

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:

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

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ enacts provisions relating to business platforms that connect motor vehicle owners
 - 14 with drivers to enable the sharing of motor vehicles for consideration;
 - 15 ▶ enacts consumer protection provisions relating to a car-sharing program, including:
 - 16 • required disclosures on a car-sharing agreement;
 - 17 • driver requirements; and
 - 18 • records of a car-sharing program;
 - 19 ▶ enacts provisions relating to liability and insurance for claims arising during the
 - 20 period a shared vehicle is used under a car-sharing program;
 - 21 ▶ prohibits certain local taxes, fees, and charges on peer-to-peer car sharing;
 - 22 ▶ amends provisions related to taxes on peer-to-peer car sharing;
 - 23 ▶ clarifies the taxes a marketplace facilitator is required to collect and remit;
 - 24 ▶ defines terms; and
 - 25 ▶ makes technical and conforming changes.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 This bill provides a special effective date.

30 This bill provides retrospective operation.

31 **Utah Code Sections Affected:**

32 **AMENDS:**

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

35 **59-12-103**, as last amended by Laws of Utah 2022, Chapters 77, 106 and 433

36 **59-12-107.6**, as enacted by Laws of Utah 2019, Chapter 486

37 **59-12-602**, as last amended by Laws of Utah 2020, Chapter 407

38 **59-12-603**, as last amended by Laws of Utah 2020, Chapter 407

39 **59-12-1201**, as last amended by Laws of Utah 2016, Chapters 184, 291

40 **ENACTS:**

41 **11-26-401**, Utah Code Annotated 1953

42 **13-48a-101**, Utah Code Annotated 1953

43 **13-48a-102**, Utah Code Annotated 1953

44 **13-48a-201**, Utah Code Annotated 1953

45 **13-48a-202**, Utah Code Annotated 1953

46 **13-48a-203**, Utah Code Annotated 1953

47 **13-48a-204**, Utah Code Annotated 1953

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

49 **13-48a-301**, Utah Code Annotated 1953

50 **13-48a-302**, Utah Code Annotated 1953

51 **13-48a-303**, Utah Code Annotated 1953

52 **13-48a-304**, Utah Code Annotated 1953

53 **13-48a-305**, Utah Code Annotated 1953

54 **13-48a-306**, Utah Code Annotated 1953

55 **13-48a-307**, Utah Code Annotated 1953

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

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

59 **CHAPTER 26. LIMITATIONS ON LOCAL TAXES AND FEES**

60 **Part 4. Car Sharing Taxes, Fees, and Charges**

61 **11-26-401. Definitions -- Prohibition on car sharing program taxes, fees, and**
other charges.

63 **(1) As used in this part:**

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

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

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

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

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

71 **(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.

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

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

76 **Part 1. General Provisions**

77 **13-48a-101. Definitions.**

78 **As used in this chapter:**

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

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

81 **(ii) through a peer-to-peer car-sharing program.**

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

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

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

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

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

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

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

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

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

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

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

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

98 (5) (a) "Car-sharing program" or "peer-to-peer car-sharing program" means a business
99 platform that connects motor vehicle owners with drivers to enable the sharing of motor
100 vehicles for consideration.

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

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

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

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

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

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

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

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

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

118 (a) for a motor vehicle purchased in the state, a shared vehicle for which applicable

119 sales tax and use tax was paid on the purchase; or

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

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

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

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

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

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

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

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

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

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

134 (b) "Shared vehicle owner" does not mean a rental company, as defined in Section
135 31A-22-311.

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

137 **13-48a-102. Limits on reach of chapter.**

138 Nothing in this chapter:

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

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

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

147 **Part 2. Consumer Protection Provisions**

148 **13-48a-201. Notification about possible violation of lienholder agreement.**

149 (1) As used in this section, "lienholder agreement" means an agreement between the

150 owner of a motor vehicle and another person under which the other person has a lien against
151 the motor vehicle.

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

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

158 **13-48a-202. Safety recalls.**

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

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

163 (b) notify the motor vehicle owner of the requirements under Subsections (2), (3), and
164 (4).

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

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

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

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

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

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

181 **13-48a-203. Required disclosures for a car-sharing agreement.**

182 A car-sharing agreement shall disclose to the shared vehicle owner and the shared
183 vehicle driver:

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

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

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

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

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

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

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

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

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

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

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

212 years.

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

214 **13-48a-205. GPS or other special equipment.**

215 (1) A car-sharing program:

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

217 (b) shall agree to indemnify and hold harmless the shared vehicle owner for any
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
loss of or damage to equipment described in Subsection (1)(a) that occurs during the
car-sharing period.

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

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

224 **13-48a-301. Car-sharing company assumption of liability for a covered loss --**

225 **Exception.**

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

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

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

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

230 (3) Notwithstanding the definition of car-sharing termination time, the assumption of

243 liability under Subsection (1) would apply to bodily injury, property damage, or personal injury
244 protection losses by damaged third parties required by Section 31A-22-304.

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

246 **13-48a-302. Motor vehicle liability insurance.**

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

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

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

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

256 (a) a shared vehicle owner;

257 (b) a shared vehicle driver;

258 (c) a car-sharing program; or

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

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

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

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

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

273 (5) If insurance maintained by a shared vehicle owner or shared vehicle driver in

274 accordance with Subsection (2) has lapsed or does not provide the required coverage, insurance
275 maintained by the car-sharing program shall provide the coverage required by Subsection (1)
276 beginning with the first dollar of a claim and have the duty to defend the claim except under
277 circumstances set forth in Subsection 13-48a-301(2).

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

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

282 **13-48a-303. Certain abilities of insurance companies preserved.**

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

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

288 (i) bodily injury or property damage suffered by a third party;
289 (ii) a claim covered by uninsured motorist coverage described in Section 31A-22-305;
290 (iii) a claim covered by underinsured motorist coverage described in Section
291 31A-22-305.5;
292 (iv) a claim covered by personal injury protection coverage and benefits described in
293 Section 31A-22-307;

294 (v) a claim for medical payments;
295 (vi) a claim for comprehensive physical damage; and
296 (vii) a claim for collision physical damage.

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

299 (a) underwrite an insurance policy; or
300 (b) cancel or fail to renew an insurance policy.

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

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

305 **13-48a-304. Insurable interest -- Insurance to cover various liabilities -- No**
306 **liability to maintain certain insurance.**

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

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

311 (a) a liability assumed by the car-sharing program under a car-sharing agreement;
312 (b) a liability of the shared vehicle owner;
313 (c) a liability of the shared vehicle driver; or
314 (d) damage or loss to a shared vehicle.

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

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

318 **13-48a-305. Recovery for claim excluded from insurance policy.**

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

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

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

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

327 **13-48a-306. Exemption from liability based on operation of a car-sharing**
328 **program or on vehicle ownership.**

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

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

333 **13-48a-307. Driver license requirement and records.**

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

336 (a) holds a driver license issued under the applicable law of this state that authorizes
337 the driver to operate vehicles of the class of the shared vehicle;
338 (b) is a nonresident who:
339 (i) has a driver license issued by the state or country of the driver's residence that
340 authorizes the driver in that state or country to drive vehicles of the class of the shared vehicle;
341 and
342 (ii) is at least the same age as that required of a resident to drive; or
343 (c) otherwise is specifically authorized to drive vehicles of the class of the shared
344 vehicle.

345 (2) A car-sharing program shall keep a record of:
346 (a) the name and address of the shared vehicle driver;
347 (b) the number of the driver license of the shared vehicle driver and each other person,
348 if any, who will operate the shared vehicle; and
349 (c) the place of issuance of the driver license.

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

351 **59-12-102. Definitions.**

352 As used in this chapter:

353 (1) "800 service" means a telecommunications service that:
354 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
355 (b) is typically marketed:
356 (i) under the name 800 toll-free calling;
357 (ii) under the name 855 toll-free calling;
358 (iii) under the name 866 toll-free calling;
359 (iv) under the name 877 toll-free calling;
360 (v) under the name 888 toll-free calling; or
361 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
362 Federal Communications Commission.

363 (2) (a) "900 service" means an inbound toll telecommunications service that:
364 (i) a subscriber purchases;
365 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
366 the subscriber's:

(A) prerecorded announcement; or
(B) live service; and
(iii) is typically marketed:
(A) under the name 900 service; or
(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:
(i) a collection service a seller of a telecommunications service provides to a subscriber; or
(ii) the following a subscriber sells to the subscriber's customer:
(A) a product; or
(B) a service.

(3) (a) "Admission or user fees" includes season passes.
(b) "Admission or user fees" does not include:
(i) annual membership dues to private organizations; or
(ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

(4) "Affiliate" or "affiliated person" means a person that, with respect to another person:
(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or
(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

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

(6) "Agreement combined tax rate" means the sum of the tax rates:
(a) listed under Subsection (7); and
(b) that are imposed within a local taxing jurisdiction.

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

- (a) Subsection 59-12-103(2)(a)(i)(A);
 - (b) Subsection 59-12-103(2)(b)(i);
 - (c) Subsection 59-12-103(2)(c)(i);
 - (d) Subsection 59-12-103(2)(d);
 - (e) Subsection 59-12-103(2)(e)(i)(A)(I);
 - (f) Section 59-12-204;
 - (g) Section 59-12-401;
 - (h) Section 59-12-402;
 - (i) Section 59-12-402.1;
 - (j) Section 59-12-703;
 - (k) Section 59-12-802;
 - (l) Section 59-12-804;
 - (m) Section 59-12-1102;
 - (n) Section 59-12-1302;
 - (o) Section 59-12-1402;
 - (p) Section 59-12-1802;
 - (q) Section 59-12-2003;
 - (r) Section 59-12-2103;
 - (s) Section 59-12-2213;
 - (t) Section 59-12-2214;
 - (u) Section 59-12-2215;
 - (v) Section 59-12-2216;
 - (w) Section 59-12-2217;
 - (x) Section 59-12-2218;
 - (y) Section 59-12-2219; or
 - (z) Section 59-12-2220.

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

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

 - (a) except for:
 - (i) an airline as defined in Section 59-2-102; or
 - (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"

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

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

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

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

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

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

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

440 (A) an inspection;

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

442 (C) changing landing gear; and

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

444 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
445 completely apply new paint to the fixed wing turbine powered aircraft; and

446 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
447 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
448 authority that certifies the fixed wing turbine powered aircraft.

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

450 (a) is suitable for human consumption; and

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

452 (11) "Alternative energy" means:

453 (a) biomass energy;

454 (b) geothermal energy;

455 (c) hydroelectric energy;

456 (d) solar energy;

457 (e) wind energy; or

458 (f) energy that is derived from:

459 (i) coal-to-liquids;

460 (ii) nuclear fuel;

461 (iii) oil-impregnated diatomaceous earth;

462 (iv) oil sands;

463 (v) oil shale;

464 (vi) petroleum coke; or

465 (vii) waste heat from:

466 (A) an industrial facility; or

467 (B) a power station in which an electric generator is driven through a process in which

468 water is heated, turns into steam, and spins a steam turbine.

469 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
470 facility" means a facility that:

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

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

475 (i) connected to an electric grid; or
476 (ii) located on the premises of an electricity

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

479 (b) "Ancillary service" includes:

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

485 (14) "Area agency on aging" means the same as that term is defined in Section
486 [62A-3-101](#).

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

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

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

493 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or
494 washing of tangible personal property if the cleaning or washing labor is primarily performed
495 by an individual:

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

498 (b) at the direction of the seller of the cleaning or washing of the tangible personal
499 property.

500 (17) "Authorized carrier" means:

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

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

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

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

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

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

514 (B) animal waste;

515 (C) waste vegetable oil;

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

519 (E) aquatic plants; and

520 (F) agricultural products.

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

522 (i) black liquor; or
523 (ii) treated woods.

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

- 526 (i) distinct and identifiable; and
- 527 (ii) sold for one nonitemized pri

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

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

532 (ii) the sale of real property;

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

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

535 (A) the tangible personal property:

536 (I) is essential to the use of the service; and

537 (II) is provided exclusively in connection with the service; and

538 (B) the service is the true object of the transaction;

539 (v) the retail sale of two services if:

540 (A) one service is provided that is essential to the use or receipt of a second service;

541 (B) the first service is provided exclusively in connection with the second service; and

542 (C) the second service is the true object of the transaction;

543 (vi) a transaction that includes tangible personal property or a product subject to

544 taxation under this chapter and tangible personal property or a product that is not subject to

545 taxation under this chapter if the:

546 (A) seller's purchase price of the tan
547 taxation under this chapter is de minimis; or

548 (B) seller's sales price of the tangible personal property or product subject to taxation
549 under this chapter is de minimis; and

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

552 (A) that retail sale includes:

553 (I) food and food ingredients;
554 (II) a drug;
555 (III) durable medical equipment;
556 (IV) mobility enhancing equipment;
557 (V) an over-the-counter drug;
558 (VI) a prosthetic device; or
559 (VII) a medical supply; and
560 (B) subject to Subsection (19)(f):

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

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

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

567 (A) packaging that:

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

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

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

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

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

584 (A) a binding sales document; or
585 (B) another supporting sales-related document that is available to a purchaser.
586 (ii) For purposes of Subsection (19)(d)(i), a binding sales document or another
587 supporting sales-related document that is available to a purchaser includes:
588 (A) a bill of sale;
589 (B) a contract;
590 (C) an invoice;
591 (D) a lease agreement;
592 (E) a periodic notice of rates and services;
593 (F) a price list;
594 (G) a rate card;
595 (H) a receipt; or
596 (I) a service agreement.
597 (e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal
598 property or a product subject to taxation under this chapter is de minimis if:
599 (A) the seller's purchase price of the tangible personal property or product is 10% or
600 less of the seller's total purchase price of the bundled transaction; or
601 (B) the seller's sales price of the tangible personal property or product is 10% or less of
602 the seller's total sales price of the bundled transaction.
603 (ii) For purposes of Subsection (19)(b)(vi), a seller:
604 (A) shall use the seller's purchase price or the seller's sales price to determine if the
605 purchase price or sales price of the tangible personal property or product subject to taxation
606 under this chapter is de minimis; and
607 (B) may not use a combination of the seller's purchase price and the seller's sales price
608 to determine if the purchase price or sales price of the tangible personal property or product
609 subject to taxation under this chapter is de minimis.
610 (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service
611 contract to determine if the sales price of tangible personal property or a product is de minimis.
612 (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of
613 the seller's purchase price and the seller's sales price to determine if tangible personal property
614 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales

615 price of that retail sale.

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

617 (21) "Car-sharing program" means the same as that term is defined in Section
618 13-48a-101.

