

RAILROAD AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel Ferry

Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill modifies provisions related to railroads.

Highlighted Provisions:

This bill:

- ▶ repeals the state sales and use tax exemption for sales of fuel to a rail carrier for use in a locomotive engine;
- ▶ requires an approximate value of the resulting revenue be deposited into the General Fund;
- ▶ creates the Rail Transportation Restricted Account;
- ▶ provides that upon appropriation, the Department of Transportation shall use the money in the Rail Transportation Restricted Account for construction projects related to railroad crossings on class A, class B, and class C roads; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2021:

- ▶ to the Transit Transportation Investment Fund -- Rail Transportation Restricted Account, as an ongoing appropriation:
 - from the General Fund, \$3,660,000.
- ▶ to the Transit Transportation Investment Fund -- Rail Transportation Restricted Account, as a one-time appropriation:
 - from the General Fund, (\$2,135,000).

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-41-102, as last amended by Laws of Utah 2016, Chapter 176

26-36b-208, as last amended by Laws of Utah 2019, Chapters 1 and 393

35A-8-308, as last amended by Laws of Utah 2017, Chapters 181 and 421

35A-8-309, as last amended by Laws of Utah 2019, Chapter 493

59-1-401, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6

59-12-102, as last amended by Laws of Utah 2019, Chapters 325, 481, and 486

59-12-103, as last amended by Laws of Utah 2019, Chapters 1, 136, and 479

59-12-104, as last amended by Laws of Utah 2019, Chapters 136 and 486

59-12-108, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6

ENACTS:

72-2-131, Utah Code Annotated 1953

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

Section 1. Section **11-41-102** is amended to read:

11-41-102. Definitions.

As used in this chapter:

(1) "Agreement" means an oral or written agreement between a:

(a) (i) county; or

(ii) municipality; and

(b) person.

(2) "Municipality" means a:

(a) city;

(b) town; or

(c) metro township.

(3) "Payment" includes:

- 58 (a) a payment;
- 59 (b) a rebate;
- 60 (c) a refund; or
- 61 (d) an amount similar to Subsections (3)(a) through (c).
- 62 (4) "Regional retail business" means a:
- 63 (a) retail business that occupies a floor area of more than 80,000 square feet;
- 64 (b) dealer as defined in Section 41-1a-102;
- 65 (c) retail shopping facility that has at least two anchor tenants if the total number of
- 66 anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square
- 67 feet; or
- 68 (d) grocery store that occupies a floor area of more than 30,000 square feet.
- 69 (5) (a) "Sales and use tax" means a tax:
- 70 (i) imposed on transactions within a:
- 71 (A) county; or
- 72 (B) municipality; and
- 73 (ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12,
- 74 Sales and Use Tax Act.
- 75 (b) Notwithstanding Subsection (5)(a)(ii), "sales and use tax" does not include a tax
- 76 authorized under:
- 77 (i) Subsection 59-12-103(2)(a)(i);
- 78 (ii) Subsection 59-12-103(2)(b)(i);
- 79 (iii) Subsection 59-12-103(2)(c)(i);
- 80 (iv) Subsection 59-12-103(2)(d);
- 81 [~~(iv)~~] (v) Subsection 59-12-103(2)[~~(d)~~](e)(i)(A);
- 82 [~~(v)~~] (vi) Section 59-12-301;
- 83 [~~(vi)~~] (vii) Section 59-12-352;
- 84 [~~(vii)~~] (viii) Section 59-12-353;
- 85 [~~(viii)~~] (ix) Section 59-12-603; or

86 ~~[(ix)]~~ (x) Section 59-12-1201.

87 (6) (a) "Sales and use tax incentive payment" means a payment of revenues:

88 (i) to a person;

89 (ii) by a:

90 (A) county; or

91 (B) municipality;

92 (iii) to induce the person to locate or relocate a regional retail business within the:

93 (A) county; or

94 (B) municipality; and

95 (iv) that are derived from a sales and use tax.

96 (b) "Sales and use tax incentive payment" does not include funding for public
97 infrastructure.

98 Section 2. Section 26-36b-208 is amended to read:

99 **26-36b-208. Medicaid Expansion Fund.**

100 (1) There is created an expendable special revenue fund known as the Medicaid
101 Expansion Fund.

102 (2) The fund consists of:

103 (a) assessments collected under this chapter;

104 (b) intergovernmental transfers under Section 26-36b-206;

105 (c) savings attributable to the health coverage improvement program as determined by
106 the department;

107 (d) savings attributable to the enhancement waiver program as determined by the
108 department;

109 (e) savings attributable to the Medicaid waiver expansion as determined by the
110 department;

111 (f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list
112 under Subsection 26-18-2.4(3) as determined by the department;

113 (g) revenues collected from the sales tax described in Subsection 59-12-103~~[(13)]~~(12);

(h) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;

(i) interest earned on money in the fund; and

(j) additional amounts as appropriated by the Legislature.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) A state agency administering the provisions of this chapter may use money from the fund to pay the costs, not otherwise paid for with federal funds or other revenue sources, of:

(i) the health coverage improvement program;

(ii) the enhancement waiver program;

(iii) a Medicaid waiver expansion; and

(iv) the outpatient upper payment limit supplemental payments under Section 26-36b-210.

