

Senator Michael K. McKell proposes the following substitute bill:

CAR-SHARING AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

House Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 This bill provides a special effective date.

28 This bill provides retrospective operation.

29 **Utah Code Sections Affected:**

30 AMENDS:

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

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

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

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

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

37 ENACTS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

56 **Part 1. General Provisions**

57 13-48a-101. Definitions.

58 As used in this chapter:

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

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

61 (ii) through a car-sharing program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

116 **13-48a-102. Limits on reach of chapter.**

117 Nothing in this chapter:

118 (1) limits the liability of a car-sharing program for an act or omission of the car-sharing

119 program that results in injury to a person as a result of the use of a shared vehicle through a
120 car-sharing program; or

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

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

126 **Part 2. Consumer Protection Provisions**

127 **13-48a-201. Notification about possible violation of lienholder agreement.**

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

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

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

137 **13-48a-202. Safety recalls.**

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

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

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

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

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

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

149 (3) A shared vehicle owner who receives an actual notice of a safety recall applicable

150 to the shared vehicle during the time that the shared vehicle is made available for sharing
151 through a car-sharing program shall, as soon as practicably possible after receiving the notice,
152 remove the shared vehicle from availability for sharing through the car-sharing program until
153 the safety recall repair is made.

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

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

160 **13-48a-203. Required disclosures for a car-sharing agreement.**

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

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

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

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

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

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

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

179 (7) whether there are conditions under which a shared vehicle driver must maintain a
180 personal automobile insurance policy with certain applicable coverage limits on a primary basis

181 in order to book a shared vehicle.

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

183 **13-48a-204. Records relating to the use of shared vehicles.**

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

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

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

193 **13-48a-205. GPS or other special equipment.**

194 (1) A car-sharing program:

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

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

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

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

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

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

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

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

208 **13-48a-301. Car-sharing company assumption of liability for a covered loss --**

209 **Exception.**

210 (1) Except as provided in Subsection (2), a car-sharing program shall assume liability
211 of a shared vehicle owner for bodily injury or property damage to third parties or personal

212 injury protection losses during the car-sharing period in an amount stated in the car-sharing
213 agreement, which amount may not be less than those set forth in Section [31A-22-304](#).

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

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

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

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

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

225 **13-48a-302. Motor vehicle liability insurance.**

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

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

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

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

235 (a) a shared vehicle owner;

236 (b) a shared vehicle driver;

237 (c) a car-sharing program; or

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

239 (3) The insurance described in Subsection (1) that is satisfying the insurance
240 requirement of Subsection (1) shall be primary during each car-sharing period and in the event
241 that a claim occurs in another state with minimum financial responsibility limits higher than
242 those in Section [31A-22-304](#), during the car-sharing period, the coverage maintained under

243 Subsection (2) shall satisfy the difference in minimum coverage amounts, up to the applicable
244 policy limits.

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

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

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

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

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

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

261 **13-48a-303. Certain abilities of insurance companies preserved.**

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

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

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

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

269 (iii) a claim covered by underinsured motorist coverage described in Section
270 [31A-22-305.5](#);

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

273 (v) a claim for medical payments;

274 (vi) a claim for comprehensive physical damage; and
275 (vii) a claim for collision physical damage.
276 (2) Nothing in this chapter invalidates, limits, or restricts the ability of an insurance
277 company under other applicable law to:

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

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

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

284 **13-48a-304. Insurable interest -- Insurance to cover various liabilities -- No**
285 **liability to maintain certain insurance.**

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

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

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

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

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

297 **13-48a-305. Recovery for claim excluded from insurance policy.**

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

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

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

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

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

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

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

312 **13-48a-307. Driver license requirement and records.**

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

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

317 (b) is a nonresident who:

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

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

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

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

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

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

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

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

330 **59-12-102. Definitions.**

331 As used in this chapter:

332 (1) "800 service" means a telecommunications service that:

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

334 (b) is typically marketed:

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

336 (ii) under the name 855 toll-free calling;
337 (iii) under the name 866 toll-free calling;
338 (iv) under the name 877 toll-free calling;
339 (v) under the name 888 toll-free calling; or
340 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
341 Federal Communications Commission.

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

343 (i) a subscriber purchases;
344 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
345 the subscriber's:

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

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

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

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

356 (A) a product; or
357 (B) a service.

358 (3) (a) "Admission or user fees" includes season passes.

359 (b) "Admission or user fees" does not include:

360 (i) annual membership dues to private organizations; or
361 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
362 facility listed in Subsection [59-12-103\(1\)\(f\)](#).

363 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
364 person:

365 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
366 person; or

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

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

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

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

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

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

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

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

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

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

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

382 (f) Section 59-12-204;

383 (g) Section 59-12-401;

384 (h) Section 59-12-402;

385 (i) Section 59-12-402.1;

386 (j) Section 59-12-703;

387 (k) Section 59-12-802;

388 (l) Section 59-12-804;

389 (m) Section 59-12-1102;

390 (n) Section 59-12-1302;

391 (o) Section 59-12-1402;

392 (p) Section 59-12-1802;

393 (q) Section 59-12-2003;

394 (r) Section 59-12-2103;

395 (s) Section 59-12-2213;

396 (t) Section 59-12-2214;

397 (u) Section 59-12-2215;

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

- 429 (a) is suitable for human consumption; and
430 (b) contains .5% or more alcohol by volume.
- 431 (11) "Alternative energy" means:
432 (a) biomass energy;
433 (b) geothermal energy;
434 (c) hydroelectric energy;
435 (d) solar energy;
436 (e) wind energy; or
437 (f) energy that is derived from:
438 (i) coal-to-liquids;
439 (ii) nuclear fuel;
440 (iii) oil-impregnated diatomaceous earth;
441 (iv) oil sands;
442 (v) oil shale;
443 (vi) petroleum coke; or
444 (vii) waste heat from:
445 (A) an industrial facility; or
446 (B) a power station in which an electric generator is driven through a process in which
447 water is heated, turns into steam, and spins a steam turbine.
- 448 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
449 facility" means a facility that:
450 (i) uses alternative energy to produce electricity; and
451 (ii) has a production capacity of two megawatts or greater.
- 452 (b) A facility is an alternative energy electricity production facility regardless of
453 whether the facility is:
454 (i) connected to an electric grid; or
455 (ii) located on the premises of an electricity consumer.
- 456 (13) (a) "Ancillary service" means a service associated with, or incidental to, the
457 provision of telecommunications service.
458 (b) "Ancillary service" includes:
459 (i) a conference bridging service;

460 (ii) a detailed communications billing service;

461 (iii) directory assistance;

462 (iv) a vertical service; or

463 (v) a voice mail service.

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

465 [62A-3-101](#).

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

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

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

472 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or
473 washing of tangible personal property if the cleaning or washing labor is primarily performed
474 by an individual:

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

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

479 (17) "Authorized carrier" means:

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

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

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

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

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

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

522 (vi) a transaction that includes tangible personal property or a product subject to
523 taxation under this chapter and tangible personal property or a product that is not subject to
524 taxation under this chapter if the:

525 (A) seller's purchase price of the tangible personal property or product subject to
526 taxation under this chapter is de minimis; or

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

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

531 (A) that retail sale includes:

532 (I) food and food ingredients;

533 (II) a drug;

534 (III) durable medical equipment;

535 (IV) mobility enhancing equipment;

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

537 (VI) a prosthetic device; or

538 (VII) a medical supply; and

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

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

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

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

546 (A) packaging that:

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

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

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

552 (C) an item of tangible personal property, a product, or a service included in the

553 definition of "purchase price."

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

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

563 (A) a binding sales document; or

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

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

567 (A) a bill of sale;

568 (B) a contract;

569 (C) an invoice;

570 (D) a lease agreement;

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

572 (F) a price list;

573 (G) a rate card;

574 (H) a receipt; or

575 (I) a service agreement.

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

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

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

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

583 (A) shall use the seller's purchase price or the seller's sales price to determine if the

584 purchase price or sales price of the tangible personal property or product subject to taxation
585 under this chapter is de minimis; and

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

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

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

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

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

598 ~~(20)~~ (22) "Certified automated system" means software certified by the governing
599 board of the agreement that:

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

602 (i) on a transaction; and

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

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

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

607 ~~(21)~~ (23) "Certified service provider" means an agent certified:

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

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

613 ~~(22)~~ (24) (a) Subject to Subsection ~~[(22)(b)]~~ (24)(b), "clothing" means all human
614 wearing apparel suitable for general use.

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

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

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

620 [~~(23)~~] (25) "Coal-to-liquid" means the process of converting coal into a liquid synthetic
621 fuel.

622 [~~(24)~~] (26) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or
623 other fuels that does not constitute industrial use under Subsection [~~(57)~~] (60) or residential use
624 under Subsection [~~(112)~~] (115).

625 [~~(25)~~] (27) (a) "Common carrier" means a person engaged in or transacting the
626 business of transporting passengers, freight, merchandise, or other property for hire within this
627 state.

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

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

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

636 [~~(26)~~] (28) "Component part" includes:

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

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

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

642 (d) feed, seeds, and seedlings.

643 [~~(27)~~] (29) "Computer" means an electronic device that accepts information:

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

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

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

647 [~~(28)~~] (30) "Computer software" means a set of coded instructions designed to cause:

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

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

650 [~~(29)~~] (31) "Computer software maintenance contract" means a contract that obligates a
651 seller of computer software to provide a customer with:

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

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

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

655 [~~(30)~~] (32) (a) "Conference bridging service" means an ancillary service that links two
656 or more participants of an audio conference call or video conference call.

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

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

661 [~~(31)~~] (33) "Construction materials" means any tangible personal property that will be
662 converted into real property.

663 [~~(32)~~] (34) "Delivered electronically" means delivered to a purchaser by means other
664 than tangible storage media.

665 [~~(33)~~] (35) (a) "Delivery charge" means a charge:

666 (i) by a seller of:

667 (A) tangible personal property;

668 (B) a product transferred electronically; or

669 (C) a service; and

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

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

674 (i) transportation;

675 (ii) shipping;

676 (iii) postage;

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

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

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

710 [~~36~~] (38) (a) "Digital audio work" means a work that results from the fixation of a
711 series of musical, spoken, or other sounds.

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

713 [~~37~~] (39) "Digital audio-visual work" means a series of related images which, when
714 shown in succession, imparts an impression of motion, together with accompanying sounds, if
715 any.

716 [~~38~~] (40) "Digital book" means a work that is generally recognized in the ordinary
717 and usual sense as a book.

718 [~~39~~] (41) (a) "Direct mail" means printed material delivered or distributed by United
719 States mail or other delivery service:

720 (i) to:

721 (A) a mass audience; or

722 (B) addressees on a mailing list provided:

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

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

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

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

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

730 [~~40~~] (42) "Directory assistance" means an ancillary service of providing:

731 (a) address information; or

732 (b) telephone number information.