619 [20] (22) "Certified automated system" means software certified by the governing
620 board of the agreement that:

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

623 (i) on a transaction; and

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

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

627 (c) maintains a record of the transaction described in Subsection [20](a)(1) (22)(a)(i).

628 [21] (23) "Certified service provider" means an agent certified:

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

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

634 [22] (24) (a) Subject to Subsection [22](b) (24)(b), "clothing" means all human
635 wearing apparel suitable for general use.

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

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

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

641 [23] (25) "Coal-to-liquid" means the process of converting coal into a liquid synthetic
642 fuel.

643 [24] (26) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or
644 other fuels that does not constitute industrial use under Subsection [57] (60) or residential use
645 under Subsection [112] (115).

646 [§25] (27) (a) "Common carrier" means a person engaged in or transacting the
647 business of transporting passengers, freight, merchandise, or other property for hire within this
648 state.

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

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

655 (c) "Common carrier" does not include a person that provides transportation network
656 services, as defined in Section 13-51-102.

657 [§26] (28) "Component part" includes:

658 (a) poultry, dairy, and other livestock feed, and their components;
659 (b) baling ties and twine used in the baling of hay and straw;
660 (c) fuel used for providing temperature control of orchards and commercial
661 greenhouses doing a majority of their business in wholesale sales, and for providing power for
662 off-highway type farm machinery; and
663 (d) feed, seeds, and seedlings.

664 [§27] (29) "Computer" means an electronic device that accepts information:

665 (a) (i) in digital form; or
666 (ii) in a form similar to digital form; and
667 (b) manipulates that information for a result based on a sequence of instructions.

668 [§28] (30) "Computer software" means a set of coded instructions designed to cause:

669 (a) a computer to perform a task; or
670 (b) automatic data processing equipment to perform a task.

671 [§29] (31) "Computer software maintenance contract" means a contract that obligates a
672 seller of computer software to provide a customer with:

673 (a) future updates or upgrades to computer software;
674 (b) support services with respect to computer software; or
675 (c) a combination of Subsections [§29](a) (31)(a) and (b).

676 [§30] (32) (a) "Conference bridging service" means an ancillary service that links two

677 or more participants of an audio conference call or video conference call.

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

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

682 [§31] (33) "Construction materials" means any tangible personal property that will be
683 converted into real property.

684 [§32] (34) "Delivered electronically" means delivered to a purchaser by means other
685 than tangible storage media.

686 [§33] (35) (a) "Delivery charge" means a charge:

687 (i) by a seller of:

688 (A) tangible personal property;

689 (B) a product transferred electronically; or

690 (C) a service; and

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

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

695 (i) transportation;

696 (ii) shipping;

697 (iii) postage;

698 (iv) handling;

699 (v) crating; or

700 (vi) packing.

701 [§34] (36) "Detailed telecommunications billing service" means an ancillary service of
702 separately stating information pertaining to individual calls on a customer's billing statement.

703 [§35] (37) "Dietary supplement" means a product, other than tobacco, that:

704 (a) is intended to supplement the diet;

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

706 (i) a vitamin;

707 (ii) a mineral;

708 (iii) an herb or other botanical;
709 (iv) an amino acid;
710 (v) a dietary substance for use by humans to supplement the diet by increasing the total
711 dietary intake; or

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

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

716 (A) tablet form;
717 (B) capsule form;
718 (C) powder form;
719 (D) softgel form;
720 (E) gelcap form; or
721 (F) liquid form; or

722 (ii) if the product is not intended for ingestion in a form described in Subsections
723 [(35)(c)(i)(A)] (37)(c)(i)(A) through (F), is not represented:

724 (A) as conventional food; and

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

726 (I) a meal; or

727 (II) the diet; and

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

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

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

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

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

734 [37] (39) "Digital audio-visual work" means a series of related images which, when
735 shown in succession, imparts an impression of motion, together with accompanying sounds, if
736 any.

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

739 [39] (41) (a) "Direct mail" means printed material delivered or distributed by United
740 States mail or other delivery service:

- 741 (i) to:
742 (A) a mass audience; or
743 (B) addressees on a mailing list provided:
744 (I) by a purchaser of the mailing list; or
745 (II) at the discretion of the purchaser of the mailing list; and
746 (ii) if the cost of the printed material is not billed directly to the recipients.
747 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
748 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
749 (c) "Direct mail" does not include multiple items of printed material delivered to a
750 single address.

751 [40] (42) "Directory assistance" means an ancillary service of providing:
752 (a) address information; or
753 (b) telephone number information.

754 [41] (43) (a) "Disposable home medical equipment or supplies" means medical
755 equipment or supplies that:
756 (i) cannot withstand repeated use; and
757 (ii) are purchased by, for, or on behalf of a person other than:
758 (A) a health care facility as defined in Section 26-21-2;
759 (B) a health care provider as defined in Section 78B-3-403;
760 (C) an office of a health care provider described in Subsection [(41)(a)(ii)(B)]
761 (43)(a)(ii)(B); or

762 (D) a person similar to a person described in Subsections [(41)(a)(ii)(A)] (43)(a)(ii)(A)
763 through (C).

764 (b) "Disposable home medical equipment or supplies" does not include:
765 (i) a drug;
766 (ii) durable medical equipment;
767 (iii) a hearing aid;
768 (iv) a hearing aid accessory;
769 (v) mobility enhancing equipment; or

770 (vi) tangible personal property used to correct impaired vision, including:
771 (A) eyeglasses; or
772 (B) contact lenses.

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

775 [42] (44) "Drilling equipment manufacturer" means a facility:

776 (a) located in the state;

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

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

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

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

785 (i) recognized in:

786 (A) the official United States Pharmacopoeia;

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

788 (C) the official National Formulary; or

789 (D) a supplement to a publication listed in Subsections [(43)(a)(i)(A)] (45)(a)(i)(A)

790 through (C);

791 (ii) intended for use in the:

792 (A) diagnosis of disease;

793 (B) cure of disease;

/94 (C) mitigation of disease;

793 (D) treatment of disease; or

796 (E) prevention of disease

797 (iii) intended to affect.
798 (A) 1 3 1 1 1

798 (A) the structure of the body

(3) Drug does not include:

- 801 (i) food and food ingredients;
- 802 (ii) a dietary supplement;
- 803 (iii) an alcoholic beverage; or
- 804 (iv) a prosthetic device.

805 [§44] (46) (a) Except as provided in Subsection [§44](e) (46)(c), "durable medical
806 equipment" means equipment that:

- 807 (i) can withstand repeated use;
- 808 (ii) is primarily and customarily used to serve a medical purpose;
- 809 (iii) generally is not useful to a person in the absence of illness or injury; and
- 810 (iv) is not worn in or on the body.

811 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
812 equipment described in Subsection [§44](a) (46)(a).

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

814 [§45] (47) "Electronic" means:

- 815 (a) relating to technology; and
- 816 (b) having:
 - 817 (i) electrical capabilities;
 - 818 (ii) digital capabilities;
 - 819 (iii) magnetic capabilities;
 - 820 (iv) wireless capabilities;
 - 821 (v) optical capabilities;
 - 822 (vi) electromagnetic capabilities; or
- 823 (vii) capabilities similar to Subsections [§45](b)(i) (47)(b)(i) through (vi).

824 [§46] (48) "Electronic financial payment service" means an establishment:

825 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
826 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
827 federal Executive Office of the President, Office of Management and Budget; and

- 828 (b) that performs electronic financial payment services.

829 [§47] (49) "Employee" means the same as that term is defined in Section 59-10-401.

830 [§48] (50) "Fixed guideway" means a public transit facility that uses and occupies:

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

- 832 (b) a separate right-of-way for the use of public transit.
- 833 [49] (51) "Fixed wing turbine powered aircraft" means an aircraft that:
- 834 (a) is powered by turbine engines;
- 835 (b) operates on jet fuel; and
- 836 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 837 [50] (52) "Fixed wireless service" means a telecommunications service that provides
- 838 radio communication between fixed points.
- 839 [51] (53) (a) "Food and food ingredients" means substances:
- 840 (i) regardless of whether the substances are in:
- 841 (A) liquid form;
- 842 (B) concentrated form;
- 843 (C) solid form;
- 844 (D) frozen form;
- 845 (E) dried form; or
- 846 (F) dehydrated form; and
- 847 (ii) that are:
- 848 (A) sold for:
- 849 (I) ingestion by humans; or
- 850 (II) chewing by humans; and
- 851 (B) consumed for the substance's:
- 852 (I) taste; or
- 853 (II) nutritional value.
- 854 (b) "Food and food ingredients" includes an item described in Subsection [96(b)(iii)]
- 855 (99)(b)(iii).
- 856 (c) "Food and food ingredients" does not include:
- 857 (i) an alcoholic beverage;
- 858 (ii) tobacco; or
- 859 (iii) prepared food.
- 860 [52] (54) (a) "Fundraising sales" means sales:
- 861 (i) (A) made by a school; or
- 862 (B) made by a school student;

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

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

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

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

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

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

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

[54] [56] "Governing board of the agreement" means the governing board of the agreement that is:

878 (a) authorized to administer the agreement; and

879 (b) established in accordance with the agreement.

880 [§55] (57) (a) For purposes of Subsection 59-12-104(41), "governmental entity"
881 means:

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

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

890 (iv) the National Guard;

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

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

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

894 education, including:

895 (i) a school;

896 (ii) the State Board of Education;

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

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

899 [~~56~~] (58) "Hydroelectric energy" means water used as the sole source of energy to
900 produce electricity.

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

903 [~~57~~] (60) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
904 or other fuels:

905 (a) in mining or extraction of minerals;

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

908 (i) commercial greenhouses;

909 (ii) irrigation pumps;

910 (iii) farm machinery;

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

913 (v) other farming activities;

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

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

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

920 (d) by a scrap recycler if:

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

924 (A) iron;

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

956 may be increased or decreased by reference to the amount realized upon sale or disposition of
957 the property as defined in Section 7701(h)(1), Internal Revenue Code[.]; and

958 (ii) car sharing.

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

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

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

965 (A) upon completion of required payments; and

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

967 (I) \$100; or

968 (II) 1% of the total required payments; or

969 (iii) providing tangible personal property along with an operator for a fixed period of
970 time or an indeterminate period of time if the operator is necessary for equipment to perform as
971 designed.

972 (d) For purposes of Subsection [(60)(e)(iii)] (63)(c)(iii), an operator is necessary for
973 equipment to perform as designed if the operator's duties exceed the:

974 (i) set-up of tangible personal property;

975 (ii) maintenance of tangible personal property; or

976 (iii) inspection of tangible personal property.

977 [(61)] (64) "Lesson" means a fixed period of time for the duration of which a trained
978 instructor:

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

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

981 [(62)] (65) "Life science establishment" means an establishment in this state that is
982 classified under the following NAICS codes of the 2007 North American Industry
983 Classification System of the federal Executive Office of the President, Office of Management
984 and Budget:

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

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

987 Manufacturing; or

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

989 [63] (66) "Life science research and development facility" means a facility owned,

990 leased, or rented by a life science establishment if research and development is performed in

991 51% or more of the total area of the facility.

992 [64] (67) "Load and leave" means delivery to a purchaser by use of a tangible storage

993 media if the tangible storage media is not physically transferred to the purchaser.

994 [65] (68) "Local taxing jurisdiction" means a:

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

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

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

998 [66] (69) "Manufactured home" means the same as that term is defined in Section

999 [15A-1-302](#).

1000 [67] (70) "Manufacturing facility" means:

1001 (a) an establishment described in:

1002 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of

1003 the federal Executive Office of the President, Office of Management and Budget; or

1004 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North

1005 American Industry Classification System of the federal Executive Office of the President,

1006 Office of Management and Budget;

1007 (b) a scrap recycler if:

1008 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

1009 one or more of the following items into prepared grades of processed materials for use in new

1010 products:

1011 (A) iron;

1012 (B) steel;

1013 (C) nonferrous metal;

1014 (D) paper;

1015 (E) glass;

1016 (F) plastic;

1017 (G) textile; or

1018 (H) rubber; and

1019 (ii) the new products under Subsection [(67)(b)(i)] (70)(b)(i) would otherwise be made

1020 with nonrecycled materials; or

1021 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is

1022 placed in service on or after May 1, 2006.

1023 [68] (71) (a) "Marketplace" means a physical or electronic place, platform, or forum

1024 where tangible personal property, a product transferred electronically, or a service is offered for

1025 sale.

1026 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a

1027 dedicated sales software application.

1028 [69] (72) (a) "Marketplace facilitator" means a person, including an affiliate of the

1029 person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to

1030 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or

1031 controls and that directly or indirectly:

1032 (i) does any of the following:

1033 (A) lists, makes available, or advertises tangible personal property, a product

1034 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the

1035 person owns, operates, or controls;

1036 (B) facilitates the sale of a marketplace seller's tangible personal property, product

1037 transferred electronically, or service by transmitting or otherwise communicating an offer or

1038 acceptance of a retail sale between the marketplace seller and a purchaser using the

1039 marketplace;

1040 (C) owns, rents, licenses, makes available, or operates any electronic or physical

1041 infrastructure or any property, process, method, copyright, trademark, or patent that connects a

1042 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal

1043 property, a product transferred electronically, or a service;

1044 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible

1045 personal property, a product transferred electronically, or a service, regardless of ownership or

1046 control of the tangible personal property, the product transferred electronically, or the service

1047 that is the subject of the retail sale;

1048 (E) provides software development or research and development activities related to

1049 any activity described in this Subsection [(69)(a)(i)] (72)(a)(i), if the software development or
1050 research and development activity is directly related to the person's marketplace;

1051 (F) provides or offers fulfillment or storage services for a marketplace seller;

1052 (G) sets prices for the sale of tangible personal property, a product transferred
1053 electronically, or a service by a marketplace seller;

1054 (H) provides or offers customer service to a marketplace seller or a marketplace seller's
1055 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal
1056 property, a product transferred electronically, or a service sold by a marketplace seller on the
1057 person's marketplace; or

1058 (I) brands or otherwise identifies sales as those of the person; and

1059 (ii) does any of the following:

1060 (A) collects the sales price or purchase price of a retail sale of tangible personal
1061 property, a product transferred electronically, or a service;

1062 (B) provides payment processing services for a retail sale of tangible personal property,
1063 a product transferred electronically, or a service;

1064 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing
1065 fee, a fee for inserting or making available tangible personal property, a product transferred
1066 electronically, or a service on the person's marketplace, or other consideration for the
1067 facilitation of a retail sale of tangible personal property, a product transferred electronically, or
1068 a service, regardless of ownership or control of the tangible personal property, the product
1069 transferred electronically, or the service that is the subject of the retail sale;

1070 (D) through terms and conditions, an agreement, or another arrangement with a third
1071 person, collects payment from a purchaser for a retail sale of tangible personal property, a
1072 product transferred electronically, or a service and transmits that payment to the marketplace
1073 seller, regardless of whether the third person receives compensation or other consideration in
1074 exchange for the service; or

1075 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
1076 property, a product transferred electronically, or service offered for sale.

