

FOOD SALES TAX MODIFICATIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rosemary T. Lesser

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ removes the state sales and use tax from amounts paid or charged for food and food ingredients;
- ▶ excludes candy from the definition of food and food ingredients; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

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

59-12-104, as last amended by Laws of Utah 2022, Chapters 228, 275, 280, and 373

59-12-107.1, as last amended by Laws of Utah 2008, Chapters 382, 384

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



28 **59-12-603**, as last amended by Laws of Utah 2020, Chapter 407
29 **63N-7-301**, as last amended by Laws of Utah 2022, Chapters 274, 362 and last
30 amended by Coordination Clause, Laws of Utah 2022, Chapter 362

31

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

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

34 **59-12-102. Definitions.**

35 As used in this chapter:

- 36 (1) "800 service" means a telecommunications service that:
37 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
38 (b) is typically marketed:
39 (i) under the name 800 toll-free calling;
40 (ii) under the name 855 toll-free calling;
41 (iii) under the name 866 toll-free calling;
42 (iv) under the name 877 toll-free calling;
43 (v) under the name 888 toll-free calling; or
44 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
45 Federal Communications Commission.

- 46 (2) (a) "900 service" means an inbound toll telecommunications service that:
47 (i) a subscriber purchases;
48 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
49 the subscriber's:

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

- 56 (b) "900 service" does not include a charge for:
57 (i) a collection service a seller of a telecommunications service provides to a
58 subscriber; or

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

- 90 ~~[(j)]~~ (i) Section 59-12-703;
- 91 ~~[(k)]~~ (j) Section 59-12-802;
- 92 ~~[(l)]~~ (k) Section 59-12-804;
- 93 ~~[(m)]~~ (l) Section 59-12-1102;
- 94 ~~[(n)]~~ (m) Section 59-12-1302;
- 95 ~~[(o)]~~ (n) Section 59-12-1402;
- 96 ~~[(p)]~~ (o) Section 59-12-1802;
- 97 ~~[(q)]~~ (p) Section 59-12-2003;
- 98 ~~[(r)]~~ (q) Section 59-12-2103;
- 99 ~~[(s)]~~ (r) Section 59-12-2213;
- 100 ~~[(t)]~~ (s) Section 59-12-2214;
- 101 ~~[(u)]~~ (t) Section 59-12-2215;
- 102 ~~[(v)]~~ (u) Section 59-12-2216;
- 103 ~~[(w)]~~ (v) Section 59-12-2217;
- 104 ~~[(x)]~~ (w) Section 59-12-2218;
- 105 ~~[(y)]~~ (x) Section 59-12-2219; or
- 106 ~~[(z)]~~ (y) Section 59-12-2220.

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

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

109 (a) except for:

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

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

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

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

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

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

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

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

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

- 123 (A) an inspection;
- 124 (B) a repair, including a structural repair or modification;
- 125 (C) changing landing gear; and
- 126 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 127 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
128 completely apply new paint to the fixed wing turbine powered aircraft; and

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

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

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

135 (11) "Alternative energy" means:

- 136 (a) biomass energy;
- 137 (b) geothermal energy;
- 138 (c) hydroelectric energy;
- 139 (d) solar energy;
- 140 (e) wind energy; or
- 141 (f) energy that is derived from:
 - 142 (i) coal-to-liquids;
 - 143 (ii) nuclear fuel;
 - 144 (iii) oil-impregnated diatomaceous earth;
 - 145 (iv) oil sands;
 - 146 (v) oil shale;
 - 147 (vi) petroleum coke; or
 - 148 (vii) waste heat from:
 - 149 (A) an industrial facility; or
 - 150 (B) a power station in which an electric generator is driven through a process in which
151 water is heated, turns into steam, and spins a steam turbine.

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

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

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

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

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

- 162 (b) "Ancillary service" includes:
 - 163 (i) a conference bridging service;
 - 164 (ii) a detailed communications billing service;
 - 165 (iii) directory assistance;
 - 166 (iv) a vertical service; or
 - 167 (v) a voice mail service.

168 (14) "Area agency on aging" means the same as that term is defined in Section
169 [62A-3-101](#).

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

- 172 (a) who is not the purchaser or renter of the right to use or operate the amusement
173 device, skill device, or ride device; and
- 174 (b) at the direction of the seller of the right to use the amusement device, skill device,
175 or ride device.

176 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or
177 washing of tangible personal property if the cleaning or washing labor is primarily performed
178 by an individual:

- 179 (a) who is not the purchaser of the cleaning or washing of the tangible personal
180 property; and
- 181 (b) at the direction of the seller of the cleaning or washing of the tangible personal
182 property.

183 (17) "Authorized carrier" means:

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

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

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

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

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

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

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

197 (B) animal waste;

198 (C) waste vegetable oil;

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

202 (E) aquatic plants; and

203 (F) agricultural products.

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

205 (i) black liquor; or

206 (ii) treated woods.

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

209 (i) distinct and identifiable; and

210 (ii) sold for one nonitemized price.

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

212 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
213 the basis of the selection by the purchaser of the items of tangible personal property included in

214 the transaction;

215 (ii) the sale of real property;

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

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

218 (A) the tangible personal property:

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

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

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

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

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

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

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

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

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

228 taxation under this chapter if the:

229 (A) seller's purchase price of the tangible personal property or product subject to

230 taxation under this chapter is de minimis; or

231 (B) seller's sales price of the tangible personal property or product subject to taxation

232 under this chapter is de minimis; and

233 (vii) the retail sale of tangible personal property that is not subject to taxation under

234 this chapter and tangible personal property that is subject to taxation under this chapter if:

235 (A) that retail sale includes:

236 (I) food and food ingredients;

237 (II) a drug;

238 (III) durable medical equipment;

239 (IV) mobility enhancing equipment;

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

241 (VI) a prosthetic device; or

242 (VII) a medical supply; and

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

244 (I) the seller's purchase price of the tangible personal property subject to taxation under

245 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

246 (II) the seller's sales price of the tangible personal property subject to taxation under

247 this chapter is 50% or less of the seller's total sales price of that retail sale.

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

250 (A) packaging that:

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

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

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

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

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

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

267 (A) a binding sales document; or

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

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

271 (A) a bill of sale;

272 (B) a contract;

273 (C) an invoice;

274 (D) a lease agreement;

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

- 276 (F) a price list;
- 277 (G) a rate card;
- 278 (H) a receipt; or
- 279 (I) a service agreement.

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

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

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

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

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

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

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

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

299 (20) (a) "Candy" means a preparation of sugar, honey, or other natural or artificial
300 sweetener in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the
301 form of bars, drops, or pieces.

302 (b) "Candy" does not include a preparation that:

303 (i) contains flour and does not require refrigeration; or

304 (ii) has as its predominant ingredient dried or partially dried fruit along with one or
305 more sweeteners, regardless of whether the preparation contains other additives.

306 (c) "Candy" includes a preparation described in Subsection (20)(b)(ii) if the

307 preparation:

308 (i) includes chocolate, nuts, or yogurt;

309 (ii) has a confectionary coating or glazing on the dried or partially dried fruit; or

310 (iii) the dried or partially dried fruit that is the predominant ingredient is fruit that has

311 been ground, crushed, grated, flaked, pureed, or jellied.

312 [~~(20)~~] (21) "Certified automated system" means software certified by the governing
313 board of the agreement that:

314 (a) calculates the agreement sales and use tax imposed within a local taxing

315 jurisdiction:

316 (i) on a transaction; and

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

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

320 (c) maintains a record of the transaction described in Subsection [~~(20)(a)(i)~~] (21)(a)(i).

321 [~~(21)~~] (22) "Certified service provider" means an agent certified:

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

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

327 [~~(22)~~] (23) (a) Subject to Subsection [~~(22)(b)~~] (23)(b), "clothing" means all human
328 wearing apparel suitable for general use.

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

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

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

334 [~~(23)~~] (24) "Coal-to-liquid" means the process of converting coal into a liquid synthetic
335 fuel.

336 [~~(24)~~] (25) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or
337 other fuels that does not constitute industrial use under Subsection [~~(57)~~] (58) or residential use

338 under Subsection [~~(112)~~] (113).

339 [~~(25)~~] (26) (a) "Common carrier" means a person engaged in or transacting the
340 business of transporting passengers, freight, merchandise, or other property for hire within this
341 state.

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

345 (ii) For purposes of Subsection [~~(25)(b)(i)~~] (26)(b)(i), in accordance with Title 63G,
346 Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining
347 what constitutes a person's place of employment.

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

350 [~~(26)~~] (27) "Component part" includes:

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

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

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

356 (d) feed, seeds, and seedlings.

357 [~~(27)~~] (28) "Computer" means an electronic device that accepts information:

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

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

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

361 [~~(28)~~] (29) "Computer software" means a set of coded instructions designed to cause:

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

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

364 [~~(29)~~] (30) "Computer software maintenance contract" means a contract that obligates a
365 seller of computer software to provide a customer with:

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

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

368 (c) a combination of Subsections [~~(29)(a)~~] (30)(a) and (b).

369 ~~[(30)]~~ (31) (a) "Conference bridging service" means an ancillary service that links two
370 or more participants of an audio conference call or video conference call.

371 (b) "Conference bridging service" may include providing a telephone number as part of
372 the ancillary service described in Subsection ~~[(30)(a)]~~ (31)(a).

373 (c) "Conference bridging service" does not include a telecommunications service used
374 to reach the ancillary service described in Subsection ~~[(30)(a)]~~ (31)(a).

375 ~~[(31)]~~ (32) "Construction materials" means any tangible personal property that will be
376 converted into real property.

377 ~~[(32)]~~ (33) "Delivered electronically" means delivered to a purchaser by means other
378 than tangible storage media.

379 ~~[(33)]~~ (34) (a) "Delivery charge" means a charge:

380 (i) by a seller of:

381 (A) tangible personal property;

382 (B) a product transferred electronically; or

383 (C) a service; and

384 (ii) for preparation and delivery of the tangible personal property, product transferred
385 electronically, or services described in Subsection ~~[(33)(a)(i)]~~ (34)(a)(i) to a location designated
386 by the purchaser.

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

388 (i) transportation;

389 (ii) shipping;

390 (iii) postage;

391 (iv) handling;

392 (v) crating; or

393 (vi) packing.

394 ~~[(34)]~~ (35) "Detailed telecommunications billing service" means an ancillary service of
395 separately stating information pertaining to individual calls on a customer's billing statement.

396 ~~[(35)]~~ (36) "Dietary supplement" means a product, other than tobacco, that:

397 (a) is intended to supplement the diet;

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

399 (i) a vitamin;

- 400 (ii) a mineral;
- 401 (iii) an herb or other botanical;
- 402 (iv) an amino acid;
- 403 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 404 dietary intake; or
- 405 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 406 described in Subsections [~~(35)(b)(i)~~] (36)(b)(i) through (v);
- 407 (c) (i) except as provided in Subsection [~~(35)(c)(ii)~~] (36)(c)(ii), is intended for
- 408 ingestion in:
 - 409 (A) tablet form;
 - 410 (B) capsule form;
 - 411 (C) powder form;
 - 412 (D) softgel form;
 - 413 (E) gelcap form; or
 - 414 (F) liquid form; or
- 415 (ii) if the product is not intended for ingestion in a form described in Subsections
- 416 [~~(35)(c)(i)(A)~~] (36)(c)(i)(A) through (F), is not represented:
 - 417 (A) as conventional food; and
 - 418 (B) for use as a sole item of:
 - 419 (I) a meal; or
 - 420 (II) the diet; and
 - 421 (d) is required to be labeled as a dietary supplement:
 - 422 (i) identifiable by the "Supplemental Facts" box found on the label; and
 - 423 (ii) as required by 21 C.F.R. Sec. 101.36.
- 424 [~~(36)~~] (37) (a) "Digital audio work" means a work that results from the fixation of a
- 425 series of musical, spoken, or other sounds.
- 426 (b) "Digital audio work" includes a ringtone.
- 427 [~~(37)~~] (38) "Digital audio-visual work" means a series of related images which, when
- 428 shown in succession, imparts an impression of motion, together with accompanying sounds, if
- 429 any.
- 430 [~~(38)~~] (39) "Digital book" means a work that is generally recognized in the ordinary

431 and usual sense as a book.

432 ~~[(39)]~~ (40) (a) "Direct mail" means printed material delivered or distributed by United
433 States mail or other delivery service:

434 (i) to:

435 (A) a mass audience; or

436 (B) addressees on a mailing list provided:

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

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

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

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

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

444 ~~[(40)]~~ (41) "Directory assistance" means an ancillary service of providing:

445 (a) address information; or

446 (b) telephone number information.

447 ~~[(41)]~~ (42) (a) "Disposable home medical equipment or supplies" means medical
448 equipment or supplies that:

449 (i) cannot withstand repeated use; and

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

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

452 (B) a health care provider as defined in Section 78B-3-403;

453 (C) an office of a health care provider described in Subsection ~~[(41)(a)(ii)(B)]~~

454 (42)(a)(ii)(B); or

455 (D) a person similar to a person described in Subsections ~~[(41)(a)(ii)(A)]~~ (42)(a)(ii)(A)
456 through (C).

457 (b) "Disposable home medical equipment or supplies" does not include:

458 (i) a drug;

459 (ii) durable medical equipment;

460 (iii) a hearing aid;

461 (iv) a hearing aid accessory;

- 462 (v) mobility enhancing equipment; or
- 463 (vi) tangible personal property used to correct impaired vision, including:
- 464 (A) eyeglasses; or
- 465 (B) contact lenses.
- 466 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 467 commission may by rule define what constitutes medical equipment or supplies.
- 468 ~~[(42)]~~ (43) "Drilling equipment manufacturer" means a facility:
- 469 (a) located in the state;
- 470 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 471 consist of manufacturing component parts of drilling equipment;
- 472 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 473 manufacturing process; and
- 474 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 475 manufacturing process.
- 476 ~~[(43)]~~ (44) (a) "Drug" means a compound, substance, or preparation, or a component of
- 477 a compound, substance, or preparation that is:
- 478 (i) recognized in:
- 479 (A) the official United States Pharmacopoeia;
- 480 (B) the official Homeopathic Pharmacopoeia of the United States;
- 481 (C) the official National Formulary; or
- 482 (D) a supplement to a publication listed in Subsections ~~[(43)(a)(i)(A)]~~ (44)(a)(i)(A)
- 483 through (C);
- 484 (ii) intended for use in the:
- 485 (A) diagnosis of disease;
- 486 (B) cure of disease;
- 487 (C) mitigation of disease;
- 488 (D) treatment of disease; or
- 489 (E) prevention of disease; or
- 490 (iii) intended to affect:
- 491 (A) the structure of the body; or
- 492 (B) any function of the body.

493 (b) "Drug" does not include:

494 (i) food and food ingredients;

495 (ii) a dietary supplement;

496 (iii) an alcoholic beverage; or

497 (iv) a prosthetic device.

498 [~~(44)~~] (45) (a) Except as provided in Subsection [~~(44)(c)~~] (45)(c), "durable medical
499 equipment" means equipment that:

500 (i) can withstand repeated use;

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

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

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

504 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
505 equipment described in Subsection [~~(44)(a)~~] (45)(a).

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

507 [~~(45)~~] (46) "Electronic" means:

508 (a) relating to technology; and

509 (b) having:

510 (i) electrical capabilities;

511 (ii) digital capabilities;

512 (iii) magnetic capabilities;

513 (iv) wireless capabilities;

514 (v) optical capabilities;

515 (vi) electromagnetic capabilities; or

516 (vii) capabilities similar to Subsections [~~(45)(b)(i)~~] (46)(b)(i) through (vi).

517 [~~(46)~~] (47) "Electronic financial payment service" means an establishment:

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

521 (b) that performs electronic financial payment services.

522 [~~(47)~~] (48) "Employee" means the same as that term is defined in Section 59-10-401.

523 [~~(48)~~] (49) "Fixed guideway" means a public transit facility that uses and occupies:

- 524 (a) rail for the use of public transit; or
- 525 (b) a separate right-of-way for the use of public transit.
- 526 [~~(49)~~] (50) "Fixed wing turbine powered aircraft" means an aircraft that:
- 527 (a) is powered by turbine engines;
- 528 (b) operates on jet fuel; and
- 529 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 530 [~~(50)~~] (51) "Fixed wireless service" means a telecommunications service that provides
- 531 radio communication between fixed points.
- 532 [~~(51)~~] (52) (a) "Food and food ingredients" means substances:
- 533 (i) regardless of whether the substances are in:
- 534 (A) liquid form;
- 535 (B) concentrated form;
- 536 (C) solid form;
- 537 (D) frozen form;
- 538 (E) dried form; or
- 539 (F) dehydrated form; and
- 540 (ii) that are:
- 541 (A) sold for:
- 542 (I) ingestion by humans; or
- 543 (II) chewing by humans; and
- 544 (B) consumed for the substance's:
- 545 (I) taste; or
- 546 (II) nutritional value.
- 547 (b) "Food and food ingredients" includes an item described in Subsection [~~(96)(b)(iii)~~]
- 548 (97)(b)(iii).
- 549 (c) "Food and food ingredients" does not include:
- 550 (i) an alcoholic beverage;
- 551 (ii) tobacco; [~~or~~]
- 552 (iii) prepared food[~~;~~]; or
- 553 (iv) candy.
- 554 [~~(52)~~] (53) (a) "Fundraising sales" means sales:

555 (i) (A) made by a school; or
556 (B) made by a school student;
557 (ii) that are for the purpose of raising funds for the school to purchase equipment,
558 materials, or provide transportation; and
559 (iii) that are part of an officially sanctioned school activity.
560 (b) For purposes of Subsection [~~(52)(a)(iii)~~] (53)(a)(iii), "officially sanctioned school
561 activity" means a school activity:
562 (i) that is conducted in accordance with a formal policy adopted by the school or school
563 district governing the authorization and supervision of fundraising activities;
564 (ii) that does not directly or indirectly compensate an individual teacher or other
565 educational personnel by direct payment, commissions, or payment in kind; and
566 (iii) the net or gross revenues from which are deposited in a dedicated account
567 controlled by the school or school district.
568 [~~(53)~~] (54) "Geothermal energy" means energy contained in heat that continuously
569 flows outward from the earth that is used as the sole source of energy to produce electricity.
570 [~~(54)~~] (55) "Governing board of the agreement" means the governing board of the
571 agreement that is:
572 (a) authorized to administer the agreement; and
573 (b) established in accordance with the agreement.
574 [~~(55)~~] (56) (a) For purposes of Subsection 59-12-104(41), "governmental entity"
575 means:
576 (i) the executive branch of the state, including all departments, institutions, boards,
577 divisions, bureaus, offices, commissions, and committees;
578 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
579 Administrative Office of the Courts, and similar administrative units in the judicial branch;
580 (iii) the legislative branch of the state, including the House of Representatives, the
581 Senate, the Legislative Printing Office, the Office of Legislative Research and General
582 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
583 Analyst;
584 (iv) the National Guard;
585 (v) an independent entity as defined in Section 63E-1-102; or

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

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

589 (i) a school;

590 (ii) the State Board of Education;

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

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

593 [~~56~~] (57) "Hydroelectric energy" means water used as the sole source of energy to
594 produce electricity.