(b) A state agency administering the provisions of this chapter may not use:

(i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper payment limit supplemental payments; or

(ii) money in the fund for any purpose not described in Subsection (4)(a).

Section 3. Section 35A-8-308 is amended to read:

35A-8-308. Throughput Infrastructure Fund.

(1) There is created an enterprise fund known as the Throughput Infrastructure Fund.

(2) The fund consists of money generated from the following revenue sources:

(a) all amounts transferred to the fund [~~under Subsection 59-12-103(12)~~] by statute;

(b) any voluntary contributions received;

(c) appropriations made to the fund by the Legislature; and

(d) all amounts received from the repayment of loans made by the impact board under Section 35A-8-309.

(3) The state treasurer shall:

(a) invest the money in the fund by following the procedures and requirements of Title

51, Chapter 7, State Money Management Act; and

(b) deposit all interest or other earnings derived from those investments into the fund.

Section 4. Section **35A-8-309** is amended to read:

35A-8-309. Throughput Infrastructure Fund administered by impact board --

Uses -- Review by board -- Annual report -- First project.

(1) The impact board shall:

(a) make grants and loans from the Throughput Infrastructure Fund created in Section

35A-8-308 for a throughput infrastructure project;

(b) use money transferred to the Throughput Infrastructure Fund in accordance with

~~[Subsection 59-12-103(12)]~~ statute to provide a loan or grant to finance the cost of acquisition

or construction of a throughput infrastructure project to one or more local political

subdivisions, including a Utah interlocal agency created under Title 11, Chapter 13, Interlocal

Cooperation Act;

(c) administer the Throughput Infrastructure Fund in a manner that will keep a portion of the fund revolving;

(d) determine provisions for repayment of loans;

(e) establish criteria for awarding loans and grants; and

(f) establish criteria for determining eligibility for assistance under this section.

(2) The cost of acquisition or construction of a throughput infrastructure project includes amounts for working capital, reserves, transaction costs, and other amounts determined by the impact board to be allocable to a throughput infrastructure project.

(3) The impact board may restructure or forgive all or part of a local political subdivision's or interlocal agency's obligation to repay loans for extenuating circumstances.

(4) To receive assistance under this section, a local political subdivision or an interlocal agency shall submit a formal application containing the information that the impact board requires.

(5) (a) The impact board shall:

(i) review the proposed uses of the Throughput Infrastructure Fund for a loan or grant

before approving the loan or grant and may condition its approval on whatever assurances the impact board considers necessary to ensure that proceeds of the loan or grant will be used in accordance with this section;

(ii) ensure that each loan specifies terms for interest deferments, accruals, and scheduled principal repayment; and

(iii) ensure that repayment terms are evidenced by bonds, notes, or other obligations of the appropriate local political subdivision or interlocal agency issued to the impact board and payable from the net revenues of a throughput infrastructure project.

(b) An instrument described in Subsection (5)(a)(iii) may be:

(i) non-recourse to the local political subdivision or interlocal agency; and

(ii) limited to a pledge of the net revenues from a throughput infrastructure project.

(6) (a) Subject to the restriction in Subsection (6)(b), the impact board shall allocate from the Throughput Infrastructure Fund to the board those amounts that are appropriated by the Legislature for the administration of the Throughput Infrastructure Fund.

(b) The amount described in Subsection (6)(a) may not exceed 2% of the annual receipts to the fund.

(7) The board shall include in the annual written report described in Section 35A-1-109:

(a) the number and type of loans and grants made under this section; and

(b) a list of local political subdivisions or interlocal agencies that received assistance under this section.

(8) (a) The first throughput infrastructure project considered by the impact board shall be a bulk commodities ocean terminal project.

(b) Upon receipt of an application from an interlocal agency created for the sole purpose of undertaking a throughput infrastructure project that is a bulk commodities ocean terminal project, the impact board shall:

(i) grant up to 2% of the money in the Throughput Infrastructure Fund to the interlocal agency to pay or reimburse costs incurred by the interlocal agency preliminary to its acquisition

of the throughput infrastructure project; and

(ii) fund the interlocal agency's application if the application meets all criteria established by the impact board.

Section 5. Section **59-1-401** is amended to read:

59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute of limitations -- Commission authority to waive, reduce, or compromise penalty or interest.

(1) As used in this section:

(a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the commission:

(i) has implemented the commission's GenTax system; and

(ii) at least 30 days before implementing the commission's GenTax system as described in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website stating:

(A) the date the commission will implement the GenTax system with respect to the tax, fee, or charge; and

(B) that, at the time the commission implements the GenTax system with respect to the tax, fee, or charge:

(I) a person that files a return after the due date as described in Subsection (2)(a) is subject to the penalty described in Subsection (2)(c)(ii); and

(II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is subject to the penalty described in Subsection (3)(b)(ii).