1077 (b) "Marketplace facilitator" does not include:

1078 (i) a person that only provides payment processing services; or

1079 (ii) a person described in Subsection [(69)(a)] (72)(a) to the extent the person is

1080 facilitating a sale for a seller that is a restaurant as defined in Section [59-12-602](#).

1081 ~~[70]~~ (73) "Marketplace seller" means a seller that makes one or more retail sales
1082 through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of
1083 whether the seller is required to be registered to collect and remit the tax under this part.

1084 ~~[71]~~ (74) "Member of the immediate family of the producer" means a person who is
1085 related to a producer described in Subsection [59-12-104](#)(20)(a) as a:

1086 (a) child or stepchild, regardless of whether the child or stepchild is:

1087 (i) an adopted child or adopted stepchild; or

1088 (ii) a foster child or foster stepchild;

1089 (b) grandchild or stepgrandchild;

1090 (c) grandparent or stepgrandparent;

1091 (d) nephew or stepnephew;

1092 (e) niece or stepniece;

1093 (f) parent or stepparent;

1094 (g) sibling or stepsibling;

1095 (h) spouse;

1096 (i) person who is the spouse of a person described in Subsections ~~[71](a)~~ (74)(a)

1097 through (g); or

1098 (j) person similar to a person described in Subsections ~~[71](a)~~ (74)(a) through (i) as

1099 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
1100 Administrative Rulemaking Act.

1101 ~~[72]~~ (75) "Mobile home" means the same as that term is defined in Section

1102 [15A-1-302](#).

1103 ~~[73]~~ (76) "Mobile telecommunications service" means the same as that term is

1104 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1105 ~~[74]~~ (77) (a) "Mobile wireless service" means a telecommunications service,

1106 regardless of the technology used, if:

1107 (i) the origination point of the conveyance, routing, or transmission is not fixed;

1108 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

1109 (iii) the origination point described in Subsection ~~[74](a)(i)~~ (77)(a)(i) and the

1110 termination point described in Subsection ~~[74](a)(ii)~~ (77)(a)(ii) are not fixed.

1111 (b) "Mobile wireless service" includes a telecommunications service that is provided
1112 by a commercial mobile radio service provider.

1113 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1114 commission may by rule define "commercial mobile radio service provider."

1115 [75] (78) (a) Except as provided in Subsection [75](e) (78)(c), "mobility enhancing
1116 equipment" means equipment that is:

1117 (i) primarily and customarily used to provide or increase the ability to move from one
1118 place to another;

1119 (ii) appropriate for use in a:

1120 (A) home; or

1121 (B) motor vehicle; and

1122 (iii) not generally used by persons with normal mobility.

1123 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
1124 the equipment described in Subsection [75](a) (78)(a).

1125 (c) "Mobility enhancing equipment" does not include:

1126 (i) a motor vehicle;

1127 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
1128 vehicle manufacturer;

1129 (iii) durable medical equipment; or

1130 (iv) a prosthetic device.

1131 [76] (79) "Model 1 seller" means a seller registered under the agreement that has
1132 selected a certified service provider as the seller's agent to perform the seller's sales and use tax
1133 functions for agreement sales and use taxes, as outlined in the contract between the governing
1134 board of the agreement and the certified service provider, other than the seller's obligation
1135 under Section 59-12-124 to remit a tax on the seller's own purchases.

1136 [77] (80) "Model 2 seller" means a seller registered under the agreement that:

1137 (a) except as provided in Subsection [77](b) (80)(b), has selected a certified
1138 automated system to perform the seller's sales tax functions for agreement sales and use taxes;
1139 and

1140 (b) retains responsibility for remitting all of the sales tax:

1141 (i) collected by the seller; and

1142 (ii) to the appropriate local taxing jurisdiction.

1143 [78] (81) (a) Subject to Subsection [78](b) (81)(b), "model 3 seller" means a seller
1144 registered under the agreement that has:

1145 (i) sales in at least five states that are members of the agreement;

1146 (ii) total annual sales revenues of at least \$500,000,000;

1147 (iii) a proprietary system that calculates the amount of tax:

1148 (A) for an agreement sales and use tax; and

1149 (B) due to each local taxing jurisdiction; and

1150 (iv) entered into a performance agreement with the governing board of the agreement.

1151 (b) For purposes of Subsection [78](a) (81)(a), "model 3 seller" includes an affiliated
1152 group of sellers using the same proprietary system.

1153 [79] 82 "Model 4 seller" means a seller that is registered under the agreement and is
1154 not a model 1 seller, model 2 seller, or model 3 seller.

1155 [80] (83) "Modular home" means a modular unit as defined in Section 15A-1-302.

1156 [§81] (84) "Motor vehicle" means the same as that term is defined in Section
1157 [41-1a-102](#).

1158 [¶82] (85) "Oil sands" means impregnated bituminous sands that:

1159 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
1160 other hydrocarbons, or otherwise treated;

1161 (b) yield mixtures of liquid hydrocarbon; and

1162 (c) require further processing other than mechanical blending before becoming finished
1163 petroleum products.

1164 [83] (86) "Oil shale" means a group of fine black to dark brown shales containing
1165 kerogen material that yields petroleum upon heating and distillation.

1166 [84] (87) "Optional computer software maintenance contract" means a computer
1167 software maintenance contract that a customer is not obligated to purchase as a condition to the
1168 retail sale of computer software.

1169 [85] (88) (a) "Other fuels" means products that burn independently to produce heat or
1170 energy.

1171 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
1172 personal property.

1173 [§86] (89) (a) "Paging service" means a telecommunications service that provides
1174 transmission of a coded radio signal for the purpose of activating a specific pager.

1175 (b) For purposes of Subsection [§86(a)] (89)(a), the transmission of a coded radio
1176 signal includes a transmission by message or sound.

1177 [§87] (90) "Pawn transaction" means the same as that term is defined in Section
1178 13-32a-102.

1179 [§88] (91) "Pawnbroker" means the same as that term is defined in Section
1180 13-32a-102.

1181 [§89] (92) (a) "Permanently attached to real property" means that for tangible personal
1182 property attached to real property:

1183 (i) the attachment of the tangible personal property to the real property:

1184 (A) is essential to the use of the tangible personal property; and

1185 (B) suggests that the tangible personal property will remain attached to the real
1186 property in the same place over the useful life of the tangible personal property; or

1187 (ii) if the tangible personal property is detached from the real property, the detachment

1188 would:

1189 (A) cause substantial damage to the tangible personal property; or

1190 (B) require substantial alteration or repair of the real property to which the tangible
1191 personal property is attached.

1192 (b) "Permanently attached to real property" includes:

1193 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1194 (A) essential to the operation of the tangible personal property; and

1195 (B) attached only to facilitate the operation of the tangible personal property;

1196 (ii) a temporary detachment of tangible personal property from real property for a
1197 repair or renovation if the repair or renovation is performed where the tangible personal
1198 property and real property are located; or

1199 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
1200 Subsection [§89(e)(iii)] (92)(c)(iii) or (iv).

1201 (c) "Permanently attached to real property" does not include:

1202 (i) the attachment of portable or movable tangible personal property to real property if
1203 that portable or movable tangible personal property is attached to real property only for:

- 1204 (A) convenience;
1205 (B) stability; or
1206 (C) for an obvious temporary purpose;
1207 (ii) the detachment of tangible personal property from real property except for the
1208 detachment described in Subsection [(89)(b)(ii)] (92)(b)(ii);
1209 (iii) an attachment of the following tangible personal property to real property if the
1210 attachment to real property is only through a line that supplies water, electricity, gas,
1211 telecommunications, cable, or supplies a similar item as determined by the commission by rule
1212 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
1213 (A) a computer;
1214 (B) a telephone;
1215 (C) a television; or
1216 (D) tangible personal property similar to Subsections [(89)(e)(iii)(A)] (92)(c)(iii)(A)
1217 through (C) as determined by the commission by rule made in accordance with Title 63G,
1218 Chapter 3, Utah Administrative Rulemaking Act; or
1219 (iv) an item listed in Subsection [(130)(e)] (136)(c).
1220 [(90)] (93) "Person" includes any individual, firm, partnership, joint venture,
1221 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
1222 city, municipality, district, or other local governmental entity of the state, or any group or
1223 combination acting as a unit.
1224 [(91)] (94) "Place of primary use":
1225 (a) for telecommunications service other than mobile telecommunications service,
1226 means the street address representative of where the customer's use of the telecommunications
1227 service primarily occurs, which shall be:
1228 (i) the residential street address of the customer; or
1229 (ii) the primary business street address of the customer; or
1230 (b) for mobile telecommunications service, means the same as that term is defined in
1231 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
1232 [(92)] (95) (a) "Postpaid calling service" means a telecommunications service a person
1233 obtains by making a payment on a call-by-call basis:
1234 (i) through the use of a:

- 1235 (A) bank card;
1236 (B) credit card;
1237 (C) debit card; or
1238 (D) travel card; or
1239 (ii) by a charge made to a telephone number that is not associated with the origination
1240 or termination of the telecommunications service.

1241 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
1242 service, that would be a prepaid wireless calling service if the service were exclusively a
1243 telecommunications service.

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

1246 [94] (97) "Prepaid calling service" means a telecommunications service:

1247 (a) that allows a purchaser access to telecommunications service that is exclusively
1248 telecommunications service;

1249 (b) that:

1250 (i) is paid for in advance; and

1251 (ii) enables the origination of a call using an:

1252 (A) access number; or

1253 (B) authorization code;

1254 (c) that is dialed:

1255 (i) manually; or

1256 (ii) electronically; and

1257 (d) sold in predetermined units or dollars that decline:

1258 (i) by a known amount; and

1259 (ii) with use.

1260 [95] [98] "Prepaid wireless calling service" means a telecommunications service:

1261 (a) that provides the right to utilize:

1262 (i) mobile wireless service; and

1263 (ii) other service that is not a telecommunications service, including:

1264 (A) the download of a product transferred electronically;

1265 (B) a content service; or

- 1266 (C) an ancillary service;
- 1267 (b) that:
- 1268 (i) is paid for in advance; and
- 1269 (ii) enables the origination of a call using an:
- 1270 (A) access number; or
- 1271 (B) authorization code;
- 1272 (c) that is dialed:
- 1273 (i) manually; or
- 1274 (ii) electronically; and
- 1275 (d) sold in predetermined units or dollars that decline:
- 1276 (i) by a known amount; and
- 1277 (ii) with use.
- 1278 ~~[196] (99)~~ (a) "Prepared food" means:
- 1279 (i) food:
- 1280 (A) sold in a heated state; or
- 1281 (B) heated by a seller;
- 1282 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 1283 item; or
- 1284 (iii) except as provided in Subsection ~~[196](c)~~ (99)(c), food sold with an eating utensil
- 1285 provided by the seller, including a:
- 1286 (A) plate;
- 1287 (B) knife;
- 1288 (C) fork;
- 1289 (D) spoon;
- 1290 (E) glass;
- 1291 (F) cup;
- 1292 (G) napkin; or
- 1293 (H) straw.
- 1294 (b) "Prepared food" does not include:
- 1295 (i) food that a seller only:
- 1296 (A) cuts;

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

1328 (X) a donut;
1329 (XI) a muffin;
1330 (XII) a pastry;
1331 (XIII) a pie;
1332 (XIV) a roll;
1333 (XV) a tart;
1334 (XVI) a torte; or
1335 (XVII) a tortilla.

1336 (c) An eating utensil provided by the seller does not include the following used to
1337 transport the food:

1338 (i) a container; or
1339 (ii) packaging.

1340 [(97)] (100) "Prescription" means an order, formula, or recipe that is issued:

1341 (a) (i) orally;
1342 (ii) in writing;
1343 (iii) electronically; or
1344 (iv) by any other manner of transmission; and
1345 (b) by a licensed practitioner authorized by the laws of a state.

1346 [(98)] (101) (a) Except as provided in Subsection [(98)(b)(ii)] (101)(b)(ii) or (iii),
1347 "prewritten computer software" means computer software that is not designed and developed:

1348 (i) by the author or other creator of the computer software; and
1349 (ii) to the specifications of a specific purchaser.

1350 (b) "Prewritten computer software" includes:

1351 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
1352 software is not designed and developed:
1353 (A) by the author or other creator of the computer software; and
1354 (B) to the specifications of a specific purchaser;
1355 (ii) computer software designed and developed by the author or other creator of the
1356 computer software to the specifications of a specific purchaser if the computer software is sold
1357 to a person other than the purchaser; or
1358 (iii) except as provided in Subsection [(98)(c)] (101)(c), prewritten computer software

1359 or a prewritten portion of prewritten computer software:

1360 (A) that is modified or enhanced to any degree; and

1361 (B) if the modification or enhancement described in Subsection [(98)(b)(iii)(A)]

1362 (101)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

1363 (c) "Prewritten computer software" does not include a modification or enhancement

1364 described in Subsection [(98)(b)(iii)] (101)(b)(iii) if the charges for the modification or

1365 enhancement are:

1366 (i) reasonable; and

1367 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the

1368 invoice or other statement of price provided to the purchaser at the time of sale or later, as

1369 demonstrated by:

1370 (A) the books and records the seller keeps at the time of the transaction in the regular

1371 course of business, including books and records the seller keeps at the time of the transaction in

1372 the regular course of business for nontax purposes;

1373 (B) a preponderance of the facts and circumstances at the time of the transaction; and

1374 (C) the understanding of all of the parties to the transaction.

1375 [69] (102) (a) "Private communications service" means a telecommunications

1376 service:

1377 (i) that entitles a customer to exclusive or priority use of one or more communications

1378 channels between or among termination points; and

1379 (ii) regardless of the manner in which the one or more communications channels are

1380 connected.

1381 (b) "Private communications service" includes the following provided in connection

1382 with the use of one or more communications channels:

1383 (i) an extension line;

1384 (ii) a station;

1385 (iii) switching capacity; or

1386 (iv) another associated service that is provided in connection with the use of one or

1387 more communications channels as defined in Section 59-12-215.

1388 [100] (103) (a) Except as provided in Subsection [100](b) (103)(b), "product

1389 transferred electronically" means a product transferred electronically that would be subject to a

1390 tax under this chapter if that product was transferred in a manner other than electronically.