595 [~~57~~] (58) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
596 or other fuels:

597 (a) in mining or extraction of minerals;

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

600 (i) commercial greenhouses;

601 (ii) irrigation pumps;

602 (iii) farm machinery;

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

605 (v) other farming activities;

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

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

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

612 (d) by a scrap recycler if:

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

616 (A) iron;

- 617 (B) steel;
618 (C) nonferrous metal;
619 (D) paper;
620 (E) glass;
621 (F) plastic;
622 (G) textile; or
623 (H) rubber; and

624 (ii) the new products under Subsection [~~(57)(d)(i)~~] (58)(d)(i) would otherwise be made
625 with nonrecycled materials; or

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

628 [~~(58)~~] (59) (a) Except as provided in Subsection [~~(58)(b)~~] (59)(b), "installation charge"
629 means a charge for installing:

- 630 (i) tangible personal property; or
631 (ii) a product transferred electronically.
632 (b) "Installation charge" does not include a charge for:
633 (i) repairs or renovations of:
634 (A) tangible personal property; or
635 (B) a product transferred electronically; or
636 (ii) attaching tangible personal property or a product transferred electronically:
637 (A) to other tangible personal property; and
638 (B) as part of a manufacturing or fabrication process.

639 [~~(59)~~] (60) "Institution of higher education" means an institution of higher education
640 listed in Section 53B-2-101.

641 [~~(60)~~] (61) (a) "Lease" or "rental" means a transfer of possession or control of tangible
642 personal property or a product transferred electronically for:

- 643 (i) (A) a fixed term; or
644 (B) an indeterminate term; and
645 (ii) consideration.

646 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
647 amount of consideration may be increased or decreased by reference to the amount realized

648 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
649 Code.

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

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

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

656 (A) upon completion of required payments; and

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

658 (I) \$100; or

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

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

663 (d) For purposes of Subsection [~~(60)(c)(iii)~~] (61)(c)(iii), an operator is necessary for
664 equipment to perform as designed if the operator's duties exceed the:

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

666 (ii) maintenance of tangible personal property; or

667 (iii) inspection of tangible personal property.

668 [~~(61)~~] (62) "Lesson" means a fixed period of time for the duration of which a trained
669 instructor:

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

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

672 [~~(62)~~] (63) "Life science establishment" means an establishment in this state that is
673 classified under the following NAICS codes of the 2007 North American Industry

674 Classification System of the federal Executive Office of the President, Office of Management
675 and Budget:

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

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

678 Manufacturing; or

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

680 ~~[(63)]~~ (64) "Life science research and development facility" means a facility owned,
681 leased, or rented by a life science establishment if research and development is performed in
682 51% or more of the total area of the facility.

683 ~~[(64)]~~ (65) "Load and leave" means delivery to a purchaser by use of a tangible storage
684 media if the tangible storage media is not physically transferred to the purchaser.

685 ~~[(65)]~~ (66) "Local taxing jurisdiction" means a:

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

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

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

689 ~~[(66)]~~ (67) "Manufactured home" means the same as that term is defined in Section
690 [15A-1-302](#).

691 ~~[(67)]~~ (68) "Manufacturing facility" means:

692 (a) an establishment described in:

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

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

698 (b) a scrap recycler if:

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

702 (A) iron;

703 (B) steel;

704 (C) nonferrous metal;

705 (D) paper;

706 (E) glass;

707 (F) plastic;

708 (G) textile; or

709 (H) rubber; and

710 (ii) the new products under Subsection [~~(67)(b)(i)~~] (68)(b)(i) would otherwise be made
711 with nonrecycled materials; or

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

714 [~~(68)~~] (69) (a) "Marketplace" means a physical or electronic place, platform, or forum
715 where tangible personal property, a product transferred electronically, or a service is offered for
716 sale.

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

719 [~~(69)~~] (70) (a) "Marketplace facilitator" means a person, including an affiliate of the
720 person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to
721 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or
722 controls and that directly or indirectly:

723 (i) does any of the following:

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

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

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

735 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible
736 personal property, a product transferred electronically, or a service, regardless of ownership or
737 control of the tangible personal property, the product transferred electronically, or the service
738 that is the subject of the retail sale;

739 (E) provides software development or research and development activities related to
740 any activity described in this Subsection [~~(69)(a)(i)~~] (70)(a)(i), if the software development or

741 research and development activity is directly related to the person's marketplace;

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

743 (G) sets prices for the sale of tangible personal property, a product transferred

744 electronically, or a service by a marketplace seller;

745 (H) provides or offers customer service to a marketplace seller or a marketplace seller's

746 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal

747 property, a product transferred electronically, or a service sold by a marketplace seller on the

748 person's marketplace; or

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

750 (ii) does any of the following:

751 (A) collects the sales price or purchase price of a retail sale of tangible personal

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

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

754 a product transferred electronically, or a service;

755 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing

756 fee, a fee for inserting or making available tangible personal property, a product transferred

757 electronically, or a service on the person's marketplace, or other consideration for the

758 facilitation of a retail sale of tangible personal property, a product transferred electronically, or

759 a service, regardless of ownership or control of the tangible personal property, the product

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

761 (D) through terms and conditions, an agreement, or another arrangement with a third

762 person, collects payment from a purchase for a retail sale of tangible personal property, a

763 product transferred electronically, or a service and transmits that payment to the marketplace

764 seller, regardless of whether the third person receives compensation or other consideration in

765 exchange for the service; or

766 (E) provides a virtual currency for a purchaser to use to purchase tangible personal

767 property, a product transferred electronically, or service offered for sale.

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

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

770 (ii) a person described in Subsection [~~(69)(a)~~] (70)(a) to the extent the person is

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

772 ~~[(70)]~~ (71) "Marketplace seller" means a seller that makes one or more retail sales
773 through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of
774 whether the seller is required to be registered to collect and remit the tax under this part.

775 ~~[(71)]~~ (72) "Member of the immediate family of the producer" means a person who is
776 related to a producer described in Subsection 59-12-104(20)(a) as a:

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

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

779 (ii) a foster child or foster stepchild;

780 (b) grandchild or stepgrandchild;

781 (c) grandparent or stepgrandparent;

782 (d) nephew or stepnephew;

783 (e) niece or stepniece;

784 (f) parent or stepparent;

785 (g) sibling or stepsibling;

786 (h) spouse;

787 (i) person who is the spouse of a person described in Subsections ~~[(71)(a)]~~ (72)(a)

788 through (g); or

789 (j) person similar to a person described in Subsections ~~[(71)(a)]~~ (72)(a) through (i) as
790 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
791 Administrative Rulemaking Act.

792 ~~[(72)]~~ (73) "Mobile home" means the same as that term is defined in Section
793 15A-1-302.

794 ~~[(73)]~~ (74) "Mobile telecommunications service" means the same as that term is
795 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

796 ~~[(74)]~~ (75) (a) "Mobile wireless service" means a telecommunications service,
797 regardless of the technology used, if:

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

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

800 (iii) the origination point described in Subsection ~~[(74)(a)(i)]~~ (75)(a)(i) and the
801 termination point described in Subsection ~~[(74)(a)(ii)]~~ (75)(a)(ii) are not fixed.

802 (b) "Mobile wireless service" includes a telecommunications service that is provided

803 by a commercial mobile radio service provider.

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

806 ~~[(75)]~~ (76) (a) Except as provided in Subsection ~~[(75)(c)]~~ (76)(c), "mobility enhancing
807 equipment" means equipment that is:

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

810 (ii) appropriate for use in a:

811 (A) home; or

812 (B) motor vehicle; and

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

814 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
815 the equipment described in Subsection ~~[(75)(a)]~~ (76)(a).

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

817 (i) a motor vehicle;

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

820 (iii) durable medical equipment; or

821 (iv) a prosthetic device.

822 ~~[(76)]~~ (77) "Model 1 seller" means a seller registered under the agreement that has
823 selected a certified service provider as the seller's agent to perform the seller's sales and use tax
824 functions for agreement sales and use taxes, as outlined in the contract between the governing
825 board of the agreement and the certified service provider, other than the seller's obligation
826 under Section 59-12-124 to remit a tax on the seller's own purchases.

827 ~~[(77)]~~ (78) "Model 2 seller" means a seller registered under the agreement that:

828 (a) except as provided in Subsection ~~[(77)(b)]~~ (78)(b), has selected a certified
829 automated system to perform the seller's sales tax functions for agreement sales and use taxes;
830 and

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

832 (i) collected by the seller; and

833 (ii) to the appropriate local taxing jurisdiction.

834 ~~[(78)]~~ (79) (a) Subject to Subsection ~~[(78)(b)]~~ (79)(b), "model 3 seller" means a seller
835 registered under the agreement that has:

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

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

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

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

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

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

842 (b) For purposes of Subsection ~~[(78)(a)]~~ (79)(a), "model 3 seller" includes an affiliated
843 group of sellers using the same proprietary system.

844 ~~[(79)]~~ (80) "Model 4 seller" means a seller that is registered under the agreement and is
845 not a model 1 seller, model 2 seller, or model 3 seller.

846 ~~[(80)]~~ (81) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

847 ~~[(81)]~~ (82) "Motor vehicle" means the same as that term is defined in Section
848 [41-1a-102](#).

849 ~~[(82)]~~ (83) "Oil sands" means impregnated bituminous sands that:

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

852 (b) yield mixtures of liquid hydrocarbon; and

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

855 ~~[(83)]~~ (84) "Oil shale" means a group of fine black to dark brown shales containing
856 kerogen material that yields petroleum upon heating and distillation.

857 ~~[(84)]~~ (85) "Optional computer software maintenance contract" means a computer
858 software maintenance contract that a customer is not obligated to purchase as a condition to the
859 retail sale of computer software.

860 ~~[(85)]~~ (86) (a) "Other fuels" means products that burn independently to produce heat or
861 energy.

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

864 ~~[(86)]~~ (87) (a) "Paging service" means a telecommunications service that provides

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

866 (b) For purposes of Subsection ~~[(86)(a)]~~ (87)(a), the transmission of a coded radio
867 signal includes a transmission by message or sound.

868 ~~[(87)]~~ (88) "Pawn transaction" means the same as that term is defined in Section
869 13-32a-102.

870 ~~[(88)]~~ (89) "Pawnbroker" means the same as that term is defined in Section
871 13-32a-102.

872 ~~[(89)]~~ (90) (a) "Permanently attached to real property" means that for tangible personal
873 property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

890 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
891 Subsection ~~[(89)(c)(iii)]~~ (90)(c)(iii) or (iv).

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

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

895 (A) convenience;

- 896 (B) stability; or
- 897 (C) for an obvious temporary purpose;
- 898 (ii) the detachment of tangible personal property from real property except for the
- 899 detachment described in Subsection [~~(89)(b)(ii)~~] (90)(b)(ii);
- 900 (iii) an attachment of the following tangible personal property to real property if the
- 901 attachment to real property is only through a line that supplies water, electricity, gas,
- 902 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 903 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 904 (A) a computer;
- 905 (B) a telephone;
- 906 (C) a television; or
- 907 (D) tangible personal property similar to Subsections [~~(89)(c)(iii)(A)~~] (90)(c)(iii)(A)
- 908 through (C) as determined by the commission by rule made in accordance with Title 63G,
- 909 Chapter 3, Utah Administrative Rulemaking Act; or
- 910 (iv) an item listed in Subsection [~~(130)(c)~~] (131)(c).
- 911 [~~(90)~~] (91) "Person" includes any individual, firm, partnership, joint venture,
- 912 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
- 913 city, municipality, district, or other local governmental entity of the state, or any group or
- 914 combination acting as a unit.
- 915 [~~(91)~~] (92) "Place of primary use":
- 916 (a) for telecommunications service other than mobile telecommunications service,
- 917 means the street address representative of where the customer's use of the telecommunications
- 918 service primarily occurs, which shall be:
- 919 (i) the residential street address of the customer; or
- 920 (ii) the primary business street address of the customer; or
- 921 (b) for mobile telecommunications service, means the same as that term is defined in
- 922 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 923 [~~(92)~~] (93) (a) "Postpaid calling service" means a telecommunications service a person
- 924 obtains by making a payment on a call-by-call basis:
- 925 (i) through the use of a:
- 926 (A) bank card;

927 (B) credit card;
928 (C) debit card; or
929 (D) travel card; or
930 (ii) by a charge made to a telephone number that is not associated with the origination
931 or termination of the telecommunications service.

932 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
933 service, that would be a prepaid wireless calling service if the service were exclusively a
934 telecommunications service.

935 ~~[(93)]~~ (94) "Postproduction" means an activity related to the finishing or duplication of
936 a medium described in Subsection 59-12-104(54)(a).

937 ~~[(94)]~~ (95) "Prepaid calling service" means a telecommunications service:

938 (a) that allows a purchaser access to telecommunications service that is exclusively
939 telecommunications service;

940 (b) that:

941 (i) is paid for in advance; and

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

943 (A) access number; or

944 (B) authorization code;

945 (c) that is dialed:

946 (i) manually; or

947 (ii) electronically; and

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

949 (i) by a known amount; and

950 (ii) with use.

951 ~~[(95)]~~ (96) "Prepaid wireless calling service" means a telecommunications service:

952 (a) that provides the right to utilize:

953 (i) mobile wireless service; and

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

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

956 (B) a content service; or

957 (C) an ancillary service;

- 958 (b) that:
- 959 (i) is paid for in advance; and
- 960 (ii) enables the origination of a call using an:
 - 961 (A) access number; or
 - 962 (B) authorization code;
- 963 (c) that is dialed:
 - 964 (i) manually; or
 - 965 (ii) electronically; and
- 966 (d) sold in predetermined units or dollars that decline:
 - 967 (i) by a known amount; and
 - 968 (ii) with use.
- 969 [~~96~~] (97) (a) "Prepared food" means:
 - 970 (i) food:
 - 971 (A) sold in a heated state; or
 - 972 (B) heated by a seller;
 - 973 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
 - 974 item; or
 - 975 (iii) except as provided in Subsection [~~(96)(c)~~] (97)(c), food sold with an eating utensil
 - 976 provided by the seller, including a:
 - 977 (A) plate;
 - 978 (B) knife;
 - 979 (C) fork;
 - 980 (D) spoon;
 - 981 (E) glass;
 - 982 (F) cup;
 - 983 (G) napkin; or
 - 984 (H) straw.
- 985 (b) "Prepared food" does not include:
 - 986 (i) food that a seller only:
 - 987 (A) cuts;
 - 988 (B) repackages; or

- 989 (C) pasteurizes; [or]
- 990 (ii) (A) the following:
- 991 (I) raw egg;
- 992 (II) raw fish;
- 993 (III) raw meat;
- 994 (IV) raw poultry; or
- 995 (V) a food containing an item described in Subsections [~~(96)(b)(ii)(A)(I)~~
- 996 (97)(b)(ii)(A)(I) through (IV); and
- 997 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 998 Food and Drug Administration's Food Code that a consumer cook the items described in
- 999 Subsection [~~(96)(b)(ii)(A)~~] (97)(b)(ii)(A) to prevent food borne illness; or
- 1000 (iii) the following if sold without eating utensils provided by the seller:
- 1001 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1002 classification under the 2002 North American Industry Classification System of the federal
- 1003 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1004 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1005 Manufacturing;
- 1006 (B) food and food ingredients sold in an unheated state:
- 1007 (I) by weight or volume; and
- 1008 (II) as a single item; or
- 1009 (C) a bakery item, including:
- 1010 (I) a bagel;
- 1011 (II) a bar;
- 1012 (III) a biscuit;
- 1013 (IV) bread;
- 1014 (V) a bun;
- 1015 (VI) a cake;
- 1016 (VII) a cookie;
- 1017 (VIII) a croissant;
- 1018 (IX) a danish;
- 1019 (X) a donut;

- 1020 (XI) a muffin;
- 1021 (XII) a pastry;
- 1022 (XIII) a pie;
- 1023 (XIV) a roll;
- 1024 (XV) a tart;
- 1025 (XVI) a torte; or
- 1026 (XVII) a tortilla.

1027 (c) An eating utensil provided by the seller does not include the following used to
1028 transport the food:

- 1029 (i) a container; or
- 1030 (ii) packaging.

1031 ~~[(97)]~~ (98) "Prescription" means an order, formula, or recipe that is issued:

- 1032 (a) (i) orally;
- 1033 (ii) in writing;
- 1034 (iii) electronically; or
- 1035 (iv) by any other manner of transmission; and

1036 (b) by a licensed practitioner authorized by the laws of a state.

1037 ~~[(98)]~~ (99) (a) Except as provided in Subsection ~~[(98)(b)(i)]~~ (99)(b)(ii) or (iii),

1038 "prewritten computer software" means computer software that is not designed and developed:

- 1039 (i) by the author or other creator of the computer software; and
- 1040 (ii) to the specifications of a specific purchaser.

1041 (b) "Prewritten computer software" includes:

1042 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
1043 software is not designed and developed:

- 1044 (A) by the author or other creator of the computer software; and
- 1045 (B) to the specifications of a specific purchaser;

1046 (ii) computer software designed and developed by the author or other creator of the
1047 computer software to the specifications of a specific purchaser if the computer software is sold
1048 to a person other than the purchaser; or

1049 (iii) except as provided in Subsection ~~[(98)(c)]~~ (99)(c), prewritten computer software
1050 or a prewritten portion of prewritten computer software:

- 1051 (A) that is modified or enhanced to any degree; and
- 1052 (B) if the modification or enhancement described in Subsection [~~(98)(b)(iii)(A)~~
- 1053 (99)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.
- 1054 (c) "Prewritten computer software" does not include a modification or enhancement
- 1055 described in Subsection [~~(98)(b)(iii)~~ (99)(b)(iii) if the charges for the modification or
- 1056 enhancement are:
- 1057 (i) reasonable; and
- 1058 (ii) subject to Subsections [59-12-103\(2\)\(f\)\(ii\)](#) and [\(2\)\(g\)\(i\)](#), separately stated on the
- 1059 invoice or other statement of price provided to the purchaser at the time of sale or later, as
- 1060 demonstrated by:
- 1061 (A) the books and records the seller keeps at the time of the transaction in the regular
- 1062 course of business, including books and records the seller keeps at the time of the transaction in
- 1063 the regular course of business for nontax purposes;
- 1064 (B) a preponderance of the facts and circumstances at the time of the transaction; and
- 1065 (C) the understanding of all of the parties to the transaction.
- 1066 [~~(99)~~ (100) (a) "Private communications service" means a telecommunications
- 1067 service:
- 1068 (i) that entitles a customer to exclusive or priority use of one or more communications
- 1069 channels between or among termination points; and
- 1070 (ii) regardless of the manner in which the one or more communications channels are
- 1071 connected.
- 1072 (b) "Private communications service" includes the following provided in connection
- 1073 with the use of one or more communications channels:
- 1074 (i) an extension line;
- 1075 (ii) a station;
- 1076 (iii) switching capacity; or
- 1077 (iv) another associated service that is provided in connection with the use of one or
- 1078 more communications channels as defined in Section [59-12-215](#).
- 1079 [~~(100)~~ (101) (a) Except as provided in Subsection [~~(100)(b)~~ (101)(b), "product
- 1080 transferred electronically" means a product transferred electronically that would be subject to a
- 1081 tax under this chapter if that product was transferred in a manner other than electronically.