733 [~~41~~] (43) (a) "Disposable home medical equipment or supplies" means medical
734 equipment or supplies that:

735 (i) cannot withstand repeated use; and

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

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

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

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

- 770 (ii) intended for use in the:
- 771 (A) diagnosis of disease;
- 772 (B) cure of disease;
- 773 (C) mitigation of disease;
- 774 (D) treatment of disease; or
- 775 (E) prevention of disease; or
- 776 (iii) intended to affect:
- 777 (A) the structure of the body; or
- 778 (B) any function of the body.
- 779 (b) "Drug" does not include:
- 780 (i) food and food ingredients;
- 781 (ii) a dietary supplement;
- 782 (iii) an alcoholic beverage; or
- 783 (iv) a prosthetic device.
- 784 [~~(44)~~] (46) (a) Except as provided in Subsection [~~(44)(c)~~] (46)(c), "durable medical
- 785 equipment" means equipment that:
- 786 (i) can withstand repeated use;
- 787 (ii) is primarily and customarily used to serve a medical purpose;
- 788 (iii) generally is not useful to a person in the absence of illness or injury; and
- 789 (iv) is not worn in or on the body.
- 790 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 791 equipment described in Subsection [~~(44)(a)~~] (46)(a).
- 792 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 793 [~~(45)~~] (47) "Electronic" means:
- 794 (a) relating to technology; and
- 795 (b) having:
- 796 (i) electrical capabilities;
- 797 (ii) digital capabilities;
- 798 (iii) magnetic capabilities;
- 799 (iv) wireless capabilities;
- 800 (v) optical capabilities;

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

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

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

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

869 (iv) the National Guard;

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

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

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

874 (i) a school;

875 (ii) the State Board of Education;

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

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

878 [~~56~~] [\(58\)](#) "Hydroelectric energy" means water used as the sole source of energy to
879 produce electricity.

880 [\(59\)](#) "Individual-owned shared vehicle" means the same as that term is defined in
881 Section [13-48a-101](#).

882 [~~57~~] [\(60\)](#) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
883 or other fuels:

884 (a) in mining or extraction of minerals;

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

887 (i) commercial greenhouses;

888 (ii) irrigation pumps;

889 (iii) farm machinery;

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

892 (v) other farming activities;

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

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

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

899 (d) by a scrap recycler if:

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

903 (A) iron;

904 (B) steel;

905 (C) nonferrous metal;

906 (D) paper;

907 (E) glass;

908 (F) plastic;

909 (G) textile; or

910 (H) rubber; and

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

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

915 [~~(58)~~] (61) (a) Except as provided in Subsection [~~(58)(b)~~] (61)(b), "installation charge"
916 means a charge for installing:

917 (i) tangible personal property; or

918 (ii) a product transferred electronically.

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

920 (i) repairs or renovations of:

921 (A) tangible personal property; or

922 (B) a product transferred electronically; or

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

924 (A) to other tangible personal property; and

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

956 [~~(61)~~] (64) "Lesson" means a fixed period of time for the duration of which a trained
957 instructor:

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

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

960 [~~(62)~~] (65) "Life science establishment" means an establishment in this state that is
961 classified under the following NAICS codes of the 2007 North American Industry
962 Classification System of the federal Executive Office of the President, Office of Management
963 and Budget:

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

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

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

968 [~~(63)~~] (66) "Life science research and development facility" means a facility owned,
969 leased, or rented by a life science establishment if research and development is performed in
970 51% or more of the total area of the facility.

971 [~~(64)~~] (67) "Load and leave" means delivery to a purchaser by use of a tangible storage
972 media if the tangible storage media is not physically transferred to the purchaser.

973 [~~(65)~~] (68) "Local taxing jurisdiction" means a:

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

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

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

977 [~~(66)~~] (69) "Manufactured home" means the same as that term is defined in Section
978 [15A-1-302](#).

979 [~~(67)~~] (70) "Manufacturing facility" means:

980 (a) an establishment described in:

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

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

986 (b) a scrap recycler if:

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

- 990 (A) iron;
- 991 (B) steel;
- 992 (C) nonferrous metal;
- 993 (D) paper;
- 994 (E) glass;
- 995 (F) plastic;
- 996 (G) textile; or
- 997 (H) rubber; and

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

1000 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is
1001 placed in service on or after May 1, 2006.

1002 [~~(68)~~] (71) (a) "Marketplace" means a physical or electronic place, platform, or forum
1003 where tangible personal property, a product transferred electronically, or a service is offered for
1004 sale.

1005 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a
1006 dedicated sales software application.

1007 [~~(69)~~] (72) (a) "Marketplace facilitator" means a person, including an affiliate of the
1008 person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to
1009 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or
1010 controls and that directly or indirectly:

1011 (i) does any of the following:

1012 (A) lists, makes available, or advertises tangible personal property, a product
1013 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the
1014 person owns, operates, or controls;

1015 (B) facilitates the sale of a marketplace seller's tangible personal property, product
1016 transferred electronically, or service by transmitting or otherwise communicating an offer or
1017 acceptance of a retail sale between the marketplace seller and a purchaser using the

1018 marketplace;

1019 (C) owns, rents, licenses, makes available, or operates any electronic or physical
1020 infrastructure or any property, process, method, copyright, trademark, or patent that connects a
1021 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal
1022 property, a product transferred electronically, or a service;

1023 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible
1024 personal property, a product transferred electronically, or a service, regardless of ownership or
1025 control of the tangible personal property, the product transferred electronically, or the service
1026 that is the subject of the retail sale;

1027 (E) provides software development or research and development activities related to
1028 any activity described in this Subsection [~~(69)(a)(i)~~] (72)(a)(i), if the software development or
1029 research and development activity is directly related to the person's marketplace;

1030 (F) provides or offers fulfillment or storage services for a marketplace seller;

1031 (G) sets prices for the sale of tangible personal property, a product transferred
1032 electronically, or a service by a marketplace seller;

1033 (H) provides or offers customer service to a marketplace seller or a marketplace seller's
1034 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal
1035 property, a product transferred electronically, or a service sold by a marketplace seller on the
1036 person's marketplace; or

1037 (I) brands or otherwise identifies sales as those of the person; and

1038 (ii) does any of the following:

1039 (A) collects the sales price or purchase price of a retail sale of tangible personal
1040 property, a product transferred electronically, or a service;

1041 (B) provides payment processing services for a retail sale of tangible personal property,
1042 a product transferred electronically, or a service;

1043 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing
1044 fee, a fee for inserting or making available tangible personal property, a product transferred
1045 electronically, or a service on the person's marketplace, or other consideration for the
1046 facilitation of a retail sale of tangible personal property, a product transferred electronically, or
1047 a service, regardless of ownership or control of the tangible personal property, the product
1048 transferred electronically, or the service that is the subject of the retail sale;

1049 (D) through terms and conditions, an agreement, or another arrangement with a third
1050 person, collects payment from a purchase for a retail sale of tangible personal property, a
1051 product transferred electronically, or a service and transmits that payment to the marketplace
1052 seller, regardless of whether the third person receives compensation or other consideration in
1053 exchange for the service; or

1054 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
1055 property, a product transferred electronically, or service offered for sale.

1056 (b) "Marketplace facilitator" does not include:

1057 (i) a person that only provides payment processing services; or

1058 (ii) a person described in Subsection [~~(69)~~(a)] (72)(a) to the extent the person is
1059 facilitating a sale for a seller that is a restaurant as defined in Section [59-12-602](#).

1060 [~~(70)~~] (73) "Marketplace seller" means a seller that makes one or more retail sales
1061 through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of
1062 whether the seller is required to be registered to collect and remit the tax under this part.

1063 [~~(71)~~] (74) "Member of the immediate family of the producer" means a person who is
1064 related to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:

1065 (a) child or stepchild, regardless of whether the child or stepchild is:

1066 (i) an adopted child or adopted stepchild; or

1067 (ii) a foster child or foster stepchild;

1068 (b) grandchild or stepgrandchild;

1069 (c) grandparent or stepgrandparent;

1070 (d) nephew or stepnephew;

1071 (e) niece or stepniece;

1072 (f) parent or stepparent;

1073 (g) sibling or stepsibling;

1074 (h) spouse;

1075 (i) person who is the spouse of a person described in Subsections [~~(71)~~(a)] (74)(a)

1076 through (g); or

1077 (j) person similar to a person described in Subsections [~~(71)~~(a)] (74)(a) through (i) as
1078 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
1079 Administrative Rulemaking Act.

1080 [~~(72)~~] (75) "Mobile home" means the same as that term is defined in Section
1081 15A-1-302.

1082 [~~(73)~~] (76) "Mobile telecommunications service" means the same as that term is
1083 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1084 [~~(74)~~] (77) (a) "Mobile wireless service" means a telecommunications service,
1085 regardless of the technology used, if:

1086 (i) the origination point of the conveyance, routing, or transmission is not fixed;
1087 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
1088 (iii) the origination point described in Subsection [~~(74)(a)(i)~~] (77)(a)(i) and the
1089 termination point described in Subsection [~~(74)(a)(ii)~~] (77)(a)(ii) are not fixed.

1090 (b) "Mobile wireless service" includes a telecommunications service that is provided
1091 by a commercial mobile radio service provider.

1092 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1093 commission may by rule define "commercial mobile radio service provider."

1094 [~~(75)~~] (78) (a) Except as provided in Subsection [~~(75)(c)~~] (78)(c), "mobility enhancing
1095 equipment" means equipment that is:

1096 (i) primarily and customarily used to provide or increase the ability to move from one
1097 place to another;

1098 (ii) appropriate for use in a:

1099 (A) home; or
1100 (B) motor vehicle; and

1101 (iii) not generally used by persons with normal mobility.

1102 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
1103 the equipment described in Subsection [~~(75)(a)~~] (78)(a).

1104 (c) "Mobility enhancing equipment" does not include:

1105 (i) a motor vehicle;

1106 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
1107 vehicle manufacturer;

1108 (iii) durable medical equipment; or
1109 (iv) a prosthetic device.

1110 [~~(76)~~] (79) "Model 1 seller" means a seller registered under the agreement that has

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

1115 ~~[(77)]~~ [\(80\)](#) "Model 2 seller" means a seller registered under the agreement that:

1116 (a) except as provided in Subsection ~~[(77)(b)]~~ [\(80\)\(b\)](#), has selected a certified
 1117 automated system to perform the seller's sales tax functions for agreement sales and use taxes;
 1118 and

1119 (b) retains responsibility for remitting all of the sales tax:

1120 (i) collected by the seller; and

1121 (ii) to the appropriate local taxing jurisdiction.

1122 ~~[(78)]~~ [\(81\)](#) (a) Subject to Subsection ~~[(78)(b)]~~ [\(81\)\(b\)](#), "model 3 seller" means a seller
 1123 registered under the agreement that has:

1124 (i) sales in at least five states that are members of the agreement;

1125 (ii) total annual sales revenues of at least \$500,000,000;

1126 (iii) a proprietary system that calculates the amount of tax:

1127 (A) for an agreement sales and use tax; and

1128 (B) due to each local taxing jurisdiction; and

1129 (iv) entered into a performance agreement with the governing board of the agreement.

1130 (b) For purposes of Subsection ~~[(78)(a)]~~ [\(81\)\(a\)](#), "model 3 seller" includes an affiliated
 1131 group of sellers using the same proprietary system.

1132 ~~[(79)]~~ [\(82\)](#) "Model 4 seller" means a seller that is registered under the agreement and is
 1133 not a model 1 seller, model 2 seller, or model 3 seller.

1134 ~~[(80)]~~ [\(83\)](#) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

1135 ~~[(81)]~~ [\(84\)](#) "Motor vehicle" means the same as that term is defined in Section
 1136 [41-1a-102](#).

1137 ~~[(82)]~~ [\(85\)](#) "Oil sands" means impregnated bituminous sands that:

1138 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
 1139 other hydrocarbons, or otherwise treated;

1140 (b) yield mixtures of liquid hydrocarbon; and

1141 (c) require further processing other than mechanical blending before becoming finished

1142 petroleum products.

1143 ~~[(83)]~~ (86) "Oil shale" means a group of fine black to dark brown shales containing
1144 kerogen material that yields petroleum upon heating and distillation.

1145 ~~[(84)]~~ (87) "Optional computer software maintenance contract" means a computer
1146 software maintenance contract that a customer is not obligated to purchase as a condition to the
1147 retail sale of computer software.