1391 (b) "Product transferred electronically" does not include:

1392 (i) an ancillary service;

1393 (ii) computer software; or

1394 (iii) a telecommunications service.

1395 [~~101~~] 104 (a) "Prosthetic device" means a device that is worn on or in the body to:

1396 (i) artificially replace a missing portion of the body;

1397 (ii) prevent or correct a physical deformity or physical malfunction; or

1398 (iii) support a weak or deformed portion of the body.

1399 (b) "Prosthetic device" includes:

1400 (i) parts used in the repairs or renovation of a prosthetic device;

1401 (ii) replacement parts for a prosthetic device;

1402 (iii) a dental prosthesis; or

1403 (iv) a hearing aid.

1404 (c) "Prosthetic device" does not include:

1405 (i) corrective eyeglasses; or

1406 (ii) contact lenses.

1407 [~~102~~] 105 (a) "Protective equipment" means an item:

1408 (i) for human wear; and

1409 (ii) that is:

1410 (A) designed as protection:

1411 (I) to the wearer against injury or disease; or

1412 (II) against damage or injury of other persons or property; and

1413 (B) not suitable for general use.

1414 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1415 commission shall make rules:

1416 (i) listing the items that constitute "protective equipment"; and

1417 (ii) that are consistent with the list of items that constitute "protective equipment"

1418 under the agreement.

1419 [~~103~~] 106 (a) For purposes of Subsection 59-12-104(41), "publication" means any

1420 written or printed matter, other than a photocopy:

- 1421 (i) regardless of:
1422 (A) characteristics;
1423 (B) copyright;
1424 (C) form;
1425 (D) format;
1426 (E) method of reproduction; or
1427 (F) source; and
1428 (ii) made available in printed or electronic format.

1429 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1430 commission may by rule define the term "photocopy."

1431 [104] (a) "Purchase price" and "sales price" mean the total amount of
1432 consideration:
1433 (i) valued in money; and
1434 (ii) for which tangible personal property, a product transferred electronically, or
1435 services are:
1436 (A) sold;
1437 (B) leased; or
1438 (C) rented.
1439 (b) "Purchase price" and "sales price" include:
1440 (i) the seller's cost of the tangible personal property, a product transferred
1441 electronically, or services sold;
1442 (ii) expenses of the seller, including:
1443 (A) the cost of materials used;
1444 (B) a labor cost;
1445 (C) a service cost;
1446 (D) interest;
1447 (E) a loss;
1448 (F) the cost of transportation to the seller; or
1449 (G) a tax imposed on the seller;
1450 (iii) a charge by the seller for any service necessary to complete the sale; or
1451 (iv) consideration a seller receives from a person other than the purchaser if:

1452 (A) (I) the seller actually receives consideration from a person other than the purchaser;
1453 and

(II) the consideration described in Subsection [(104)(b)(iv)(A)(I)] (107)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

1456 (B) the seller has an obligation to pass the price reduction or discount through to the
1457 purchaser;

1458 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1459 the seller at the time of the sale to the purchaser; and

1460 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1461 seller to claim a price reduction or discount; and

1462 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1463 coupon, or other documentation with the understanding that the person other than the seller
1464 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1465 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1466 organization allowed a price reduction or discount, except that a preferred customer card that is
1467 available to any patron of a seller does not constitute membership in a group or organization
1468 allowed a price reduction or discount; or

1469 (III) the price reduction or discount is identified as a third party price reduction or
1470 discount on the:

1471 (Aa) invoice the purchaser receives; or

1472 (Bb) certificate, coupon, or other documentation the purchaser presents.

1473 (c) "Purchase price" and "sales price" do not include:

1474 (i) a discount:

1475 (A) in a form including:

1476 (I) cash;

1477 (II) term; or

1478 (III) coupon;

1479 (B) that is allowed by a seller;

1480 (C) taken by a purchaser on a sale; and

1481 (D) that is not reimbursed by a third party; or

1482 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately

1483 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
1484 sale or later, as demonstrated by the books and records the seller keeps at the time of the
1485 transaction in the regular course of business, including books and records the seller keeps at the
1486 time of the transaction in the regular course of business for nontax purposes, by a
1487 preponderance of the facts and circumstances at the time of the transaction, and by the
1488 understanding of all of the parties to the transaction:

1489 (A) the following from credit extended on the sale of tangible personal property or
1490 services:

- 1491 (I) a carrying charge;
- 1492 (II) a financing charge; or
- 1493 (III) an interest charge;
- 1494 (B) a delivery charge;
- 1495 (C) an installation charge;
- 1496 (D) a manufacturer rebate on a motor vehicle; or
- 1497 (E) a tax or fee legally imposed directly on the consumer.

1498 ~~[105]~~ (108) "Purchaser" means a person to whom:

- 1499 (a) a sale of tangible personal property is made;
- 1500 (b) a product is transferred electronically; or
- 1501 (c) a service is furnished.

1502 ~~[106]~~ (109) "Qualifying data center" means a data center facility that:

1503 (a) houses a group of networked server computers in one physical location in order to
1504 disseminate, manage, and store data and information;

- 1505 (b) is located in the state;
- 1506 (c) is a new operation constructed on or after July 1, 2016;
- 1507 (d) consists of one or more buildings that total 150,000 or more square feet;
- 1508 (e) is owned or leased by:
 - 1509 (i) the operator of the data center facility; or
 - 1510 (ii) a person under common ownership, as defined in Section [59-7-101](#), of the operator
1511 of the data center facility; and
- 1512 (f) is located on one or more parcels of land that are owned or leased by:
 - 1513 (i) the operator of the data center facility; or

1514 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
1515 of the data center facility.

1516 [~~(107)~~] (110) "Regularly rented" means:

1517 (a) rented to a guest for value three or more times during a calendar year; or

1518 (b) advertised or held out to the public as a place that is regularly rented to guests for
1519 value.

1520 [~~(108)~~] (111) "Rental" means the same as that term is defined in Subsection [~~(60)~~] (63).

1521 [~~(109)~~] (112) (a) Except as provided in Subsection [~~(109)(b)~~] (112)(b), "repairs or
1522 renovations of tangible personal property" means:

1523 (i) a repair or renovation of tangible personal property that is not permanently attached
1524 to real property; or

1525 (ii) attaching tangible personal property or a product transferred electronically to other
1526 tangible personal property or detaching tangible personal property or a product transferred
1527 electronically from other tangible personal property if:

1528 (A) the other tangible personal property to which the tangible personal property or
1529 product transferred electronically is attached or from which the tangible personal property or
1530 product transferred electronically is detached is not permanently attached to real property; and

1531 (B) the attachment of tangible personal property or a product transferred electronically
1532 to other tangible personal property or detachment of tangible personal property or a product
1533 transferred electronically from other tangible personal property is made in conjunction with a
1534 repair or replacement of tangible personal property or a product transferred electronically.

1535 (b) "Repairs or renovations of tangible personal property" does not include:

1536 (i) attaching prewritten computer software to other tangible personal property if the
1537 other tangible personal property to which the prewritten computer software is attached is not
1538 permanently attached to real property; or

1539 (ii) detaching prewritten computer software from other tangible personal property if the
1540 other tangible personal property from which the prewritten computer software is detached is
1541 not permanently attached to real property.

1542 [~~(110)~~] (113) "Research and development" means the process of inquiry or
1543 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
1544 process of preparing those devices, technologies, or applications for marketing.

1545 [§111] (114) (a) "Residential telecommunications services" means a
1546 telecommunications service or an ancillary service that is provided to an individual for personal
1547 use:

1548 (i) at a residential address; or
1549 (ii) at an institution, including a nursing home or a school, if the telecommunications
1550 service or ancillary service is provided to and paid for by the individual residing at the
1551 institution rather than the institution.

1552 (b) For purposes of Subsection [§111](a)(i) (114)(a)(i), a residential address includes
1553 an:

1554 (i) apartment; or
1555 (ii) other individual dwelling unit.

1556 [§112] (115) "Residential use" means the use in or around a home, apartment building,
1557 sleeping quarters, and similar facilities or accommodations.

1558 [§113] (116) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
1559 other than:

1560 (a) resale;
1561 (b) sublease; or
1562 (c) subrent.

1563 [§114] (117) (a) "Retailer" means any person, unless prohibited by the Constitution of
1564 the United States or federal law, that is engaged in a regularly organized business in tangible
1565 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is
1566 selling to the user or consumer and not for resale.

1567 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1568 engaged in the business of selling to users or consumers within the state.

1569 [§115] (118) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1570 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1571 Subsection 59-12-103(1), for consideration.

1572 (b) "Sale" includes:
1573 (i) installment and credit sales;
1574 (ii) any closed transaction constituting a sale;
1575 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this

1576 chapter;

1577 (iv) any transaction if the possession of property is transferred but the seller retains the
1578 title as security for the payment of the price; and

1579 (v) any transaction under which right to possession, operation, or use of any article of
1580 tangible personal property is granted under a lease or contract and the transfer of possession
1581 would be taxable if an outright sale were made.

1582 [¶16] (119) "Sale at retail" means the same as that term is defined in Subsection
1583 [¶13] (116).

1584 [¶17] (120) "Sale-leaseback transaction" means a transaction by which title to
1585 tangible personal property or a product transferred electronically that is subject to a tax under
1586 this chapter is transferred:

1587 (a) by a purchaser-lessee;

1588 (b) to a lessor;

1589 (c) for consideration; and

1590 (d) if:

1591 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1592 of the tangible personal property or product transferred electronically;

1593 (ii) the sale of the tangible personal property or product transferred electronically to the
1594 lessor is intended as a form of financing:

1595 (A) for the tangible personal property or product transferred electronically; and

1596 (B) to the purchaser-lessee; and

1597 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1598 is required to:

1599 (A) capitalize the tangible personal property or product transferred electronically for
1600 financial reporting purposes; and

1601 (B) account for the lease payments as payments made under a financing arrangement.

1602 [¶18] (121) "Sales price" means the same as that term is defined in Subsection
1603 [¶04] (107).

1604 [¶19] (122) (a) "Sales relating to schools" means the following sales by, amounts
1605 paid to, or amounts charged by a school:

1606 (i) sales that are directly related to the school's educational functions or activities

1607 including:

1608 (A) the sale of:

1609 (I) textbooks;

1610 (II) textbook fees;

1611 (III) laboratory fees;

1612 (IV) laboratory supplies; or

1613 (V) safety equipment;

1614 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1615 that:

1616 (I) a student is specifically required to wear as a condition of participation in a

1617 school-related event or school-related activity; and

1618 (II) is not readily adaptable to general or continued usage to the extent that it takes the

1619 place of ordinary clothing;

1620 (C) sales of the following if the net or gross revenues generated by the sales are

1621 deposited into a school district fund or school fund dedicated to school meals:

1622 (I) food and food ingredients; or

1623 (II) prepared food; or

1624 (D) transportation charges for official school activities; or

1625 (ii) amounts paid to or amounts charged by a school for admission to a school-related

1626 event or school-related activity.

1627 (b) "Sales relating to schools" does not include:

1628 (i) bookstore sales of items that are not educational materials or supplies;

1629 (ii) except as provided in Subsection [(119)(a)(i)(B)] (122)(a)(i)(B):

1630 (A) clothing;

1631 (B) clothing accessories or equipment;

1632 (C) protective equipment; or

1633 (D) sports or recreational equipment; or

1634 (iii) amounts paid to or amounts charged by a school for admission to a school-related

1635 event or school-related activity if the amounts paid or charged are passed through to a person:

1636 (A) other than a:

1637 (I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

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

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

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

[~~(120)~~] (123) For purposes of this section and Section [59-12-104](#), "school" means:

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

(i) is a:

(A) public school; or

(B) private school; and

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

(b) a public school district.

[~~(121)~~] (124) (a) "Seller" means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

[~~(122)~~] (125) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

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

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

1669 (II) fabricating a semiconductor; or
1670 (III) research or development of a:
1671 (Aa) semiconductor; or
1672 (Bb) semiconductor manufacturing process; or
1673 (B) maintaining an environment suitable for a semiconductor.
1674 (b) "Semiconductor fabricating, processing, research, or development materials"
1675 includes:
1676 (i) parts used in the repairs or renovations of tangible personal property or a product
1677 transferred electronically described in Subsection [(122)(a)] (125)(a); or
1678 (ii) a chemical, catalyst, or other material used to:
1679 (A) produce or induce in a semiconductor a:
1680 (I) chemical change; or
1681 (II) physical change;
1682 (B) remove impurities from a semiconductor; or
1683 (C) improve the marketable condition of a semiconductor.
1684 [(123)] (126) "Senior citizen center" means a facility having the primary purpose of
1685 providing services to the aged as defined in Section 62A-3-101.
1686 (127) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.
1687 (128) "Shared vehicle driver" means the same as that term is defined in Section
1688 13-48a-101.
1689 (129) "Shared vehicle owner" means the same as that term is defined in Section
1690 13-48a-101.
1691 [(124)] (130) (a) Subject to Subsections [(124)(b)] (130)(b) and (c), "short-term
1692 lodging consumable" means tangible personal property that:
1693 (i) a business that provides accommodations and services described in Subsection
1694 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
1695 to a purchaser;
1696 (ii) is intended to be consumed by the purchaser; and
1697 (iii) is:
1698 (A) included in the purchase price of the accommodations and services; and
1699 (B) not separately stated on an invoice, bill of sale, or other similar document provided

1700 to the purchaser.

1701 (b) "Short-term lodging consumable" includes:

1702 (i) a beverage;

1703 (ii) a brush or comb;

1704 (iii) a cosmetic;

1705 (iv) a hair care product;

1706 (v) lotion;

1707 (vi) a magazine;

1708 (vii) makeup;

1709 (viii) a meal;

1710 (ix) mouthwash;

1711 (x) nail polish remover;

1712 (xi) a newspaper;

1713 (xii) a notepad;

1714 (xiii) a pen;

1715 (xiv) a pencil;

1716 (xv) a razor;

1717 (xvi) saline solution;

1718 (xvii) a sewing kit;

1719 (xviii) shaving cream;

1720 (xix) a shoe shine kit;

1721 (xx) a shower cap;

1722 (xxi) a snack item;

1723 (xxii) soap;

1724 (xxiii) toilet paper;

1725 (xxiv) a toothbrush;

1726 (xxv) toothpaste; or

1727 (xxvi) an item similar to Subsections [(124)(b)(i)] (130)(b)(i) through (xxv) as the

1728 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah

1729 Administrative Rulemaking Act.

1730 (c) "Short-term lodging consumable" does not include:

1731 (i) tangible personal property that is cleaned or washed to allow the tangible personal
1732 property to be reused; or

1733 (ii) a product transferred electronically.