- 1082 (b) "Product transferred electronically" does not include:
- 1083 (i) an ancillary service;
- 1084 (ii) computer software; or
- 1085 (iii) a telecommunications service.
- 1086 [~~(101)~~] (102) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 1087 (i) artificially replace a missing portion of the body;
- 1088 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1089 (iii) support a weak or deformed portion of the body.
- 1090 (b) "Prosthetic device" includes:
- 1091 (i) parts used in the repairs or renovation of a prosthetic device;
- 1092 (ii) replacement parts for a prosthetic device;
- 1093 (iii) a dental prosthesis; or
- 1094 (iv) a hearing aid.
- 1095 (c) "Prosthetic device" does not include:
- 1096 (i) corrective eyeglasses; or
- 1097 (ii) contact lenses.
- 1098 [~~(102)~~] (103) (a) "Protective equipment" means an item:
- 1099 (i) for human wear; and
- 1100 (ii) that is:
- 1101 (A) designed as protection:
- 1102 (I) to the wearer against injury or disease; or
- 1103 (II) against damage or injury of other persons or property; and
- 1104 (B) not suitable for general use.
- 1105 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1106 commission shall make rules:
- 1107 (i) listing the items that constitute "protective equipment"; and
- 1108 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1109 under the agreement.
- 1110 [~~(103)~~] (104) (a) For purposes of Subsection 59-12-104(41), "publication" means any
- 1111 written or printed matter, other than a photocopy:
- 1112 (i) regardless of:

- 1113 (A) characteristics;
- 1114 (B) copyright;
- 1115 (C) form;
- 1116 (D) format;
- 1117 (E) method of reproduction; or
- 1118 (F) source; and
- 1119 (ii) made available in printed or electronic format.
- 1120 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1121 commission may by rule define the term "photocopy."
- 1122 [~~(104)~~] (105) (a) "Purchase price" and "sales price" mean the total amount of
- 1123 consideration:
- 1124 (i) valued in money; and
- 1125 (ii) for which tangible personal property, a product transferred electronically, or
- 1126 services are:
- 1127 (A) sold;
- 1128 (B) leased; or
- 1129 (C) rented.
- 1130 (b) "Purchase price" and "sales price" include:
- 1131 (i) the seller's cost of the tangible personal property, a product transferred
- 1132 electronically, or services sold;
- 1133 (ii) expenses of the seller, including:
- 1134 (A) the cost of materials used;
- 1135 (B) a labor cost;
- 1136 (C) a service cost;
- 1137 (D) interest;
- 1138 (E) a loss;
- 1139 (F) the cost of transportation to the seller; or
- 1140 (G) a tax imposed on the seller;
- 1141 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1142 (iv) consideration a seller receives from a person other than the purchaser if:
- 1143 (A) (I) the seller actually receives consideration from a person other than the purchaser;

1144 and

1145 (II) the consideration described in Subsection [~~(104)(b)(iv)(A)(I)~~] (105)(b)(iv)(A)(I) is
1146 directly related to a price reduction or discount on the sale;

1147 (B) the seller has an obligation to pass the price reduction or discount through to the
1148 purchaser;

1149 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1150 the seller at the time of the sale to the purchaser; and

1151 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1152 seller to claim a price reduction or discount; and

1153 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1154 coupon, or other documentation with the understanding that the person other than the seller
1155 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1156 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1157 organization allowed a price reduction or discount, except that a preferred customer card that is
1158 available to any patron of a seller does not constitute membership in a group or organization
1159 allowed a price reduction or discount; or

1160 (III) the price reduction or discount is identified as a third party price reduction or
1161 discount on the:

1162 (Aa) invoice the purchaser receives; or

1163 (Bb) certificate, coupon, or other documentation the purchaser presents.

1164 (c) "Purchase price" and "sales price" do not include:

1165 (i) a discount:

1166 (A) in a form including:

1167 (I) cash;

1168 (II) term; or

1169 (III) coupon;

1170 (B) that is allowed by a seller;

1171 (C) taken by a purchaser on a sale; and

1172 (D) that is not reimbursed by a third party; or

1173 (ii) subject to Subsections [59-12-103\(2\)\(f\)\(ii\)](#) and [\(2\)\(g\)\(i\)](#), the following if separately
1174 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of

1175 sale or later, as demonstrated by the books and records the seller keeps at the time of the
1176 transaction in the regular course of business, including books and records the seller keeps at the
1177 time of the transaction in the regular course of business for nontax purposes, by a
1178 preponderance of the facts and circumstances at the time of the transaction, and by the
1179 understanding of all of the parties to the transaction:

1180 (A) the following from credit extended on the sale of tangible personal property or
1181 services:

1182 (I) a carrying charge;

1183 (II) a financing charge; or

1184 (III) an interest charge;

1185 (B) a delivery charge;

1186 (C) an installation charge;

1187 (D) a manufacturer rebate on a motor vehicle; or

1188 (E) a tax or fee legally imposed directly on the consumer.

1189 ~~[(105)]~~ (106) "Purchaser" means a person to whom:

1190 (a) a sale of tangible personal property is made;

1191 (b) a product is transferred electronically; or

1192 (c) a service is furnished.

1193 ~~[(106)]~~ (107) "Qualifying data center" means a data center facility that:

1194 (a) houses a group of networked server computers in one physical location in order to
1195 disseminate, manage, and store data and information;

1196 (b) is located in the state;

1197 (c) is a new operation constructed on or after July 1, 2016;

1198 (d) consists of one or more buildings that total 150,000 or more square feet;

1199 (e) is owned or leased by:

1200 (i) the operator of the data center facility; or

1201 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
1202 of the data center facility; and

1203 (f) is located on one or more parcels of land that are owned or leased by:

1204 (i) the operator of the data center facility; or

1205 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator

1206 of the data center facility.

1207 [~~(107)~~] (108) "Regularly rented" means:

1208 (a) rented to a guest for value three or more times during a calendar year; or

1209 (b) advertised or held out to the public as a place that is regularly rented to guests for
1210 value.

1211 [~~(108)~~] (109) "Rental" means the same as that term is defined in Subsection [~~(60)~~] (61).

1212 [~~(109)~~] (110) (a) Except as provided in Subsection [~~(109)(b)~~] (110)(b), "repairs or
1213 renovations of tangible personal property" means:

1214 (i) a repair or renovation of tangible personal property that is not permanently attached
1215 to real property; or

1216 (ii) attaching tangible personal property or a product transferred electronically to other
1217 tangible personal property or detaching tangible personal property or a product transferred
1218 electronically from other tangible personal property if:

1219 (A) the other tangible personal property to which the tangible personal property or
1220 product transferred electronically is attached or from which the tangible personal property or
1221 product transferred electronically is detached is not permanently attached to real property; and

1222 (B) the attachment of tangible personal property or a product transferred electronically
1223 to other tangible personal property or detachment of tangible personal property or a product
1224 transferred electronically from other tangible personal property is made in conjunction with a
1225 repair or replacement of tangible personal property or a product transferred electronically.

1226 (b) "Repairs or renovations of tangible personal property" does not include:

1227 (i) attaching prewritten computer software to other tangible personal property if the
1228 other tangible personal property to which the prewritten computer software is attached is not
1229 permanently attached to real property; or

1230 (ii) detaching prewritten computer software from other tangible personal property if the
1231 other tangible personal property from which the prewritten computer software is detached is
1232 not permanently attached to real property.

1233 [~~(110)~~] (111) "Research and development" means the process of inquiry or
1234 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
1235 process of preparing those devices, technologies, or applications for marketing.

1236 [~~(111)~~] (112) (a) "Residential telecommunications services" means a

1237 telecommunications service or an ancillary service that is provided to an individual for personal
1238 use:

1239 (i) at a residential address; or

1240 (ii) at an institution, including a nursing home or a school, if the telecommunications
1241 service or ancillary service is provided to and paid for by the individual residing at the
1242 institution rather than the institution.

1243 (b) For purposes of Subsection [~~(111)(a)(i)~~] (112)(a)(i), a residential address includes
1244 an:

1245 (i) apartment; or

1246 (ii) other individual dwelling unit.

1247 [~~(112)~~] (113) "Residential use" means the use in or around a home, apartment building,
1248 sleeping quarters, and similar facilities or accommodations.

1249 [~~(113)~~] (114) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
1250 other than:

1251 (a) resale;

1252 (b) sublease; or

1253 (c) subrent.

1254 [~~(114)~~] (115) (a) "Retailer" means any person, unless prohibited by the Constitution of
1255 the United States or federal law, that is engaged in a regularly organized business in tangible
1256 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is
1257 selling to the user or consumer and not for resale.

1258 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1259 engaged in the business of selling to users or consumers within the state.

1260 [~~(115)~~] (116) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1261 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1262 Subsection 59-12-103(1), for consideration.

1263 (b) "Sale" includes:

1264 (i) installment and credit sales;

1265 (ii) any closed transaction constituting a sale;

1266 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1267 chapter;

1268 (iv) any transaction if the possession of property is transferred but the seller retains the
1269 title as security for the payment of the price; and

1270 (v) any transaction under which right to possession, operation, or use of any article of
1271 tangible personal property is granted under a lease or contract and the transfer of possession
1272 would be taxable if an outright sale were made.

1273 [~~(116)~~] (117) "Sale at retail" means the same as that term is defined in Subsection
1274 [~~(113)~~] (114).

1275 [~~(117)~~] (118) "Sale-leaseback transaction" means a transaction by which title to
1276 tangible personal property or a product transferred electronically that is subject to a tax under
1277 this chapter is transferred:

1278 (a) by a purchaser-lessee;

1279 (b) to a lessor;

1280 (c) for consideration; and

1281 (d) if:

1282 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1283 of the tangible personal property or product transferred electronically;

1284 (ii) the sale of the tangible personal property or product transferred electronically to the
1285 lessor is intended as a form of financing:

1286 (A) for the tangible personal property or product transferred electronically; and

1287 (B) to the purchaser-lessee; and

1288 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1289 is required to:

1290 (A) capitalize the tangible personal property or product transferred electronically for
1291 financial reporting purposes; and

1292 (B) account for the lease payments as payments made under a financing arrangement.

1293 [~~(118)~~] (119) "Sales price" means the same as that term is defined in Subsection
1294 [~~(104)~~] (105).

1295 [~~(119)~~] (120) (a) "Sales relating to schools" means the following sales by, amounts
1296 paid to, or amounts charged by a school:

1297 (i) sales that are directly related to the school's educational functions or activities
1298 including:

- 1299 (A) the sale of:
- 1300 (I) textbooks;
- 1301 (II) textbook fees;
- 1302 (III) laboratory fees;
- 1303 (IV) laboratory supplies; or
- 1304 (V) safety equipment;
- 1305 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 1306 that:
- 1307 (I) a student is specifically required to wear as a condition of participation in a
- 1308 school-related event or school-related activity; and
- 1309 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 1310 place of ordinary clothing;
- 1311 (C) sales of the following if the net or gross revenues generated by the sales are
- 1312 deposited into a school district fund or school fund dedicated to school meals:
- 1313 (I) food and food ingredients; [~~or~~]
- 1314 (II) candy; or
- 1315 [~~(H)~~] (III) prepared food; or
- 1316 (D) transportation charges for official school activities; or
- 1317 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1318 event or school-related activity.
- 1319 (b) "Sales relating to schools" does not include:
- 1320 (i) bookstore sales of items that are not educational materials or supplies;
- 1321 (ii) except as provided in Subsection [~~(119)(a)(i)(B)~~] (120)(a)(i)(B):
- 1322 (A) clothing;
- 1323 (B) clothing accessories or equipment;
- 1324 (C) protective equipment; or
- 1325 (D) sports or recreational equipment; or
- 1326 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1327 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1328 (A) other than a:
- 1329 (I) school;

1330 (II) nonprofit organization authorized by a school board or a governing body of a
1331 private school to organize and direct a competitive secondary school activity; or

1332 (III) nonprofit association authorized by a school board or a governing body of a
1333 private school to organize and direct a competitive secondary school activity; and

1334 (B) that is required to collect sales and use taxes under this chapter.

1335 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1336 commission may make rules defining the term "passed through."

1337 [~~(120)~~] (121) For purposes of this section and Section 59-12-104, "school" means:

1338 (a) an elementary school or a secondary school that:

1339 (i) is a:

1340 (A) public school; or

1341 (B) private school; and

1342 (ii) provides instruction for one or more grades kindergarten through 12; or

1343 (b) a public school district.

1344 [~~(121)~~] (122) (a) "Seller" means a person that makes a sale, lease, or rental of:

1345 (i) tangible personal property;

1346 (ii) a product transferred electronically; or

1347 (iii) a service.

1348 (b) "Seller" includes a marketplace facilitator.

1349 [~~(122)~~] (123) (a) "Semiconductor fabricating, processing, research, or development
1350 materials" means tangible personal property or a product transferred electronically if the
1351 tangible personal property or product transferred electronically is:

1352 (i) used primarily in the process of:

1353 (A) (I) manufacturing a semiconductor;

1354 (II) fabricating a semiconductor; or

1355 (III) research or development of a:

1356 (Aa) semiconductor; or

1357 (Bb) semiconductor manufacturing process; or

1358 (B) maintaining an environment suitable for a semiconductor; or

1359 (ii) consumed primarily in the process of:

1360 (A) (I) manufacturing a semiconductor;

- 1361 (II) fabricating a semiconductor; or
- 1362 (III) research or development of a:
- 1363 (Aa) semiconductor; or
- 1364 (Bb) semiconductor manufacturing process; or
- 1365 (B) maintaining an environment suitable for a semiconductor.
- 1366 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1367 includes:
- 1368 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1369 transferred electronically described in Subsection [~~(122)(a)~~] (123)(a); or
- 1370 (ii) a chemical, catalyst, or other material used to:
- 1371 (A) produce or induce in a semiconductor a:
- 1372 (I) chemical change; or
- 1373 (II) physical change;
- 1374 (B) remove impurities from a semiconductor; or
- 1375 (C) improve the marketable condition of a semiconductor.
- 1376 [~~(123)~~] (124) "Senior citizen center" means a facility having the primary purpose of
- 1377 providing services to the aged as defined in Section 62A-3-101.
- 1378 [~~(124)~~] (125) (a) Subject to Subsections [~~(124)(b)~~] (125)(b) and (c), "short-term
- 1379 lodging consumable" means tangible personal property that:
- 1380 (i) a business that provides accommodations and services described in Subsection
- 1381 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
- 1382 to a purchaser;
- 1383 (ii) is intended to be consumed by the purchaser; and
- 1384 (iii) is:
- 1385 (A) included in the purchase price of the accommodations and services; and
- 1386 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 1387 to the purchaser.
- 1388 (b) "Short-term lodging consumable" includes:
- 1389 (i) a beverage;
- 1390 (ii) a brush or comb;
- 1391 (iii) a cosmetic;

- 1392 (iv) a hair care product;
- 1393 (v) lotion;
- 1394 (vi) a magazine;
- 1395 (vii) makeup;
- 1396 (viii) a meal;
- 1397 (ix) mouthwash;
- 1398 (x) nail polish remover;
- 1399 (xi) a newspaper;
- 1400 (xii) a notepad;
- 1401 (xiii) a pen;
- 1402 (xiv) a pencil;
- 1403 (xv) a razor;
- 1404 (xvi) saline solution;
- 1405 (xvii) a sewing kit;
- 1406 (xviii) shaving cream;
- 1407 (xix) a shoe shine kit;
- 1408 (xx) a shower cap;
- 1409 (xxi) a snack item;
- 1410 (xxii) soap;
- 1411 (xxiii) toilet paper;
- 1412 (xxiv) a toothbrush;
- 1413 (xxv) toothpaste; or
- 1414 (xxvi) an item similar to Subsections [~~(124)(b)(i)~~] (125)(b)(i) through (xxv) as the
- 1415 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah
- 1416 Administrative Rulemaking Act.
- 1417 (c) "Short-term lodging consumable" does not include:
- 1418 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1419 property to be reused; or
- 1420 (ii) a product transferred electronically.
- 1421 [~~(125)~~] (126) "Simplified electronic return" means the electronic return:
- 1422 (a) described in Section 318(C) of the agreement; and

- 1423 (b) approved by the governing board of the agreement.
- 1424 [~~(126)~~] (127) "Solar energy" means the sun used as the sole source of energy for
- 1425 producing electricity.
- 1426 [~~(127)~~] (128) (a) "Sports or recreational equipment" means an item:
- 1427 (i) designed for human use; and
- 1428 (ii) that is:
- 1429 (A) worn in conjunction with:
- 1430 (I) an athletic activity; or
- 1431 (II) a recreational activity; and
- 1432 (B) not suitable for general use.
- 1433 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1434 commission shall make rules:
- 1435 (i) listing the items that constitute "sports or recreational equipment"; and
- 1436 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1437 equipment" under the agreement.
- 1438 [~~(128)~~] (129) "State" means the state of Utah, its departments, and agencies.
- 1439 [~~(129)~~] (130) "Storage" means any keeping or retention of tangible personal property or
- 1440 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 1441 except sale in the regular course of business.
- 1442 [~~(130)~~] (131) (a) Except as provided in Subsection [~~(130)(d)~~] (131)(d) or (e), "tangible
- 1443 personal property" means personal property that:
- 1444 (i) may be:
- 1445 (A) seen;
- 1446 (B) weighed;
- 1447 (C) measured;
- 1448 (D) felt; or
- 1449 (E) touched; or
- 1450 (ii) is in any manner perceptible to the senses.
- 1451 (b) "Tangible personal property" includes:
- 1452 (i) electricity;
- 1453 (ii) water;

1454 (iii) gas;
1455 (iv) steam; or
1456 (v) prewritten computer software, regardless of the manner in which the prewritten
1457 computer software is transferred.

1458 (c) "Tangible personal property" includes the following regardless of whether the item
1459 is attached to real property:

- 1460 (i) a dishwasher;
- 1461 (ii) a dryer;
- 1462 (iii) a freezer;
- 1463 (iv) a microwave;
- 1464 (v) a refrigerator;
- 1465 (vi) a stove;
- 1466 (vii) a washer; or
- 1467 (viii) an item similar to Subsections [~~(130)(c)(i)~~] (131)(c)(i) through (vii) as
1468 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
1469 Administrative Rulemaking Act.

1470 (d) "Tangible personal property" does not include a product that is transferred
1471 electronically.

1472 (e) "Tangible personal property" does not include the following if attached to real
1473 property, regardless of whether the attachment to real property is only through a line that
1474 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1475 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1476 Rulemaking Act:

- 1477 (i) a hot water heater;
- 1478 (ii) a water filtration system; or
- 1479 (iii) a water softener system.