(b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or charge, the later of:

(i) the date on which the commission implements the commission's GenTax system with respect to the tax, fee, or charge; or

(ii) 30 days after the date the commission provides the notice described in Subsection (1)(a)(ii) with respect to the tax, fee, or charge.

- 226 (c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:
- 227 (A) a tax, fee, or charge the commission administers under:
- 228 (I) this title;
- 229 (II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 230 (III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 231 (IV) Section 19-6-410.5;
- 232 (V) Section 19-6-714;
- 233 (VI) Section 19-6-805;
- 234 (VII) Section 34A-2-202;
- 235 (VIII) Section 40-6-14; or
- 236 (IX) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or
- 237 (B) another amount that by statute is subject to a penalty imposed under this section.
- 238 (ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
- 239 (A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
- 240 (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
- 241 (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;
- 242 (D) Chapter 3, Tax Equivalent Property Act; or
- 243 (E) Chapter 4, Privilege Tax.
- 244 (d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated
- 245 tax, fee, or charge.
- 246 (2) (a) The due date for filing a return is:
- 247 (i) if the person filing the return is not allowed by law an extension of time for filing
- 248 the return, the day on which the return is due as provided by law; or
- 249 (ii) if the person filing the return is allowed by law an extension of time for filing the
- 250 return, the earlier of:
- 251 (A) the date the person files the return; or
- 252 (B) the last day of that extension of time as allowed by law.
- 253 (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a

return after the due date described in Subsection (2)(a).

(c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:

(i) if the return described in Subsection (2)(b) is filed with respect to an unactivated tax, fee, or charge:

(A) \$20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax, fee, or charge, beginning on the activation date for the tax, fee, or charge:

(A) \$20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is filed no later than five days after the due date described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than five days after the due date but no later than 15 days after the due date described in Subsection (2)(a); or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than 15 days after the due date described in Subsection (2)(a).

(d) This Subsection (2) does not apply to:

(i) an amended return; or

(ii) a return with no tax due.

(3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:

(i) the person files a return on or before the due date for filing a return described in Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due date;

(ii) the person:

(A) is subject to a penalty under Subsection (2)(b); and

(B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the due date for filing a return described in Subsection (2)(a);

(iii) (A) the person is subject to a penalty under Subsection (2)(b); and

(B) the commission estimates an amount of tax due for that person in accordance with Subsection 59-1-1406(2);

(iv) the person:

(A) is mailed a notice of deficiency; and

(B) within a 30-day period after the day on which the notice of deficiency described in Subsection (3)(a)(iv)(A) is mailed:

(I) does not file a petition for redetermination or a request for agency action; and

(II) fails to pay the tax, fee, or charge due on a return;

(v) (A) the commission:

(I) issues an order constituting final agency action resulting from a timely filed petition for redetermination or a timely filed request for agency action; or

(II) is considered to have denied a request for reconsideration under Subsection 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed request for agency action; and

(B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period after the date the commission:

(I) issues the order constituting final agency action described in Subsection (3)(a)(v)(A)(I); or

(II) is considered to have denied the request for reconsideration described in Subsection (3)(a)(v)(A)(II); or

(vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date of a final judicial decision resulting from a timely filed petition for judicial review.

(b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

(i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an unactivated tax, fee, or charge:

(A) \$20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with

respect to an activated tax, fee, or charge, beginning on the activation date:

(A) \$20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid no later than five days after the due date for filing a return described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than five days after the due date for filing a return described in Subsection (2)(a) but no later than 15 days after that due date; or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a return described in Subsection (2)(a).

(4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be added a penalty in an amount determined by applying the interest rate provided under Section 59-1-402 plus four percentage points to the amount of the underpayment for the period of the underpayment.

(b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the excess of the required installment over the amount, if any, of the installment paid on or before the due date for the installment.

(ii) The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier:

(A) the original due date of the tax return, without extensions, for the taxable year; or

(B) with respect to any portion of the underpayment, the date on which that portion is paid.

(iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

(5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a

person allowed by law an extension of time for filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not including the extension of time, the person fails to pay:

(i) for a person filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

(ii) for a person filing an individual income tax return under Chapter 10, Individual Income Tax Act, the payment required by Subsection 59-10-516(2).

(b) For purposes of Subsection (5)(a), the penalty per month during the period of the extension of time for filing the return is an amount equal to 2% of the tax due on the return, unpaid as of the day on which the return is due as provided by law.

(6) If a person does not file a return within an extension of time allowed by Section 59-7-505 or 59-10-516, the person:

(a) is not subject to a penalty in the amount described in Subsection (5)(b); and

(b) is subject to a penalty in an amount equal to the sum of:

(i) a late file penalty in an amount equal to the greater of:

(A) \$20; or

(B) 10% of the tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time; and

(ii) a late pay penalty in an amount equal to the greater of:

(A) \$20; or

(B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time.