1734 [1125] (131) "Simplified electronic return" means the electronic return:

1735 (a) described in Section 318(C) of the agreement; and

1736 (b) approved by the governing board of the agreement.

1737 [126] (132) "Solar energy" means the sun used as the sole source of energy for
1738 producing electricity.

1739 [127] (133) (a) "Sports or recreational equipment" means an item:

1740 (i) designed for human use; and

1741 (ii) that is:

1742 (A) worn in conjunction with:

1743 (I) an athletic activity; or

1744 (II) a recreational activity; and

1745 (B) not suitable for general use.

1746 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1747 commission shall make rules:

1748 (i) listing the items that constitute "sports or recreational equipment"; and

1749 (ii) that are consistent with the list of items that constitute "sports or recreational
1750 equipment" under the agreement.

1751 [1128] 134 "State" means the state of Utah, its departments, and agencies.

1752 [129] (135) "Storage" means any keeping or retention of tangible personal property or
1753 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
1754 except sale in the regular course of business.

1755 [§130] (136)(a) Except as provided in Subsection [§130](d) (136)(d) or (e), "tangible
1756 personal property" means personal property that:

1757 (i) may be:

1758 (A) seen;

1759 (B) weighed;

1760 (C) measured;

1761 (D) felt; or

1762 (E) touched; or

1763 (ii) is in any manner perceptible to the senses.

1764 (b) "Tangible personal property" includes:

1765 (i) electricity;

1766 (ii) water;

1767 (iii) gas;

1768 (iv) steam; or

1769 (v) prewritten computer software, regardless of the manner in which the prewritten

1770 computer software is transferred.

1771 (c) "Tangible personal property" includes the following regardless of whether the item

1772 is attached to real property:

1773 (i) a dishwasher;

1774 (ii) a dryer;

1775 (iii) a freezer;

1776 (iv) a microwave;

1777 (v) a refrigerator;

1778 (vi) a stove;

1779 (vii) a washer; or

1780 (viii) an item similar to Subsections [(130)(c)(i)] (136)(c)(i) through (vii) as

1781 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

1782 Administrative Rulemaking Act.

1783 (d) "Tangible personal property" does not include a product that is transferred

1784 electronically.

1785 (e) "Tangible personal property" does not include the following if attached to real

1786 property, regardless of whether the attachment to real property is only through a line that

1787 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the

1788 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

1789 Rulemaking Act:

1790 (i) a hot water heater;

1791 (ii) a water filtration system; or

1792 (iii) a water softener system.

1793 [§131] (137) (a) "Telecommunications enabling or facilitating equipment, machinery,
1794 or software" means an item listed in Subsection [§131](b) (137)(b) if that item is purchased or
1795 leased primarily to enable or facilitate one or more of the following to function:

1796 (i) telecommunications switching or routing equipment, machinery, or software; or

1797 (ii) telecommunications transmission equipment, machinery, or software.

1798 (b) The following apply to Subsection [§131](a) (137)(a):

1799 (i) a pole;

1800 (ii) software;

1801 (iii) a supplementary power supply;

1802 (iv) temperature or environmental equipment or machinery;

1803 (v) test equipment;

1804 (vi) a tower; or

1805 (vii) equipment, machinery, or software that functions similarly to an item listed in
1806 Subsections [§131](b)(i) (137)(b)(i) through (vi) as determined by the commission by rule
1807 made in accordance with Subsection [§131](e) (137)(c).

1808 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1809 commission may by rule define what constitutes equipment, machinery, or software that
1810 functions similarly to an item listed in Subsections [§131](b)(i) (137)(b)(i) through (vi).

1811 [§132] (138) "Telecommunications equipment, machinery, or software required for

1812 911 service" means equipment, machinery, or software that is required to comply with 47

1813 C.F.R. Sec. 20.18.

1814 [§133] (139) "Telecommunications maintenance or repair equipment, machinery, or
1815 software" means equipment, machinery, or software purchased or leased primarily to maintain
1816 or repair one or more of the following, regardless of whether the equipment, machinery, or
1817 software is purchased or leased as a spare part or as an upgrade or modification to one or more
1818 of the following:

1819 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1820 (b) telecommunications switching or routing equipment, machinery, or software; or

1821 (c) telecommunications transmission equipment, machinery, or software.

1822 [§134] (140) (a) "Telecommunications service" means the electronic conveyance,

1823 routing, or transmission of audio, data, video, voice, or any other information or signal to a

1824 point, or among or between points.

1825 (b) "Telecommunications service" includes:

1826 (i) an electronic conveyance, routing, or transmission with respect to which a computer

1827 processing application is used to act:

1828 (A) on the code, form, or protocol of the content;

1829 (B) for the purpose of electronic conveyance, routing, or transmission; and

1830 (C) regardless of whether the service:

1831 (I) is referred to as voice over Internet protocol service; or

1832 (II) is classified by the Federal Communications Commission as enhanced or value

1833 added;

1834 (ii) an 800 service;

1835 (iii) a 900 service;

1836 (iv) a fixed wireless service;

1837 (v) a mobile wireless service;

1838 (vi) a postpaid calling service;

1839 (vii) a prepaid calling service;

1840 (viii) a prepaid wireless calling service; or

1841 (ix) a private communications service.

1842 (c) "Telecommunications service" does not include:

1843 (i) advertising, including directory advertising;

1844 (ii) an ancillary service;

1845 (iii) a billing and collection service provided to a third party;

1846 (iv) a data processing and information service if:

1847 (A) the data processing and information service allows data to be:

1848 (I) (Aa) acquired;

1849 (Bb) generated;

1850 (Cc) processed;

1851 (Dd) retrieved; or

1852 (Ee) stored; and

1853 (II) delivered by an electronic transmission to a purchaser; and

1854 (B) the purchaser's primary purpose for the underlying transaction is the processed data

1855 or information;

1856 (v) installation or maintenance of the following on a customer's premises:

1857 (A) equipment; or

1858 (B) wiring;

1859 (vi) Internet access service;

1860 (vii) a paging service;

1861 (viii) a product transferred electronically, including:

1862 (A) music;

1863 (B) reading material;

1864 (C) a ring tone;

1865 (D) software; or

1866 (E) video;

1867 (ix) a radio and television audio and video programming service:

1868 (A) regardless of the medium; and

1869 (B) including:

1870 (I) furnishing conveyance, routing, or transmission of a television audio and video

1871 programming service by a programming service provider;

1872 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or

1873 (III) audio and video programming services delivered by a commercial mobile radio

1874 service provider as defined in 47 C.F.R. Sec. 20.3;

1875 (x) a value-added nonvoice data service; or

1876 (xi) tangible personal property.

1877 [§135] (141) (a) "Telecommunications service provider" means a person that:

1878 (i) owns, controls, operates, or manages a telecommunications service; and

1879 (ii) engages in an activity described in Subsection [§135](a)(i) (141)(a)(i) for the

1880 shared use with or resale to any person of the telecommunications service.

1881 (b) A person described in Subsection [§135](a) (141)(a) is a telecommunications

1882 service provider whether or not the Public Service Commission of Utah regulates:

1883 (i) that person; or

1884 (ii) the telecommunications service that the person owns, controls, operates, or

1885 manages.

1886 [§136] (142) (a) "Telecommunications switching or routing equipment, machinery, or
1887 software" means an item listed in Subsection [§136(b)] (142)(b) if that item is purchased or
1888 leased primarily for switching or routing:

- 1889 (i) an ancillary service;
- 1890 (ii) data communications;
- 1891 (iii) voice communications; or
- 1892 (iv) telecommunications service.

1893 (b) The following apply to Subsection [§136(a)] (142)(a):

- 1894 (i) a bridge;
- 1895 (ii) a computer;
- 1896 (iii) a cross connect;
- 1897 (iv) a modem;
- 1898 (v) a multiplexer;
- 1899 (vi) plug in circuitry;
- 1900 (vii) a router;
- 1901 (viii) software;
- 1902 (ix) a switch; or
- 1903 (x) equipment, machinery, or software that functions similarly to an item listed in
1904 Subsections [§136(b)(i)] (142)(b)(i) through (ix) as determined by the commission by rule
1905 made in accordance with Subsection [§136(e)] (142)(c).

1906 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1907 commission may by rule define what constitutes equipment, machinery, or software that
1908 functions similarly to an item listed in Subsections [§136(b)(i)] (142)(b)(i) through (ix).

1909 [§137] (143) (a) "Telecommunications transmission equipment, machinery, or
1910 software" means an item listed in Subsection [§137(b)] (143)(b) if that item is purchased or
1911 leased primarily for sending, receiving, or transporting:

- 1912 (i) an ancillary service;
- 1913 (ii) data communications;
- 1914 (iii) voice communications; or
- 1915 (iv) telecommunications service.

1916 (b) The following apply to Subsection [§137(a)] (143)(a):

- 1917 (i) an amplifier;
1918 (ii) a cable;
1919 (iii) a closure;
1920 (iv) a conduit;
1921 (v) a controller;
1922 (vi) a duplexer;
1923 (vii) a filter;
1924 (viii) an input device;
1925 (ix) an input/output device;
1926 (x) an insulator;
1927 (xi) microwave machinery or equipment;
1928 (xii) an oscillator;
1929 (xiii) an output device;
1930 (xiv) a pedestal;
1931 (xv) a power converter;
1932 (xvi) a power supply;
1933 (xvii) a radio channel;
1934 (xviii) a radio receiver;
1935 (xix) a radio transmitter;
1936 (xx) a repeater;
1937 (xxi) software;
1938 (xxii) a terminal;
1939 (xxiii) a timing unit;
1940 (xxiv) a transformer;
1941 (xxv) a wire; or
1942 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
1943 Subsections [(137)(b)(i)] (142)(b)(i) through (xxv) as determined by the commission by rule
1944 made in accordance with Subsection [(137)(c)] (142)(c).
1945 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1946 commission may by rule define what constitutes equipment, machinery, or software that
1947 functions similarly to an item listed in Subsections [(137)(b)(i)] (142)(b)(i) through (xxv).

1948 ~~[(138)]~~ (144) (a) "Textbook for a higher education course" means a textbook or other
1949 printed material that is required for a course:

1950 (i) offered by an institution of higher education; and
1951 (ii) that the purchaser of the textbook or other printed material attends or will attend.

1952 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1953 ~~[(139)]~~ (145) "Tobacco" means:

1954 (a) a cigarette;
1955 (b) a cigar;
1956 (c) chewing tobacco;
1957 (d) pipe tobacco; or
1958 (e) any other item that contains tobacco.

1959 ~~[(140)]~~ (146) "Unassisted amusement device" means an amusement device, skill
1960 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
1961 operate the amusement device, skill device, or ride device.

1962 ~~[(141)]~~ (147) (a) "Use" means the exercise of any right or power over tangible personal
1963 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),
1964 incident to the ownership or the leasing of that tangible personal property, product transferred
1965 electronically, or service.

1966 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1967 property, a product transferred electronically, or a service in the regular course of business and
1968 held for resale.

1969 ~~[(142)]~~ (148) "Value-added nonvoice data service" means a service:

1970 (a) that otherwise meets the definition of a telecommunications service except that a
1971 computer processing application is used to act primarily for a purpose other than conveyance,
1972 routing, or transmission; and

1973 (b) with respect to which a computer processing application is used to act on data or
1974 information:

1975 (i) code;
1976 (ii) content;
1977 (iii) form; or
1978 (iv) protocol.

1979 [143] (149) (a) Subject to Subsection [143](b) (149)(b), "vehicle" means the
1980 following that are required to be titled, registered, or titled and registered:

- 1981 (i) an aircraft as defined in Section 72-10-102;
- 1982 (ii) a vehicle as defined in Section 41-1a-102;
- 1983 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1984 (iv) a vessel as defined in Section 41-1a-102.

1985 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1986 (i) a vehicle described in Subsection [143](a) (149)(a); or
- 1987 (ii) (A) a locomotive;
- 1988 (B) a freight car;
- 1989 (C) railroad work equipment; or
- 1990 (D) other railroad rolling stock.

1991 [144] (150) "Vehicle dealer" means a person engaged in the business of buying,
1992 selling, or exchanging a vehicle as defined in Subsection [143] (149).

1993 [145] (151) (a) "Vertical service" means an ancillary service that:

- 1994 (i) is offered in connection with one or more telecommunications services; and
- 1995 (ii) offers an advanced calling feature that allows a customer to:
 - 1996 (A) identify a caller; and
 - 1997 (B) manage multiple calls and call connections.

1998 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1999 conference bridging service.

2000 [146] (152) (a) "Voice mail service" means an ancillary service that enables a
2001 customer to receive, send, or store a recorded message.

2002 (b) "Voice mail service" does not include a vertical service that a customer is required
2003 to have in order to utilize a voice mail service.

2004 [147] (153) (a) Except as provided in Subsection [147](b) (153)(b), "waste energy
2005 facility" means a facility that generates electricity:

- 2006 (i) using as the primary source of energy waste materials that would be placed in a
2007 landfill or refuse pit if it were not used to generate electricity, including:
 - 2008 (A) tires;
 - 2009 (B) waste coal;

- (C) oil shale; or

(D) municipal solid waste; and

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

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

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

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

[~~(148)~~ (154) "Watercraft" means a vessel as defined in Section [73-18-2](#).

[~~(149)~~ (155) "Wind energy" means wind used as the sole source of energy to produce electricity.

[~~(150)~~ (156) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 17. Section **59-12-103** is amended to read:

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

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

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

(b) amounts paid for:

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

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

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

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

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

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

2072 accommodations and services that are regularly rented for less than 30 consecutive days;

2073 (j) amounts paid or charged for laundry or dry cleaning services;

2074 (k) amounts paid or charged for leases or rentals of tangible personal property if within

2075 this state the tangible personal property is:

2076 (i) stored;

2077 (ii) used; or

2078 (iii) otherwise consumed;

2079 (l) amounts paid or charged for tangible personal property if within this state the

2080 tangible personal property is:

2081 (i) stored;

2082 (ii) used; or

2083 (iii) consumed; and

2084 (m) amounts paid or charged for a sale:

2085 (i) (A) of a product transferred electronically; or

2086 (B) of a repair or renovation of a product transferred electronically; and

2087 (ii) regardless of whether the sale provides:

2088 (A) a right of permanent use of the product; or

2089 (B) a right to use the product that is less than a permanent use, including a right:

2090 (I) for a definite or specified length of time; and

2091 (II) that terminates upon the occurrence of a condition.