1148 ~~[(85)]~~ (88) (a) "Other fuels" means products that burn independently to produce heat or
1149 energy.

1150 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
1151 personal property.

1152 ~~[(86)]~~ (89) (a) "Paging service" means a telecommunications service that provides
1153 transmission of a coded radio signal for the purpose of activating a specific pager.

1154 (b) For purposes of Subsection ~~[(86)(a)]~~ (89)(a), the transmission of a coded radio
1155 signal includes a transmission by message or sound.

1156 ~~[(87)]~~ (90) "Pawn transaction" means the same as that term is defined in Section
1157 13-32a-102.

1158 ~~[(88)]~~ (91) "Pawnbroker" means the same as that term is defined in Section
1159 13-32a-102.

1160 ~~[(89)]~~ (92) (a) "Permanently attached to real property" means that for tangible personal
1161 property attached to real property:

1162 (i) the attachment of the tangible personal property to the real property:

1163 (A) is essential to the use of the tangible personal property; and

1164 (B) suggests that the tangible personal property will remain attached to the real
1165 property in the same place over the useful life of the tangible personal property; or

1166 (ii) if the tangible personal property is detached from the real property, the detachment
1167 would:

1168 (A) cause substantial damage to the tangible personal property; or

1169 (B) require substantial alteration or repair of the real property to which the tangible
1170 personal property is attached.

1171 (b) "Permanently attached to real property" includes:

1172 (i) the attachment of an accessory to the tangible personal property if the accessory is:

- 1173 (A) essential to the operation of the tangible personal property; and
1174 (B) attached only to facilitate the operation of the tangible personal property;
1175 (ii) a temporary detachment of tangible personal property from real property for a
1176 repair or renovation if the repair or renovation is performed where the tangible personal
1177 property and real property are located; or
1178 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
1179 Subsection [~~(89)(c)(iii)~~] (92)(c)(iii) or (iv).
1180 (c) "Permanently attached to real property" does not include:
1181 (i) the attachment of portable or movable tangible personal property to real property if
1182 that portable or movable tangible personal property is attached to real property only for:
1183 (A) convenience;
1184 (B) stability; or
1185 (C) for an obvious temporary purpose;
1186 (ii) the detachment of tangible personal property from real property except for the
1187 detachment described in Subsection [~~(89)(b)(ii)~~] (92)(b)(ii);
1188 (iii) an attachment of the following tangible personal property to real property if the
1189 attachment to real property is only through a line that supplies water, electricity, gas,
1190 telecommunications, cable, or supplies a similar item as determined by the commission by rule
1191 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
1192 (A) a computer;
1193 (B) a telephone;
1194 (C) a television; or
1195 (D) tangible personal property similar to Subsections [~~(89)(c)(iii)(A)~~] (92)(c)(iii)(A)
1196 through (C) as determined by the commission by rule made in accordance with Title 63G,
1197 Chapter 3, Utah Administrative Rulemaking Act; or
1198 (iv) an item listed in Subsection [~~(130)(c)~~] (136)(c).
1199 [~~(90)~~] (93) "Person" includes any individual, firm, partnership, joint venture,
1200 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
1201 city, municipality, district, or other local governmental entity of the state, or any group or
1202 combination acting as a unit.
1203 [~~(91)~~] (94) "Place of primary use":

1204 (a) for telecommunications service other than mobile telecommunications service,
1205 means the street address representative of where the customer's use of the telecommunications
1206 service primarily occurs, which shall be:

- 1207 (i) the residential street address of the customer; or
- 1208 (ii) the primary business street address of the customer; or

1209 (b) for mobile telecommunications service, means the same as that term is defined in
1210 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1211 [~~92~~] (95) (a) "Postpaid calling service" means a telecommunications service a person
1212 obtains by making a payment on a call-by-call basis:

1213 (i) through the use of a:

- 1214 (A) bank card;
- 1215 (B) credit card;
- 1216 (C) debit card; or
- 1217 (D) travel card; or

1218 (ii) by a charge made to a telephone number that is not associated with the origination
1219 or termination of the telecommunications service.

1220 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
1221 service, that would be a prepaid wireless calling service if the service were exclusively a
1222 telecommunications service.

1223 [~~93~~] (96) "Postproduction" means an activity related to the finishing or duplication of
1224 a medium described in Subsection 59-12-104(54)(a).

1225 [~~94~~] (97) "Prepaid calling service" means a telecommunications service:

1226 (a) that allows a purchaser access to telecommunications service that is exclusively
1227 telecommunications service;

1228 (b) that:

- 1229 (i) is paid for in advance; and
- 1230 (ii) enables the origination of a call using an:

- 1231 (A) access number; or
- 1232 (B) authorization code;
- 1233 (c) that is dialed:

1234 (i) manually; or

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

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

1297 (C) a bakery item, including:

1298 (I) a bagel;

1299 (II) a bar;

1300 (III) a biscuit;

1301 (IV) bread;

1302 (V) a bun;

1303 (VI) a cake;

1304 (VII) a cookie;

1305 (VIII) a croissant;

1306 (IX) a danish;

1307 (X) a donut;

1308 (XI) a muffin;

1309 (XII) a pastry;

1310 (XIII) a pie;

1311 (XIV) a roll;

1312 (XV) a tart;

1313 (XVI) a torte; or

1314 (XVII) a tortilla.

1315 (c) An eating utensil provided by the seller does not include the following used to
1316 transport the food:

1317 (i) a container; or

1318 (ii) packaging.

1319 [(97)] (100) "Prescription" means an order, formula, or recipe that is issued:

1320 (a) (i) orally;

1321 (ii) in writing;

1322 (iii) electronically; or

1323 (iv) by any other manner of transmission; and

1324 (b) by a licensed practitioner authorized by the laws of a state.

1325 [(98)] (101) (a) Except as provided in Subsection [(98)(b)(ii)] (101)(b)(ii) or (iii),

1326 "prewritten computer software" means computer software that is not designed and developed:

1327 (i) by the author or other creator of the computer software; and

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

1359 connected.

1360 (b) "Private communications service" includes the following provided in connection
1361 with the use of one or more communications channels:

1362 (i) an extension line;

1363 (ii) a station;

1364 (iii) switching capacity; or

1365 (iv) another associated service that is provided in connection with the use of one or
1366 more communications channels as defined in Section 59-12-215.

1367 [~~(100)~~] (103) (a) Except as provided in Subsection [~~(100)(b)~~] (103)(b), "product
1368 transferred electronically" means a product transferred electronically that would be subject to a
1369 tax under this chapter if that product was transferred in a manner other than electronically.

1370 (b) "Product transferred electronically" does not include:

1371 (i) an ancillary service;

1372 (ii) computer software; or

1373 (iii) a telecommunications service.

1374 [~~(101)~~] (104) (a) "Prosthetic device" means a device that is worn on or in the body to:

1375 (i) artificially replace a missing portion of the body;

1376 (ii) prevent or correct a physical deformity or physical malfunction; or

1377 (iii) support a weak or deformed portion of the body.

1378 (b) "Prosthetic device" includes:

1379 (i) parts used in the repairs or renovation of a prosthetic device;

1380 (ii) replacement parts for a prosthetic device;

1381 (iii) a dental prosthesis; or

1382 (iv) a hearing aid.

1383 (c) "Prosthetic device" does not include:

1384 (i) corrective eyeglasses; or

1385 (ii) contact lenses.

1386 [~~(102)~~] (105) (a) "Protective equipment" means an item:

1387 (i) for human wear; and

1388 (ii) that is:

1389 (A) designed as protection:

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

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

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

1483 disseminate, manage, and store data and information;

1484 (b) is located in the state;

1485 (c) is a new operation constructed on or after July 1, 2016;

1486 (d) consists of one or more buildings that total 150,000 or more square feet;

1487 (e) is owned or leased by:

1488 (i) the operator of the data center facility; or

1489 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator

1490 of the data center facility; and

1491 (f) is located on one or more parcels of land that are owned or leased by:

1492 (i) the operator of the data center facility; or

1493 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator

1494 of the data center facility.

1495 ~~[(107)]~~ (110) "Regularly rented" means:

1496 (a) rented to a guest for value three or more times during a calendar year; or

1497 (b) advertised or held out to the public as a place that is regularly rented to guests for

1498 value.

1499 ~~[(108)]~~ (111) "Rental" means the same as that term is defined in Subsection ~~[(60)]~~ (63).

1500 ~~[(109)]~~ (112) (a) Except as provided in Subsection ~~[(109)(b)]~~ (112)(b), "repairs or

1501 renovations of tangible personal property" means:

1502 (i) a repair or renovation of tangible personal property that is not permanently attached

1503 to real property; or

1504 (ii) attaching tangible personal property or a product transferred electronically to other

1505 tangible personal property or detaching tangible personal property or a product transferred

1506 electronically from other tangible personal property if:

1507 (A) the other tangible personal property to which the tangible personal property or

1508 product transferred electronically is attached or from which the tangible personal property or

1509 product transferred electronically is detached is not permanently attached to real property; and

1510 (B) the attachment of tangible personal property or a product transferred electronically

1511 to other tangible personal property or detachment of tangible personal property or a product

1512 transferred electronically from other tangible personal property is made in conjunction with a

1513 repair or replacement of tangible personal property or a product transferred electronically.

1514 (b) "Repairs or renovations of tangible personal property" does not include:
1515 (i) attaching prewritten computer software to other tangible personal property if the
1516 other tangible personal property to which the prewritten computer software is attached is not
1517 permanently attached to real property; or
1518 (ii) detaching prewritten computer software from other tangible personal property if the
1519 other tangible personal property from which the prewritten computer software is detached is
1520 not permanently attached to real property.

1521 [~~(110)~~] (113) "Research and development" means the process of inquiry or
1522 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
1523 process of preparing those devices, technologies, or applications for marketing.

1524 [~~(111)~~] (114) (a) "Residential telecommunications services" means a
1525 telecommunications service or an ancillary service that is provided to an individual for personal
1526 use:

1527 (i) at a residential address; or
1528 (ii) at an institution, including a nursing home or a school, if the telecommunications
1529 service or ancillary service is provided to and paid for by the individual residing at the
1530 institution rather than the institution.

1531 (b) For purposes of Subsection [~~(111)(a)(i)~~] (114)(a)(i), a residential address includes
1532 an:

1533 (i) apartment; or
1534 (ii) other individual dwelling unit.

1535 [~~(112)~~] (115) "Residential use" means the use in or around a home, apartment building,
1536 sleeping quarters, and similar facilities or accommodations.

1537 [~~(113)~~] (116) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
1538 other than:

1539 (a) resale;
1540 (b) sublease; or
1541 (c) subrent.

1542 [~~(114)~~] (117) (a) "Retailer" means any person, unless prohibited by the Constitution of
1543 the United States or federal law, that is engaged in a regularly organized business in tangible
1544 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is

1545 selling to the user or consumer and not for resale.

1546 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1547 engaged in the business of selling to users or consumers within the state.

1548 [~~(115)~~] (118) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1549 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1550 Subsection 59-12-103(1), for consideration.

1551 (b) "Sale" includes:

1552 (i) installment and credit sales;

1553 (ii) any closed transaction constituting a sale;

1554 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1555 chapter;

1556 (iv) any transaction if the possession of property is transferred but the seller retains the
1557 title as security for the payment of the price; and

1558 (v) any transaction under which right to possession, operation, or use of any article of
1559 tangible personal property is granted under a lease or contract and the transfer of possession
1560 would be taxable if an outright sale were made.