1480 [~~(131)~~] (132) (a) "Telecommunications enabling or facilitating equipment, machinery,
1481 or software" means an item listed in Subsection [~~(131)(b)~~] (132)(b) if that item is purchased or
1482 leased primarily to enable or facilitate one or more of the following to function:

- 1483 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1484 (ii) telecommunications transmission equipment, machinery, or software.

1485 (b) The following apply to Subsection [~~(131)(a)~~] (132)(a):

1486 (i) a pole;

1487 (ii) software;

1488 (iii) a supplementary power supply;

1489 (iv) temperature or environmental equipment or machinery;

1490 (v) test equipment;

1491 (vi) a tower; or

1492 (vii) equipment, machinery, or software that functions similarly to an item listed in

1493 Subsections [~~(131)(b)(i)~~] (132)(b)(i) through (vi) as determined by the commission by rule

1494 made in accordance with Subsection [~~(131)(c)~~] (132)(c).

1495 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1496 commission may by rule define what constitutes equipment, machinery, or software that

1497 functions similarly to an item listed in Subsections [~~(131)(b)(i)~~] (132)(b)(i) through (vi).

1498 [~~(132)~~] (133) "Telecommunications equipment, machinery, or software required for

1499 911 service" means equipment, machinery, or software that is required to comply with 47

1500 C.F.R. Sec. 20.18.

1501 [~~(133)~~] (134) "Telecommunications maintenance or repair equipment, machinery, or

1502 software" means equipment, machinery, or software purchased or leased primarily to maintain

1503 or repair one or more of the following, regardless of whether the equipment, machinery, or

1504 software is purchased or leased as a spare part or as an upgrade or modification to one or more

1505 of the following:

1506 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1507 (b) telecommunications switching or routing equipment, machinery, or software; or

1508 (c) telecommunications transmission equipment, machinery, or software.

1509 [~~(134)~~] (135) (a) "Telecommunications service" means the electronic conveyance,

1510 routing, or transmission of audio, data, video, voice, or any other information or signal to a

1511 point, or among or between points.

1512 (b) "Telecommunications service" includes:

1513 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1514 processing application is used to act:

1515 (A) on the code, form, or protocol of the content;

- 1516 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 1517 (C) regardless of whether the service:
- 1518 (I) is referred to as voice over Internet protocol service; or
- 1519 (II) is classified by the Federal Communications Commission as enhanced or value
- 1520 added;
- 1521 (ii) an 800 service;
- 1522 (iii) a 900 service;
- 1523 (iv) a fixed wireless service;
- 1524 (v) a mobile wireless service;
- 1525 (vi) a postpaid calling service;
- 1526 (vii) a prepaid calling service;
- 1527 (viii) a prepaid wireless calling service; or
- 1528 (ix) a private communications service.
- 1529 (c) "Telecommunications service" does not include:
- 1530 (i) advertising, including directory advertising;
- 1531 (ii) an ancillary service;
- 1532 (iii) a billing and collection service provided to a third party;
- 1533 (iv) a data processing and information service if:
- 1534 (A) the data processing and information service allows data to be:
- 1535 (I) (Aa) acquired;
- 1536 (Bb) generated;
- 1537 (Cc) processed;
- 1538 (Dd) retrieved; or
- 1539 (Ee) stored; and
- 1540 (II) delivered by an electronic transmission to a purchaser; and
- 1541 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1542 or information;
- 1543 (v) installation or maintenance of the following on a customer's premises:
- 1544 (A) equipment; or
- 1545 (B) wiring;
- 1546 (vi) Internet access service;

- 1547 (vii) a paging service;
- 1548 (viii) a product transferred electronically, including:
- 1549 (A) music;
- 1550 (B) reading material;
- 1551 (C) a ring tone;
- 1552 (D) software; or
- 1553 (E) video;
- 1554 (ix) a radio and television audio and video programming service:
- 1555 (A) regardless of the medium; and
- 1556 (B) including:
- 1557 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1558 programming service by a programming service provider;
- 1559 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1560 (III) audio and video programming services delivered by a commercial mobile radio
- 1561 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1562 (x) a value-added nonvoice data service; or
- 1563 (xi) tangible personal property.
- 1564 ~~[(135)]~~ (136) (a) "Telecommunications service provider" means a person that:
- 1565 (i) owns, controls, operates, or manages a telecommunications service; and
- 1566 (ii) engages in an activity described in Subsection ~~[(135)(a)(i)]~~ (136)(a)(i) for the
- 1567 shared use with or resale to any person of the telecommunications service.
- 1568 (b) A person described in Subsection ~~[(135)(a)]~~ (136)(a) is a telecommunications
- 1569 service provider whether or not the Public Service Commission of Utah regulates:
- 1570 (i) that person; or
- 1571 (ii) the telecommunications service that the person owns, controls, operates, or
- 1572 manages.
- 1573 ~~[(136)]~~ (137) (a) "Telecommunications switching or routing equipment, machinery, or
- 1574 software" means an item listed in Subsection ~~[(136)(b)]~~ (137)(b) if that item is purchased or
- 1575 leased primarily for switching or routing:
- 1576 (i) an ancillary service;
- 1577 (ii) data communications;

- 1578 (iii) voice communications; or
- 1579 (iv) telecommunications service.

1580 (b) The following apply to Subsection [~~(136)(a)~~] (137)(a):

- 1581 (i) a bridge;
- 1582 (ii) a computer;
- 1583 (iii) a cross connect;
- 1584 (iv) a modem;
- 1585 (v) a multiplexer;
- 1586 (vi) plug in circuitry;
- 1587 (vii) a router;
- 1588 (viii) software;
- 1589 (ix) a switch; or

1590 (x) equipment, machinery, or software that functions similarly to an item listed in
1591 Subsections [~~(136)(b)(i)~~] (137)(b)(i) through (ix) as determined by the commission by rule
1592 made in accordance with Subsection [~~(136)(c)~~] (137)(c).

1593 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1594 commission may by rule define what constitutes equipment, machinery, or software that
1595 functions similarly to an item listed in Subsections [~~(136)(b)(i)~~] (137)(b)(i) through (ix).

1596 [~~(137)~~] (138) (a) "Telecommunications transmission equipment, machinery, or
1597 software" means an item listed in Subsection [~~(137)(b)~~] (138)(b) if that item is purchased or
1598 leased primarily for sending, receiving, or transporting:

- 1599 (i) an ancillary service;
- 1600 (ii) data communications;
- 1601 (iii) voice communications; or
- 1602 (iv) telecommunications service.

1603 (b) The following apply to Subsection [~~(137)(a)~~] (138)(a):

- 1604 (i) an amplifier;
- 1605 (ii) a cable;
- 1606 (iii) a closure;
- 1607 (iv) a conduit;
- 1608 (v) a controller;

- 1609 (vi) a duplexer;
- 1610 (vii) a filter;
- 1611 (viii) an input device;
- 1612 (ix) an input/output device;
- 1613 (x) an insulator;
- 1614 (xi) microwave machinery or equipment;
- 1615 (xii) an oscillator;
- 1616 (xiii) an output device;
- 1617 (xiv) a pedestal;
- 1618 (xv) a power converter;
- 1619 (xvi) a power supply;
- 1620 (xvii) a radio channel;
- 1621 (xviii) a radio receiver;
- 1622 (xix) a radio transmitter;
- 1623 (xx) a repeater;
- 1624 (xxi) software;
- 1625 (xxii) a terminal;
- 1626 (xxiii) a timing unit;
- 1627 (xxiv) a transformer;
- 1628 (xxv) a wire; or
- 1629 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1630 Subsections ~~[(137)(b)(i)]~~ (138)(b)(i) through (xxv) as determined by the commission by rule
- 1631 made in accordance with Subsection ~~[(137)(c)]~~ (138)(c).

1632 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1633 commission may by rule define what constitutes equipment, machinery, or software that

1634 functions similarly to an item listed in Subsections ~~[(137)(b)(i)]~~ (138)(b)(i) through (xxv).

1635 ~~[(138)]~~ (139) (a) "Textbook for a higher education course" means a textbook or other

1636 printed material that is required for a course:

- 1637 (i) offered by an institution of higher education; and
- 1638 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1639 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1640 [~~(139)~~] (140) "Tobacco" means:

- 1641 (a) a cigarette;
- 1642 (b) a cigar;
- 1643 (c) chewing tobacco;
- 1644 (d) pipe tobacco; or
- 1645 (e) any other item that contains tobacco.

1646 [~~(140)~~] (141) "Unassisted amusement device" means an amusement device, skill
1647 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
1648 operate the amusement device, skill device, or ride device.

1649 [~~(141)~~] (142) (a) "Use" means the exercise of any right or power over tangible personal
1650 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1651 incident to the ownership or the leasing of that tangible personal property, product transferred
1652 electronically, or service.

1653 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1654 property, a product transferred electronically, or a service in the regular course of business and
1655 held for resale.

1656 [~~(142)~~] (143) "Value-added nonvoice data service" means a service:

1657 (a) that otherwise meets the definition of a telecommunications service except that a
1658 computer processing application is used to act primarily for a purpose other than conveyance,
1659 routing, or transmission; and

1660 (b) with respect to which a computer processing application is used to act on data or
1661 information:

- 1662 (i) code;
- 1663 (ii) content;
- 1664 (iii) form; or
- 1665 (iv) protocol.

1666 [~~(143)~~] (144) (a) Subject to Subsection [~~(143)(b)~~] (144)(b), "vehicle" means the
1667 following that are required to be titled, registered, or titled and registered:

- 1668 (i) an aircraft as defined in Section 72-10-102;
- 1669 (ii) a vehicle as defined in Section 41-1a-102;
- 1670 (iii) an off-highway vehicle as defined in Section 41-22-2; or

- 1671 (iv) a vessel as defined in Section [41-1a-102](#).
- 1672 (b) For purposes of Subsection [59-12-104\(33\)](#) only, "vehicle" includes:
- 1673 (i) a vehicle described in Subsection [~~(143)~~(a)] [\(144\)\(a\)](#); or
- 1674 (ii) (A) a locomotive;
- 1675 (B) a freight car;
- 1676 (C) railroad work equipment; or
- 1677 (D) other railroad rolling stock.
- 1678 [~~(144)~~] [\(145\)](#) "Vehicle dealer" means a person engaged in the business of buying,
- 1679 selling, or exchanging a vehicle as defined in Subsection [~~(143)~~] [\(144\)](#).
- 1680 [~~(145)~~] [\(146\)](#) (a) "Vertical service" means an ancillary service that:
- 1681 (i) is offered in connection with one or more telecommunications services; and
- 1682 (ii) offers an advanced calling feature that allows a customer to:
- 1683 (A) identify a caller; and
- 1684 (B) manage multiple calls and call connections.
- 1685 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 1686 conference bridging service.
- 1687 [~~(146)~~] [\(147\)](#) (a) "Voice mail service" means an ancillary service that enables a
- 1688 customer to receive, send, or store a recorded message.
- 1689 (b) "Voice mail service" does not include a vertical service that a customer is required
- 1690 to have in order to utilize a voice mail service.
- 1691 [~~(147)~~] [\(148\)](#) (a) Except as provided in Subsection [~~(147)~~(b)] [\(148\)\(b\)](#), "waste energy
- 1692 facility" means a facility that generates electricity:
- 1693 (i) using as the primary source of energy waste materials that would be placed in a
- 1694 landfill or refuse pit if it were not used to generate electricity, including:
- 1695 (A) tires;
- 1696 (B) waste coal;
- 1697 (C) oil shale; or
- 1698 (D) municipal solid waste; and
- 1699 (ii) in amounts greater than actually required for the operation of the facility.
- 1700 (b) "Waste energy facility" does not include a facility that incinerates:
- 1701 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1702 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1703 [~~(148)~~] (149) "Watercraft" means a vessel as defined in Section 73-18-2.

1704 [~~(149)~~] (150) "Wind energy" means wind used as the sole source of energy to produce
1705 electricity.

1706 [~~(150)~~] (151) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
1707 geographic location by the United States Postal Service.

1708 Section 2. Section 59-12-103 is amended to read:

1709 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
1710 **tax revenues.**

1711 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
1712 sales price for amounts paid or charged for the following transactions:

1713 (a) retail sales of tangible personal property made within the state;

1714 (b) amounts paid for:

1715 (i) telecommunications service, other than mobile telecommunications service, that
1716 originates and terminates within the boundaries of this state;

1717 (ii) mobile telecommunications service that originates and terminates within the
1718 boundaries of one state only to the extent permitted by the Mobile Telecommunications
1719 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

1720 (iii) an ancillary service associated with a:

1721 (A) telecommunications service described in Subsection (1)(b)(i); or

1722 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

1723 (c) sales of the following for commercial use:

1724 (i) gas;

1725 (ii) electricity;

1726 (iii) heat;

1727 (iv) coal;

1728 (v) fuel oil; or

1729 (vi) other fuels;

1730 (d) sales of the following for residential use:

1731 (i) gas;

1732 (ii) electricity;

- 1733 (iii) heat;
- 1734 (iv) coal;
- 1735 (v) fuel oil; or
- 1736 (vi) other fuels;
- 1737 (e) sales of prepared food;
- 1738 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 1739 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 1740 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 1741 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 1742 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 1743 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 1744 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 1745 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 1746 exhibition, cultural, or athletic activity;
- 1747 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 1748 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 1749 (i) the tangible personal property; and
- 1750 (ii) parts used in the repairs or renovations of the tangible personal property described
- 1751 in Subsection (1)(g)(i), regardless of whether:
- 1752 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 1753 property; or
- 1754 (B) the particular parts used in the repairs or renovations of that tangible personal
- 1755 property are exempt from a tax under this chapter;
- 1756 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 1757 assisted cleaning or washing of tangible personal property;
- 1758 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 1759 accommodations and services that are regularly rented for less than 30 consecutive days;
- 1760 (j) amounts paid or charged for laundry or dry cleaning services;
- 1761 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 1762 this state the tangible personal property is:
- 1763 (i) stored;

- 1764 (ii) used; or
1765 (iii) otherwise consumed;
1766 (l) amounts paid or charged for tangible personal property if within this state the
1767 tangible personal property is:
1768 (i) stored;
1769 (ii) used; or
1770 (iii) consumed; [~~and~~]
1771 (m) amounts paid or charged for a sale:
1772 (i) (A) of a product transferred electronically; or
1773 (B) of a repair or renovation of a product transferred electronically; and
1774 (ii) regardless of whether the sale provides:
1775 (A) a right of permanent use of the product; or
1776 (B) a right to use the product that is less than a permanent use, including a right:
1777 (I) for a definite or specified length of time; and
1778 (II) that terminates upon the occurrence of a condition[-]; and
1779 (n) sales of candy.
1780 (2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax
1781 are imposed on a transaction described in Subsection (1) equal to the sum of:
1782 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
1783 (A) 4.70% plus the rate specified in Subsection (12)(a); and
1784 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
1785 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
1786 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
1787 State Sales and Use Tax Act; and
1788 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
1789 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
1790 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
1791 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
1792 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1793 transaction under this chapter other than this part.
1794 (b) Except as provided in Subsection (2)(e) or (f) and subject to Subsection (2)(k), a

1795 state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to
 1796 the sum of:

1797 (i) a state tax imposed on the transaction at a tax rate of 2%; and

1798 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
 1799 transaction under this chapter other than this part.

1800 ~~[(c) Except as provided in Subsection (2)(e) or (f), a state tax and a local tax are
 1801 imposed on amounts paid or charged for food and food ingredients equal to the sum of:]~~

1802 ~~[(i) a state tax imposed on the amounts paid or charged for food and food ingredients at
 1803 a tax rate of 1.75%; and]~~

1804 ~~[(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
 1805 amounts paid or charged for food and food ingredients under this chapter other than this part.]~~

1806 (c) (i) Except as provided in Subsection (2)(e) or (f), a local tax is imposed on amounts
 1807 paid or charged for food and food ingredients equal to the sum of the tax rates a county, city, or
 1808 town imposes under this chapter on the amounts paid or charged for food and food ingredients.

1809 (ii) There is no state tax imposed on amounts paid or charged for food and food
 1810 ingredients.

1811 (d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts
 1812 paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at
 1813 a rate of 4.85%.

1814 (e) (i) For a bundled transaction that is attributable to food and food ingredients and
 1815 tangible personal property other than food and food ingredients, a state tax and a local tax is
 1816 imposed on the entire bundled transaction equal to the sum of:

1817 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

1818 (I) the tax rate described in Subsection (2)(a)(i)(A); and

1819 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
 1820 Sales and Use Tax Act, if the location of the transaction as determined under Sections
 1821 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
 1822 Additional State Sales and Use Tax Act; and

1823 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
 1824 Sales and Use Tax Act, if the location of the transaction as determined under Sections

1825 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which

1826 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1827 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
1828 described in Subsection (2)(a)(ii).

1829 (ii) If an optional computer software maintenance contract is a bundled transaction that
1830 consists of taxable and nontaxable products that are not separately itemized on an invoice or
1831 similar billing document, the purchase of the optional computer software maintenance contract
1832 is 40% taxable under this chapter and 60% nontaxable under this chapter.

1833 (iii) Subject to Subsection (2)(e)(iv), for a bundled transaction other than a bundled
1834 transaction described in Subsection (2)(e)(i) or (ii):

1835 (A) if the sales price of the bundled transaction is attributable to tangible personal
1836 property, a product, or a service that is subject to taxation under this chapter and tangible
1837 personal property, a product, or service that is not subject to taxation under this chapter, the
1838 entire bundled transaction is subject to taxation under this chapter unless:

1839 (I) the seller is able to identify by reasonable and verifiable standards the tangible
1840 personal property, product, or service that is not subject to taxation under this chapter from the
1841 books and records the seller keeps in the seller's regular course of business; or

1842 (II) state or federal law provides otherwise; or

1843 (B) if the sales price of a bundled transaction is attributable to two or more items of
1844 tangible personal property, products, or services that are subject to taxation under this chapter
1845 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
1846 higher tax rate unless:

1847 (I) the seller is able to identify by reasonable and verifiable standards the tangible
1848 personal property, product, or service that is subject to taxation under this chapter at the lower
1849 tax rate from the books and records the seller keeps in the seller's regular course of business; or

1850 (II) state or federal law provides otherwise.

1851 (iv) For purposes of Subsection (2)(e)(iii), books and records that a seller keeps in the
1852 seller's regular course of business includes books and records the seller keeps in the regular
1853 course of business for nontax purposes.

1854 (f) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(f)(ii)
1855 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
1856 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental

1857 of tangible personal property, other property, a product, or a service that is not subject to
1858 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
1859 the seller, at the time of the transaction:

1860 (A) separately states the portion of the transaction that is not subject to taxation under
1861 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

1862 (B) is able to identify by reasonable and verifiable standards, from the books and
1863 records the seller keeps in the seller's regular course of business, the portion of the transaction
1864 that is not subject to taxation under this chapter.