(7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided in this Subsection (7)(a).

(i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax, fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that

is due to negligence.

(ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire underpayment.

(iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge, the penalty is the greater of \$500 per period or 50% of the entire underpayment.

(iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.

(b) If the commission determines that a person is liable for a penalty imposed under Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed penalty.

(i) The notice of proposed penalty shall:

(A) set forth the basis of the assessment; and

(B) be mailed by certified mail, postage prepaid, to the person's last-known address.

(ii) Upon receipt of the notice of proposed penalty, the person against whom the penalty is proposed may:

(A) pay the amount of the proposed penalty at the place and time stated in the notice;

or

(B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

(iii) A person against whom a penalty is proposed in accordance with this Subsection (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with the commission.

(iv) (A) If the commission determines that a person is liable for a penalty under this Subsection (7), the commission shall assess the penalty and give notice and demand for payment.

(B) The commission shall mail the notice and demand for payment described in Subsection (7)(b)(iv)(A):

(I) to the person's last-known address; and

(II) in accordance with Section 59-1-1404.

(c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

(i) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through ~~(f)~~ (e); or

(ii) the commission issues a final unappealable administrative order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through ~~(f)~~ (e).

(d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(ii) if:

(i) (A) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through ~~(f)~~ (e); or

(B) the commission issues a final unappealable administrative order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection

59-12-107(2)(b) or (2)(c); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through ~~(d)~~ (e); and

(ii) the seller's intentional disregard of law or rule is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

(8) (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an information return, information report, or a complete supporting schedule is \$50 for each information return, information report, or supporting schedule up to a maximum of \$1,000.

(b) If an employer is subject to a penalty under Subsection (13), the employer may not be subject to a penalty under Subsection (8)(a).

(c) If an employer is subject to a penalty under this Subsection (8) for failure to file a return in accordance with Subsection 59-10-406(3) on or before the due date described in Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this Subsection (8) unless the return is filed more than 14 days after the due date described in Subsection 59-10-406(3)(b)(ii).

(9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay or impede administration of a law relating to a tax, fee, or charge and files a purported return that fails to contain information from which the correctness of reported tax, fee, or charge liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is substantially incorrect, the penalty is \$500.

(10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by Subsection 59-12-108(1)(a):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as required by Subsection 59-12-108(1)(a)(ii)(B):

- 450 (i) is subject to a penalty described in Subsection (2); and
451 (ii) may not retain the percentage of sales and use taxes that would otherwise be
452 allowable under Subsection 59-12-108(2).
- 453 (11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:
454 (i) commits an act described in Subsection (11)(b) with respect to one or more of the
455 following documents:
456 (A) a return;
457 (B) an affidavit;
458 (C) a claim; or
459 (D) a document similar to Subsections (11)(a)(i)(A) through (C);
460 (ii) knows or has reason to believe that the document described in Subsection (11)(a)(i)
461 will be used in connection with any material matter administered by the commission; and
462 (iii) knows that the document described in Subsection (11)(a)(i), if used in connection
463 with any material matter administered by the commission, would result in an understatement of
464 another person's liability for a tax, fee, or charge.
- 465 (b) The following acts apply to Subsection (11)(a)(i):
466 (i) preparing any portion of a document described in Subsection (11)(a)(i);
467 (ii) presenting any portion of a document described in Subsection (11)(a)(i);
468 (iii) procuring any portion of a document described in Subsection (11)(a)(i);
469 (iv) advising in the preparation or presentation of any portion of a document described
470 in Subsection (11)(a)(i);
471 (v) aiding in the preparation or presentation of any portion of a document described in
472 Subsection (11)(a)(i);
473 (vi) assisting in the preparation or presentation of any portion of a document described
474 in Subsection (11)(a)(i); or
475 (vii) counseling in the preparation or presentation of any portion of a document
476 described in Subsection (11)(a)(i).
477 (c) For purposes of Subsection (11)(a), the penalty:

478 (i) shall be imposed by the commission;

479 (ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which
480 the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

481 (iii) is in addition to any other penalty provided by law.

482 (d) The commission may seek a court order to enjoin a person from engaging in
483 conduct that is subject to a penalty under this Subsection (11).

484 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
485 commission may make rules prescribing the documents that are similar to Subsections
486 (11)(a)(i)(A) through (C).

487 (12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as
488 provided in Subsections (12)(b) through (e).

489 (b) (i) A person who is required by this title or any laws the commission administers or
490 regulates to register with or obtain a license or permit from the commission, who operates
491 without having registered or secured a license or permit, or who operates when the registration,
492 license, or permit is expired or not current, is guilty of a class B misdemeanor.

493 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the
494 penalty may not:

495 (A) be less than \$500; or

496 (B) exceed \$1,000.

497 (c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally,
498 and without a reasonable good faith basis, fails to make, render, sign, or verify a return within
499 the time required by law or to supply information within the time required by law, or who
500 makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false
501 or fraudulent information, is guilty of a third degree felony.