1561 [~~(116)~~] (119) "Sale at retail" means the same as that term is defined in Subsection
1562 [~~(113)~~] (116).

1563 [~~(117)~~] (120) "Sale-leaseback transaction" means a transaction by which title to
1564 tangible personal property or a product transferred electronically that is subject to a tax under
1565 this chapter is transferred:

1566 (a) by a purchaser-lessee;

1567 (b) to a lessor;

1568 (c) for consideration; and

1569 (d) if:

1570 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1571 of the tangible personal property or product transferred electronically;

1572 (ii) the sale of the tangible personal property or product transferred electronically to the
1573 lessor is intended as a form of financing:

1574 (A) for the tangible personal property or product transferred electronically; and

1575 (B) to the purchaser-lessee; and

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

1578 (A) capitalize the tangible personal property or product transferred electronically for
1579 financial reporting purposes; and

1580 (B) account for the lease payments as payments made under a financing arrangement.

1581 (121) "Sales and use tax" means a tax imposed under this chapter.

1582 [~~(118)~~] (122) "Sales price" means the same as that term is defined in Subsection
1583 [~~(104)~~] (107).

1584 [~~(119)~~] (123) (a) "Sales relating to schools" means the following sales by, amounts
1585 paid to, or amounts charged by a school:

1586 (i) sales that are directly related to the school's educational functions or activities
1587 including:

1588 (A) the sale of:

1589 (I) textbooks;

1590 (II) textbook fees;

1591 (III) laboratory fees;

1592 (IV) laboratory supplies; or

1593 (V) safety equipment;

1594 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
1595 that:

1596 (I) a student is specifically required to wear as a condition of participation in a
1597 school-related event or school-related activity; and

1598 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1599 place of ordinary clothing;

1600 (C) sales of the following if the net or gross revenues generated by the sales are
1601 deposited into a school district fund or school fund dedicated to school meals:

1602 (I) food and food ingredients; or

1603 (II) prepared food; or

1604 (D) transportation charges for official school activities; or

1605 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1606 event or school-related activity.

- 1607 (b) "Sales relating to schools" does not include:
- 1608 (i) bookstore sales of items that are not educational materials or supplies;
- 1609 (ii) except as provided in Subsection [~~(119)(a)(i)(B)~~] (123)(a)(i)(B):
- 1610 (A) clothing;
- 1611 (B) clothing accessories or equipment;
- 1612 (C) protective equipment; or
- 1613 (D) sports or recreational equipment; or
- 1614 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1615 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1616 (A) other than a:
- 1617 (I) school;
- 1618 (II) nonprofit organization authorized by a school board or a governing body of a
- 1619 private school to organize and direct a competitive secondary school activity; or
- 1620 (III) nonprofit association authorized by a school board or a governing body of a
- 1621 private school to organize and direct a competitive secondary school activity; and
- 1622 (B) that is required to collect sales and use taxes under this chapter.
- 1623 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1624 commission may make rules defining the term "passed through."
- 1625 [~~(120)~~] (124) For purposes of this section and Section [59-12-104](#), "school" means:
- 1626 (a) an elementary school or a secondary school that:
- 1627 (i) is a:
- 1628 (A) public school; or
- 1629 (B) private school; and
- 1630 (ii) provides instruction for one or more grades kindergarten through 12; or
- 1631 (b) a public school district.
- 1632 [~~(121)~~] (125) (a) "Seller" means a person that makes a sale, lease, or rental of:
- 1633 (i) tangible personal property;
- 1634 (ii) a product transferred electronically; or
- 1635 (iii) a service.
- 1636 (b) "Seller" includes a marketplace facilitator.
- 1637 [~~(122)~~] (126) (a) "Semiconductor fabricating, processing, research, or development

1638 materials" means tangible personal property or a product transferred electronically if the
1639 tangible personal property or product transferred electronically is:

1640 (i) used primarily in the process of:

1641 (A) (I) manufacturing a semiconductor;

1642 (II) fabricating a semiconductor; or

1643 (III) research or development of a:

1644 (Aa) semiconductor; or

1645 (Bb) semiconductor manufacturing process; or

1646 (B) maintaining an environment suitable for a semiconductor; or

1647 (ii) consumed primarily in the process of:

1648 (A) (I) manufacturing a semiconductor;

1649 (II) fabricating a semiconductor; or

1650 (III) research or development of a:

1651 (Aa) semiconductor; or

1652 (Bb) semiconductor manufacturing process; or

1653 (B) maintaining an environment suitable for a semiconductor.

1654 (b) "Semiconductor fabricating, processing, research, or development materials"

1655 includes:

1656 (i) parts used in the repairs or renovations of tangible personal property or a product
1657 transferred electronically described in Subsection [~~(122)~~(a)] (126)(a); or

1658 (ii) a chemical, catalyst, or other material used to:

1659 (A) produce or induce in a semiconductor a:

1660 (I) chemical change; or

1661 (II) physical change;

1662 (B) remove impurities from a semiconductor; or

1663 (C) improve the marketable condition of a semiconductor.

1664 [~~(123)~~] (127) "Senior citizen center" means a facility having the primary purpose of
1665 providing services to the aged as defined in Section [62A-3-101](#).

1666 (128) "Shared vehicle" means the same as that term is defined in Section [13-48a-101](#).

1667 (129) "Shared vehicle driver" means the same as that term is defined in Section
1668 [13-48a-101](#).

1669 (130) "Shared vehicle owner" means the same as that term is defined in Section
1670 13-48a-101.

1671 [~~(124)~~] (131) (a) Subject to Subsections [~~(124)(b)~~] (131)(b) and (c), "short-term
1672 lodging consumable" means tangible personal property that:

1673 (i) a business that provides accommodations and services described in Subsection
1674 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
1675 to a purchaser;

1676 (ii) is intended to be consumed by the purchaser; and

1677 (iii) is:

1678 (A) included in the purchase price of the accommodations and services; and

1679 (B) not separately stated on an invoice, bill of sale, or other similar document provided
1680 to the purchaser.

1681 (b) "Short-term lodging consumable" includes:

1682 (i) a beverage;

1683 (ii) a brush or comb;

1684 (iii) a cosmetic;

1685 (iv) a hair care product;

1686 (v) lotion;

1687 (vi) a magazine;

1688 (vii) makeup;

1689 (viii) a meal;

1690 (ix) mouthwash;

1691 (x) nail polish remover;

1692 (xi) a newspaper;

1693 (xii) a notepad;

1694 (xiii) a pen;

1695 (xiv) a pencil;

1696 (xv) a razor;

1697 (xvi) saline solution;

1698 (xvii) a sewing kit;

1699 (xviii) shaving cream;

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

1731 [~~(128)~~] (135) "State" means the state of Utah, its departments, and agencies.

1732 [~~(129)~~] (136) "Storage" means any keeping or retention of tangible personal property or

1733 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose

1734 except sale in the regular course of business.

1735 [~~(130)~~] (137) (a) Except as provided in Subsection [~~(130)(d)~~] (137)(d) or (e), "tangible

1736 personal property" means personal property that:

1737 (i) may be:

1738 (A) seen;

1739 (B) weighed;

1740 (C) measured;

1741 (D) felt; or

1742 (E) touched; or

1743 (ii) is in any manner perceptible to the senses.

1744 (b) "Tangible personal property" includes:

1745 (i) electricity;

1746 (ii) water;

1747 (iii) gas;

1748 (iv) steam; or

1749 (v) prewritten computer software, regardless of the manner in which the prewritten

1750 computer software is transferred.

1751 (c) "Tangible personal property" includes the following regardless of whether the item

1752 is attached to real property:

1753 (i) a dishwasher;

1754 (ii) a dryer;

1755 (iii) a freezer;

1756 (iv) a microwave;

1757 (v) a refrigerator;

1758 (vi) a stove;

1759 (vii) a washer; or

1760 (viii) an item similar to Subsections [~~(130)(c)(i)~~] (137)(c)(i) through (vii) as

1761 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

1762 Administrative Rulemaking Act.

1763 (d) "Tangible personal property" does not include a product that is transferred
1764 electronically.

1765 (e) "Tangible personal property" does not include the following if attached to real
1766 property, regardless of whether the attachment to real property is only through a line that
1767 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1768 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1769 Rulemaking Act:

1770 (i) a hot water heater;

1771 (ii) a water filtration system; or

1772 (iii) a water softener system.

1773 ~~[(131)]~~ (138) (a) "Telecommunications enabling or facilitating equipment, machinery,
1774 or software" means an item listed in Subsection ~~[(131)(b)]~~ (138)(b) if that item is purchased or
1775 leased primarily to enable or facilitate one or more of the following to function:

1776 (i) telecommunications switching or routing equipment, machinery, or software; or

1777 (ii) telecommunications transmission equipment, machinery, or software.

1778 (b) The following apply to Subsection ~~[(131)(a)]~~ (138)(a):

1779 (i) a pole;

1780 (ii) software;

1781 (iii) a supplementary power supply;

1782 (iv) temperature or environmental equipment or machinery;

1783 (v) test equipment;

1784 (vi) a tower; or

1785 (vii) equipment, machinery, or software that functions similarly to an item listed in
1786 Subsections ~~[(131)(b)(i)]~~ (138)(b)(i) through (vi) as determined by the commission by rule
1787 made in accordance with Subsection ~~[(131)(c)]~~ (138)(c).

1788 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1789 commission may by rule define what constitutes equipment, machinery, or software that
1790 functions similarly to an item listed in Subsections ~~[(131)(b)(i)]~~ (138)(b)(i) through (vi).

1791 ~~[(132)]~~ (139) "Telecommunications equipment, machinery, or software required for
1792 911 service" means equipment, machinery, or software that is required to comply with 47

1793 C.F.R. Sec. 20.18.

1794 [~~(133)~~] (140) "Telecommunications maintenance or repair equipment, machinery, or
1795 software" means equipment, machinery, or software purchased or leased primarily to maintain
1796 or repair one or more of the following, regardless of whether the equipment, machinery, or
1797 software is purchased or leased as a spare part or as an upgrade or modification to one or more
1798 of the following:

1799 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1800 (b) telecommunications switching or routing equipment, machinery, or software; or

1801 (c) telecommunications transmission equipment, machinery, or software.

1802 [~~(134)~~] (141) (a) "Telecommunications service" means the electronic conveyance,
1803 routing, or transmission of audio, data, video, voice, or any other information or signal to a
1804 point, or among or between points.

1805 (b) "Telecommunications service" includes:

1806 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1807 processing application is used to act:

1808 (A) on the code, form, or protocol of the content;

1809 (B) for the purpose of electronic conveyance, routing, or transmission; and

1810 (C) regardless of whether the service:

1811 (I) is referred to as voice over Internet protocol service; or

1812 (II) is classified by the Federal Communications Commission as enhanced or value
1813 added;

1814 (ii) an 800 service;

1815 (iii) a 900 service;

1816 (iv) a fixed wireless service;

1817 (v) a mobile wireless service;

1818 (vi) a postpaid calling service;

1819 (vii) a prepaid calling service;

1820 (viii) a prepaid wireless calling service; or

1821 (ix) a private communications service.