1865 (ii) A purchaser and a seller may correct the taxability of a transaction if:

1866 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
1867 the transaction that is not subject to taxation under this chapter was not separately stated on an
1868 invoice, bill of sale, or similar document provided to the purchaser because of an error or
1869 ignorance of the law; and

1870 (B) the seller is able to identify by reasonable and verifiable standards, from the books
1871 and records the seller keeps in the seller's regular course of business, the portion of the
1872 transaction that is not subject to taxation under this chapter.

1873 (iii) For purposes of Subsections (2)(f)(i) and (ii), books and records that a seller keeps
1874 in the seller's regular course of business includes books and records the seller keeps in the
1875 regular course of business for nontax purposes.

1876 (g) (i) If the sales price of a transaction is attributable to two or more items of tangible
1877 personal property, products, or services that are subject to taxation under this chapter at
1878 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
1879 unless the seller, at the time of the transaction:

1880 (A) separately states the items subject to taxation under this chapter at each of the
1881 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

1882 (B) is able to identify by reasonable and verifiable standards the tangible personal
1883 property, product, or service that is subject to taxation under this chapter at the lower tax rate
1884 from the books and records the seller keeps in the seller's regular course of business.

1885 (ii) For purposes of Subsection (2)(g)(i), books and records that a seller keeps in the
1886 seller's regular course of business includes books and records the seller keeps in the regular
1887 course of business for nontax purposes.

1888 (h) Subject to Subsections (2)(i) and (j), a tax rate repeal or tax rate change for a tax
 1889 rate imposed under the following shall take effect on the first day of a calendar quarter:

- 1890 (i) Subsection (2)(a)(i)(A);
 1891 (ii) Subsection (2)(b)(i); or
 1892 [~~(iii) Subsection (2)(c)(i); or~~]
 1893 [~~(iv)~~] (iii) Subsection (2)(e)(i)(A)(I).

1894 (i) (i) A tax rate increase takes effect on the first day of the first billing period that
 1895 begins on or after the effective date of the tax rate increase if the billing period for the
 1896 transaction begins before the effective date of a tax rate increase imposed under:

- 1897 (A) Subsection (2)(a)(i)(A);
 1898 (B) Subsection (2)(b)(i); or
 1899 [~~(C) Subsection (2)(c)(i); or~~]
 1900 [~~(D)~~] (C) Subsection (2)(e)(i)(A)(I).

1901 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
 1902 statement for the billing period is rendered on or after the effective date of the repeal of the tax
 1903 or the tax rate decrease imposed under:

- 1904 (A) Subsection (2)(a)(i)(A);
 1905 (B) Subsection (2)(b)(i); or
 1906 [~~(C) Subsection (2)(c)(i); or~~]
 1907 [~~(D)~~] (C) Subsection (2)(e)(i)(A)(I).

1908 (j) (i) For a tax rate described in Subsection (2)(j)(ii), if a tax due on a catalogue sale is
 1909 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
 1910 change in a tax rate takes effect:

- 1911 (A) on the first day of a calendar quarter; and
 1912 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
 1913 (ii) Subsection (2)(j)(i) applies to the tax rates described in the following:

- 1914 (A) Subsection (2)(a)(i)(A);
 1915 (B) Subsection (2)(b)(i); or
 1916 [~~(C) Subsection (2)(c)(i); or~~]
 1917 [~~(D)~~] (C) Subsection (2)(e)(i)(A)(I).

1918 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

1919 the commission may by rule define the term "catalogue sale."

1920 (k) (i) For a location described in Subsection (2)(k)(ii), the commission shall determine
1921 the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the
1922 predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

1923 (ii) Subsection (2)(k)(i) applies to a location where gas, electricity, heat, coal, fuel oil,
1924 or other fuel is furnished through a single meter for two or more of the following uses:

1925 (A) a commercial use;

1926 (B) an industrial use; or

1927 (C) a residential use.

1928 (3) (a) The following state taxes shall be deposited into the General Fund:

1929 (i) the tax imposed by Subsection (2)(a)(i)(A);

1930 (ii) the tax imposed by Subsection (2)(b)(i); and

1931 [~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]

1932 [~~(iv)~~] (iii) the tax imposed by Subsection (2)(e)(i)(A)(I).

1933 (b) The following local taxes shall be distributed to a county, city, or town as provided
1934 in this chapter:

1935 (i) the tax imposed by Subsection (2)(a)(ii);

1936 (ii) the tax imposed by Subsection (2)(b)(ii);

1937 (iii) the tax imposed by Subsection [~~(2)(c)(ii)~~] (2)(c)(i); and

1938 (iv) the tax imposed by Subsection (2)(e)(i)(B).

1939 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General
1940 Fund.

1941 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1942 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
1943 through (g):

1944 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1945 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

1946 (B) for the fiscal year; or

1947 (ii) \$17,500,000.

1948 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
1949 described in Subsection (4)(a) shall be transferred each year as designated sales and use tax

1950 revenue to the Department of Natural Resources to:

1951 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
1952 protect sensitive plant and animal species; or

1953 (B) award grants, up to the amount authorized by the Legislature in an appropriations
1954 act, to political subdivisions of the state to implement the measures described in Subsections
1955 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

1956 (ii) Money transferred to the Department of Natural Resources under Subsection
1957 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
1958 person to list or attempt to have listed a species as threatened or endangered under the
1959 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1960 (iii) At the end of each fiscal year:

1961 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the
1962 Water Resources Conservation and Development Fund created in Section 73-10-24;

1963 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the
1964 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

1965 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the
1966 Drinking Water Loan Program Subaccount created in Section 73-10c-5.

1967 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1968 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
1969 created in Section 4-18-106.

1970 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
1971 in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to
1972 the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for
1973 the adjudication of water rights.

1974 (ii) At the end of each fiscal year:

1975 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the
1976 Water Resources Conservation and Development Fund created in Section 73-10-24;

1977 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the
1978 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

1979 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the
1980 Drinking Water Loan Program Subaccount created in Section 73-10c-5.

1981 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
1982 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
1983 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

1984 (ii) In addition to the uses allowed of the Water Resources Conservation and
1985 Development Fund under Section 73-10-24, the Water Resources Conservation and
1986 Development Fund may also be used to:

1987 (A) conduct hydrologic and geotechnical investigations by the Division of Water
1988 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1989 quantifying surface and ground water resources and describing the hydrologic systems of an
1990 area in sufficient detail so as to enable local and state resource managers to plan for and
1991 accommodate growth in water use without jeopardizing the resource;

1992 (B) fund state required dam safety improvements; and

1993 (C) protect the state's interest in interstate water compact allocations, including the
1994 hiring of technical and legal staff.

1995 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1996 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
1997 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1998 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1999 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
2000 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2001 (i) provide for the installation and repair of collection, treatment, storage, and
2002 distribution facilities for any public water system, as defined in Section 19-4-102;

2003 (ii) develop underground sources of water, including springs and wells; and

2004 (iii) develop surface water sources.

2005 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2006 2006, the difference between the following amounts shall be expended as provided in this
2007 Subsection (5), if that difference is greater than \$1:

2008 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
2009 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

2010 (ii) \$17,500,000.

2011 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

2012 (A) transferred each fiscal year to the Department of Natural Resources as designated
2013 sales and use tax revenue; and

2014 (B) expended by the Department of Natural Resources for watershed rehabilitation or
2015 restoration.

2016 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use
2017 tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation
2018 and Development Fund created in Section 73-10-24.

2019 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
2020 remaining difference described in Subsection (5)(a) shall be:

2021 (A) transferred each fiscal year to the Division of Water Resources as designated sales
2022 and use tax revenue; and

2023 (B) expended by the Division of Water Resources for cloud-seeding projects
2024 authorized by Title 73, Chapter 15, Modification of Weather.

2025 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use
2026 tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation
2027 and Development Fund created in Section 73-10-24.

2028 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
2029 remaining difference described in Subsection (5)(a) shall be deposited into the Water
2030 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
2031 Division of Water Resources for:

2032 (i) preconstruction costs:

2033 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
2034 26, Bear River Development Act; and

2035 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
2036 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2037 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
2038 Chapter 26, Bear River Development Act;

2039 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
2040 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2041 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
2042 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2043 (e) After making the transfers required by Subsections (5)(b) and (c), 15% of the
 2044 remaining difference described in Subsection (5)(a) shall be deposited each year into the Water
 2045 Rights Restricted Account created by Section 73-2-1.6.

2046 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
 2047 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
 2048 (1) for the fiscal year shall be deposited as follows:

2049 (a) for fiscal year 2020-21 only:

2050 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
 2051 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2052 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
 2053 Water Infrastructure Restricted Account created by Section 73-10g-103; and

2054 (b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
 2055 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
 2056 created by Section 73-10g-103.

2057 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
 2058 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
 2059 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
 2060 created by Section 72-2-124:

2061 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
 2062 the revenues collected from the following taxes, which represents a portion of the
 2063 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
 2064 on vehicles and vehicle-related products:

2065 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2066 (B) the tax imposed by Subsection (2)(b)(i); and

2067 [~~(C)~~] ~~the tax imposed by Subsection (2)(c)(i); and~~

2068 [~~(D)~~] (C) the tax imposed by Subsection (2)(e)(i)(A)(I); plus

2069 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
 2070 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
 2071 [~~(D)~~] (C) that exceeds the amount collected from the sales and use taxes described in
 2072 Subsections (7)(a)(i)(A) through [~~(D)~~] (C) in the 2010-11 fiscal year.

2073 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of

2074 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
2075 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through [~~(D)~~]
2076 (C) generated in the current fiscal year than the total percentage of sales and use taxes
2077 deposited in the previous fiscal year, the Division of Finance shall deposit an amount under
2078 Subsection (7)(a) equal to the product of:

2079 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
2080 previous fiscal year; and

2081 (B) the total sales and use tax revenue generated by the taxes described in Subsections
2082 (7)(a)(i)(A) through [~~(D)~~] (C) in the current fiscal year.

2083 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
2084 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
2085 described in Subsections (7)(a)(i)(A) through [~~(D)~~] (C) in the current fiscal year, the Division
2086 of Finance shall deposit 17% of the revenues collected from the sales and use taxes described
2087 in Subsections (7)(a)(i)(A) through [~~(D)~~] (C) for the current fiscal year under Subsection (7)(a).

2088 (iii) Subject to Subsection (7)(b)(iv)(E), in all subsequent fiscal years after a year in
2089 which 17% of the revenues collected from the sales and use taxes described in Subsections
2090 (7)(a)(i)(A) through [~~(D)~~] (C) was deposited under Subsection (7)(a), the Division of Finance
2091 shall annually deposit 17% of the revenues collected from the sales and use taxes described in
2092 Subsections (7)(a)(i)(A) through [~~(D)~~] (C) in the current fiscal year under Subsection (7)(a).

2093 (iv) (A) As used in this Subsection (7)(b)(iv), "additional growth revenue" means the
2094 amount of relevant revenue collected in the current fiscal year that exceeds by more than 3%
2095 the relevant revenue collected in the previous fiscal year.

2096 (B) As used in this Subsection (7)(b)(iv), "combined amount" means the combined
2097 total amount of money deposited into the Cottonwood Canyons fund under Subsections
2098 (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

2099 (C) As used in this Subsection (7)(b)(iv), "Cottonwood Canyons fund" means the
2100 Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

2101 (D) As used in this Subsection (7)(b)(iv), "relevant revenue" means the portion of taxes
2102 listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in
2103 Subsections (7)(a)(i)(A) through [~~(D)~~] (C).

2104 (E) For a fiscal year beginning on or after July 1, 2020, the commission shall annually

2105 reduce the deposit under Subsection (7)(b)(iii) into the Transportation Investment Fund of 2005
2106 by an amount equal to the amount of the deposit under this Subsection (7)(b)(iv) to the
2107 Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue,
2108 subject to the limit in Subsection (7)(b)(iv)(F).

2109 (F) The commission shall annually deposit the amount described in Subsection
2110 (7)(b)(iv)(E) into the Cottonwood Canyons fund, subject to an annual maximum combined
2111 amount for any single fiscal year of \$20,000,000.

2112 (G) If the amount of relevant revenue declines in a fiscal year compared to the previous
2113 fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood
2114 Canyons fund under this Subsection (7)(b)(iv) in the same proportion as the decline in relevant
2115 revenue.

2116 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
2117 Subsections (6) and (7), and subject to Subsections (8)(b) and (d)(v), for a fiscal year beginning
2118 on or after July 1, 2018, the commission shall annually deposit into the Transportation
2119 Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under
2120 Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following
2121 taxes:

2122 (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2123 (ii) the tax imposed by Subsection (2)(b)(i); and

2124 [~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]

2125 [~~(iv)~~] (iii) the tax imposed by Subsection (2)(e)(i)(A)(I).

2126 (b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
2127 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by
2128 an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by
2129 the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale
2130 or use in this state that exceeds 29.4 cents per gallon.

2131 (c) The commission shall annually deposit the amount described in Subsection (8)(b)
2132 into the Transit Transportation Investment Fund created in Section 72-2-124.

2133 (d) (i) As used in this Subsection (8)(d), "additional growth revenue" means the
2134 amount of relevant revenue collected in the current fiscal year that exceeds by more than 3%
2135 the relevant revenue collected in the previous fiscal year.

2136 (ii) As used in this Subsection (8)(d), "combined amount" means the combined total
2137 amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F)
2138 and (8)(d)(vi) in any single fiscal year.

2139 (iii) As used in this Subsection (8)(d), "Cottonwood Canyons fund" means the
2140 Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

2141 (iv) As used in this Subsection (8)(d), "relevant revenue" means the portion of taxes
2142 listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described
2143 in Subsections (8)(a)(i) through ~~(iv)~~ (iii).

2144 (v) For a fiscal year beginning on or after July 1, 2020, the commission shall annually
2145 reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by
2146 an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood
2147 Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the
2148 limit in Subsection (8)(d)(vi).

2149 (vi) The commission shall annually deposit the amount described in Subsection
2150 (8)(d)(v) into the Cottonwood Canyons fund, subject to an annual maximum combined amount
2151 for any single fiscal year of \$20,000,000.

2152 (vii) If the amount of relevant revenue declines in a fiscal year compared to the
2153 previous fiscal year, the commission shall decrease the amount of the contribution to the
2154 Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in
2155 relevant revenue.

2156 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2157 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
2158 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

2159 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(b),
2160 and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of
2161 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
2162 72-2-124 the amount of revenue described as follows:

2163 (i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05%
2164 tax rate on the transactions described in Subsection (1); and

2165 (ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
2166 tax rate on the transactions described in Subsection (1).

2167 (b) For purposes of Subsection (10)(a), the Division of Finance may not deposit into
2168 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
2169 charged for food and food ingredients, except for tax revenue generated by a bundled
2170 transaction attributable to food and food ingredients and tangible personal property other than
2171 food and food ingredients described in Subsection (2)(e).

2172 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
2173 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
2174 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
2175 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
2176 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
2177 created in Section 63N-2-512.

2178 (12) (a) The rate specified in this subsection is 0.15%.

2179 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year
2180 beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the
2181 rate described in Subsection (12)(a) on the transactions that are subject to the sales and use tax
2182 under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section
2183 26-36b-208.

2184 (13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2185 2020-21, the Division of Finance shall deposit \$200,000 into the General Fund as a dedicated
2186 credit solely for use of the Search and Rescue Financial Assistance Program created in, and
2187 expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

2188 (14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of
2189 Finance shall annually transfer \$1,813,400 of the revenue deposited into the Transportation
2190 Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

2191 (b) If the total revenue deposited into the Transportation Investment Fund of 2005
2192 under Subsections (6) through (8) is less than \$1,813,400 for a fiscal year, the Division of
2193 Finance shall transfer the total revenue deposited into the Transportation Investment Fund of
2194 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

2195 (15) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610,
2196 beginning the first day of the calendar quarter one year after the sales and use tax boundary for
2197 a housing and transit reinvestment zone is established, the commission, at least annually, shall

2198 transfer an amount equal to 15% of the sales and use tax increment within an established sales
2199 and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation
2200 Investment Fund created in Section 72-2-124.

2201 (16) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year
2202 beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure
2203 Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection
2204 (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

2205 (a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2206 (b) the tax imposed by Subsection (2)(b)(i); and

2207 [~~(c) the tax imposed by Subsection (2)(c)(i); and~~]

2208 [~~(d)~~] (c) the tax imposed by Subsection (2)(e)(i)(A)(I).

2209 Section 3. Section 59-12-104 is amended to read:

2210 **59-12-104. Exemptions.**

2211 Exemptions from the taxes imposed by this chapter are as follows:

2212 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
2213 under Chapter 13, Motor and Special Fuel Tax Act;

2214 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
2215 subdivisions; however, this exemption does not apply to sales of:

2216 (a) construction materials except:

2217 (i) construction materials purchased by or on behalf of institutions of the public
2218 education system as defined in Utah Constitution, Article X, Section 2, provided the
2219 construction materials are clearly identified and segregated and installed or converted to real
2220 property which is owned by institutions of the public education system; and

2221 (ii) construction materials purchased by the state, its institutions, or its political
2222 subdivisions which are installed or converted to real property by employees of the state, its
2223 institutions, or its political subdivisions; or

2224 (b) tangible personal property in connection with the construction, operation,
2225 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
2226 providing additional project capacity, as defined in Section 11-13-103;

2227 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

2228 (i) the proceeds of each sale do not exceed \$1; and

2229 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
2230 the cost of the item described in Subsection (3)(b) as goods consumed; and

2231 (b) Subsection (3)(a) applies to:

2232 (i) food and food ingredients; [or]

2233 (ii) prepared food; or

2234 (iii) candy.

2235 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

2236 (i) alcoholic beverages;

2237 (ii) food and food ingredients; [or]

2238 (iii) prepared food; or

2239 (iv) candy.