502 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the
503 penalty may not:

504 (A) be less than \$1,000; or

505 (B) exceed \$5,000.

(d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law, guilty of a second degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the penalty may not:

(A) be less than \$1,500; or

(B) exceed \$25,000.

(e) (i) A person is guilty of a second degree felony if that person commits an act:

(A) described in Subsection (12)(e)(ii) with respect to one or more of the following documents:

(I) a return;

(II) an affidavit;

(III) a claim; or

(IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

(B) subject to Subsection (12)(e)(iii), with knowledge that the document described in Subsection (12)(e)(i)(A):

(I) is false or fraudulent as to any material matter; and

(II) could be used in connection with any material matter administered by the commission.

(ii) The following acts apply to Subsection (12)(e)(i):

(A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

(B) presenting any portion of a document described in Subsection (12)(e)(i)(A);

(C) procuring any portion of a document described in Subsection (12)(e)(i)(A);

(D) advising in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(E) aiding in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(F) assisting in the preparation or presentation of any portion of a document described

534 in Subsection (12)(e)(i)(A); or

535 (G) counseling in the preparation or presentation of any portion of a document
536 described in Subsection (12)(e)(i)(A).

537 (iii) This Subsection (12)(e) applies:

538 (A) regardless of whether the person for which the document described in Subsection
539 (12)(e)(i)(A) is prepared or presented:

540 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or

541 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and

542 (B) in addition to any other penalty provided by law.

543 (iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the
544 penalty may not:

545 (A) be less than \$1,500; or

546 (B) exceed \$25,000.

547 (v) The commission may seek a court order to enjoin a person from engaging in
548 conduct that is subject to a penalty under this Subsection (12)(e).

549 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
550 the commission may make rules prescribing the documents that are similar to Subsections
551 (12)(e)(i)(A)(I) through (III).

552 (f) The statute of limitations for prosecution for a violation of this Subsection (12) is
553 the later of six years:

554 (i) from the date the tax should have been remitted; or

555 (ii) after the day on which the person commits the criminal offense.

556 (13) (a) Subject to Subsection (13)(b), an employer that is required to file a form with
557 the commission in accordance with Subsection 59-10-406(8) is subject to a penalty described
558 in Subsection (13)(b) if the employer:

559 (i) fails to file the form with the commission in an electronic format approved by the
560 commission as required by Subsection 59-10-406(8);

561 (ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8);

(iii) fails to provide accurate information on the form; or
(iv) fails to provide all of the information required by the Internal Revenue Service to be contained on the form.

(b) For purposes of Subsection (13)(a), the penalty is:

(i) \$30 per form, not to exceed \$75,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8), more than 14 days after the due date provided in Subsection 59-10-406(8) but no later than 30 days after the due date provided in Subsection 59-10-406(8);

(ii) \$60 per form, not to exceed \$200,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8), more than 30 days after the due date provided in Subsection 59-10-406(8) but on or before June 1; or

(iii) \$100 per form, not to exceed \$500,000 in a calendar year, if the employer:

(A) files the form in accordance with Subsection 59-10-406(8) after June 1; or

(B) fails to file the form.

(14) Upon making a record of its actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise any of the penalties or interest imposed under this part.

Section 6. Section 59-12-102 is amended to read:

59-12-102. Definitions.

As used in this chapter:

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

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

(b) is typically marketed:

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

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

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

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

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

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

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

(i) a subscriber purchases;

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

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

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

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

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

(A) a product; or

(B) a service.

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

(b) "Admission or user fees" does not include annual membership dues to private organizations.

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

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

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

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

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

(a) listed under Subsection (7); and

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

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

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

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

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

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

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

~~(f)~~ (f) Section 59-12-204;

~~(g)~~ (g) Section 59-12-401;

~~(h)~~ (h) Section 59-12-402;

~~(i)~~ (i) Section 59-12-402.1;

~~(j)~~ (j) Section 59-12-703;

~~(k)~~ (k) Section 59-12-802;

~~(l)~~ (l) Section 59-12-804;

~~(m)~~ (m) Section 59-12-1102;

~~(n)~~ (n) Section 59-12-1302;

~~(o)~~ (o) Section 59-12-1402;

~~(p)~~ (p) Section 59-12-1802;

~~(q)~~ (q) Section 59-12-2003;

~~(r)~~ (r) Section 59-12-2103;

~~(s)~~ (s) Section 59-12-2213;

~~(t)~~ (t) Section 59-12-2214;

~~(u)~~ (u) Section 59-12-2215;