1822 (c) "Telecommunications service" does not include:

1823 (i) advertising, including directory advertising;

- 1824 (ii) an ancillary service;
- 1825 (iii) a billing and collection service provided to a third party;
- 1826 (iv) a data processing and information service if:
 - 1827 (A) the data processing and information service allows data to be:
 - 1828 (I) (Aa) acquired;
 - 1829 (Bb) generated;
 - 1830 (Cc) processed;
 - 1831 (Dd) retrieved; or
 - 1832 (Ee) stored; and
 - 1833 (II) delivered by an electronic transmission to a purchaser; and
- 1834 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1835 or information;
- 1836 (v) installation or maintenance of the following on a customer's premises:
 - 1837 (A) equipment; or
 - 1838 (B) wiring;
- 1839 (vi) Internet access service;
- 1840 (vii) a paging service;
- 1841 (viii) a product transferred electronically, including:
 - 1842 (A) music;
 - 1843 (B) reading material;
 - 1844 (C) a ring tone;
 - 1845 (D) software; or
 - 1846 (E) video;
- 1847 (ix) a radio and television audio and video programming service:
 - 1848 (A) regardless of the medium; and
 - 1849 (B) including:
 - 1850 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 1851 programming service by a programming service provider;
 - 1852 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 1853 (III) audio and video programming services delivered by a commercial mobile radio
 - 1854 service provider as defined in 47 C.F.R. Sec. 20.3;

1855 (x) a value-added nonvoice data service; or
1856 (xi) tangible personal property.
1857 ~~[(135)]~~ (142) (a) "Telecommunications service provider" means a person that:
1858 (i) owns, controls, operates, or manages a telecommunications service; and
1859 (ii) engages in an activity described in Subsection ~~[(135)(a)(i)]~~ (142)(a)(i) for the
1860 shared use with or resale to any person of the telecommunications service.
1861 (b) A person described in Subsection ~~[(135)(a)]~~ (142)(a) is a telecommunications
1862 service provider whether or not the Public Service Commission of Utah regulates:
1863 (i) that person; or
1864 (ii) the telecommunications service that the person owns, controls, operates, or
1865 manages.
1866 ~~[(136)]~~ (143) (a) "Telecommunications switching or routing equipment, machinery, or
1867 software" means an item listed in Subsection ~~[(136)(b)]~~ (143)(b) if that item is purchased or
1868 leased primarily for switching or routing:
1869 (i) an ancillary service;
1870 (ii) data communications;
1871 (iii) voice communications; or
1872 (iv) telecommunications service.
1873 (b) The following apply to Subsection ~~[(136)(a)]~~ (143)(a):
1874 (i) a bridge;
1875 (ii) a computer;
1876 (iii) a cross connect;
1877 (iv) a modem;
1878 (v) a multiplexer;
1879 (vi) plug in circuitry;
1880 (vii) a router;
1881 (viii) software;
1882 (ix) a switch; or
1883 (x) equipment, machinery, or software that functions similarly to an item listed in
1884 Subsections ~~[(136)(b)(i)]~~ (143)(b)(i) through (ix) as determined by the commission by rule
1885 made in accordance with Subsection ~~[(136)(c)]~~ (143)(c).

1886 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1887 commission may by rule define what constitutes equipment, machinery, or software that
1888 functions similarly to an item listed in Subsections [~~(136)(b)(i)~~] (143)(b)(i) through (ix).

1889 [~~(137)~~] (144) (a) "Telecommunications transmission equipment, machinery, or
1890 software" means an item listed in Subsection [~~(137)(b)~~] (144)(b) if that item is purchased or
1891 leased primarily for sending, receiving, or transporting:

- 1892 (i) an ancillary service;
 - 1893 (ii) data communications;
 - 1894 (iii) voice communications; or
 - 1895 (iv) telecommunications service.
- 1896 (b) The following apply to Subsection [~~(137)(a)~~] (144)(a):
- 1897 (i) an amplifier;
 - 1898 (ii) a cable;
 - 1899 (iii) a closure;
 - 1900 (iv) a conduit;
 - 1901 (v) a controller;
 - 1902 (vi) a duplexer;
 - 1903 (vii) a filter;
 - 1904 (viii) an input device;
 - 1905 (ix) an input/output device;
 - 1906 (x) an insulator;
 - 1907 (xi) microwave machinery or equipment;
 - 1908 (xii) an oscillator;
 - 1909 (xiii) an output device;
 - 1910 (xiv) a pedestal;
 - 1911 (xv) a power converter;
 - 1912 (xvi) a power supply;
 - 1913 (xvii) a radio channel;
 - 1914 (xviii) a radio receiver;
 - 1915 (xix) a radio transmitter;
 - 1916 (xx) a repeater;

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

1925 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1926 commission may by rule define what constitutes equipment, machinery, or software that
1927 functions similarly to an item listed in Subsections [~~(137)(b)(i)~~] (144)(b)(i) through (xxv).

1928 [~~(138)~~] (145) (a) "Textbook for a higher education course" means a textbook or other
1929 printed material that is required for a course:

- 1930 (i) offered by an institution of higher education; and
- 1931 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1932 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1933 [~~(139)~~] (146) "Tobacco" means:

- 1934 (a) a cigarette;
- 1935 (b) a cigar;
- 1936 (c) chewing tobacco;
- 1937 (d) pipe tobacco; or
- 1938 (e) any other item that contains tobacco.

1939 [~~(140)~~] (147) "Unassisted amusement device" means an amusement device, skill
1940 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
1941 operate the amusement device, skill device, or ride device.

1942 [~~(141)~~] (148) (a) "Use" means the exercise of any right or power over tangible personal
1943 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),
1944 incident to the ownership or the leasing of that tangible personal property, product transferred
1945 electronically, or service.

1946 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1947 property, a product transferred electronically, or a service in the regular course of business and

1948 held for resale.

1949 ~~[(142)]~~ (149) "Value-added nonvoice data service" means a service:

1950 (a) that otherwise meets the definition of a telecommunications service except that a
1951 computer processing application is used to act primarily for a purpose other than conveyance,
1952 routing, or transmission; and

1953 (b) with respect to which a computer processing application is used to act on data or
1954 information:

1955 (i) code;

1956 (ii) content;

1957 (iii) form; or

1958 (iv) protocol.

1959 ~~[(143)]~~ (150) (a) Subject to Subsection ~~[(143)(b)]~~ (150)(b), "vehicle" means the
1960 following that are required to be titled, registered, or titled and registered:

1961 (i) an aircraft as defined in Section 72-10-102;

1962 (ii) a vehicle as defined in Section 41-1a-102;

1963 (iii) an off-highway vehicle as defined in Section 41-22-2; or

1964 (iv) a vessel as defined in Section 41-1a-102.

1965 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

1966 (i) a vehicle described in Subsection ~~[(143)(a)]~~ (150)(a); or

1967 (ii) (A) a locomotive;

1968 (B) a freight car;

1969 (C) railroad work equipment; or

1970 (D) other railroad rolling stock.

1971 ~~[(144)]~~ (151) "Vehicle dealer" means a person engaged in the business of buying,
1972 selling, or exchanging a vehicle as defined in Subsection ~~[(143)]~~ (150).

1973 ~~[(145)]~~ (152) (a) "Vertical service" means an ancillary service that:

1974 (i) is offered in connection with one or more telecommunications services; and

1975 (ii) offers an advanced calling feature that allows a customer to:

1976 (A) identify a caller; and

1977 (B) manage multiple calls and call connections.

1978 (b) "Vertical service" includes an ancillary service that allows a customer to manage a

1979 conference bridging service.

1980 ~~[(146)]~~ (153) (a) "Voice mail service" means an ancillary service that enables a
1981 customer to receive, send, or store a recorded message.

1982 (b) "Voice mail service" does not include a vertical service that a customer is required
1983 to have in order to utilize a voice mail service.

1984 ~~[(147)]~~ (154) (a) Except as provided in Subsection ~~[(147)(b)]~~ (154)(b), "waste energy
1985 facility" means a facility that generates electricity:

1986 (i) using as the primary source of energy waste materials that would be placed in a
1987 landfill or refuse pit if it were not used to generate electricity, including:

1988 (A) tires;

1989 (B) waste coal;

1990 (C) oil shale; or

1991 (D) municipal solid waste; and

1992 (ii) in amounts greater than actually required for the operation of the facility.

1993 (b) "Waste energy facility" does not include a facility that incinerates:

1994 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1995 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1996 ~~[(148)]~~ (155) "Watercraft" means a vessel as defined in Section 73-18-2.

1997 ~~[(149)]~~ (156) "Wind energy" means wind used as the sole source of energy to produce
1998 electricity.

1999 ~~[(150)]~~ (157) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
2000 geographic location by the United States Postal Service.

2001 Section 16. Section **59-12-103** is amended to read:

2002 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
2003 **tax revenues.**

2004 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
2005 sales price for amounts paid or charged for the following transactions:

2006 (a) retail sales of tangible personal property made within the state;

2007 (b) amounts paid for:

2008 (i) telecommunications service, other than mobile telecommunications service, that
2009 originates and terminates within the boundaries of this state;

2010 (ii) mobile telecommunications service that originates and terminates within the
2011 boundaries of one state only to the extent permitted by the Mobile Telecommunications
2012 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

2013 (iii) an ancillary service associated with a:

2014 (A) telecommunications service described in Subsection (1)(b)(i); or

2015 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

2016 (c) sales of the following for commercial use:

2017 (i) gas;

2018 (ii) electricity;

2019 (iii) heat;

2020 (iv) coal;

2021 (v) fuel oil; or

2022 (vi) other fuels;

2023 (d) sales of the following for residential use:

2024 (i) gas;

2025 (ii) electricity;

2026 (iii) heat;

2027 (iv) coal;

2028 (v) fuel oil; or

2029 (vi) other fuels;

2030 (e) sales of prepared food;

2031 (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or
2032 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
2033 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
2034 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
2035 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
2036 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
2037 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
2038 horseback rides, sports activities, or any other amusement, entertainment, recreation,
2039 exhibition, cultural, or athletic activity;

2040 (g) amounts paid or charged for services for repairs or renovations of tangible personal

2041 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
2042 (i) the tangible personal property; and
2043 (ii) parts used in the repairs or renovations of the tangible personal property described
2044 in Subsection (1)(g)(i), regardless of whether:
2045 (A) any parts are actually used in the repairs or renovations of that tangible personal
2046 property; or
2047 (B) the particular parts used in the repairs or renovations of that tangible personal
2048 property are exempt from a tax under this chapter;
2049 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
2050 assisted cleaning or washing of tangible personal property;
2051 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
2052 accommodations and services that are regularly rented for less than 30 consecutive days;
2053 (j) amounts paid or charged for laundry or dry cleaning services;
2054 (k) amounts paid or charged for leases or rentals of tangible personal property if within
2055 this state the tangible personal property is:
2056 (i) stored;
2057 (ii) used; or
2058 (iii) otherwise consumed;
2059 (l) amounts paid or charged for tangible personal property if within this state the
2060 tangible personal property is:
2061 (i) stored;
2062 (ii) used; or
2063 (iii) consumed; and
2064 (m) amounts paid or charged for a sale:
2065 (i) (A) of a product transferred electronically; or
2066 (B) of a repair or renovation of a product transferred electronically; and
2067 (ii) regardless of whether the sale provides:
2068 (A) a right of permanent use of the product; or
2069 (B) a right to use the product that is less than a permanent use, including a right:
2070 (I) for a definite or specified length of time; and
2071 (II) that terminates upon the occurrence of a condition.

2072 (2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax
2073 are imposed on a transaction described in Subsection (1) equal to the sum of:

2074 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

2075 (A) 4.70% plus the rate specified in Subsection (12)(a); and

2076 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
2077 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
2078 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
2079 State Sales and Use Tax Act; and

2080 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
2081 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
2082 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
2083 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2084 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2085 transaction under this chapter other than this part.

2086 (b) Except as provided in Subsection [~~(2)(e) or (f)~~] (2)(f) or (g) and subject to
2087 Subsection [~~(2)(k)~~] (2)(l), a state tax and a local tax are imposed on a transaction described in
2088 Subsection (1)(d) equal to the sum of:

2089 (i) a state tax imposed on the transaction at a tax rate of 2%; and

2090 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2091 transaction under this chapter other than this part.