2240 (b) sales of tangible personal property or a product transferred electronically:

2241 (i) to a passenger;

2242 (ii) by a commercial airline carrier; and

2243 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

2244 (c) services related to Subsection (4)(a) or (b);

2245 (5) sales of parts and equipment for installation in an aircraft operated by a common
2246 carrier in interstate or foreign commerce;

2247 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
2248 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
2249 exhibitor, distributor, or commercial television or radio broadcaster;

2250 (7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of
2251 cleaning or washing of tangible personal property if the cleaning or washing of the tangible
2252 personal property is not assisted cleaning or washing of tangible personal property;

2253 (b) if a seller that sells at the same business location assisted cleaning or washing of
2254 tangible personal property and cleaning or washing of tangible personal property that is not
2255 assisted cleaning or washing of tangible personal property, the exemption described in
2256 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
2257 or washing of the tangible personal property; and

2258 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
2259 Utah Administrative Rulemaking Act, the commission may make rules:

- 2260 (i) governing the circumstances under which sales are at the same business location;
- 2261 and
- 2262 (ii) establishing the procedures and requirements for a seller to separately account for
- 2263 sales of assisted cleaning or washing of tangible personal property;
- 2264 (8) sales made to or by religious or charitable institutions in the conduct of their regular
- 2265 religious or charitable functions and activities, if the requirements of Section [59-12-104.1](#) are
- 2266 fulfilled;
- 2267 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
- 2268 this state if the vehicle is:
- 2269 (a) not registered in this state; and
- 2270 (b) (i) not used in this state; or
- 2271 (ii) used in this state:
- 2272 (A) if the vehicle is not used to conduct business, for a time period that does not
- 2273 exceed the longer of:
- 2274 (I) 30 days in any calendar year; or
- 2275 (II) the time period necessary to transport the vehicle to the borders of this state; or
- 2276 (B) if the vehicle is used to conduct business, for the time period necessary to transport
- 2277 the vehicle to the borders of this state;
- 2278 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 2279 (i) the item is intended for human use; and
- 2280 (ii) (A) a prescription was issued for the item; or
- 2281 (B) the item was purchased by a hospital or other medical facility; and
- 2282 (b) (i) Subsection (10)(a) applies to:
- 2283 (A) a drug;
- 2284 (B) a syringe; or
- 2285 (C) a stoma supply; and
- 2286 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2287 commission may by rule define the terms:
- 2288 (A) "syringe"; or
- 2289 (B) "stoma supply";
- 2290 (11) purchases or leases exempt under Section [19-12-201](#);

- 2291 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 2292 (i) the following if the item described in Subsection (12)(c) is not available to the
- 2293 general public:
- 2294 (A) a church; or
- 2295 (B) a charitable institution; or
- 2296 (ii) an institution of higher education if:
- 2297 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 2298 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 2299 offered by the institution of higher education; or
- 2300 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 2301 (i) a medical facility; or
- 2302 (ii) a nursing facility; and
- 2303 (c) Subsections (12)(a) and (b) apply to:
- 2304 (i) food and food ingredients;
- 2305 (ii) prepared food; [~~or~~]
- 2306 (iii) alcoholic beverages; or
- 2307 (iv) candy.
- 2308 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 2309 or a product transferred electronically by a person:
- 2310 (i) regardless of the number of transactions involving the sale of that tangible personal
- 2311 property or product transferred electronically by that person; and
- 2312 (ii) not regularly engaged in the business of selling that type of tangible personal
- 2313 property or product transferred electronically;
- 2314 (b) this Subsection (13) does not apply if:
- 2315 (i) the sale is one of a series of sales of a character to indicate that the person is
- 2316 regularly engaged in the business of selling that type of tangible personal property or product
- 2317 transferred electronically;
- 2318 (ii) the person holds that person out as regularly engaged in the business of selling that
- 2319 type of tangible personal property or product transferred electronically;
- 2320 (iii) the person sells an item of tangible personal property or product transferred
- 2321 electronically that the person purchased as a sale that is exempt under Subsection (25); or

2322 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
2323 this state in which case the tax is based upon:

2324 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
2325 sold; or

2326 (B) in the absence of a bill of sale or other written evidence of value, the fair market
2327 value of the vehicle or vessel being sold at the time of the sale as determined by the
2328 commission; and

2329 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2330 commission shall make rules establishing the circumstances under which:

2331 (i) a person is regularly engaged in the business of selling a type of tangible personal
2332 property or product transferred electronically;

2333 (ii) a sale of tangible personal property or a product transferred electronically is one of
2334 a series of sales of a character to indicate that a person is regularly engaged in the business of
2335 selling that type of tangible personal property or product transferred electronically; or

2336 (iii) a person holds that person out as regularly engaged in the business of selling a type
2337 of tangible personal property or product transferred electronically;

2338 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal
2339 operating repair or replacement parts, or materials, except for office equipment or office
2340 supplies, by:

2341 (a) a manufacturing facility that:

2342 (i) is located in the state; and

2343 (ii) uses or consumes the machinery, equipment, normal operating repair or
2344 replacement parts, or materials:

2345 (A) in the manufacturing process to manufacture an item sold as tangible personal
2346 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
2347 Utah Administrative Rulemaking Act; or

2348 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
2349 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
2350 Administrative Rulemaking Act;

2351 (b) an establishment, as the commission defines that term in accordance with Title
2352 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

2353 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
2354 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
2355 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
2356 2002 North American Industry Classification System of the federal Executive Office of the
2357 President, Office of Management and Budget;

2358 (ii) is located in the state; and

2359 (iii) uses or consumes the machinery, equipment, normal operating repair or
2360 replacement parts, or materials in:

2361 (A) the production process to produce an item sold as tangible personal property, as the
2362 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
2363 Administrative Rulemaking Act;

2364 (B) research and development, as the commission may define that phrase in accordance
2365 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2366 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
2367 produced from mining;

2368 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
2369 mining; or

2370 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

2371 (c) an establishment, as the commission defines that term in accordance with Title
2372 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

2373 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
2374 American Industry Classification System of the federal Executive Office of the President,
2375 Office of Management and Budget;

2376 (ii) is located in the state; and

2377 (iii) uses or consumes the machinery, equipment, normal operating repair or
2378 replacement parts, or materials in the operation of the web search portal;

2379 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

2380 (i) tooling;

2381 (ii) special tooling;

2382 (iii) support equipment;

2383 (iv) special test equipment; or

2384 (v) parts used in the repairs or renovations of tooling or equipment described in
2385 Subsections (15)(a)(i) through (iv); and
2386 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
2387 (i) the tooling, equipment, or parts are used or consumed exclusively in the
2388 performance of any aerospace or electronics industry contract with the United States
2389 government or any subcontract under that contract; and
2390 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
2391 title to the tooling, equipment, or parts is vested in the United States government as evidenced
2392 by:
2393 (A) a government identification tag placed on the tooling, equipment, or parts; or
2394 (B) listing on a government-approved property record if placing a government
2395 identification tag on the tooling, equipment, or parts is impractical;
2396 (16) sales of newspapers or newspaper subscriptions;
2397 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
2398 product transferred electronically traded in as full or part payment of the purchase price, except
2399 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
2400 trade-ins are limited to other vehicles only, and the tax is based upon:
2401 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
2402 vehicle being traded in; or
2403 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
2404 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
2405 commission; and
2406 (b) Subsection (17)(a) does not apply to the following items of tangible personal
2407 property or products transferred electronically traded in as full or part payment of the purchase
2408 price:
2409 (i) money;
2410 (ii) electricity;
2411 (iii) water;
2412 (iv) gas; or
2413 (v) steam;
2414 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property

2415 or a product transferred electronically used or consumed primarily and directly in farming
2416 operations, regardless of whether the tangible personal property or product transferred
2417 electronically:

2418 (A) becomes part of real estate; or

2419 (B) is installed by a farmer, contractor, or subcontractor; or

2420 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
2421 product transferred electronically if the tangible personal property or product transferred
2422 electronically is exempt under Subsection (18)(a)(i); and

2423 (b) amounts paid or charged for the following are subject to the taxes imposed by this
2424 chapter:

2425 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
2426 supplies if used in a manner that is incidental to farming; and

2427 (B) tangible personal property that is considered to be used in a manner that is
2428 incidental to farming includes:

2429 (I) hand tools; or

2430 (II) maintenance and janitorial equipment and supplies;

2431 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
2432 transferred electronically if the tangible personal property or product transferred electronically
2433 is used in an activity other than farming; and

2434 (B) tangible personal property or a product transferred electronically that is considered
2435 to be used in an activity other than farming includes:

2436 (I) office equipment and supplies; or

2437 (II) equipment and supplies used in:

2438 (Aa) the sale or distribution of farm products;

2439 (Bb) research; or

2440 (Cc) transportation; or

2441 (iii) a vehicle required to be registered by the laws of this state during the period
2442 ending two years after the date of the vehicle's purchase;

2443 (19) sales of hay;

2444 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
2445 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or

2446 garden, farm, or other agricultural produce is sold by:

2447 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other

2448 agricultural produce;

2449 (b) an employee of the producer described in Subsection (20)(a); or

2450 (c) a member of the immediate family of the producer described in Subsection (20)(a);

2451 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued

2452 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

2453 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,

2454 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,

2455 wholesaler, or retailer for use in packaging tangible personal property to be sold by that

2456 manufacturer, processor, wholesaler, or retailer;

2457 (23) a product stored in the state for resale;

2458 (24) (a) purchases of a product if:

2459 (i) the product is:

2460 (A) purchased outside of this state;

2461 (B) brought into this state:

2462 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

2463 (II) by a nonresident person who is not living or working in this state at the time of the

2464 purchase;

2465 (C) used for the personal use or enjoyment of the nonresident person described in

2466 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

2467 (D) not used in conducting business in this state; and

2468 (ii) for:

2469 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of

2470 the product for a purpose for which the product is designed occurs outside of this state;

2471 (B) a boat, the boat is registered outside of this state; or

2472 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

2473 outside of this state;

2474 (b) the exemption provided for in Subsection (24)(a) does not apply to:

2475 (i) a lease or rental of a product; or

2476 (ii) a sale of a vehicle exempt under Subsection (33); and

2477 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2478 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
2479 following:

2480 (i) conducting business in this state if that phrase has the same meaning in this
2481 Subsection (24) as in Subsection (63);

2482 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
2483 as in Subsection (63); or

2484 (iii) a purpose for which a product is designed if that phrase has the same meaning in
2485 this Subsection (24) as in Subsection (63);

2486 (25) a product purchased for resale in the regular course of business, either in its
2487 original form or as an ingredient or component part of a manufactured or compounded product;

2488 (26) a product upon which a sales or use tax was paid to some other state, or one of its
2489 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
2490 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
2491 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
2492 Act;

2493 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
2494 person for use in compounding a service taxable under the subsections;

2495 (28) purchases made in accordance with the special supplemental nutrition program for
2496 women, infants, and children established in 42 U.S.C. Sec. 1786;

2497 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
2498 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
2499 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
2500 the President, Office of Management and Budget;

2501 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
2502 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

2503 (a) not registered in this state; and

2504 (b) (i) not used in this state; or

2505 (ii) used in this state:

2506 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
2507 time period that does not exceed the longer of:

- 2508 (I) 30 days in any calendar year; or
- 2509 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 2510 the borders of this state; or
- 2511 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
- 2512 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
- 2513 state;
- 2514 (31) sales of aircraft manufactured in Utah;
- 2515 (32) amounts paid for the purchase of telecommunications service for purposes of
- 2516 providing telecommunications service;
- 2517 (33) sales, leases, or uses of the following:
- 2518 (a) a vehicle by an authorized carrier; or
- 2519 (b) tangible personal property that is installed on a vehicle:
- 2520 (i) sold or leased to or used by an authorized carrier; and
- 2521 (ii) before the vehicle is placed in service for the first time;
- 2522 (34) (a) 45% of the sales price of any new manufactured home; and
- 2523 (b) 100% of the sales price of any used manufactured home;
- 2524 (35) sales relating to schools and fundraising sales;
- 2525 (36) sales or rentals of durable medical equipment if:
- 2526 (a) a person presents a prescription for the durable medical equipment; and
- 2527 (b) the durable medical equipment is used for home use only;
- 2528 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 2529 Section [72-11-102](#); and
- 2530 (b) the commission shall by rule determine the method for calculating sales exempt
- 2531 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 2532 (38) sales to a ski resort of:
- 2533 (a) snowmaking equipment;
- 2534 (b) ski slope grooming equipment;
- 2535 (c) passenger ropeways as defined in Section [72-11-102](#); or
- 2536 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 2537 described in Subsections (38)(a) through (c);
- 2538 (39) subject to Subsection [59-12-103\(2\)\(j\)](#), sales of natural gas, electricity, heat, coal,

2539 fuel oil, or other fuels for industrial use;

2540 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
2541 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
2542 59-12-102;

2543 (b) if a seller that sells or rents at the same business location the right to use or operate
2544 for amusement, entertainment, or recreation one or more unassisted amusement devices and
2545 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
2546 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
2547 amusement, entertainment, or recreation for the assisted amusement devices; and

2548 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
2549 Utah Administrative Rulemaking Act, the commission may make rules:

2550 (i) governing the circumstances under which sales are at the same business location;
2551 and

2552 (ii) establishing the procedures and requirements for a seller to separately account for
2553 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
2554 assisted amusement devices;

2555 (41) (a) sales of photocopies by:

2556 (i) a governmental entity; or

2557 (ii) an entity within the state system of public education, including:

2558 (A) a school; or

2559 (B) the State Board of Education; or

2560 (b) sales of publications by a governmental entity;

2561 (42) amounts paid for admission to an athletic event at an institution of higher
2562 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
2563 20 U.S.C. Sec. 1681 et seq.;

2564 (43) (a) sales made to or by:

2565 (i) an area agency on aging; or

2566 (ii) a senior citizen center owned by a county, city, or town; or

2567 (b) sales made by a senior citizen center that contracts with an area agency on aging;

2568 (44) sales or leases of semiconductor fabricating, processing, research, or development
2569 materials regardless of whether the semiconductor fabricating, processing, research, or

2570 development materials:

2571 (a) actually come into contact with a semiconductor; or

2572 (b) ultimately become incorporated into real property;

2573 (45) an amount paid by or charged to a purchaser for accommodations and services

2574 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section

2575 59-12-104.2;

2576 (46) the lease or use of a vehicle issued a temporary sports event registration certificate

2577 in accordance with Section 41-3-306 for the event period specified on the temporary sports

2578 event registration certificate;

2579 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff

2580 adopted by the Public Service Commission only for purchase of electricity produced from a

2581 new alternative energy source built after January 1, 2016, as designated in the tariff by the

2582 Public Service Commission; and

2583 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies

2584 only to the portion of the tariff rate a customer pays under the tariff described in Subsection

2585 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the

2586 customer would have paid absent the tariff;

2587 (48) sales or rentals of mobility enhancing equipment if a person presents a

2588 prescription for the mobility enhancing equipment;

2589 (49) sales of water in a:

2590 (a) pipe;

2591 (b) conduit;

2592 (c) ditch; or

2593 (d) reservoir;

2594 (50) sales of currency or coins that constitute legal tender of a state, the United States,

2595 or a foreign nation;

2596 (51) (a) sales of an item described in Subsection (51)(b) if the item:

2597 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

2598 (ii) has a gold, silver, or platinum content of 50% or more; and

2599 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

2600 (i) ingot;

- 2601 (ii) bar;
- 2602 (iii) medallion; or
- 2603 (iv) decorative coin;
- 2604 (52) amounts paid on a sale-leaseback transaction;
- 2605 (53) sales of a prosthetic device:
 - 2606 (a) for use on or in a human; and
 - 2607 (b) (i) for which a prescription is required; or
 - 2608 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 2609 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 2610 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 2611 or equipment is primarily used in the production or postproduction of the following media for
- 2612 commercial distribution:
 - 2613 (i) a motion picture;
 - 2614 (ii) a television program;
 - 2615 (iii) a movie made for television;
 - 2616 (iv) a music video;
 - 2617 (v) a commercial;
 - 2618 (vi) a documentary; or
 - 2619 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
 - 2620 commission by administrative rule made in accordance with Subsection (54)(d); or
 - 2621 (b) purchases, leases, or rentals of machinery or equipment by an establishment
 - 2622 described in Subsection (54)(c) that is used for the production or postproduction of the
 - 2623 following are subject to the taxes imposed by this chapter:
 - 2624 (i) a live musical performance;
 - 2625 (ii) a live news program; or
 - 2626 (iii) a live sporting event;
 - 2627 (c) the following establishments listed in the 1997 North American Industry
 - 2628 Classification System of the federal Executive Office of the President, Office of Management
 - 2629 and Budget, apply to Subsections (54)(a) and (b):
 - 2630 (i) NAICS Code 512110; or
 - 2631 (ii) NAICS Code 51219; and

2632 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2633 commission may by rule:

2634 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

2635 or

2636 (ii) define:

2637 (A) "commercial distribution";

2638 (B) "live musical performance";

2639 (C) "live news program"; or

2640 (D) "live sporting event";

2641 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
2642 on or before June 30, 2027, of tangible personal property that:

2643 (i) is leased or purchased for or by a facility that:

2644 (A) is an alternative energy electricity production facility;

2645 (B) is located in the state; and

2646 (C) (I) becomes operational on or after July 1, 2004; or

2647 (II) has its generation capacity increased by one or more megawatts on or after July 1,
2648 2004, as a result of the use of the tangible personal property;

2649 (ii) has an economic life of five or more years; and

2650 (iii) is used to make the facility or the increase in capacity of the facility described in
2651 Subsection (55)(a)(i) operational up to the point of interconnection with an existing

2652 transmission grid including:

2653 (A) a wind turbine;

2654 (B) generating equipment;

2655 (C) a control and monitoring system;

2656 (D) a power line;

2657 (E) substation equipment;

2658 (F) lighting;

2659 (G) fencing;

2660 (H) pipes; or

2661 (I) other equipment used for locating a power line or pole; and

2662 (b) this Subsection (55) does not apply to:

- 2663 (i) tangible personal property used in construction of:
- 2664 (A) a new alternative energy electricity production facility; or
- 2665 (B) the increase in the capacity of an alternative energy electricity production facility;
- 2666 (ii) contracted services required for construction and routine maintenance activities;
- 2667 and
- 2668 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 2669 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
- 2670 acquired after:
- 2671 (A) the alternative energy electricity production facility described in Subsection
- 2672 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
- 2673 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
- 2674 in Subsection (55)(a)(iii);
- 2675 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 2676 on or before June 30, 2027, of tangible personal property that:
- 2677 (i) is leased or purchased for or by a facility that:
- 2678 (A) is a waste energy production facility;
- 2679 (B) is located in the state; and
- 2680 (C) (I) becomes operational on or after July 1, 2004; or
- 2681 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 2682 2004, as a result of the use of the tangible personal property;
- 2683 (ii) has an economic life of five or more years; and
- 2684 (iii) is used to make the facility or the increase in capacity of the facility described in
- 2685 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
- 2686 transmission grid including:
- 2687 (A) generating equipment;
- 2688 (B) a control and monitoring system;
- 2689 (C) a power line;
- 2690 (D) substation equipment;
- 2691 (E) lighting;
- 2692 (F) fencing;
- 2693 (G) pipes; or

2694 (H) other equipment used for locating a power line or pole; and
2695 (b) this Subsection (56) does not apply to:
2696 (i) tangible personal property used in construction of:
2697 (A) a new waste energy facility; or
2698 (B) the increase in the capacity of a waste energy facility;
2699 (ii) contracted services required for construction and routine maintenance activities;
2700 and
2701 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2702 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
2703 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
2704 described in Subsection (56)(a)(iii); or
2705 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
2706 in Subsection (56)(a)(iii);
2707 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
2708 or before June 30, 2027, of tangible personal property that:
2709 (i) is leased or purchased for or by a facility that:
2710 (A) is located in the state;
2711 (B) produces fuel from alternative energy, including:
2712 (I) methanol; or
2713 (II) ethanol; and
2714 (C) (I) becomes operational on or after July 1, 2004; or
2715 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
2716 a result of the installation of the tangible personal property;
2717 (ii) has an economic life of five or more years; and
2718 (iii) is installed on the facility described in Subsection (57)(a)(i);
2719 (b) this Subsection (57) does not apply to:
2720 (i) tangible personal property used in construction of:
2721 (A) a new facility described in Subsection (57)(a)(i); or
2722 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
2723 (ii) contracted services required for construction and routine maintenance activities;
2724 and