646 ~~[(t)]~~ (v) Section 59-12-2216;
647 ~~[(v)]~~ (w) Section 59-12-2217;
648 ~~[(w)]~~ (x) Section 59-12-2218;
649 ~~[(x)]~~ (y) Section 59-12-2219; or
650 ~~[(y)]~~ (z) Section 59-12-2220.
651 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
652 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
653 (a) except for:
654 (i) an airline as defined in Section 59-2-102; or
655 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
656 includes a corporation that is qualified to do business but is not otherwise doing business in the
657 state, of an airline; and
658 (b) that has the workers, expertise, and facilities to perform the following, regardless of
659 whether the business entity performs the following in this state:
660 (i) check, diagnose, overhaul, and repair:
661 (A) an onboard system of a fixed wing turbine powered aircraft; and
662 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
663 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
664 engine;
665 (iii) perform at least the following maintenance on a fixed wing turbine powered
666 aircraft:
667 (A) an inspection;
668 (B) a repair, including a structural repair or modification;
669 (C) changing landing gear; and
670 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
671 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
672 completely apply new paint to the fixed wing turbine powered aircraft; and
673 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that

674 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
675 authority that certifies the fixed wing turbine powered aircraft.

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

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

679 (11) "Alternative energy" means:

- 680 (a) biomass energy;
- 681 (b) geothermal energy;
- 682 (c) hydroelectric energy;
- 683 (d) solar energy;
- 684 (e) wind energy; or
- 685 (f) energy that is derived from:
 - 686 (i) coal-to-liquids;
 - 687 (ii) nuclear fuel;
 - 688 (iii) oil-impregnated diatomaceous earth;
 - 689 (iv) oil sands;
 - 690 (v) oil shale;
 - 691 (vi) petroleum coke; or
 - 692 (vii) waste heat from:
 - 693 (A) an industrial facility; or
 - 694 (B) a power station in which an electric generator is driven through a process in which

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

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

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

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

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

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

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

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

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

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

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

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

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

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

(17) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration

730 Plan and the International Fuel Tax Agreement;

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

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

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

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

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

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

741 (B) animal waste;

742 (C) waste vegetable oil;

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

746 (E) aquatic plants; and

747 (F) agricultural products.

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

749 (i) black liquor; or

750 (ii) treated woods.

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

753 (i) distinct and identifiable; and

754 (ii) sold for one nonitemized price.

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

756 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on

757 the basis of the selection by the purchaser of the items of tangible personal property included in

758 the transaction;

759 (ii) the sale of real property;

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

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

762 (A) the tangible personal property:

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

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

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

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

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

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

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

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

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

772 taxation under this chapter if the:

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

774 taxation under this chapter is de minimis; or

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

776 under this chapter is de minimis; and

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

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

779 (A) that retail sale includes:

780 (I) food and food ingredients;

781 (II) a drug;

782 (III) durable medical equipment;

783 (IV) mobility enhancing equipment;

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

785 (VI) a prosthetic device; or

(VII) a medical supply; and

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

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

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

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

(A) packaging that:

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

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

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

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

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

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

(A) a binding sales document; or

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

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

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

- 815 (A) a bill of sale;
- 816 (B) a contract;
- 817 (C) an invoice;
- 818 (D) a lease agreement;
- 819 (E) a periodic notice of rates and services;
- 820 (F) a price list;
- 821 (G) a rate card;
- 822 (H) a receipt; or
- 823 (I) a service agreement.

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

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

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

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

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

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

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

839 (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of
840 the seller's purchase price and the seller's sales price to determine if tangible personal property
841 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales

price of that retail sale.

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

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

(i) on a transaction; and

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

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

(c) maintains a record of the transaction described in Subsection (20)(a)(i).

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

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

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

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

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

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

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

(23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (57) or residential use under Subsection (111).

(25) (a) "Common carrier" means a person engaged in or transacting the business of

870 transporting passengers, freight, merchandise, or other property for hire within this state.

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

874 (ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3,
875 Utah Administrative Rulemaking Act, the commission may make rules defining what
876 constitutes a person's place of employment.

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

879 (26) "Component part" includes:

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

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

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

885 (d) feed, seeds, and seedlings.

886 (27) "Computer" means an electronic device that accepts information:

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

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

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

890 (28) "Computer software" means a set of coded instructions designed to cause:

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

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

893 (29) "Computer software maintenance contract" means a contract that obligates a seller
894 of computer software to provide a customer with:

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

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

897 (c) a combination of Subsections (29)(a) and (b).

(30) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (30)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (30)(a).

(31) "Construction materials" means any tangible personal property that will be converted into real property.

(32) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(33) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

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

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

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

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

(35) "Dietary supplement" means a product, other than tobacco, that:

- 926 (a) is intended to supplement the diet;
- 927 (b) contains one or more of the following dietary ingredients:
- 928 (i) a vitamin;
- 929 (ii) a mineral;
- 930 (iii) an herb or other botanical;
- 931 (iv) an amino acid;
- 932 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 933 dietary intake; or
- 934 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 935 described in Subsections (35)(b)(i) through (v);
- 936 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
- 937 (A) tablet form;
- 938 (B) capsule form;
- 939 (C) powder form;
- 940 (D) softgel form;
- 941 (E) gelcap form; or
- 942 (F) liquid form; or
- 943 (ii) if the product is not intended for ingestion in a form described in Subsections
- 944 (35)(c)(i)(A) through (F), is not represented:
- 945 (A) as conventional food; and
- 946 (B) for use as a sole item of:
- 947 (I) a meal; or
- 948 (II) the diet; and
- 949 (d) is required to be labeled as a dietary supplement:
- 950 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 951 (ii) as required by 21 C.F.R. Sec. 101.36.
- 952 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 953 musical, spoken, or other sounds.