2092 (c) Except as provided in Subsection [~~(2)(e) or (f)~~] (2)(f) or (g), a state tax and a local
2093 tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

2094 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
2095 a tax rate of 1.75%; and

2096 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2097 amounts paid or charged for food and food ingredients under this chapter other than this part.

2098 (d) Except as provided in Subsection [~~(2)(e) or (f)~~] (2)(f) or (g), a state tax is imposed
2099 on amounts paid or charged for fuel to a common carrier that is a railroad for use in a
2100 locomotive engine at a rate of 4.85%.

2101 (e) (i) If a shared vehicle is an individual-owned shared vehicle, a tax imposed under
2102 Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a shared vehicle

2103 driver, or a shared vehicle owner.

2104 (ii) A tax imposed under Subsection (2)(a)(ii) applies to car sharing.

2105 ~~[(e)]~~ (f) (i) For a bundled transaction that is attributable to food and food ingredients
2106 and tangible personal property other than food and food ingredients, a state tax and a local tax
2107 is imposed on the entire bundled transaction equal to the sum of:

2108 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

2109 (I) the tax rate described in Subsection (2)(a)(i)(A); and

2110 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
2111 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2112 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
2113 Additional State Sales and Use Tax Act; and

2114 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
2115 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2116 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
2117 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2118 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
2119 described in Subsection (2)(a)(ii).

2120 (ii) If an optional computer software maintenance contract is a bundled transaction that
2121 consists of taxable and nontaxable products that are not separately itemized on an invoice or
2122 similar billing document, the purchase of the optional computer software maintenance contract
2123 is 40% taxable under this chapter and 60% nontaxable under this chapter.

2124 (iii) Subject to Subsection ~~[(2)(e)(iv)]~~ (2)(f)(iv), for a bundled transaction other than a
2125 bundled transaction described in Subsection ~~[(2)(e)(i)]~~ (2)(f)(i) or (ii):

2126 (A) if the sales price of the bundled transaction is attributable to tangible personal
2127 property, a product, or a service that is subject to taxation under this chapter and tangible
2128 personal property, a product, or service that is not subject to taxation under this chapter, the
2129 entire bundled transaction is subject to taxation under this chapter unless:

2130 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2131 personal property, product, or service that is not subject to taxation under this chapter from the
2132 books and records the seller keeps in the seller's regular course of business; or

2133 (II) state or federal law provides otherwise; or

2134 (B) if the sales price of a bundled transaction is attributable to two or more items of
2135 tangible personal property, products, or services that are subject to taxation under this chapter
2136 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
2137 higher tax rate unless:

2138 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2139 personal property, product, or service that is subject to taxation under this chapter at the lower
2140 tax rate from the books and records the seller keeps in the seller's regular course of business; or

2141 (II) state or federal law provides otherwise.

2142 (iv) For purposes of Subsection [~~(2)(e)(iii)~~] (2)(f)(iii), books and records that a seller
2143 keeps in the seller's regular course of business includes books and records the seller keeps in
2144 the regular course of business for nontax purposes.

2145 [~~(f)~~] (g) (i) Except as otherwise provided in this chapter and subject to Subsections
2146 [~~(2)(f)(ii)~~] (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible
2147 personal property, a product, or a service that is subject to taxation under this chapter, and the
2148 sale, lease, or rental of tangible personal property, other property, a product, or a service that is
2149 not subject to taxation under this chapter, the entire transaction is subject to taxation under this
2150 chapter unless the seller, at the time of the transaction:

2151 (A) separately states the portion of the transaction that is not subject to taxation under
2152 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

2153 (B) is able to identify by reasonable and verifiable standards, from the books and
2154 records the seller keeps in the seller's regular course of business, the portion of the transaction
2155 that is not subject to taxation under this chapter.

2156 (ii) A purchaser and a seller may correct the taxability of a transaction if:

2157 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
2158 the transaction that is not subject to taxation under this chapter was not separately stated on an
2159 invoice, bill of sale, or similar document provided to the purchaser because of an error or
2160 ignorance of the law; and

2161 (B) the seller is able to identify by reasonable and verifiable standards, from the books
2162 and records the seller keeps in the seller's regular course of business, the portion of the
2163 transaction that is not subject to taxation under this chapter.

2164 (iii) For purposes of Subsections [~~(2)(f)(i)~~] (2)(g)(i) and (ii), books and records that a

2165 seller keeps in the seller's regular course of business includes books and records the seller
 2166 keeps in the regular course of business for nontax purposes.

2167 ~~[(g)]~~ (h) (i) If the sales price of a transaction is attributable to two or more items of
 2168 tangible personal property, products, or services that are subject to taxation under this chapter
 2169 at different rates, the entire purchase is subject to taxation under this chapter at the higher tax
 2170 rate unless the seller, at the time of the transaction:

2171 (A) separately states the items subject to taxation under this chapter at each of the
 2172 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

2173 (B) is able to identify by reasonable and verifiable standards the tangible personal
 2174 property, product, or service that is subject to taxation under this chapter at the lower tax rate
 2175 from the books and records the seller keeps in the seller's regular course of business.

2176 (ii) For purposes of Subsection ~~[(2)(g)(i)]~~ (2)(h)(i), books and records that a seller
 2177 keeps in the seller's regular course of business includes books and records the seller keeps in
 2178 the regular course of business for nontax purposes.

2179 ~~[(h)]~~ (i) Subject to Subsections ~~[(2)(i) and (j)]~~ (2)(j) and (k), a tax rate repeal or tax rate
 2180 change for a tax rate imposed under the following shall take effect on the first day of a calendar
 2181 quarter:

2182 (i) Subsection (2)(a)(i)(A);

2183 (ii) Subsection (2)(b)(i);

2184 (iii) Subsection (2)(c)(i); or

2185 (iv) Subsection ~~[(2)(e)(i)(A)(i)]~~ (2)(f)(i)(A)(I).

2186 ~~[(i)]~~ (j) (i) A tax rate increase takes effect on the first day of the first billing period that
 2187 begins on or after the effective date of the tax rate increase if the billing period for the
 2188 transaction begins before the effective date of a tax rate increase imposed under:

2189 (A) Subsection (2)(a)(i)(A);

2190 (B) Subsection (2)(b)(i);

2191 (C) Subsection (2)(c)(i); or

2192 (D) Subsection ~~[(2)(e)(i)(A)(i)]~~ (2)(f)(i)(A)(I).

2193 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
 2194 statement for the billing period is rendered on or after the effective date of the repeal of the tax
 2195 or the tax rate decrease imposed under:

- 2196 (A) Subsection (2)(a)(i)(A);
- 2197 (B) Subsection (2)(b)(i);
- 2198 (C) Subsection (2)(c)(i); or
- 2199 (D) Subsection ~~[(2)(e)(i)(A)(F)]~~ (2)(f)(i)(A)(I).
- 2200 ~~[(j)]~~ (k) (i) For a tax rate described in Subsection ~~[(2)(j)(ii)]~~ (2)(k)(ii), if a tax due on a
- 2201 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a
- 2202 tax rate repeal or change in a tax rate takes effect:
 - 2203 (A) on the first day of a calendar quarter; and
 - 2204 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 2205 (ii) Subsection ~~[(2)(j)(i)]~~ (2)(k)(i) applies to the tax rates described in the following:
 - 2206 (A) Subsection (2)(a)(i)(A);
 - 2207 (B) Subsection (2)(b)(i);
 - 2208 (C) Subsection (2)(c)(i); or
 - 2209 (D) Subsection ~~[(2)(e)(i)(A)(F)]~~ (2)(f)(i)(A)(I).
- 2210 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 2211 the commission may by rule define the term "catalogue sale."
- 2212 ~~[(k)]~~ (l) (i) For a location described in Subsection ~~[(2)(k)(ii)]~~ (2)(l)(ii), the commission
- 2213 shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel
- 2214 based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the
- 2215 location.
 - 2216 (ii) Subsection ~~[(2)(k)(i)]~~ (2)(l)(i) applies to a location where gas, electricity, heat, coal,
 - 2217 fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:
 - 2218 (A) a commercial use;
 - 2219 (B) an industrial use; or
 - 2220 (C) a residential use.
- 2221 (3) (a) The following state taxes shall be deposited into the General Fund:
 - 2222 (i) the tax imposed by Subsection (2)(a)(i)(A);
 - 2223 (ii) the tax imposed by Subsection (2)(b)(i);
 - 2224 (iii) the tax imposed by Subsection (2)(c)(i); and
 - 2225 (iv) the tax imposed by Subsection ~~[(2)(e)(i)(A)(F)]~~ (2)(f)(i)(A)(I).
- 2226 (b) The following local taxes shall be distributed to a county, city, or town as provided

2227 in this chapter:

2228 (i) the tax imposed by Subsection (2)(a)(ii);

2229 (ii) the tax imposed by Subsection (2)(b)(ii);

2230 (iii) the tax imposed by Subsection (2)(c)(ii); and

2231 (iv) the tax imposed by Subsection [~~(2)(e)(i)(B)~~] (2)(f)(i)(B).

2232 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General

2233 Fund.

2234 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

2235 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)

2236 through (g):

2237 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

2238 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

2239 (B) for the fiscal year; or

2240 (ii) \$17,500,000.

2241 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

2242 described in Subsection (4)(a) shall be transferred each year as designated sales and use tax

2243 revenue to the Department of Natural Resources to:

2244 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to

2245 protect sensitive plant and animal species; or

2246 (B) award grants, up to the amount authorized by the Legislature in an appropriations

2247 act, to political subdivisions of the state to implement the measures described in Subsections

2248 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

2249 (ii) Money transferred to the Department of Natural Resources under Subsection

2250 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other

2251 person to list or attempt to have listed a species as threatened or endangered under the

2252 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

2253 (iii) At the end of each fiscal year:

2254 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the

2255 Water Resources Conservation and Development Fund created in Section 73-10-24;

2256 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the

2257 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

2258 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the
2259 Drinking Water Loan Program Subaccount created in Section 73-10c-5.

2260 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
2261 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
2262 created in Section 4-18-106.

2263 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
2264 in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to
2265 the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for
2266 the adjudication of water rights.

2267 (ii) At the end of each fiscal year:

2268 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the
2269 Water Resources Conservation and Development Fund created in Section 73-10-24;

2270 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the
2271 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

2272 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the
2273 Drinking Water Loan Program Subaccount created in Section 73-10c-5.

2274 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
2275 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
2276 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

2277 (ii) In addition to the uses allowed of the Water Resources Conservation and
2278 Development Fund under Section 73-10-24, the Water Resources Conservation and
2279 Development Fund may also be used to:

2280 (A) conduct hydrologic and geotechnical investigations by the Division of Water
2281 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
2282 quantifying surface and ground water resources and describing the hydrologic systems of an
2283 area in sufficient detail so as to enable local and state resource managers to plan for and
2284 accommodate growth in water use without jeopardizing the resource;

2285 (B) fund state required dam safety improvements; and

2286 (C) protect the state's interest in interstate water compact allocations, including the
2287 hiring of technical and legal staff.

2288 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described

2289 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
2290 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2291 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2292 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
2293 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2294 (i) provide for the installation and repair of collection, treatment, storage, and
2295 distribution facilities for any public water system, as defined in Section 19-4-102;

2296 (ii) develop underground sources of water, including springs and wells; and

2297 (iii) develop surface water sources.