2092 (2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax

2093 are imposed on a transaction described in Subsection (1) equal to the sum of:

2094 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

2095 (A) 4.70% plus the rate specified in Subsection (12)(a); and

2096 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales

2097 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

2098 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional

2099 State Sales and Use Tax Act; and

2100 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales

2101 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

2102 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state

2103 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2104 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2105 transaction under this chapter other than this part.

2106 (b) Except as provided in Subsection ~~(2)(e) or (f)~~ (2)(f) or (g) and subject to
2107 Subsection ~~(2)(k)~~ (2)(l), a state tax and a local tax are imposed on a transaction described in
2108 Subsection (1)(d) equal to the sum of:

2109 (i) a state tax imposed on the transaction at a tax rate of 2%; and

2110 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2111 transaction under this chapter other than this part.

2112 (c) Except as provided in Subsection ~~(2)(e) or (f)~~ (2)(f) or (g), a state tax and a local
2113 tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

2114 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
2115 a tax rate of 1.75%; and

2116 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2117 amounts paid or charged for food and food ingredients under this chapter other than this part.

2118 (d) Except as provided in Subsection ~~(2)(e) or (f)~~ (2)(f) or (g), a state tax is imposed
2119 on amounts paid or charged for fuel to a common carrier that is a railroad for use in a
2120 locomotive engine at a rate of 4.85%.

2121 (e) (i) (A) If a shared vehicle owner certifies to the commission, on a form prescribed
2122 by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax
2123 imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a
2124 shared vehicle driver, or a shared vehicle owner.

2125 (B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is
2126 required once during the time that the shared vehicle owner owns the shared vehicle.

2127 (C) The commission shall verify that a shared vehicle is an individual-owned shared
2128 vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the
2129 purchase of the shared vehicle.

2130 (D) The exception under Subsection (2)(e)(i)(A) applies to a certified
2131 individual-owned shared vehicle shared through a car-sharing program even if non-certified
2132 shared vehicles are also available to be shared through the same car-sharing program.

2133 (ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

2134 (iii) (A) A car-sharing program may rely in good faith on a shared vehicle owner's
2135 representation that the shared vehicle is an individual-owned shared vehicle certified with the
2136 commission as described in Subsection (2)(e)(i).

2137 (B) If a car-sharing program relies in good faith on a shared vehicle owner's
2138 representation that the shared vehicle is an individual-owned shared vehicle certified with the
2139 commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any
2140 tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

2141 (iv) If all shared vehicles shared through a car-sharing program are certified as
2142 described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation
2143 to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

2144 (v) (A) A car-sharing program is not required to list or otherwise identify an
2145 individual-owned shared vehicle on a return or an attachment to a return.

2146 (vi) A car-sharing program shall:

2147 (A) retain tax information for each car-sharing program transaction; and

2148 (B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at
2149 the commission's request.

2150 [f(e)] (f) (i) For a bundled transaction that is attributable to food and food ingredients
2151 and tangible personal property other than food and food ingredients, a state tax and a local tax
2152 is imposed on the entire bundled transaction equal to the sum of:

2153 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

2154 (I) the tax rate described in Subsection (2)(a)(i)(A); and

2155 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
2156 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2157 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
2158 Additional State Sales and Use Tax Act; and

2159 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State

2160 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2161 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
2162 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2163 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
2164 described in Subsection (2)(a)(ii).

2165 (ii) If an optional computer software maintenance contract is a bundled transaction that
2166 consists of taxable and nontaxable products that are not separately itemized on an invoice or
2167 similar billing document, the purchase of the optional computer software maintenance contract
2168 is 40% taxable under this chapter and 60% nontaxable under this chapter.

2169 (iii) Subject to Subsection [(2)(e)(iv)] (2)(f)(iv), for a bundled transaction other than a
2170 bundled transaction described in Subsection [(2)(e)(f)] (2)(f)(i) or (ii):

2171 (A) if the sales price of the bundled transaction is attributable to tangible personal
2172 property, a product, or a service that is subject to taxation under this chapter and tangible
2173 personal property, a product, or service that is not subject to taxation under this chapter, the
2174 entire bundled transaction is subject to taxation under this chapter unless:

2175 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2176 personal property, product, or service that is not subject to taxation under this chapter from the
2177 books and records the seller keeps in the seller's regular course of business; or

2178 (II) state or federal law provides otherwise; or

2179 (B) if the sales price of a bundled transaction is attributable to two or more items of
2180 tangible personal property, products, or services that are subject to taxation under this chapter
2181 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
2182 higher tax rate unless:

2183 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2184 personal property, product, or service that is subject to taxation under this chapter at the lower
2185 tax rate from the books and records the seller keeps in the seller's regular course of business; or

2186 (II) state or federal law provides otherwise.

2187 (iv) For purposes of Subsection [f2](e)(iii)] (2)(f)(iii), books and records that a seller
2188 keeps in the seller's regular course of business includes books and records the seller keeps in
2189 the regular course of business for nontax purposes.

2190 [f] (g) (i) Except as otherwise provided in this chapter and subject to Subsections
2191 [(2)(f)(ii)] (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible
2192 personal property, a product, or a service that is subject to taxation under this chapter, and the
2193 sale, lease, or rental of tangible personal property, other property, a product, or a service that is
2194 not subject to taxation under this chapter, the entire transaction is subject to taxation under this
2195 chapter unless the seller, at the time of the transaction:

2196 (A) separately states the portion of the transaction that is not subject to taxation under
2197 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

2198 (B) is able to identify by reasonable and verifiable standards, from the books and
2199 records the seller keeps in the seller's regular course of business, the portion of the transaction
2200 that is not subject to taxation under this chapter.

2201 (ii) A purchaser and a seller may correct the taxability of a transaction if:

2202 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
2203 the transaction that is not subject to taxation under this chapter was not separately stated on an
2204 invoice, bill of sale, or similar document provided to the purchaser because of an error or
2205 ignorance of the law; and

2206 (B) the seller is able to identify by reasonable and verifiable standards, from the books
2207 and records the seller keeps in the seller's regular course of business, the portion of the
2208 transaction that is not subject to taxation under this chapter.

2209 (iii) For purposes of Subsections [(2)(f)(i)] (2)(g)(i) and (ii), books and records that a
2210 seller keeps in the seller's regular course of business includes books and records the seller
2211 keeps in the regular course of business for nontax purposes.

2212 [(g)] (h) (i) If the sales price of a transaction is attributable to two or more items of
2213 tangible personal property, products, or services that are subject to taxation under this chapter
2214 at different rates, the entire purchase is subject to taxation under this chapter at the higher tax
2215 rate unless the seller, at the time of the transaction:

2216 (A) separately states the items subject to taxation under this chapter at each of the
2217 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

2218 (B) is able to identify by reasonable and verifiable standards the tangible personal
2219 property, product, or service that is subject to taxation under this chapter at the lower tax rate
2220 from the books and records the seller keeps in the seller's regular course of business.

2221 (ii) For purposes of Subsection [(2)(g)(i)] (2)(h)(i), books and records that a seller
2222 keeps in the seller's regular course of business includes books and records the seller keeps in
2223 the regular course of business for nontax purposes.

2224 [(h)] (i) Subject to Subsections [(2)(i) and (j)] (2)(j) and (k), a tax rate repeal or tax rate
2225 change for a tax rate imposed under the following shall take effect on the first day of a calendar
2226 quarter:

- 2227 (i) Subsection (2)(a)(i)(A);
2228 (ii) Subsection (2)(b)(i);
2229 (iii) Subsection (2)(c)(i); or
2230 (iv) Subsection [§2(e)(i)(A)(f)] (2)(f)(i)(A)(I).

2231 [f] (j) (i) A tax rate increase takes effect on the first day of the first billing period that
2232 begins on or after the effective date of the tax rate increase if the billing period for the
2233 transaction begins before the effective date of a tax rate increase imposed under:
2234 (A) Subsection (2)(a)(i)(A);
2235 (B) Subsection (2)(b)(i);
2236 (C) Subsection (2)(c)(i); or
2237 (D) Subsection [§2(e)(i)(A)(f)] (2)(f)(i)(A)(I).

2238 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
2239 statement for the billing period is rendered on or after the effective date of the repeal of the tax
2240 or the tax rate decrease imposed under:
2241 (A) Subsection (2)(a)(i)(A);
2242 (B) Subsection (2)(b)(i);
2243 (C) Subsection (2)(c)(i); or
2244 (D) Subsection [§2(e)(i)(A)(f)] (2)(f)(i)(A)(I).

2245 [f] (k) (i) For a tax rate described in Subsection [§2(j)(ii)] (2)(k)(ii), if a tax due on a
2246 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a
2247 tax rate repeal or change in a tax rate takes effect:
2248 (A) on the first day of a calendar quarter; and
2249 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
2250 (ii) Subsection [§2(j)(f)] (2)(k)(i) applies to the tax rates described in the following:
2251 (A) Subsection (2)(a)(i)(A);
2252 (B) Subsection (2)(b)(i);
2253 (C) Subsection (2)(c)(i); or
2254 (D) Subsection [§2(e)(i)(A)(f)] (2)(f)(i)(A)(I).
2255 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
2256 the commission may by rule define the term "catalogue sale."
2257 [f] (l) (i) For a location described in Subsection [§2(k)(ii)] (2)(l)(ii), the commission

2258 shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel
2259 based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the
2260 location.

2261 (ii) Subsection ~~(2)(k)(f)~~ (2)(l)(i) applies to a location where gas, electricity, heat, coal,
2262 fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:
2263 (A) a commercial use;
2264 (B) an industrial use; or
2265 (C) a residential use.

2266 (3) (a) The following state taxes shall be deposited into the General Fund:
2267 (i) the tax imposed by Subsection (2)(a)(i)(A);
2268 (ii) the tax imposed by Subsection (2)(b)(i);
2269 (iii) the tax imposed by Subsection (2)(c)(i); and
2270 (iv) the tax imposed by Subsection ~~(2)(e)(i)(A)(f)~~ (2)(f)(i)(A)(I).

2271 (b) The following local taxes shall be distributed to a county, city, or town as provided
2272 in this chapter:

2273 (i) the tax imposed by Subsection (2)(a)(ii);
2274 (ii) the tax imposed by Subsection (2)(b)(ii);
2275 (iii) the tax imposed by Subsection (2)(c)(ii); and
2276 (iv) the tax imposed by Subsection ~~(2)(e)(i)(B)~~ (2)(f)(i)(B).

2277 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General
2278 Fund.

2279 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2280 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
2281 through (g):

2282 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
2283 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
2284 (B) for the fiscal year; or
2285 (ii) \$17,500,000.

2286 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
2287 described in Subsection (4)(a) shall be transferred each year as designated sales and use tax
2288 revenue to the Department of Natural Resources to:

2289 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
2290 protect sensitive plant and animal species; or

2291 (B) award grants, up to the amount authorized by the Legislature in an appropriations
2292 act, to political subdivisions of the state to implement the measures described in Subsections
2293 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

2294 (ii) Money transferred to the Department of Natural Resources under Subsection
2295 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
2296 person to list or attempt to have listed a species as threatened or endangered under the
2297 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

2298 (iii) 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 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
2306 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
2307 created in Section [4-18-106](#).

2308 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
2309 in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to
2310 the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for
2311 the adjudication of water rights.

2312 (ii) At the end of each fiscal year:

2313 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the
2314 Water Resources Conservation and Development Fund created in Section [73-10-24](#);

2315 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the
2316 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

2317 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the
2318 Drinking Water Loan Program Subaccount created in Section [73-10c-5](#).

2319 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described

2320 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
2321 Development Fund created in Section [73-10-24](#) for use by the Division of Water Resources.

2322 (ii) In addition to the uses allowed of the Water Resources Conservation and
2323 Development Fund under Section [73-10-24](#), the Water Resources Conservation and
2324 Development Fund may also be used to:

2325 (A) conduct hydrologic and geotechnical investigations by the Division of Water
2326 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
2327 quantifying surface and ground water resources and describing the hydrologic systems of an
2328 area in sufficient detail so as to enable local and state resource managers to plan for and
2329 accommodate growth in water use without jeopardizing the resource;

2330 (B) fund state required dam safety improvements; and
2331 (C) protect the state's interest in interstate water compact allocations, including the
2332 hiring of technical and legal staff.

2333 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2334 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
2335 created in Section [73-10c-5](#) for use by the Water Quality Board to fund wastewater projects.

2336 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2337 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
2338 created in Section [73-10c-5](#) for use by the Division of Drinking Water to:

2339 (i) provide for the installation and repair of collection, treatment, storage, and
2340 distribution facilities for any public water system, as defined in Section [19-4-102](#);
2341 (ii) develop underground sources of water, including springs and wells; and
2342 (iii) develop surface water sources.

2343 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2344 2006, the difference between the following amounts shall be expended as provided in this
2345 Subsection (5), if that difference is greater than \$1:

2346 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
2347 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

2348 (ii) \$17,500,000.

2349 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

2350 (A) transferred each fiscal year to the Department of Natural Resources as designated

2351 sales and use tax revenue; and

2352 (B) expended by the Department of Natural Resources for watershed rehabilitation or
2353 restoration.

2354 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use
2355 tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation
2356 and Development Fund created in Section [73-10-24](#).

2357 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
2358 remaining difference described in Subsection (5)(a) shall be:

2359 (A) transferred each fiscal year to the Division of Water Resources as designated sales
2360 and use tax revenue; and

2361 (B) expended by the Division of Water Resources for cloud-seeding projects
2362 authorized by Title 73, Chapter 15, Modification of Weather.

2363 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use
2364 tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation
2365 and Development Fund created in Section [73-10-24](#).

2366 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
2367 remaining difference described in Subsection (5)(a) shall be deposited into the Water
2368 Resources Conservation and Development Fund created in Section [73-10-24](#) for use by the
2369 Division of Water Resources for:

2370 (i) preconstruction costs:

2371 (A) as defined in Subsection [73-26-103](#)(6) for projects authorized by Title 73, Chapter
2372 26, Bear River Development Act; and

2373 (B) as defined in Subsection [73-28-103](#)(8) for the Lake Powell Pipeline project
2374 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2375 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
2376 Chapter 26, Bear River Development Act;

2377 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
2378 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2379 (iv) other uses authorized under Sections [73-10-24](#), [73-10-25.1](#), and [73-10-30](#), and
2380 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2381 (e) After making the transfers required by Subsections (5)(b) and (c), 15% of the

2382 remaining difference described in Subsection (5)(a) shall be deposited each year into the Water
2383 Rights Restricted Account created by Section [73-2-1.6](#).