- 2725 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2726 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
- 2727 (A) the facility described in Subsection (57)(a)(i) is operational; or
2728 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
- 2729 (58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product
2730 transferred electronically to a person within this state if that tangible personal property or
2731 product transferred electronically is subsequently shipped outside the state and incorporated
2732 pursuant to contract into and becomes a part of real property located outside of this state; and
- 2733 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
2734 state or political entity to which the tangible personal property is shipped imposes a sales, use,
2735 gross receipts, or other similar transaction excise tax on the transaction against which the other
2736 state or political entity allows a credit for sales and use taxes imposed by this chapter;
- 2737 (59) purchases:
- 2738 (a) of one or more of the following items in printed or electronic format:
- 2739 (i) a list containing information that includes one or more:
- 2740 (A) names; or
2741 (B) addresses; or
- 2742 (ii) a database containing information that includes one or more:
- 2743 (A) names; or
2744 (B) addresses; and
- 2745 (b) used to send direct mail;
- 2746 (60) redemptions or repurchases of a product by a person if that product was:
- 2747 (a) delivered to a pawnbroker as part of a pawn transaction; and
2748 (b) redeemed or repurchased within the time period established in a written agreement
2749 between the person and the pawnbroker for redeeming or repurchasing the product;
- 2750 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 2751 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 2752 and
- 2753 (ii) has a useful economic life of one or more years; and
- 2754 (b) the following apply to Subsection (61)(a):
- 2755 (i) telecommunications enabling or facilitating equipment, machinery, or software;

2756 (ii) telecommunications equipment, machinery, or software required for 911 service;
2757 (iii) telecommunications maintenance or repair equipment, machinery, or software;
2758 (iv) telecommunications switching or routing equipment, machinery, or software; or
2759 (v) telecommunications transmission equipment, machinery, or software;
2760 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
2761 personal property or a product transferred electronically that are used in the research and
2762 development of alternative energy technology; and
2763 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2764 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
2765 purchases of tangible personal property or a product transferred electronically that are used in
2766 the research and development of alternative energy technology;
2767 (63) (a) purchases of tangible personal property or a product transferred electronically
2768 if:
2769 (i) the tangible personal property or product transferred electronically is:
2770 (A) purchased outside of this state;
2771 (B) brought into this state at any time after the purchase described in Subsection
2772 (63)(a)(i)(A); and
2773 (C) used in conducting business in this state; and
2774 (ii) for:
2775 (A) tangible personal property or a product transferred electronically other than the
2776 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
2777 for a purpose for which the property is designed occurs outside of this state; or
2778 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
2779 outside of this state and not required to be registered in this state under Section [41-1a-202](#) or
2780 [73-18-9](#) based on residency;
2781 (b) the exemption provided for in Subsection (63)(a) does not apply to:
2782 (i) a lease or rental of tangible personal property or a product transferred electronically;
2783 or
2784 (ii) a sale of a vehicle exempt under Subsection (33); and
2785 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2786 purposes of Subsection (63)(a), the commission may by rule define what constitutes the

2787 following:

2788 (i) conducting business in this state if that phrase has the same meaning in this

2789 Subsection (63) as in Subsection (24);

2790 (ii) the first use of tangible personal property or a product transferred electronically if

2791 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

2792 (iii) a purpose for which tangible personal property or a product transferred

2793 electronically is designed if that phrase has the same meaning in this Subsection (63) as in

2794 Subsection (24);

2795 (64) sales of disposable home medical equipment or supplies if:

2796 (a) a person presents a prescription for the disposable home medical equipment or

2797 supplies;

2798 (b) the disposable home medical equipment or supplies are used exclusively by the

2799 person to whom the prescription described in Subsection (64)(a) is issued; and

2800 (c) the disposable home medical equipment and supplies are listed as eligible for

2801 payment under:

2802 (i) Title XVIII, federal Social Security Act; or

2803 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

2804 (65) sales:

2805 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

2806 District Act; or

2807 (b) of tangible personal property to a subcontractor of a public transit district, if the

2808 tangible personal property is:

2809 (i) clearly identified; and

2810 (ii) installed or converted to real property owned by the public transit district;

2811 (66) sales of construction materials:

2812 (a) purchased on or after July 1, 2010;

2813 (b) purchased by, on behalf of, or for the benefit of an international airport:

2814 (i) located within a county of the first class; and

2815 (ii) that has a United States customs office on its premises; and

2816 (c) if the construction materials are:

2817 (i) clearly identified;

- 2818 (ii) segregated; and
- 2819 (iii) installed or converted to real property:
- 2820 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 2821 (B) located at the international airport described in Subsection (66)(b);
- 2822 (67) sales of construction materials:
- 2823 (a) purchased on or after July 1, 2008;
- 2824 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 2825 (i) located within a county of the second class; and
- 2826 (ii) that is owned or operated by a city in which an airline as defined in Section
- 2827 [59-2-102](#) is headquartered; and
- 2828 (c) if the construction materials are:
- 2829 (i) clearly identified;
- 2830 (ii) segregated; and
- 2831 (iii) installed or converted to real property:
- 2832 (A) owned or operated by the new airport described in Subsection (67)(b);
- 2833 (B) located at the new airport described in Subsection (67)(b); and
- 2834 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 2835 (68) except for the tax imposed by Subsection [59-12-103\(2\)\(d\)](#), sales of fuel to a
- 2836 common carrier that is a railroad for use in a locomotive engine;
- 2837 (69) purchases and sales described in Section [63H-4-111](#);
- 2838 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 2839 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 2840 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2841 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2842 powered aircraft; or
- 2843 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 2844 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 2845 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2846 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2847 powered aircraft;
- 2848 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:

- 2849 (a) to a person admitted to an institution of higher education; and
- 2850 (b) by a seller, other than a bookstore owned by an institution of higher education, if
- 2851 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
- 2852 textbook for a higher education course;
- 2853 (72) a license fee or tax a municipality imposes in accordance with Subsection
- 2854 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
- 2855 level of municipal services;
- 2856 (73) amounts paid or charged for construction materials used in the construction of a
- 2857 new or expanding life science research and development facility in the state, if the construction
- 2858 materials are:
- 2859 (a) clearly identified;
- 2860 (b) segregated; and
- 2861 (c) installed or converted to real property;
- 2862 (74) amounts paid or charged for:
- 2863 (a) a purchase or lease of machinery and equipment that:
- 2864 (i) are used in performing qualified research:
- 2865 (A) as defined in Section 41(d), Internal Revenue Code; and
- 2866 (B) in the state; and
- 2867 (ii) have an economic life of three or more years; and
- 2868 (b) normal operating repair or replacement parts:
- 2869 (i) for the machinery and equipment described in Subsection (74)(a); and
- 2870 (ii) that have an economic life of three or more years;
- 2871 (75) a sale or lease of tangible personal property used in the preparation of prepared
- 2872 food if:
- 2873 (a) for a sale:
- 2874 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 2875 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
- 2876 tangible personal property prior to making the sale; or
- 2877 (b) for a lease:
- 2878 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 2879 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible

2880 personal property prior to making the lease;

2881 (76) (a) purchases of machinery or equipment if:

2882 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,

2883 Gambling, and Recreation Industries, of the 2012 North American Industry Classification

2884 System of the federal Executive Office of the President, Office of Management and Budget;

2885 (ii) the machinery or equipment:

2886 (A) has an economic life of three or more years; and

2887 (B) is used by one or more persons who pay admission or user fees described in

2888 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

2889 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

2890 (A) amounts paid or charged as admission or user fees described in Subsection

2891 59-12-103(1)(f); and

2892 (B) subject to taxation under this chapter; and

2893 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2894 commission may make rules for verifying that 51% of a purchaser's sales revenue for the

2895 previous calendar quarter is:

2896 (i) amounts paid or charged as admission or user fees described in Subsection

2897 59-12-103(1)(f); and

2898 (ii) subject to taxation under this chapter;

2899 (77) purchases of a short-term lodging consumable by a business that provides

2900 accommodations and services described in Subsection 59-12-103(1)(i);

2901 (78) amounts paid or charged to access a database:

2902 (a) if the primary purpose for accessing the database is to view or retrieve information

2903 from the database; and

2904 (b) not including amounts paid or charged for a:

2905 (i) digital audio work;

2906 (ii) digital audio-visual work; or

2907 (iii) digital book;

2908 (79) amounts paid or charged for a purchase or lease made by an electronic financial

2909 payment service, of:

2910 (a) machinery and equipment that:

- 2911 (i) are used in the operation of the electronic financial payment service; and
2912 (ii) have an economic life of three or more years; and
2913 (b) normal operating repair or replacement parts that:
2914 (i) are used in the operation of the electronic financial payment service; and
2915 (ii) have an economic life of three or more years;
2916 (80) sales of a fuel cell as defined in Section 54-15-102;
2917 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
2918 product transferred electronically if the tangible personal property or product transferred
2919 electronically:
2920 (a) is stored, used, or consumed in the state; and
2921 (b) is temporarily brought into the state from another state:
2922 (i) during a disaster period as defined in Section 53-2a-1202;
2923 (ii) by an out-of-state business as defined in Section 53-2a-1202;
2924 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
2925 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
2926 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
2927 in Section 39A-7-102, made pursuant to Title 39A, Chapter 7, Morale, Welfare, and Recreation
2928 Program;
2929 (83) amounts paid or charged for a purchase or lease of molten magnesium;
2930 (84) amounts paid or charged for a purchase or lease made by a qualifying data center
2931 or an occupant of a qualifying data center of machinery, equipment, or normal operating repair
2932 or replacement parts, if the machinery, equipment, or normal operating repair or replacement
2933 parts:
2934 (a) are used in:
2935 (i) the operation of the qualifying data center; or
2936 (ii) the occupant's operations in the qualifying data center; and
2937 (b) have an economic life of one or more years;
2938 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
2939 vehicle that includes cleaning or washing of the interior of the vehicle;
2940 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
2941 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used

2942 or consumed:

2943 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
2944 in Section 79-6-701 located in the state;

2945 (b) if the machinery, equipment, normal operating repair or replacement parts,
2946 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

2947 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
2948 added to gasoline or diesel fuel;

2949 (ii) research and development;

2950 (iii) transporting, storing, or managing raw materials, work in process, finished
2951 products, and waste materials produced from refining gasoline or diesel fuel, or adding
2952 blendstock to gasoline or diesel fuel;

2953 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
2954 refining; or

2955 (v) preventing, controlling, or reducing pollutants from refining; and

2956 (c) if the person holds a valid refiner tax exemption certification as defined in Section
2957 79-6-701;

2958 (87) amounts paid to or charged by a proprietor for accommodations and services, as
2959 defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax
2960 imposed under Section 63H-1-205;

2961 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
2962 operating repair or replacement parts, or materials, except for office equipment or office
2963 supplies, by an establishment, as the commission defines that term in accordance with Title
2964 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

2965 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
2966 American Industry Classification System of the federal Executive Office of the President,
2967 Office of Management and Budget;

2968 (b) is located in this state; and

2969 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
2970 materials in the operation of the establishment;

2971 (89) amounts paid or charged for an item exempt under Section 59-12-104.10;

2972 (90) sales of a note, leaf, foil, or film, if the item:

- 2973 (a) is used as currency;
- 2974 (b) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 2975 (c) has a gold, silver, or platinum metallic content of 50% or more, exclusive of any
- 2976 transparent polymer holder, coating, or encasement;
- 2977 (91) amounts paid or charged for admission to an indoor skydiving, rock climbing, or
- 2978 surfing facility, if a trained instructor:
- 2979 (a) is present with the participant, in person or by video, for the duration of the activity;
- 2980 and
- 2981 (b) actively instructs the participant, including providing observation or feedback;
- 2982 (92) amounts paid or charged in connection with the construction, operation,
- 2983 maintenance, repair, or replacement of facilities owned by or constructed for:
- 2984 (a) a distribution electrical cooperative, as defined in Section 54-2-1; or
- 2985 (b) a wholesale electrical cooperative, as defined in Section 54-2-1; and
- 2986 (93) amounts paid by the service provider for tangible personal property, other than
- 2987 machinery, equipment, parts, office supplies, electricity, gas, heat, steam, or other fuels, that:
- 2988 (a) is consumed in the performance of a service that is subject to tax under Subsection
- 2989 59-12-103(1)(b), (f), (g), (h), (i), or (j);
- 2990 (b) has to be consumed for the service provider to provide the service described in
- 2991 Subsection (93)(a); and
- 2992 (c) will be consumed in the performance of the service described in Subsection (93)(a),
- 2993 to one or more customers, to the point that the tangible personal property disappears or cannot
- 2994 be used for any other purpose.
- 2995 Section 4. Section 59-12-107.1 is amended to read:
- 2996 **59-12-107.1. Direct payment permit.**
- 2997 (1) The commission may issue a direct payment permit to a seller that:
- 2998 (a) obtains a license under Section 59-12-106;
- 2999 (b) makes aggregate purchases of at least \$1,500,000 for each of the three years prior to
- 3000 the year in which the commission issues the direct payment permit to the seller;
- 3001 (c) has a record of timely payment of taxes under this chapter as determined by the
- 3002 commission; and
- 3003 (d) demonstrates to the commission that the seller has the ability to determine the

3004 appropriate location of a transaction:

3005 (i) under:

3006 (A) Section 59-12-211;

3007 (B) Section 59-12-212; or

3008 (C) Section 59-12-213; and

3009 (ii) for each transaction for which the seller makes a purchase using the direct payment
3010 permit.

3011 (2) The commission shall within 120 days after the date a seller applies for a direct
3012 payment permit notify the seller of the commission's decision to issue or deny the issuance of
3013 the direct payment permit.

3014 (3) A direct payment permit may not be used in connection with the following
3015 transactions:

3016 (a) a purchase of the following purchased in the same transaction:

3017 (i) (A) prepared food; and

3018 [~~(ii)~~] (B) food and food ingredients; or

3019 (ii) (A) candy; and

3020 (B) food and food ingredients;

3021 (b) amounts paid or charged for accommodations and services described in Subsection
3022 59-12-103(1)(i);

3023 (c) amounts paid or charged for admission or user fees under Subsection
3024 59-12-103(1)(f);

3025 (d) a purchase of:

3026 (i) a motor vehicle;

3027 (ii) an aircraft;

3028 (iii) a watercraft;

3029 (iv) a modular home;

3030 (v) a manufactured home; or

3031 (vi) a mobile home;

3032 (e) amounts paid under Subsection 59-12-103(1)(b); or

3033 (f) sales under Subsection 59-12-103(1)(c).

3034 (4) The holder of a direct payment permit shall:

- 3035 (a) present evidence of the direct payment permit to a seller at the time the holder of
3036 the direct payment permit makes a purchase using the direct payment permit;
- 3037 (b) determine the appropriate location of a transaction under:
- 3038 (i) (A) Section 59-12-211;
- 3039 (B) Section 59-12-212; or
- 3040 (C) Section 59-12-213; and
- 3041 (ii) for each transaction for which the holder of the direct payment permit makes a
3042 purchase using the direct payment permit;
- 3043 (c) notwithstanding Section 59-12-107, determine the amount of any sales and use tax
3044 due on each transaction for which the holder of the direct payment permit uses the direct
3045 payment permit;
- 3046 (d) report and remit to the commission the sales and use tax described in Subsection
3047 (4)(c) at the same time and in the same manner as the holder of the direct payment permit
3048 reports and remits a tax under this chapter; and
- 3049 (e) maintain records:
- 3050 (i) that indicate the appropriate location of a transaction under:
- 3051 (A) (I) Section 59-12-211;
- 3052 (II) Section 59-12-212; or
- 3053 (III) Section 59-12-213; and
- 3054 (B) for each transaction for which a purchase is made using the direct payment permit;
3055 and
- 3056 (ii) necessary to determine the amount described in Subsection (4)(c) for each
3057 transaction for which the holder of the direct payment permit uses the direct payment permit.
- 3058 (5) A seller that is presented evidence of a direct payment permit at the time of a
3059 transaction:
- 3060 (a) notwithstanding Section 59-12-107, may not collect sales and use tax on the
3061 transaction;
- 3062 (b) shall, for a period of three years from the date the seller files a return with the
3063 commission reporting the transaction, retain records to verify that the transaction was made
3064 using a direct payment permit; and
- 3065 (c) notwithstanding Section 59-12-107, is not liable for sales and use tax on the

3066 transaction.

3067 (6) The holder of a direct payment permit may calculate the amount the holder of the
3068 direct payment permit may retain under Section 59-12-108 on the amount described in
3069 Subsection (4)(c):

3070 (a) for each transaction for which the holder of the direct payment permit uses the
3071 direct payment permit; and

3072 (b) that the holder of the direct payment permit remits to the commission under this
3073 section.

3074 (7) The commission may revoke a direct payment permit issued under this section at
3075 any time if the holder of the direct payment permit fails to comply with any provision of this
3076 chapter.

3077 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3078 commission may make rules to administer this section.

3079 Section 5. Section 59-12-108 is amended to read:

3080 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**
3081 **Certain amounts allocated to local taxing jurisdictions.**

3082 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this
3083 chapter of \$50,000 or more for the previous calendar year shall:

3084 (i) file a return with the commission:

3085 (A) monthly on or before the last day of the month immediately following the month
3086 for which the seller collects a tax under this chapter; and

3087 (B) for the month for which the seller collects a tax under this chapter; and

3088 (ii) except as provided in Subsection (1)(b), remit with the return required by
3089 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,
3090 fee, or charge described in Subsection (1)(c):

3091 (A) if that seller's tax liability under this chapter for the previous calendar year is less
3092 than \$96,000, by any method permitted by the commission; or

3093 (B) if that seller's tax liability under this chapter for the previous calendar year is
3094 \$96,000 or more, by electronic funds transfer.

3095 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)
3096 the amount the seller is required to remit to the commission for each tax, fee, or charge

3097 described in Subsection (1)(c) if that seller:

3098 (i) is required by Section 59-12-107 to file the return electronically; or

3099 (ii) (A) is required to collect and remit a tax under Section 59-12-107; and

3100 (B) files a simplified electronic return.

3101 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

3102 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

3103 (ii) a fee under Section 19-6-714;

3104 (iii) a fee under Section 19-6-805;

3105 (iv) a charge under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications
3106 Service Charges; or

3107 (v) a tax under this chapter.

3108 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,
3109 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method
3110 for making same-day payments other than by electronic funds transfer if making payments by
3111 electronic funds transfer fails.

3112 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3113 commission shall establish by rule procedures and requirements for determining the amount a
3114 seller is required to remit to the commission under this Subsection (1).

3115 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a
3116 seller described in Subsection (4) may retain each month the amount allowed by this
3117 Subsection (2).