2298 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2299 2006, the difference between the following amounts shall be expended as provided in this
2300 Subsection (5), if that difference is greater than \$1:

2301 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
2302 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

2303 (ii) \$17,500,000.

2304 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

2305 (A) transferred each fiscal year to the Department of Natural Resources as designated
2306 sales and use tax revenue; and

2307 (B) expended by the Department of Natural Resources for watershed rehabilitation or
2308 restoration.

2309 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use
2310 tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation
2311 and Development Fund created in Section 73-10-24.

2312 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
2313 remaining difference described in Subsection (5)(a) shall be:

2314 (A) transferred each fiscal year to the Division of Water Resources as designated sales
2315 and use tax revenue; and

2316 (B) expended by the Division of Water Resources for cloud-seeding projects
2317 authorized by Title 73, Chapter 15, Modification of Weather.

2318 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use
2319 tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation

2320 and Development Fund created in Section 73-10-24.

2321 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
2322 remaining difference described in Subsection (5)(a) shall be deposited into the Water
2323 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
2324 Division of Water Resources for:

2325 (i) preconstruction costs:

2326 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
2327 26, Bear River Development Act; and

2328 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
2329 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2330 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
2331 Chapter 26, Bear River Development Act;

2332 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
2333 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2334 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
2335 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2336 (e) After making the transfers required by Subsections (5)(b) and (c), 15% of the
2337 remaining difference described in Subsection (5)(a) shall be deposited each year into the Water
2338 Rights Restricted Account created by Section 73-2-1.6.

2339 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
2340 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
2341 (1) for the fiscal year shall be deposited as follows:

2342 (a) for fiscal year 2020-21 only:

2343 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
2344 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2345 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
2346 Water Infrastructure Restricted Account created by Section 73-10g-103; and

2347 (b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
2348 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
2349 created by Section 73-10g-103.

2350 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in

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

2354 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
2355 the revenues collected from the following taxes, which represents a portion of the
2356 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
2357 on vehicles and vehicle-related products:

2358 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2359 (B) the tax imposed by Subsection (2)(b)(i);

2360 (C) the tax imposed by Subsection (2)(c)(i); and

2361 (D) the tax imposed by Subsection ~~[(2)(e)(i)(A)(B)]~~ (2)(f)(i)(A)(D); plus

2362 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
2363 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
2364 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
2365 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

2366 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
2367 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
2368 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
2369 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
2370 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
2371 (7)(a) equal to the product of:

2372 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
2373 previous fiscal year; and

2374 (B) the total sales and use tax revenue generated by the taxes described in Subsections
2375 (7)(a)(i)(A) through (D) in the current fiscal year.

2376 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
2377 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
2378 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of
2379 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
2380 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

2381 (iii) Subject to Subsection (7)(b)(iv)(E), in all subsequent fiscal years after a year in

2382 which 17% of the revenues collected from the sales and use taxes described in Subsections
2383 (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall
2384 annually deposit 17% of the revenues collected from the sales and use taxes described in
2385 Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

2386 (iv) (A) As used in this Subsection (7)(b)(iv), "additional growth revenue" means the
2387 amount of relevant revenue collected in the current fiscal year that exceeds by more than 3%
2388 the relevant revenue collected in the previous fiscal year.

2389 (B) As used in this Subsection (7)(b)(iv), "combined amount" means the combined
2390 total amount of money deposited into the Cottonwood Canyons fund under Subsections
2391 (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

2392 (C) As used in this Subsection (7)(b)(iv), "Cottonwood Canyons fund" means the
2393 Cottonwood Canyons Transportation Investment Fund created in Subsection [72-2-124](#)(10).

2394 (D) As used in this Subsection (7)(b)(iv), "relevant revenue" means the portion of taxes
2395 listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in
2396 Subsections (7)(a)(i)(A) through (D).

2397 (E) For a fiscal year beginning on or after July 1, 2020, the commission shall annually
2398 reduce the deposit under Subsection (7)(b)(iii) into the Transportation Investment Fund of 2005
2399 by an amount equal to the amount of the deposit under this Subsection (7)(b)(iv) to the
2400 Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue,
2401 subject to the limit in Subsection (7)(b)(iv)(F).

2402 (F) The commission shall annually deposit the amount described in Subsection
2403 (7)(b)(iv)(E) into the Cottonwood Canyons fund, subject to an annual maximum combined
2404 amount for any single fiscal year of \$20,000,000.

2405 (G) If the amount of relevant revenue declines in a fiscal year compared to the previous
2406 fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood
2407 Canyons fund under this Subsection (7)(b)(iv) in the same proportion as the decline in relevant
2408 revenue.

2409 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
2410 Subsections (6) and (7), and subject to Subsections (8)(b) and (d)(v), for a fiscal year beginning
2411 on or after July 1, 2018, the commission shall annually deposit into the Transportation
2412 Investment Fund of 2005 created by Section [72-2-124](#) a portion of the taxes listed under

2413 Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following
2414 taxes:

2415 (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2416 (ii) the tax imposed by Subsection (2)(b)(i);

2417 (iii) the tax imposed by Subsection (2)(c)(i); and

2418 (iv) the tax imposed by Subsection [~~(2)(e)(i)(A)(F)~~] (2)(f)(i)(A)(I).

2419 (b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
2420 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by
2421 an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by
2422 the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale
2423 or use in this state that exceeds 29.4 cents per gallon.

2424 (c) The commission shall annually deposit the amount described in Subsection (8)(b)
2425 into the Transit Transportation Investment Fund created in Section [72-2-124](#).

2426 (d) (i) As used in this Subsection (8)(d), "additional growth revenue" means the
2427 amount of relevant revenue collected in the current fiscal year that exceeds by more than 3%
2428 the relevant revenue collected in the previous fiscal year.

2429 (ii) As used in this Subsection (8)(d), "combined amount" means the combined total
2430 amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F)
2431 and (8)(d)(vi) in any single fiscal year.

2432 (iii) As used in this Subsection (8)(d), "Cottonwood Canyons fund" means the
2433 Cottonwood Canyons Transportation Investment Fund created in Subsection [72-2-124](#)(10).

2434 (iv) As used in this Subsection (8)(d), "relevant revenue" means the portion of taxes
2435 listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described
2436 in Subsections (8)(a)(i) through (iv).

2437 (v) For a fiscal year beginning on or after July 1, 2020, the commission shall annually
2438 reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by
2439 an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood
2440 Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the
2441 limit in Subsection (8)(d)(vi).

2442 (vi) The commission shall annually deposit the amount described in Subsection
2443 (8)(d)(v) into the Cottonwood Canyons fund, subject to an annual maximum combined amount

2444 for any single fiscal year of \$20,000,000.

2445 (vii) If the amount of relevant revenue declines in a fiscal year compared to the
2446 previous fiscal year, the commission shall decrease the amount of the contribution to the
2447 Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in
2448 relevant revenue.

2449 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2450 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
2451 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

2452 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(b),
2453 and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of
2454 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
2455 72-2-124 the amount of revenue described as follows:

2456 (i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05%
2457 tax rate on the transactions described in Subsection (1); and

2458 (ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
2459 tax rate on the transactions described in Subsection (1).

2460 (b) For purposes of Subsection (10)(a), the Division of Finance may not deposit into
2461 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
2462 charged for food and food ingredients, except for tax revenue generated by a bundled
2463 transaction attributable to food and food ingredients and tangible personal property other than
2464 food and food ingredients described in Subsection ~~[(2)(e)]~~ (2)(f).

2465 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
2466 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
2467 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
2468 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
2469 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
2470 created in Section 63N-2-512.

2471 (12) (a) The rate specified in this subsection is 0.15%.

2472 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year
2473 beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the
2474 rate described in Subsection (12)(a) on the transactions that are subject to the sales and use tax

2475 under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section
2476 [26-36b-208](#).

2477 (13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2478 2020-21, the Division of Finance shall deposit \$200,000 into the General Fund as a dedicated
2479 credit solely for use of the Search and Rescue Financial Assistance Program created in, and
2480 expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

2481 (14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of
2482 Finance shall annually transfer \$1,813,400 of the revenue deposited into the Transportation
2483 Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

2484 (b) If the total revenue deposited into the Transportation Investment Fund of 2005
2485 under Subsections (6) through (8) is less than \$1,813,400 for a fiscal year, the Division of
2486 Finance shall transfer the total revenue deposited into the Transportation Investment Fund of
2487 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

2488 (15) Notwithstanding Subsection (3)(a), and as described in Section [63N-3-610](#),
2489 beginning the first day of the calendar quarter one year after the sales and use tax boundary for
2490 a housing and transit reinvestment zone is established, the commission, at least annually, shall
2491 transfer an amount equal to 15% of the sales and use tax increment within an established sales
2492 and use tax boundary, as defined in Section [63N-3-602](#), into the Transit Transportation
2493 Investment Fund created in Section [72-2-124](#).

2494 (16) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year
2495 beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure
2496 Restricted Account, created in Section [51-9-902](#), a portion of the taxes listed under Subsection
2497 (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

2498 (a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2499 (b) the tax imposed by Subsection (2)(b)(i);

2500 (c) the tax imposed by Subsection (2)(c)(i); and

2501 (d) the tax imposed by Subsection [~~(2)(e)(i)(A)(I)~~] (2)(f)(i)(A)(I).

2502 Section 17. Section [59-12-602](#) is amended to read:

2503 **59-12-602. Definitions.**

2504 As used in this part:

2505 (1) (a) Subject to Subsection (1)(b), "airport facility" means an airport of regional

2506 significance, as defined by the Transportation Commission by rule made in accordance with
2507 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2508 (b) "Airport facility" includes:

2509 (i) an appurtenance to an airport, including a fixed guideway that provides
2510 transportation service to or from the airport;

2511 (ii) a control tower, including a radar system;

2512 (iii) a public area of an airport; or

2513 (iv) a terminal facility.

2514 (2) "All-terrain type I vehicle" means the same as that term is defined in Section
2515 [41-22-2](#).

2516 (3) "All-terrain type II vehicle" means the same as that term is defined in Section
2517 [41-22-2](#).

2518 (4) "All-terrain type III vehicle" means the same as that term is defined in Section
2519 [41-22-2](#).

2520 (5) "Convention facility" means any publicly owned or operated convention center,
2521 sports arena, or other facility at which conventions, conferences, and other gatherings are held
2522 and whose primary business or function is to host such conventions, conferences, and other
2523 gatherings.

2524 (6) "Cultural facility" means any publicly owned or operated museum, theater, art
2525 center, music hall, or other cultural or arts facility.

2526 (7) (a) Except as provided in Subsection (7)(b), "off-highway vehicle" means any
2527 snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or
2528 motorcycle.

2529 (b) "Off-highway vehicle" does not include a vehicle that is a motor vehicle under
2530 Section [41-1a-102](#).

2531 (8) "Motorcycle" means the same as that term is defined in Section [41-22-2](#).

2532 (9) "Recreation facility" or "tourist facility" means any publicly owned or operated
2533 park, campground, marina, dock, golf course, water park, historic park, monument,
2534 planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

2535 (10) (a) Except as provided in Subsection (10)(c), "recreational vehicle" means a
2536 vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel,

2537 recreational, or vacation use, that is pulled by another vehicle.

2538 (b) "Recreational vehicle" includes:

2539 (i) a travel trailer;

2540 (ii) a camping trailer; and

2541 (iii) a fifth wheel trailer.

2542 (c) "Recreational vehicle" does not include a vehicle that is a motor vehicle under

2543 Section [41-1a-102](#).

2544 (11) (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda fountain,
2545 or fast-food service where food is prepared for immediate consumption.