2384 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
2385 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
2386 (1) for the fiscal year shall be deposited as follows:

2387 (a) for fiscal year 2020-21 only:

2388 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
2389 Transportation Investment Fund of 2005 created by Section [72-2-124](#); and

2390 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
2391 Water Infrastructure Restricted Account created by Section [73-10g-103](#); and

2392 (b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
2393 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
2394 created by Section [73-10g-103](#).

2395 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
2396 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
2397 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
2398 created by Section [72-2-124](#):

2399 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
2400 the revenues collected from the following taxes, which represents a portion of the
2401 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
2402 on vehicles and vehicle-related products:

2403 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2404 (B) the tax imposed by Subsection (2)(b)(i);

2405 (C) the tax imposed by Subsection (2)(c)(i); and

2406 (D) the tax imposed by Subsection ~~(2)(e)(i)(A)(I)~~ (2)(f)(i)(A)(I); plus

2407 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
2408 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
2409 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
2410 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

2411 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
2412 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total

2413 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
2414 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
2415 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
2416 (7)(a) equal to the product of:

2417 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
2418 previous fiscal year; and

2419 (B) the total sales and use tax revenue generated by the taxes described in Subsections
2420 (7)(a)(i)(A) through (D) in the current fiscal year.

2421 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
2422 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
2423 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of
2424 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
2425 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

2426 (iii) Subject to Subsection (7)(b)(iv)(E), in all subsequent fiscal years after a year in
2427 which 17% of the revenues collected from the sales and use taxes described in Subsections
2428 (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall
2429 annually deposit 17% of the revenues collected from the sales and use taxes described in
2430 Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

2431 (iv) (A) As used in this Subsection (7)(b)(iv), "additional growth revenue" means the
2432 amount of relevant revenue collected in the current fiscal year that exceeds by more than 3%
2433 the relevant revenue collected in the previous fiscal year.

2434 (B) As used in this Subsection (7)(b)(iv), "combined amount" means the combined
2435 total amount of money deposited into the Cottonwood Canyons fund under Subsections
2436 (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

2437 (C) As used in this Subsection (7)(b)(iv), "Cottonwood Canyons fund" means the
2438 Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

2439 (D) As used in this Subsection (7)(b)(iv), "relevant revenue" means the portion of taxes
2440 listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in
2441 Subsections (7)(a)(i)(A) through (D).

2442 (E) For a fiscal year beginning on or after July 1, 2020, the commission shall annually
2443 reduce the deposit under Subsection (7)(b)(iii) into the Transportation Investment Fund of 2005

2444 by an amount equal to the amount of the deposit under this Subsection (7)(b)(iv) to the
2445 Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue,
2446 subject to the limit in Subsection (7)(b)(iv)(F).

2447 (F) The commission shall annually deposit the amount described in Subsection
2448 (7)(b)(iv)(E) into the Cottonwood Canyons fund, subject to an annual maximum combined
2449 amount for any single fiscal year of \$20,000,000.

2450 (G) If the amount of relevant revenue declines in a fiscal year compared to the previous
2451 fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood
2452 Canyons fund under this Subsection (7)(b)(iv) in the same proportion as the decline in relevant
2453 revenue.

2454 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
2455 Subsections (6) and (7), and subject to Subsections (8)(b) and (d)(v), for a fiscal year beginning
2456 on or after July 1, 2018, the commission shall annually deposit into the Transportation
2457 Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under
2458 Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following
2459 taxes:

2460 (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
2461 (ii) the tax imposed by Subsection (2)(b)(i);
2462 (iii) the tax imposed by Subsection (2)(c)(i); and
2463 (iv) the tax imposed by Subsection [72-2-124] (2)(f)(i)(A)(I).

2464 (b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
2465 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by
2466 an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by
2467 the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale
2468 or use in this state that exceeds 29.4 cents per gallon.

2469 (c) The commission shall annually deposit the amount described in Subsection (8)(b)
2470 into the Transit Transportation Investment Fund created in Section 72-2-124.

2471 (d) (i) As used in this Subsection (8)(d), "additional growth revenue" means the
2472 amount of relevant revenue collected in the current fiscal year that exceeds by more than 3%
2473 the relevant revenue collected in the previous fiscal year.

2474 (ii) As used in this Subsection (8)(d), "combined amount" means the combined total

2475 amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F)
2476 and (8)(d)(vi) in any single fiscal year.

2477 (iii) As used in this Subsection (8)(d), "Cottonwood Canyons fund" means the
2478 Cottonwood Canyons Transportation Investment Fund created in Subsection [72-2-124](#)(10).

2479 (iv) As used in this Subsection (8)(d), "relevant revenue" means the portion of taxes
2480 listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described
2481 in Subsections (8)(a)(i) through (iv).

2482 (v) For a fiscal year beginning on or after July 1, 2020, the commission shall annually
2483 reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by
2484 an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood
2485 Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the
2486 limit in Subsection (8)(d)(vi).

2487 (vi) The commission shall annually deposit the amount described in Subsection
2488 (8)(d)(v) into the Cottonwood Canyons fund, subject to an annual maximum combined amount
2489 for any single fiscal year of \$20,000,000.

2490 (vii) If the amount of relevant revenue declines in a fiscal year compared to the
2491 previous fiscal year, the commission shall decrease the amount of the contribution to the
2492 Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in
2493 relevant revenue.

2494 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2495 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
2496 created by Section [35A-8-1009](#) and expended as provided in Section [35A-8-1009](#).

2497 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(b),
2498 and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of
2499 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
2500 [72-2-124](#) the amount of revenue described as follows:

2501 (i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05%
2502 tax rate on the transactions described in Subsection (1); and

2503 (ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
2504 tax rate on the transactions described in Subsection (1).

2505 (b) For purposes of Subsection (10)(a), the Division of Finance may not deposit into

2506 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
2507 charged for food and food ingredients, except for tax revenue generated by a bundled
2508 transaction attributable to food and food ingredients and tangible personal property other than
2509 food and food ingredients described in Subsection [(2)(e)] (2)(f).

2510 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
2511 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
2512 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
2513 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
2514 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
2515 created in Section 63N-2-512.

2516 (12) (a) The rate specified in this subsection is 0.15%.

2517 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year
2518 beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the
2519 rate described in Subsection (12)(a) on the transactions that are subject to the sales and use tax
2520 under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section
2521 26-36b-208.

2522 (13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2523 2020-21, the Division of Finance shall deposit \$200,000 into the General Fund as a dedicated
2524 credit solely for use of the Search and Rescue Financial Assistance Program created in, and
2525 expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

2526 (14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of
2527 Finance shall annually transfer \$1,813,400 of the revenue deposited into the Transportation
2528 Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

2529 (b) If the total revenue deposited into the Transportation Investment Fund of 2005
2530 under Subsections (6) through (8) is less than \$1,813,400 for a fiscal year, the Division of
2531 Finance shall transfer the total revenue deposited into the Transportation Investment Fund of
2532 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

2533 (15) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610,
2534 beginning the first day of the calendar quarter one year after the sales and use tax boundary for
2535 a housing and transit reinvestment zone is established, the commission, at least annually, shall
2536 transfer an amount equal to 15% of the sales and use tax increment within an established sales

2537 and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation
2538 Investment Fund created in Section 72-2-124.

2539 (16) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year
2540 beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure
2541 Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection
2542 (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

- 2543 (a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
- 2544 (b) the tax imposed by Subsection (2)(b)(i);
- 2545 (c) the tax imposed by Subsection (2)(c)(i); and
- 2546 (d) the tax imposed by Subsection [2](e)(i)(A)(f) (2)(f)(i)(A)(I).

2547 Section 18. Section 59-12-107.6 is amended to read:

2548 **59-12-107.6. Marketplace facilitator collection, remittance, and payment of sales
2549 tax obligation -- Marketplace seller collection, remittance, and payment of sales tax
2550 obligation -- Liability for collection.**

2551 (1) A marketplace facilitator shall pay or collect and remit [sales and use] taxes
2552 imposed by this chapter in accordance with Section 59-12-107:

2553 (a) if the marketplace facilitator meets one or more of the criteria provided for in
2554 Subsection 59-12-107(2)(a) or (b); and

2555 (b) on the sales the marketplace facilitator made on the marketplace facilitator's own
2556 behalf.

2557 (2) (a) A marketplace facilitator shall pay or collect and remit [sales and use] taxes
2558 imposed by this chapter in accordance with Subsection (3) if the marketplace facilitator, in the
2559 previous calendar year or the current calendar year, makes sales of tangible personal property,
2560 products transferred electronically, or services on the marketplace facilitator's own behalf or
2561 facilitates sales on behalf of one or more marketplace sellers:

2562 (i) that exceed \$100,000; or
2563 (ii) in 200 or more separate transactions.

2564 (b) For purposes of determining if a marketplace facilitator meets or exceeds one or
2565 both thresholds described in this Subsection (2), a marketplace facilitator shall separately total:

2566 (i) the marketplace facilitator's sales; and
2567 (ii) any sales the marketplace facilitator makes or facilitates for a marketplace seller.

2568 (c) A marketplace facilitator without a physical presence in this state shall begin
2569 collecting and remitting the [sales and use] taxes imposed by this chapter no later than the first
2570 day of the calendar quarter that is at least 60 days after the day on which the marketplace
2571 facilitator meets or exceeds either threshold described in Subsection (2)(a).

2572 (3) A marketplace facilitator described in Subsection (2) shall pay or collect and remit
2573 [sales and use] taxes imposed by this chapter for each sale that the marketplace facilitator:

2574 (a) makes on the marketplace facilitator's own behalf; or

2575 (b) makes or facilitates on behalf of a marketplace seller, regardless of:

2576 (i) whether the marketplace seller has an obligation to pay or collect and remit [sales
2577 and use] taxes under Section 59-12-107;

2578 (ii) whether the marketplace seller would have been required to pay or collect and
2579 remit [sales and use] taxes under Section 59-12-107 if the marketplace facilitator had not
2580 facilitated the sale; or

2581 (iii) the amount of the sales price or the purchase price that accrues to or benefits the
2582 marketplace facilitator, the marketplace seller, or any other person.

2583 (4) A marketplace facilitator shall comply with the procedures and requirements in this
2584 chapter and Chapter 1, General Taxation Policies, for sellers required to pay or collect and
2585 remit [sales and use] taxes except that the marketplace facilitator shall segregate, in the
2586 marketplace facilitator's books and records:

2587 (a) the sales that the marketplace facilitator makes on the marketplace facilitator's own
2588 behalf; and

2589 (b) the sales that the marketplace facilitator makes or facilitates on behalf of one or
2590 more marketplace sellers.

2591 (5) (a) The commission may audit the marketplace facilitator for sales made or
2592 facilitated through the marketplace facilitator's marketplace on behalf of one or more
2593 marketplace sellers.

2594 (b) The commission may not audit the marketplace seller for sales made or facilitated
2595 through the marketplace facilitator's marketplace on the marketplace seller's behalf.

2596 (6) Nothing in this section prohibits a marketplace facilitator from providing in a
2597 marketplace facilitator's agreement with a marketplace seller for the recovery of [sales and use]
2598 taxes, and any related interest or penalties to the extent that a tax, interest, or penalty is

2599 assessed by the state in an audit of the marketplace facilitator on a retail sale:

2600 (a) that a marketplace facilitator makes or facilitates on behalf of a marketplace seller;

2601 and

2602 (b) for which the marketplace facilitator relied on incorrect or incomplete information
2603 provided by the marketplace seller.

2604 (7) (a) Subject to Subsections (7)(b) and (c), a marketplace facilitator is not liable for
2605 failing to collect the taxes under this chapter for a sale on which the marketplace facilitator
2606 failed to collect [sales and use] taxes if the marketplace facilitator demonstrates, to the
2607 satisfaction of the commission, that:

2608 (i) the marketplace facilitator made or facilitated the sale through the marketplace
2609 facilitator's marketplace on or before December 31, 2022;

2610 (ii) the marketplace facilitator made or facilitated the sale on behalf of a marketplace
2611 seller and not on behalf of the marketplace facilitator;

2612 (iii) the marketplace facilitator and the marketplace seller are not affiliates; and

2613 (iv) the failure to collect [sales and use] taxes was due to a good faith error other than
2614 an error in sourcing.

2615 (b) For purposes of Subsection (7)(a):

2616 (i) for sales made or facilitated during the 2019 or 2020 calendar year, the marketplace
2617 facilitator is not liable for the amount the marketplace facilitator fails to collect due to error that
2618 is equal to the error rate, but not to exceed a 7% error rate;

2619 (ii) for sales made or facilitated during the 2021 calendar year, the marketplace
2620 facilitator is not liable for the amount the marketplace facilitator fails to collect due to error that
2621 is equal to the error rate, but not to exceed a 5% error rate; and

2622 (iii) for sales made or facilitated during the 2022 calendar year, the marketplace
2623 facilitator is not liable for the amount the marketplace facilitator fails to collect due to error that
2624 is equal to the error rate, but not to exceed a 3% error rate.

2625 (c) The commission shall calculate the percentages described in Subsection (7)(b):

2626 (i) using the total [sales and use] taxes due on sales that:

2627 (A) a marketplace facilitator made or facilitated in this state on behalf of one or more
2628 marketplace sellers during the calendar year that the sale for which the marketplace facilitator
2629 seeks relief was made or facilitated; and

2630 (B) are sourced to the state; and

2631 (ii) not including sales that the marketplace facilitator or the marketplace facilitator's
2632 affiliates directly made during the same calendar year.

(8) A marketplace seller shall pay or collect and remit [sales and use] taxes imposed by this chapter for a sale of tangible personal property, a product transferred electronically, or a service that the marketplace seller makes other than through a marketplace facilitator if:

2636 (a) the sale is sourced to this state; and

2637 (b) the marketplace seller's sales in this state, other than through a marketplace

2638 facilitator, in the previous calendar year or the current calendar year:

2639 (i) exceed \$100,000; or

2640 (ii) occur in 200 or more separate transactions.

(9) (a) A marketplace seller may not pay or collect and remit [sales and use] taxes imposed by this chapter for any sale for which a marketplace facilitator is required to pay or collect and remit.

(b) A marketplace seller is not liable for a marketplace facilitator's failure to pay or collect and remit, or the marketplace facilitator's underpayment of, [sales and use] taxes imposed by this chapter for any sale for which a marketplace facilitator is required to pay or collect and remit the taxes imposed by this chapter.

2648 (10) (a) A purchaser of tangible personal property, a product transferred electronically,
2649 or a service may file a claim for a refund with the marketplace facilitator if the purchaser
2650 overpaid [sales and use] taxes imposed under this chapter.

