i) financing tourism promotion; and

2626 (ii) the development, operation, and maintenance of:

2627 (A) an airport facility;

2628 (B) a convention facility;

2629 (C) a cultural facility;

2630 (D) a recreation facility; or

2631 (E) a tourist facility.

2632 (b) A county of the first class shall expend at least \$450,000 each year of the revenue

2633 from the imposition of a tax authorized by Subsection (1)(a)(iv) within the county to fund a

2634 marketing and ticketing system designed to:

2635 (i) promote tourism in ski areas within the county by persons that do not reside within

2636 the state; and

2637 (ii) combine the sale of:

2638 (A) ski lift tickets; and

2639 (B) accommodations and services described in Subsection 59-12-103(1)(i).

2640 (3) A tax imposed under this part may be pledged as security for bonds, notes, or other

2641 evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local

2642 Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1,

2643 Part 5, Agency Bonds, to finance:

2644 (a) an airport facility;

2645 (b) a convention facility;

2646 (c) a cultural facility;

2647 (d) a recreation facility; or

2648 (e) a tourist facility.

2649 (4) (a) To impose a tax under Subsection (1), the county legislative body shall adopt an

2650 ordinance imposing the tax.

2651 (b) The ordinance under Subsection (4)(a) shall include provisions substantially the

2652 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on

2653 those items and sales described in Subsection (1).

2654 (c) The name of the county as the taxing agency shall be substituted for that of the state

2655 where necessary, and an additional license is not required if one has been or is issued under

2656 Section 59-12-106.

2657 (5) To maintain in effect a tax ordinance adopted under this part, each county

2658 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,

2659 Tax Collection, adopt amendments to the county's tax ordinance to conform with the applicable

2660 amendments to Part 1, Tax Collection.

2661 (6) (a) Regardless of whether a county of the first class creates a tourism tax advisory
2662 board in accordance with Section 17-31-8, the county legislative body of the county of the first
2663 class shall create a tax advisory board in accordance with this Subsection (6).

2664 (b) The tax advisory board shall be composed of nine members appointed as follows:

2665 (i) four members shall be residents of a county of the first class appointed by the
2666 county legislative body of the county of the first class; and

2667 (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or
2668 towns within the county of the first class appointed by an organization representing all mayors
2669 of cities and towns within the county of the first class.

2670 (c) Five members of the tax advisory board constitute a quorum.

2671 (d) The county legislative body of the county of the first class shall determine:

2672 (i) terms of the members of the tax advisory board;

2673 (ii) procedures and requirements for removing a member of the tax advisory board;

2674 (iii) voting requirements, except that action of the tax advisory board shall be by at
2675 least a majority vote of a quorum of the tax advisory board;

2676 (iv) chairs or other officers of the tax advisory board;

2677 (v) how meetings are to be called and the frequency of meetings; and

2678 (vi) the compensation, if any, of members of the tax advisory board.

2679 (e) The tax advisory board under this Subsection (6) shall advise the county legislative
2680 body of the county of the first class on the expenditure of revenue collected within the county
2681 of the first class from the taxes described in Subsection (1)(a).

2682 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part
2683 shall be administered, collected, and enforced in accordance with:

2684 (A) the same procedures used to administer, collect, and enforce the tax under:

2685 (I) Part 1, Tax Collection; or

2686 (II) Part 2, Local Sales and Use Tax Act; and

2687 (B) Chapter 1, General Taxation Policies.

2688 (ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or
2689 Subsections 59-12-205(2) through (6).

2690 (b) Except as provided in Subsection (7)(c):

2691 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the

2692 commission shall distribute the revenue to the county imposing the tax; and

2693 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue
2694 according to the distribution formula provided in Subsection (8).

2695 (c) The commission shall retain and deposit an administrative charge in accordance
2696 with Section 59-1-306 from the revenue the commission collects from a tax under this part.

2697 (8) The commission shall distribute the revenue generated by the tax under Subsection
2698 (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the
2699 following formula:

2700 (a) the commission shall distribute 70% of the revenue based on the percentages
2701 generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by
2702 the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

2703 (b) the commission shall distribute 30% of the revenue based on the percentages
2704 generated by dividing the population of each county collecting a tax under Subsection
2705 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

2706 (9) (a) For purposes of this Subsection (9):

2707 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2,
2708 County Annexation.

2709 (ii) "Annexing area" means an area that is annexed into a county.

2710 (b) (i) Except as provided in Subsection (9)(c), if a county enacts or repeals a tax or
2711 changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

2712 (A) on the first day of a calendar quarter; and

2713 (B) after a 90-day period beginning on the day on which the commission receives
2714 notice meeting the requirements of Subsection (9)(b)(ii) from the county.