2546 (b) "Restaurant" does not include:

2547 (i) any retail establishment whose primary business or function is the sale of fuel or
2548 food items for off-premise, but not immediate, consumption; and

2549 (ii) a theater that sells food items, but not a dinner theater.

2550 (12) (a) "Short-term rental" means a lease or rental that is 30 days or less.

2551 (b) "Short-term rental" does not include car sharing as that term is defined in Section
2552 [13-48a-101](#).

2553 (13) "Snowmobile" means the same as that term is defined in Section [41-22-2](#).

2554 (14) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle
2555 without motive power, designed as a temporary dwelling for travel, recreational, or vacation
2556 use that does not require a special highway movement permit when drawn by a self-propelled
2557 motor vehicle.

2558 Section 18. Section **59-12-603** is amended to read:

2559 **59-12-603. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance**
2560 **required -- Advisory board -- Administration -- Collection -- Administrative charge --**
2561 **Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice**
2562 **requirements.**

2563 (1) (a) In addition to any other taxes, a county legislative body may, as provided in this
2564 part, impose a tax as follows:

2565 (i) (A) a county legislative body of any county may impose a tax of not to exceed 3%
2566 on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles
2567 made for the purpose of temporarily replacing a person's motor vehicle that is being repaired

2568 pursuant to a repair or an insurance agreement; and

2569 (B) a county legislative body of any county imposing a tax under Subsection
2570 (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of
2571 not to exceed 4% on all short-term rentals of motor vehicles, except for short-term rentals of
2572 motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is
2573 being repaired pursuant to a repair or an insurance agreement;

2574 (ii) beginning on January 1, 2021, a county legislative body of any county may impose
2575 a tax of not to exceed 7% on all short-term rentals of off-highway vehicles and recreational
2576 vehicles;

2577 (iii) a county legislative body of any county may impose a tax of not to exceed 1% of
2578 all sales of the following that are sold by a restaurant:

2579 (A) alcoholic beverages;

2580 (B) food and food ingredients; or

2581 (C) prepared food; ~~and~~

2582 (iv) a county legislative body of a county of the first class may impose a tax of not to
2583 exceed .5% on charges for the accommodations and services described in Subsection

2584 59-12-103(1)(i)[-]; and

2585 (v) beginning on July 1, 2023, if a county legislative body of any county imposes a tax
2586 under Subsection (1)(a)(i), a tax at the same rate applies to car sharing, except for:

2587 (A) car sharing for the purpose of temporarily replacing a person's motor vehicle that is
2588 being repaired pursuant to a repair or an insurance agreement; and

2589 (B) car sharing for more than 30 days.

2590 (b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section
2591 17-31-5.5.

2592 (2) (a) Subject to Subsection (2)(b), a county may use revenue from the imposition of a
2593 tax under Subsection (1) for:

2594 (i) financing tourism promotion; and

2595 (ii) the development, operation, and maintenance of:

2596 (A) an airport facility;

2597 (B) a convention facility;

2598 (C) a cultural facility;

2599 (D) a recreation facility; or

2600 (E) a tourist facility.

2601 (b) A county of the first class shall expend at least \$450,000 each year of the revenue
2602 from the imposition of a tax authorized by Subsection (1)(a)(iv) within the county to fund a
2603 marketing and ticketing system designed to:

2604 (i) promote tourism in ski areas within the county by persons that do not reside within
2605 the state; and

2606 (ii) combine the sale of:

2607 (A) ski lift tickets; and

2608 (B) accommodations and services described in Subsection 59-12-103(1)(i).

2609 (3) A tax imposed under this part may be pledged as security for bonds, notes, or other
2610 evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local
2611 Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1,
2612 Part 5, Agency Bonds, to finance:

2613 (a) an airport facility;

2614 (b) a convention facility;

2615 (c) a cultural facility;

2616 (d) a recreation facility; or

2617 (e) a tourist facility.

2618 (4) (a) To impose a tax under Subsection (1), the county legislative body shall adopt an
2619 ordinance imposing the tax.

2620 (b) The ordinance under Subsection (4)(a) shall include provisions substantially the
2621 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on
2622 those items and sales described in Subsection (1).

2623 (c) The name of the county as the taxing agency shall be substituted for that of the state
2624 where necessary, and an additional license is not required if one has been or is issued under
2625 Section 59-12-106.

2626 (5) To maintain in effect a tax ordinance adopted under this part, each county
2627 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,
2628 Tax Collection, adopt amendments to the county's tax ordinance to conform with the applicable
2629 amendments to Part 1, Tax Collection.

2630 (6) (a) Regardless of whether a county of the first class creates a tourism tax advisory
2631 board in accordance with Section 17-31-8, the county legislative body of the county of the first
2632 class shall create a tax advisory board in accordance with this Subsection (6).

2633 (b) The tax advisory board shall be composed of nine members appointed as follows:

2634 (i) four members shall be residents of a county of the first class appointed by the
2635 county legislative body of the county of the first class; and

2636 (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or
2637 towns within the county of the first class appointed by an organization representing all mayors
2638 of cities and towns within the county of the first class.

2639 (c) Five members of the tax advisory board constitute a quorum.

2640 (d) The county legislative body of the county of the first class shall determine:

2641 (i) terms of the members of the tax advisory board;

2642 (ii) procedures and requirements for removing a member of the tax advisory board;

2643 (iii) voting requirements, except that action of the tax advisory board shall be by at
2644 least a majority vote of a quorum of the tax advisory board;

2645 (iv) chairs or other officers of the tax advisory board;

2646 (v) how meetings are to be called and the frequency of meetings; and

2647 (vi) the compensation, if any, of members of the tax advisory board.

2648 (e) The tax advisory board under this Subsection (6) shall advise the county legislative
2649 body of the county of the first class on the expenditure of revenue collected within the county
2650 of the first class from the taxes described in Subsection (1)(a).

2651 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part
2652 shall be administered, collected, and enforced in accordance with:

2653 (A) the same procedures used to administer, collect, and enforce the tax under:

2654 (I) Part 1, Tax Collection; or

2655 (II) Part 2, Local Sales and Use Tax Act; and

2656 (B) Chapter 1, General Taxation Policies.

2657 (ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or
2658 Subsections 59-12-205(2) through (6).

2659 (b) Except as provided in Subsection (7)(c):

2660 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the

2661 commission shall distribute the revenue to the county imposing the tax; and

2662 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue
2663 according to the distribution formula provided in Subsection (8).

2664 (c) The commission shall retain and deposit an administrative charge in accordance
2665 with Section 59-1-306 from the revenue the commission collects from a tax under this part.

2666 (8) The commission shall distribute the revenue generated by the tax under Subsection
2667 (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the
2668 following formula:

2669 (a) the commission shall distribute 70% of the revenue based on the percentages
2670 generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by
2671 the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

2672 (b) the commission shall distribute 30% of the revenue based on the percentages
2673 generated by dividing the population of each county collecting a tax under Subsection
2674 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

2675 (9) (a) For purposes of this Subsection (9):

2676 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2,
2677 County Annexation.

2678 (ii) "Annexing area" means an area that is annexed into a county.

2679 (b) (i) Except as provided in Subsection (9)(c), if a county enacts or repeals a tax or
2680 changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

2681 (A) on the first day of a calendar quarter; and

2682 (B) after a 90-day period beginning on the day on which the commission receives
2683 notice meeting the requirements of Subsection (9)(b)(ii) from the county.

2684 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

2685 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

2686 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

2687 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

2688 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
2689 (9)(b)(ii)(A), the rate of the tax.

2690 (c) (i) If the billing period for a transaction begins before the effective date of the
2691 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of

2692 the tax or the tax rate increase shall take effect on the first day of the first billing period that
2693 begins after the effective date of the enactment of the tax or the tax rate increase.

2694 (ii) If the billing period for a transaction begins before the effective date of the repeal
2695 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax
2696 rate decrease shall take effect on the first day of the last billing period that began before the
2697 effective date of the repeal of the tax or the tax rate decrease.

2698 (d) (i) Except as provided in Subsection (9)(e), if the annexation will result in the
2699 enactment, repeal, or change in the rate of a tax under this part for an annexing area, the
2700 enactment, repeal, or change shall take effect:

2701 (A) on the first day of a calendar quarter; and

2702 (B) after a 90-day period beginning on the day on which the commission receives
2703 notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the
2704 annexing area.

2705 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

2706 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,
2707 repeal, or change in the rate of a tax under this part for the annexing area;

2708 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

2709 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

2710 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
2711 (9)(d)(ii)(A), the rate of the tax.

2712 (e) (i) If the billing period for a transaction begins before the effective date of the
2713 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of
2714 the tax or the tax rate increase shall take effect on the first day of the first billing period that
2715 begins after the effective date of the enactment of the tax or the tax rate increase.

2716 (ii) If the billing period for a transaction begins before the effective date of the repeal
2717 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax
2718 rate decrease shall take effect on the first day of the last billing period that began before the
2719 effective date of the repeal of the tax or the tax rate decrease.

2720 Section 19. Section **59-12-1201** is amended to read:

2721 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**
2722 **collection, and enforcement of tax -- Administrative charge -- Deposits.**

2723 (1) (a) Except as provided in [~~Subsection (3)~~] Subsections (3) and (4), there is imposed
2724 a tax of 2.5% on all short-term leases and rentals of motor vehicles not exceeding 30 days.

2725 (b) The tax imposed in this section is in addition to all other state, county, or municipal
2726 fees and taxes imposed on rentals of motor vehicles.

2727 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax
2728 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

2729 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall
2730 take effect on the first day of the first billing period:

2731 (A) that begins after the effective date of the tax rate increase; and

2732 (B) if the billing period for the transaction begins before the effective date of a tax rate
2733 increase imposed under Subsection (1).

2734 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax
2735 rate decrease shall take effect on the first day of the last billing period:

2736 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
2737 and

2738 (B) if the billing period for the transaction begins before the effective date of the repeal
2739 of the tax or the tax rate decrease imposed under Subsection (1).

2740 (3) Beginning on July 1, 2023, a tax imposed under Subsection (1) applies at the same
2741 rate to car sharing, except for:

2742 (a) car sharing for the purpose of temporarily replacing a person's motor vehicle that is
2743 being repaired pursuant to a repair or an insurance agreement; and

2744 (b) car sharing for more than 30 days.

2745 [~~(3)~~] (4) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

2746 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

2747 (b) the motor vehicle is rented as a personal household goods moving van; or

2748 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily
2749 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an
2750 insurance agreement.

2751 [~~(4)~~] (5) (a) (i) The tax authorized under this section shall be administered, collected,
2752 and enforced in accordance with:

2753 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,

2754 Tax Collection; and

2755 (B) Chapter 1, General Taxation Policies.

2756 (ii) Notwithstanding Subsection [~~(4)(a)(i)~~] (5)(a)(i), a tax under this part is not subject
2757 to Subsections 59-12-103(4) through (10) or Section 59-12-107.1 or 59-12-123.

2758 (b) The commission shall retain and deposit an administrative charge in accordance
2759 with Section 59-1-306 from the revenues the commission collects from a tax under this part.

2760 (c) Except as provided under Subsection [~~(4)(b)~~] (5)(b), all revenue received by the
2761 commission under this section shall be deposited daily with the state treasurer and credited
2762 monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

2763 Section 20. **Effective date.**

2764 This bill takes effect on July 1, 2023.

2765 Section 21. **Retrospective operation.**

2766 The changes to the following sections have retrospective operation to January 1, 2019,
2767 for a transaction that is the subject of an appeal pending on or filed after January 1, 2023:

2768 (1) Section 59-12-602;

2769 (2) Section 59-12-603; and

2770 (3) Section 59-12-1201.