2651 (b) No person may bring a class action against a marketplace facilitator in any court of
2652 the state on behalf of purchasers arising from or in any way related to an overpayment of [sales
2653 and use] taxes collected and remitted on sales made or facilitated by the marketplace facilitator
2654 on behalf of a marketplace seller, regardless of whether such claim is characterized as a tax
2655 refund claim.

(11) Nothing in this section affects the obligation of a purchaser to remit the use tax described in Subsection 59-12-107(2)(f) on any sale for which a marketplace facilitator or marketplace seller failed to collect and remit a tax imposed by this chapter.

2659 Section 19. Section **59-12-602** is amended to read:

2660 59-12-602. Definitions.

2661 As used in this part:

2662 (1) (a) Subject to Subsection (1)(b), "airport facility" means an airport of regional
2663 significance, as defined by the Transportation Commission by rule made in accordance with
2664 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2665 (b) "Airport facility" includes:

2666 (i) an appurtenance to an airport, including a fixed guideway that provides
2667 transportation service to or from the airport;

2668 (ii) a control tower, including a radar system;

2669 (iii) a public area of an airport; or

2670 (iv) a terminal facility.

2671 (2) "All-terrain type I vehicle" means the same as that term is defined in Section
2672 [41-22-2](#).

2673 (3) "All-terrain type II vehicle" means the same as that term is defined in Section
2674 [41-22-2](#).

2675 (4) "All-terrain type III vehicle" means the same as that term is defined in Section
2676 [41-22-2](#).

2677 (5) "Convention facility" means any publicly owned or operated convention center,
2678 sports arena, or other facility at which conventions, conferences, and other gatherings are held
2679 and whose primary business or function is to host such conventions, conferences, and other
2680 gatherings.

2681 (6) "Cultural facility" means any publicly owned or operated museum, theater, art
2682 center, music hall, or other cultural or arts facility.

2683 (7) (a) Except as provided in Subsection (7)(b), "off-highway vehicle" means any
2684 snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or
2685 motorcycle.

2686 (b) "Off-highway vehicle" does not include a vehicle that is a motor vehicle under
2687 Section [41-1a-102](#).

2688 (8) "Motorcycle" means the same as that term is defined in Section [41-22-2](#).

2689 (9) "Recreation facility" or "tourist facility" means any publicly owned or operated
2690 park, campground, marina, dock, golf course, water park, historic park, monument,
2691 planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

2692 (10) (a) Except as provided in Subsection (10)(c), "recreational vehicle" means a
2693 vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel,
2694 recreational, or vacation use, that is pulled by another vehicle.

2695 (b) "Recreational vehicle" includes:

2696 (i) a travel trailer;
2697 (ii) a camping trailer; and
2698 (iii) a fifth wheel trailer.

2699 (c) "Recreational vehicle" does not include a vehicle that is a motor vehicle under
2700 Section [41-1a-102](#).

2701 (11) (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda fountain,
2702 or fast-food service where food is prepared for immediate consumption.

2703 (b) "Restaurant" does not include:

2704 (i) any retail establishment whose primary business or function is the sale of fuel or
2705 food items for off-premise, but not immediate, consumption; and
2706 (ii) a theater that sells food items, but not a dinner theater.

2707 (12) (a) "Short-term rental" means a lease or rental that is 30 days or less.

2708 (b) "Short-term rental" does not include car sharing as that term is defined in Section
2709 [13-48a-101](#).

2710 (13) "Snowmobile" means the same as that term is defined in Section [41-22-2](#).

2711 (14) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle
2712 without motive power, designed as a temporary dwelling for travel, recreational, or vacation
2713 use that does not require a special highway movement permit when drawn by a self-propelled
2714 motor vehicle.

2715 Section 20. Section **59-12-603** is amended to read:

2716 **59-12-603. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance**
2717 **required -- Advisory board -- Administration -- Collection -- Administrative charge --**
2718 **Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice**
2719 **requirements.**

2720 (1) (a) In addition to any other taxes, a county legislative body may, as provided in this
2721 part, impose a tax as follows:

2722 (i) (A) a county legislative body of any county may impose a tax of not to exceed 3%

2723 on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles
2724 made for the purpose of temporarily replacing a person's motor vehicle that is being repaired
2725 pursuant to a repair or an insurance agreement; and

2726 (B) a county legislative body of any county imposing a tax under Subsection
2727 (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of
2728 not to exceed 4% on all short-term rentals of motor vehicles, except for short-term rentals of
2729 motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is
2730 being repaired pursuant to a repair or an insurance agreement;

2731 (ii) beginning on January 1, 2021, a county legislative body of any county may impose
2732 a tax of not to exceed 7% on all short-term rentals of off-highway vehicles and recreational
2733 vehicles;

2734 (iii) a county legislative body of any county may impose a tax of not to exceed 1% of
2735 all sales of the following that are sold by a restaurant:

2736 (A) alcoholic beverages;

2737 (B) food and food ingredients; or

2738 (C) prepared food; ~~and~~

2739 (iv) a county legislative body of a county of the first class may impose a tax of not to
2740 exceed .5% on charges for the accommodations and services described in Subsection
2741 59-12-103(1)(i)[:]; and

2742 (v) beginning on July 1, 2023, if a county legislative body of any county imposes a tax
2743 under Subsection (1)(a)(i), a tax at the same rate applies to car sharing, except for:

2744 (A) car sharing for the purpose of temporarily replacing a person's motor vehicle that is
2745 being repaired pursuant to a repair or an insurance agreement; and

2746 (B) car sharing for more than 30 days.

2747 (b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section
2748 17-31-5.5.

2749 (2) (a) Subject to Subsection (2)(b), a county may use revenue from the imposition of a
2750 tax under Subsection (1) for:

2751 (i) financing tourism promotion; and

2752 (ii) the development, operation, and maintenance of:

2753 (A) an airport facility;

2754 (B) a convention facility;
2755 (C) a cultural facility;
2756 (D) a recreation facility; or
2757 (E) a tourist facility.

2758 (b) A county of the first class shall expend at least \$450,000 each year of the revenue
2759 from the imposition of a tax authorized by Subsection (1)(a)(iv) within the county to fund a
2760 marketing and ticketing system designed to:

2761 (i) promote tourism in ski areas within the county by persons that do not reside within
2762 the state; and

2763 (ii) combine the sale of:

2764 (A) ski lift tickets; and

2765 (B) accommodations and services described in Subsection 59-12-103(1)(i).

2766 (3) A tax imposed under this part may be pledged as security for bonds, notes, or other
2767 evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local
2768 Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1,
2769 Part 5, Agency Bonds, to finance:

- 2770 (a) an airport facility;
- 2771 (b) a convention facility;
- 2772 (c) a cultural facility;
- 2773 (d) a recreation facility; or
- 2774 (e) a tourist facility.

2775 (4) (a) To impose a tax under Subsection (1), the county legislative body shall adopt an
2776 ordinance imposing the tax.

2777 (b) The ordinance under Subsection (4)(a) shall include provisions substantially the
2778 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on
2779 those items and sales described in Subsection (1).

2780 (c) The name of the county as the taxing agency shall be substituted for that of the state
2781 where necessary, and an additional license is not required if one has been or is issued under
2782 Section 59-12-106.

2783 (5) To maintain in effect a tax ordinance adopted under this part, each county
2784 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,

2785 Tax Collection, adopt amendments to the county's tax ordinance to conform with the applicable
2786 amendments to Part 1, Tax Collection.

2787 (6) (a) Regardless of whether a county of the first class creates a tourism tax advisory
2788 board in accordance with Section 17-31-8, the county legislative body of the county of the first
2789 class shall create a tax advisory board in accordance with this Subsection (6).

2790 (b) The tax advisory board shall be composed of nine members appointed as follows:

2791 (i) four members shall be residents of a county of the first class appointed by the
2792 county legislative body of the county of the first class; and

2793 (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or
2794 towns within the county of the first class appointed by an organization representing all mayors
2795 of cities and towns within the county of the first class.

2796 (c) Five members of the tax advisory board constitute a quorum.

2797 (d) The county legislative body of the county of the first class shall determine:

2798 (i) terms of the members of the tax advisory board;

2799 (ii) procedures and requirements for removing a member of the tax advisory board;

2800 (iii) voting requirements, except that action of the tax advisory board shall be by at
2801 least a majority vote of a quorum of the tax advisory board;

2802 (iv) chairs or other officers of the tax advisory board;

2803 (v) how meetings are to be called and the frequency of meetings; and

2804 (vi) the compensation, if any, of members of the tax advisory board.

2805 (e) The tax advisory board under this Subsection (6) shall advise the county legislative
2806 body of the county of the first class on the expenditure of revenue collected within the county
2807 of the first class from the taxes described in Subsection (1)(a).

2808 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part
2809 shall be administered, collected, and enforced in accordance with:

2810 (A) the same procedures used to administer, collect, and enforce the tax under:

2811 (I) Part 1, Tax Collection; or

2812 (II) Part 2, Local Sales and Use Tax Act; and

2813 (B) Chapter 1, General Taxation Policies.

2814 (ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or
2815 Subsections 59-12-205(2) through (6).

2816 (b) Except as provided in Subsection (7)(c):

2817 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the

2818 commission shall distribute the revenue to the county imposing the tax; and

2819 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue

2820 according to the distribution formula provided in Subsection (8).

2821 (c) The commission shall retain and deposit an administrative charge in accordance

2822 with Section [59-1-306](#) from the revenue the commission collects from a tax under this part.

2823 (8) The commission shall distribute the revenue generated by the tax under Subsection

2824 (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the

2825 following formula:

2826 (a) the commission shall distribute 70% of the revenue based on the percentages

2827 generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by

2828 the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

2829 (b) the commission shall distribute 30% of the revenue based on the percentages

2830 generated by dividing the population of each county collecting a tax under Subsection

2831 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

2832 (9) (a) For purposes of this Subsection (9):

2833 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2,

2834 County Annexation.

2835 (ii) "Annexing area" means an area that is annexed into a county.

2836 (b) (i) Except as provided in Subsection (9)(c), if a county enacts or repeals a tax or

2837 changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

2838 (A) on the first day of a calendar quarter; and

2839 (B) after a 90-day period beginning on the day on which the commission receives

2840 notice meeting the requirements of Subsection (9)(b)(ii) from the county.

2841 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

2842 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

2843 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

2844 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

2845 (D) if the county enacts the tax or changes the rate of the tax described in Subsection

2846 (9)(b)(ii)(A), the rate of the tax.

2847 (c) (i) If the billing period for a transaction begins before the effective date of the
2848 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of
2849 the tax or the tax rate increase shall take effect on the first day of the first billing period that
2850 begins after the effective date of the enactment of the tax or the tax rate increase.

2851 (ii) If the billing period for a transaction begins before the effective date of the repeal
2852 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax
2853 rate decrease shall take effect on the first day of the last billing period that began before the
2854 effective date of the repeal of the tax or the tax rate decrease.

2855 (d) (i) Except as provided in Subsection (9)(e), if the annexation will result in the
2856 enactment, repeal, or change in the rate of a tax under this part for an annexing area, the
2857 enactment, repeal, or change shall take effect:

2858 (A) on the first day of a calendar quarter; and

2859 (B) after a 90-day period beginning on the day on which the commission receives
2860 notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the
2861 annexing area.

2862 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

2863 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,
2864 repeal, or change in the rate of a tax under this part for the annexing area;

2865 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

2866 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

2867 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
2868 (9)(d)(ii)(A), the rate of the tax.

2869 (e) (i) If the billing period for a transaction begins before the effective date of the
2870 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of
2871 the tax or the tax rate increase shall take effect on the first day of the first billing period that
2872 begins after the effective date of the enactment of the tax or the tax rate increase.

2873 (ii) If the billing period for a transaction begins before the effective date of the repeal
2874 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax
2875 rate decrease shall take effect on the first day of the last billing period that began before the
2876 effective date of the repeal of the tax or the tax rate decrease.

2877 Section 21. Section **59-12-1201** is amended to read:

2878 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**
2879 **collection, and enforcement of tax -- Administrative charge -- Deposits.**

2880 (1) (a) Except as provided in [Subsection (3)] Subsections (3) and (4), there is imposed
2881 a tax of 2.5% on all short-term leases and rentals of motor vehicles not exceeding 30 days.

2882 (b) The tax imposed in this section is in addition to all other state, county, or municipal
2883 fees and taxes imposed on rentals of motor vehicles.

2884 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax
2885 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

2886 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall
2887 take effect on the first day of the first billing period:

2888 (A) that begins after the effective date of the tax rate increase; and

2889 (B) if the billing period for the transaction begins before the effective date of a tax rate
2890 increase imposed under Subsection (1).

2891 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax
2892 rate decrease shall take effect on the first day of the last billing period:

2893 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
2894 and

2895 (B) if the billing period for the transaction begins before the effective date of the repeal
2896 of the tax or the tax rate decrease imposed under Subsection (1).

2897 (3) Beginning on July 1, 2023, a tax imposed under Subsection (1) applies at the same
2898 rate to car sharing, except for:

2899 (a) car sharing for the purpose of temporarily replacing a person's motor vehicle that is
2900 being repaired pursuant to a repair or an insurance agreement; and

2901 (b) car sharing for more than 30 days.

2902 [~~(3)~~] (4) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

2903 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

2904 (b) the motor vehicle is rented as a personal household goods moving van; or

2905 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily
2906 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an
2907 insurance agreement.

2908 [~~(4)~~] (5) (a) (i) The tax authorized under this section shall be administered, collected,

2909 and enforced in accordance with:

2910 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,

2911 Tax Collection; and

2912 (B) Chapter 1, General Taxation Policies.

2913 (ii) Notwithstanding Subsection ~~(4)(a)(i)~~ (5)(a)(i), a tax under this part is not subject
2914 to Subsections 59-12-103(4) through (10) or Section 59-12-107.1 or 59-12-123.

2915 (b) The commission shall retain and deposit an administrative charge in accordance
2916 with Section 59-1-306 from the revenues the commission collects from a tax under this part.

2917 (c) Except as provided under Subsection ~~(4)(b)~~ (5)(b), all revenue received by the
2918 commission under this section shall be deposited daily with the state treasurer and credited
2919 monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

2920 **Section 22. Effective date.**

2921 This bill takes effect on July 1, 2023.

2922 **Section 23. Retrospective operation.**

2923 The changes to the following sections have retrospective operation to January 1, 2019,
2924 for a transaction that is the subject of an appeal pending on or filed after January 1, 2023:

2925 (1) Section 59-12-602;

2926 (2) Section 59-12-603; and

2927 (3) Section 59-12-1201.