2715 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

2716 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

2717 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

2718 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

2719 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
2720 (9)(b)(ii)(A), the rate of the tax.

2721 (c) (i) If the billing period for a transaction begins before the effective date of the
2722 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of

2723 the tax or the tax rate increase shall take effect on the first day of the first billing period that
2724 begins after the effective date of the enactment of the tax or the tax rate increase.

2725 (ii) If the billing period for a transaction begins before the effective date of the repeal
2726 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax
2727 rate decrease shall take effect on the first day of the last billing period that began before the
2728 effective date of the repeal of the tax or the tax rate decrease.

2729 (d) (i) Except as provided in Subsection (9)(e), if the annexation will result in the
2730 enactment, repeal, or change in the rate of a tax under this part for an annexing area, the
2731 enactment, repeal, or change shall take effect:

2732 (A) on the first day of a calendar quarter; and

2733 (B) after a 90-day period beginning on the day on which the commission receives
2734 notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the
2735 annexing area.

2736 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

2737 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,
2738 repeal, or change in the rate of a tax under this part for the annexing area;

2739 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

2740 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

2741 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
2742 (9)(d)(ii)(A), the rate of the tax.

2743 (e) (i) If the billing period for a transaction begins before the effective date of the
2744 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of
2745 the tax or the tax rate increase shall take effect on the first day of the first billing period that
2746 begins after the effective date of the enactment of the tax or the tax rate increase.

2747 (ii) If the billing period for a transaction begins before the effective date of the repeal
2748 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax
2749 rate decrease shall take effect on the first day of the last billing period that began before the
2750 effective date of the repeal of the tax or the tax rate decrease.

2751 Section 20. Section **59-12-1201** is amended to read:

2752 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**
2753 **collection, and enforcement of tax -- Administrative charge -- Deposits.**

2754 (1) (a) Except as provided in [~~Subsection (3)~~] Subsections (3) and (4), there is imposed
2755 a tax of 2.5% on all short-term leases and rentals of motor vehicles not exceeding 30 days.

2756 (b) The tax imposed in this section is in addition to all other state, county, or municipal
2757 fees and taxes imposed on rentals of motor vehicles.

2758 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax
2759 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

2760 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall
2761 take effect on the first day of the first billing period:

2762 (A) that begins after the effective date of the tax rate increase; and

2763 (B) if the billing period for the transaction begins before the effective date of a tax rate
2764 increase imposed under Subsection (1).

2765 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax
2766 rate decrease shall take effect on the first day of the last billing period:

2767 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
2768 and

2769 (B) if the billing period for the transaction begins before the effective date of the repeal
2770 of the tax or the tax rate decrease imposed under Subsection (1).

2771 (3) Beginning on July 1, 2023, a tax imposed under Subsection (1) applies at the same
2772 rate to car sharing, except for:

2773 (a) car sharing for the purpose of temporarily replacing a person's motor vehicle that is
2774 being repaired pursuant to a repair or an insurance agreement; and

2775 (b) car sharing for more than 30 days.

2776 [~~(3)~~] (4) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

2777 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

2778 (b) the motor vehicle is rented as a personal household goods moving van; or

2779 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily
2780 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an
2781 insurance agreement.

2782 [~~(4)~~] (5) (a) (i) The tax authorized under this section shall be administered, collected,
2783 and enforced in accordance with:

2784 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,

2785 Tax Collection; and

2786 (B) Chapter 1, General Taxation Policies.

2787 (ii) Notwithstanding Subsection [~~(4)(a)(i)~~] (5)(a)(i), a tax under this part is not subject
2788 to Subsections 59-12-103(4) through (10) or Section 59-12-107.1 or 59-12-123.

2789 (b) The commission shall retain and deposit an administrative charge in accordance
2790 with Section 59-1-306 from the revenues the commission collects from a tax under this part.

2791 (c) Except as provided under Subsection [~~(4)(b)~~] (5)(b), all revenue received by the
2792 commission under this section shall be deposited daily with the state treasurer and credited
2793 monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

2794 Section 21. **Effective date.**

2795 This bill takes effect on July 1, 2023.

2796 Section 22. **Retrospective operation.**

2797 The changes to the following sections have retrospective operation to January 1, 2019,
2798 for a transaction that is the subject of an appeal pending on or filed after January 1, 2023:

2799 (1) Section 59-12-602;

2800 (2) Section 59-12-603; and

2801 (3) Section 59-12-1201.