3118 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
3119 each month 1.31% of any amounts the seller is required to remit to the commission:

3120 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax
3121 and a local tax imposed in accordance with the following, for the month for which the seller is
3122 filing a return in accordance with Subsection (1):

3123 (A) Subsection 59-12-103(2)(a);

3124 (B) Subsection 59-12-103(2)(b); and

3125 (C) Subsection 59-12-103(2)(d); and

3126 (ii) for an agreement sales and use tax.

3127 (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may

3128 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described
3129 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in
3130 accordance with Subsection 59-12-103(2)(c).

3131 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount
3132 equal to the sum of:

3133 (A) 1.31% of any amounts the seller is required to remit to the commission for:

3134 (I) the ~~[state tax and the local]~~ tax imposed in accordance with Subsection
3135 59-12-103(2)(c);

3136 (II) the month for which the seller is filing a return in accordance with Subsection (1);
3137 and

3138 (III) an agreement sales and use tax; and

3139 (B) 1.31% of the difference between:

3140 (I) the amounts the seller would have been required to remit to the commission:

3141 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject
3142 to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);

3143 (Bb) for the month for which the seller is filing a return in accordance with Subsection
3144 (1); and

3145 (Cc) for an agreement sales and use tax; and

3146 (II) the amounts the seller is required to remit to the commission for:

3147 (Aa) the ~~[state tax and the local]~~ tax imposed in accordance with Subsection
3148 59-12-103(2)(c);

3149 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);
3150 and

3151 (Cc) an agreement sales and use tax.

3152 (d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
3153 each month 1% of any amounts the seller is required to remit to the commission:

3154 (i) for the month for which the seller is filing a return in accordance with Subsection
3155 (1); and

3156 (ii) under:

3157 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

3158 (B) Subsection 59-12-603(1)(a)(i)(A);

3159 (C) Subsection 59-12-603(1)(a)(i)(B); or

3160 (D) Subsection 59-12-603(1)(a)(ii).

3161 (3) A state government entity that is required to remit taxes monthly in accordance
3162 with Subsection (1) may not retain any amount under Subsection (2).

3163 (4) A seller that has a tax liability under this chapter for the previous calendar year of
3164 less than \$50,000 may:

3165 (a) voluntarily meet the requirements of Subsection (1); and

3166 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
3167 amounts allowed by Subsection (2).

3168 (5) Penalties for late payment shall be as provided in Section 59-1-401.

3169 (6) (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted
3170 to the commission under this part, the commission shall each month calculate an amount equal
3171 to the difference between:

3172 (i) the total amount retained for that month by all sellers had the percentages listed
3173 under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and

3174 (ii) the total amount retained for that month by all sellers at the percentages listed
3175 under Subsections (2)(b) and (2)(c)(ii).

3176 (b) The commission shall each month allocate the amount calculated under Subsection
3177 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use
3178 tax that the commission distributes to each county, city, and town for that month compared to
3179 the total agreement sales and use tax that the commission distributes for that month to all
3180 counties, cities, and towns.

3181 (c) The amount the commission calculates under Subsection (6)(a) may not include an
3182 amount collected from a tax that:

3183 (i) the state imposes within a county, city, or town, including the unincorporated area
3184 of a county; and

3185 (ii) is not imposed within the entire state.

3186 Section 6. Section 59-12-603 is amended to read:

3187 **59-12-603. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance**
3188 **required -- Advisory board -- Administration -- Collection -- Administrative charge --**
3189 **Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice**

3190 **requirements.**

3191 (1) (a) In addition to any other taxes, a county legislative body may, as provided in this
3192 part, impose a tax as follows:

3193 (i) (A) a county legislative body of any county may impose a tax of not to exceed 3%
3194 on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles
3195 made for the purpose of temporarily replacing a person's motor vehicle that is being repaired
3196 pursuant to a repair or an insurance agreement; and

3197 (B) a county legislative body of any county imposing a tax under Subsection
3198 (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of
3199 not to exceed 4% on all short-term rentals of motor vehicles, except for short-term rentals of
3200 motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is
3201 being repaired pursuant to a repair or an insurance agreement;

3202 (ii) beginning on January 1, 2021, a county legislative body of any county may impose
3203 a tax of not to exceed 7% on all short-term rentals of off-highway vehicles and recreational
3204 vehicles;

3205 (iii) a county legislative body of any county may impose a tax of not to exceed 1% of
3206 all sales of the following that are sold by a restaurant:

3207 (A) alcoholic beverages;

3208 (B) food and food ingredients; [~~or~~]

3209 (C) prepared food; [~~and~~] or

3210 (D) candy; and

3211 (iv) a county legislative body of a county of the first class may impose a tax of not to
3212 exceed .5% on charges for the accommodations and services described in Subsection
3213 [59-12-103\(1\)\(i\)](#).

3214 (b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section
3215 [17-31-5.5](#).

3216 (2) (a) Subject to Subsection (2)(b), a county may use revenue from the imposition of a
3217 tax under Subsection (1) for:

3218 (i) financing tourism promotion; and

3219 (ii) the development, operation, and maintenance of:

3220 (A) an airport facility;

3221 (B) a convention facility;

3222 (C) a cultural facility;

3223 (D) a recreation facility; or

3224 (E) a tourist facility.

3225 (b) A county of the first class shall expend at least \$450,000 each year of the revenue
3226 from the imposition of a tax authorized by Subsection (1)(a)(iv) within the county to fund a
3227 marketing and ticketing system designed to:

3228 (i) promote tourism in ski areas within the county by persons that do not reside within
3229 the state; and

3230 (ii) combine the sale of:

3231 (A) ski lift tickets; and

3232 (B) accommodations and services described in Subsection 59-12-103(1)(i).

3233 (3) A tax imposed under this part may be pledged as security for bonds, notes, or other
3234 evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local
3235 Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1,
3236 Part 5, Agency Bonds, to finance:

3237 (a) an airport facility;

3238 (b) a convention facility;

3239 (c) a cultural facility;

3240 (d) a recreation facility; or

3241 (e) a tourist facility.

3242 (4) (a) To impose a tax under Subsection (1), the county legislative body shall adopt an
3243 ordinance imposing the tax.

3244 (b) The ordinance under Subsection (4)(a) shall include provisions substantially the
3245 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on
3246 those items and sales described in Subsection (1).

3247 (c) The name of the county as the taxing agency shall be substituted for that of the state
3248 where necessary, and an additional license is not required if one has been or is issued under
3249 Section 59-12-106.

3250 (5) To maintain in effect a tax ordinance adopted under this part, each county
3251 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,

3252 Tax Collection, adopt amendments to the county's tax ordinance to conform with the applicable
3253 amendments to Part 1, Tax Collection.

3254 (6) (a) Regardless of whether a county of the first class creates a tourism tax advisory
3255 board in accordance with Section 17-31-8, the county legislative body of the county of the first
3256 class shall create a tax advisory board in accordance with this Subsection (6).

3257 (b) The tax advisory board shall be composed of nine members appointed as follows:

3258 (i) four members shall be residents of a county of the first class appointed by the
3259 county legislative body of the county of the first class; and

3260 (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or
3261 towns within the county of the first class appointed by an organization representing all mayors
3262 of cities and towns within the county of the first class.

3263 (c) Five members of the tax advisory board constitute a quorum.

3264 (d) The county legislative body of the county of the first class shall determine:

3265 (i) terms of the members of the tax advisory board;

3266 (ii) procedures and requirements for removing a member of the tax advisory board;

3267 (iii) voting requirements, except that action of the tax advisory board shall be by at
3268 least a majority vote of a quorum of the tax advisory board;

3269 (iv) chairs or other officers of the tax advisory board;

3270 (v) how meetings are to be called and the frequency of meetings; and

3271 (vi) the compensation, if any, of members of the tax advisory board.

3272 (e) The tax advisory board under this Subsection (6) shall advise the county legislative
3273 body of the county of the first class on the expenditure of revenue collected within the county
3274 of the first class from the taxes described in Subsection (1)(a).

3275 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part
3276 shall be administered, collected, and enforced in accordance with:

3277 (A) the same procedures used to administer, collect, and enforce the tax under:

3278 (I) Part 1, Tax Collection; or

3279 (II) Part 2, Local Sales and Use Tax Act; and

3280 (B) Chapter 1, General Taxation Policies.

3281 (ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or
3282 Subsections 59-12-205(2) through (6).

- 3283 (b) Except as provided in Subsection (7)(c):
- 3284 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the
- 3285 commission shall distribute the revenue to the county imposing the tax; and
- 3286 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue
- 3287 according to the distribution formula provided in Subsection (8).
- 3288 (c) The commission shall retain and deposit an administrative charge in accordance
- 3289 with Section 59-1-306 from the revenue the commission collects from a tax under this part.
- 3290 (8) The commission shall distribute the revenue generated by the tax under Subsection
- 3291 (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the
- 3292 following formula:
- 3293 (a) the commission shall distribute 70% of the revenue based on the percentages
- 3294 generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by
- 3295 the total revenue collected by all counties under Subsection (1)(a)(i)(B); and
- 3296 (b) the commission shall distribute 30% of the revenue based on the percentages
- 3297 generated by dividing the population of each county collecting a tax under Subsection
- 3298 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).
- 3299 (9) (a) For purposes of this Subsection (9):
- 3300 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2,
- 3301 County Annexation.
- 3302 (ii) "Annexing area" means an area that is annexed into a county.
- 3303 (b) (i) Except as provided in Subsection (9)(c), if a county enacts or repeals a tax or
- 3304 changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:
- 3305 (A) on the first day of a calendar quarter; and
- 3306 (B) after a 90-day period beginning on the day on which the commission receives
- 3307 notice meeting the requirements of Subsection (9)(b)(ii) from the county.
- 3308 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:
- 3309 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;
- 3310 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);
- 3311 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and
- 3312 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
- 3313 (9)(b)(ii)(A), the rate of the tax.

3314 (c) (i) If the billing period for a transaction begins before the effective date of the
3315 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of
3316 the tax or the tax rate increase shall take effect on the first day of the first billing period that
3317 begins after the effective date of the enactment of the tax or the tax rate increase.

3318 (ii) If the billing period for a transaction begins before the effective date of the repeal
3319 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax
3320 rate decrease shall take effect on the first day of the last billing period that began before the
3321 effective date of the repeal of the tax or the tax rate decrease.

3322 (d) (i) Except as provided in Subsection (9)(e), if the annexation will result in the
3323 enactment, repeal, or change in the rate of a tax under this part for an annexing area, the
3324 enactment, repeal, or change shall take effect:

3325 (A) on the first day of a calendar quarter; and

3326 (B) after a 90-day period beginning on the day on which the commission receives
3327 notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the
3328 annexing area.

3329 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

3330 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,
3331 repeal, or change in the rate of a tax under this part for the annexing area;

3332 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

3333 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

3334 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
3335 (9)(d)(ii)(A), the rate of the tax.

3336 (e) (i) If the billing period for a transaction begins before the effective date of the
3337 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of
3338 the tax or the tax rate increase shall take effect on the first day of the first billing period that
3339 begins after the effective date of the enactment of the tax or the tax rate increase.

3340 (ii) If the billing period for a transaction begins before the effective date of the repeal
3341 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax
3342 rate decrease shall take effect on the first day of the last billing period that began before the
3343 effective date of the repeal of the tax or the tax rate decrease.

3344 Section 7. Section **63N-7-301** is amended to read:

3345 **63N-7-301. Tourism Marketing Performance Account.**

3346 (1) There is created within the General Fund a restricted account known as the Tourism
3347 Marketing Performance Account.

3348 (2) The account shall be administered by the tourism office for the purposes listed in
3349 Subsections (6) ~~[through]~~ and ~~[(8)-]~~ (7).

3350 (3) (a) The account shall earn interest.

3351 (b) All interest earned on account money shall be deposited into the account.

3352 (4) The account shall be funded by appropriations made to the account by the
3353 Legislature in accordance with this section.

3354 (5) The managing director shall use account money appropriated to the tourism office
3355 to pay for the statewide advertising, marketing, and branding campaign for promotion of the
3356 state as conducted by the tourism office.

3357 (6) (a) For each fiscal year, the tourism office shall annually allocate 10% of the
3358 account money appropriated to the tourism office to a sports organization for advertising,
3359 marketing, branding, and promoting Utah in attracting sporting events into the state.

3360 (b) The sports organization shall:

3361 (i) provide an annual written report to the tourism office that gives an accounting of the
3362 use of funds the sports organization receives under this Subsection (6); and

3363 (ii) promote the state and encourage economic growth in the state.

3364 ~~[(7) Money deposited into the account shall include a legislative appropriation from the
3365 cumulative sales and use tax revenue increases described in Subsection (8), plus any additional
3366 appropriation made by the Legislature.]~~

3367 ~~[(8) (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax
3368 revenues determined under this Subsection (8) shall be certified by the State Tax Commission
3369 as a set-aside for the account, and the State Tax Commission shall report the amount of the
3370 set-aside to the office, the Office of Legislative Fiscal Analyst, and the Division of Finance,
3371 which shall set aside the certified amount for appropriation to the account.]~~

3372 ~~[(b) For fiscal years 2016 through 2019, the State Tax Commission shall calculate the
3373 set-aside under this Subsection (8) in each fiscal year by applying one of the following
3374 formulas: if the annual percentage change in the Consumer Price Index for All Urban
3375 Consumers, as published by the Bureau of Labor Statistics of the United States Department of~~

3376 Labor, for the fiscal year two years before the fiscal year in which the set-aside is to be made
3377 is:]

3378 ~~[(i) greater than 3%, and if the annual percentage change in the state sales and use tax~~
3379 ~~revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal~~
3380 ~~year three years before the fiscal year in which the set-aside is to be made to the fiscal year two~~
3381 ~~years before the fiscal year in which the set-aside is to be made is greater than the annual~~
3382 ~~percentage change in the Consumer Price Index for the fiscal year two years before the fiscal~~
3383 ~~year in which the set-aside is to be made, then the difference between the annual percentage~~
3384 ~~change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented~~
3385 ~~goods and services and the annual percentage change in the Consumer Price Index shall be~~
3386 ~~multiplied by an amount equal to the state sales and use tax revenues attributable to the retail~~
3387 ~~sales of tourist-oriented goods and services from the fiscal year three years before the fiscal~~
3388 ~~year in which the set-aside is to be made; or]~~

3389 ~~[(ii) 3% or less, and if the annual percentage change in the state sales and use tax~~
3390 ~~revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal~~
3391 ~~year three years before the fiscal year in which the set-aside is to be made to the fiscal year two~~
3392 ~~years before the fiscal year in which the set-aside is to be made is greater than 3%, then the~~
3393 ~~difference between the annual percentage change in the state sales and use tax revenues~~
3394 ~~attributable to the retail sales of tourist-oriented goods and services and 3% shall be multiplied~~
3395 ~~by an amount equal to the state sales and use tax revenues attributable to the retail sales of~~
3396 ~~tourist-oriented goods and services from the fiscal year three years before the fiscal year in~~
3397 ~~which the set-aside is to be made.]~~

3398 ~~[(c) The total money appropriated to the account in a fiscal year under Subsections~~
3399 ~~(8)(a) and (b) may not exceed the amount appropriated to the account in the preceding fiscal~~
3400 ~~year by more than \$3,000,000.]~~

3401 ~~[(d) As used in this Subsection (8), "state sales and use tax revenues" are revenues~~
3402 ~~collected under Subsections 59-12-103(2)(a)(i)(A) and 59-12-103(2)(c)(i).]~~

3403 ~~[(e) As used in this Subsection (8), "retail sales of tourist-oriented goods and services"~~
3404 ~~are calculated by adding the following percentages of sales from each business registered with~~
3405 ~~the State Tax Commission under one of the following codes of the 2012 North American~~
3406 ~~Industry Classification System of the federal Executive Office of the President, Office of~~

- 3407 Management and Budget:]
- 3408 [~~(i) 80% of the sales from each business under NAICS Codes:]~~
- 3409 [~~(A) 532111 Passenger Car Rental;~~]
- 3410 [~~(B) 53212 Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing;~~]
- 3411 [~~(C) 5615 Travel Arrangement and Reservation Services;~~]
- 3412 [~~(D) 7211 Traveler Accommodation; and]~~
- 3413 [~~(E) 7212 RV (Recreational Vehicle) Parks and Recreational Camps;~~]
- 3414 [~~(ii) 25% of the sales from each business under NAICS Codes:]~~
- 3415 [~~(A) 51213 Motion Picture and Video Exhibition;~~]
- 3416 [~~(B) 532292 Recreational Goods Rental;~~]
- 3417 [~~(C) 711 Performing Arts, Spectator Sports, and Related Industries;~~]
- 3418 [~~(D) 712 Museums, Historical Sites, and Similar Institutions; and]~~
- 3419 [~~(E) 713 Amusement, Gambling, and Recreation Industries;~~]
- 3420 [~~(iii) 20% of the sales from each business under NAICS Code 722 Food Services and~~
- 3421 ~~Drinking Places;]~~
- 3422 [~~(iv) 18% of the sales from each business under NAICS Codes:]~~
- 3423 [~~(A) 447 Gasoline Stations; and]~~
- 3424 [~~(B) 81293 Parking Lots and Garages;~~]
- 3425 [~~(v) 14% of the sales from each business under NAICS Code 8111 Automotive Repair~~
- 3426 ~~and Maintenance; and]~~
- 3427 [~~(vi) 5% of the sales from each business under NAICS Codes:]~~
- 3428 [~~(A) 445 Food and Beverage Stores;~~]
- 3429 [~~(B) 446 Health and Personal Care Stores;~~]
- 3430 [~~(C) 448 Clothing and Clothing Accessories Stores;~~]
- 3431 [~~(D) 451 Sporting Goods, Hobby, Musical Instrument, and Book Stores;~~]
- 3432 [~~(E) 452 General Merchandise Stores; and]~~
- 3433 [~~(F) 453 Miscellaneous Store Retailers.]~~
- 3434 [~~(9)~~] (7) (a) For each fiscal year, the tourism office shall allocate 20% of the funds
- 3435 appropriated to the Tourism Marketing [~~and~~] Performance Account to the cooperative program
- 3436 described in this Subsection [~~(9)~~] (7).
- 3437 (b) Money allocated to the cooperative program may be awarded to cities, counties,

3438 nonprofit destination marketing organizations, and similar public entities for the purpose of
3439 supplementing money committed by these entities for advertising and promoting sites and
3440 events in the state.

3441 (c) The tourism office shall establish:

3442 (i) an application and approval process for an entity to receive a cooperative program
3443 award, including an application deadline;

3444 (ii) the criteria for awarding a cooperative program award, which shall emphasize
3445 attracting out-of-state visitors, and may include attracting in-state visitors, to sites and events in
3446 the state; and

3447 (iii) eligibility, advertising, timing, and reporting requirements of an entity that
3448 receives a cooperative program award.

3449 (d) Money allocated to the cooperative program that is not used in each fiscal year shall
3450 be returned to the Tourism Marketing Performance Account.

3451 **Section 8. Effective date.**

3452 This bill takes effect on July 1, 2023.