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

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

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

959 (39) (a) "Direct mail" means printed material delivered or distributed by United States
960 mail or other delivery service:

961 (i) to:

962 (A) a mass audience; or

963 (B) addressees on a mailing list provided:

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

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

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

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

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

971 (40) "Directory assistance" means an ancillary service of providing:

972 (a) address information; or

973 (b) telephone number information.

974 (41) (a) "Disposable home medical equipment or supplies" means medical equipment
975 or supplies that:

976 (i) cannot withstand repeated use; and

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

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

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

980 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

981 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

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

983 (i) a drug;

984 (ii) durable medical equipment;

985 (iii) a hearing aid;

986 (iv) a hearing aid accessory;

987 (v) mobility enhancing equipment; or

988 (vi) tangible personal property used to correct impaired vision, including:

989 (A) eyeglasses; or

990 (B) contact lenses.

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

993 (42) "Drilling equipment manufacturer" means a facility:

994 (a) located in the state;

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

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

999 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
1000 manufacturing process.

1001 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a
1002 compound, substance, or preparation that is:

1003 (i) recognized in:

1004 (A) the official United States Pharmacopoeia;

1005 (B) the official Homeopathic Pharmacopoeia of the United States;

1006 (C) the official National Formulary; or

1007 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);

1008 (ii) intended for use in the:

1009 (A) diagnosis of disease;

- 1010 (B) cure of disease;
- 1011 (C) mitigation of disease;
- 1012 (D) treatment of disease; or
- 1013 (E) prevention of disease; or
- 1014 (iii) intended to affect:
- 1015 (A) the structure of the body; or
- 1016 (B) any function of the body.
- 1017 (b) "Drug" does not include:
- 1018 (i) food and food ingredients;
- 1019 (ii) a dietary supplement;
- 1020 (iii) an alcoholic beverage; or
- 1021 (iv) a prosthetic device.
- 1022 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means
- 1023 equipment that:
- 1024 (i) can withstand repeated use;
- 1025 (ii) is primarily and customarily used to serve a medical purpose;
- 1026 (iii) generally is not useful to a person in the absence of illness or injury; and
- 1027 (iv) is not worn in or on the body.
- 1028 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 1029 equipment described in Subsection (44)(a).
- 1030 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 1031 (45) "Electronic" means:
- 1032 (a) relating to technology; and
- 1033 (b) having:
- 1034 (i) electrical capabilities;
- 1035 (ii) digital capabilities;
- 1036 (iii) magnetic capabilities;
- 1037 (iv) wireless capabilities;

- 1038 (v) optical capabilities;
- 1039 (vi) electromagnetic capabilities; or
- 1040 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).
- 1041 (46) "Electronic financial payment service" means an establishment:
- 1042 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 1043 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 1044 federal Executive Office of the President, Office of Management and Budget; and
- 1045 (b) that performs electronic financial payment services.
- 1046 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 1047 (48) "Fixed guideway" means a public transit facility that uses and occupies:
- 1048 (a) rail for the use of public transit; or
- 1049 (b) a separate right-of-way for the use of public transit.
- 1050 (49) "Fixed wing turbine powered aircraft" means an aircraft that:
- 1051 (a) is powered by turbine engines;
- 1052 (b) operates on jet fuel; and
- 1053 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 1054 (50) "Fixed wireless service" means a telecommunications service that provides radio
- 1055 communication between fixed points.
- 1056 (51) (a) "Food and food ingredients" means substances:
- 1057 (i) regardless of whether the substances are in:
- 1058 (A) liquid form;
- 1059 (B) concentrated form;
- 1060 (C) solid form;
- 1061 (D) frozen form;
- 1062 (E) dried form; or
- 1063 (F) dehydrated form; and
- 1064 (ii) that are:
- 1065 (A) sold for:

1066 (I) ingestion by humans; or
1067 (II) chewing by humans; and
1068 (B) consumed for the substance's:
1069 (I) taste; or
1070 (II) nutritional value.
1071 (b) "Food and food ingredients" includes an item described in Subsection (95)(b)(iii).
1072 (c) "Food and food ingredients" does not include:
1073 (i) an alcoholic beverage;
1074 (ii) tobacco; or
1075 (iii) prepared food.
1076 (52) (a) "Fundraising sales" means sales:
1077 (i) (A) made by a school; or
1078 (B) made by a school student;
1079 (ii) that are for the purpose of raising funds for the school to purchase equipment,
1080 materials, or provide transportation; and
1081 (iii) that are part of an officially sanctioned school activity.
1082 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"
1083 means a school activity:
1084 (i) that is conducted in accordance with a formal policy adopted by the school or school
1085 district governing the authorization and supervision of fundraising activities;
1086 (ii) that does not directly or indirectly compensate an individual teacher or other
1087 educational personnel by direct payment, commissions, or payment in kind; and
1088 (iii) the net or gross revenues from which are deposited in a dedicated account
1089 controlled by the school or school district.
1090 (53) "Geothermal energy" means energy contained in heat that continuously flows
1091 outward from the earth that is used as the sole source of energy to produce electricity.
1092 (54) "Governing board of the agreement" means the governing board of the agreement
1093 that is:

- 1094 (a) authorized to administer the agreement; and
1095 (b) established in accordance with the agreement.
- 1096 (55) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
1097 (i) the executive branch of the state, including all departments, institutions, boards,
1098 divisions, bureaus, offices, commissions, and committees;
1099 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
1100 Administrative Office of the Courts, and similar administrative units in the judicial branch;
1101 (iii) the legislative branch of the state, including the House of Representatives, the
1102 Senate, the Legislative Printing Office, the Office of Legislative Research and General
1103 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
1104 Analyst;
1105 (iv) the National Guard;
1106 (v) an independent entity as defined in Section 63E-1-102; or
1107 (vi) a political subdivision as defined in Section 17B-1-102.
- 1108 (b) "Governmental entity" does not include the state systems of public and higher
1109 education, including:
1110 (i) a school;
1111 (ii) the State Board of Education;
1112 (iii) the State Board of Regents; or
1113 (iv) an institution of higher education described in Section 53B-1-102.
- 1114 (56) "Hydroelectric energy" means water used as the sole source of energy to produce
1115 electricity.
- 1116 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
1117 other fuels:
1118 (a) in mining or extraction of minerals;
1119 (b) in agricultural operations to produce an agricultural product up to the time of
1120 harvest or placing the agricultural product into a storage facility, including:
1121 (i) commercial greenhouses;

- 1122 (ii) irrigation pumps;
1123 (iii) farm machinery;
1124 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
1125 under Title 41, Chapter 1a, Part 2, Registration; and
1126 (v) other farming activities;
- 1127 (c) in manufacturing tangible personal property at an establishment described in:
1128 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
1129 the federal Executive Office of the President, Office of Management and Budget; or
1130 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
1131 American Industry Classification System of the federal Executive Office of the President,
1132 Office of Management and Budget;
- 1133 (d) by a scrap recycler if:
1134 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1135 one or more of the following items into prepared grades of processed materials for use in new
1136 products:
1137 (A) iron;
1138 (B) steel;
1139 (C) nonferrous metal;
1140 (D) paper;
1141 (E) glass;
1142 (F) plastic;
1143 (G) textile; or
1144 (H) rubber; and
1145 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with
1146 nonrecycled materials; or
1147 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
1148 cogeneration facility as defined in Section 54-2-1.
- 1149 (58) (a) Except as provided in Subsection (58)(b), "installation charge" means a charge

1150 for installing:

1151 (i) tangible personal property; or

1152 (ii) a product transferred electronically.

1153 (b) "Installation charge" does not include a charge for:

1154 (i) repairs or renovations of:

1155 (A) tangible personal property; or

1156 (B) a product transferred electronically; or

1157 (ii) attaching tangible personal property or a product transferred electronically:

1158 (A) to other tangible personal property; and

1159 (B) as part of a manufacturing or fabrication process.

1160 (59) "Institution of higher education" means an institution of higher education listed in

1161 Section [53B-2-101](#).

1162 (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible

1163 personal property or a product transferred electronically for:

1164 (i) (A) a fixed term; or

1165 (B) an indeterminate term; and

1166 (ii) consideration.

1167 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the

1168 amount of consideration may be increased or decreased by reference to the amount realized

1169 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue

1170 Code.

1171 (c) "Lease" or "rental" does not include:

1172 (i) a transfer of possession or control of property under a security agreement or

1173 deferred payment plan that requires the transfer of title upon completion of the required

1174 payments;

1175 (ii) a transfer of possession or control of property under an agreement that requires the

1176 transfer of title:

1177 (A) upon completion of required payments; and

- 1178 (B) if the payment of an option price does not exceed the greater of:
1179 (I) \$100; or
1180 (II) 1% of the total required payments; or
1181 (iii) providing tangible personal property along with an operator for a fixed period of
1182 time or an indeterminate period of time if the operator is necessary for equipment to perform as
1183 designed.
- 1184 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to
1185 perform as designed if the operator's duties exceed the:
1186 (i) set-up of tangible personal property;
1187 (ii) maintenance of tangible personal property; or
1188 (iii) inspection of tangible personal property.
- 1189 (61) "Life science establishment" means an establishment in this state that is classified
1190 under the following NAICS codes of the 2007 North American Industry Classification System
1191 of the federal Executive Office of the President, Office of Management and Budget:
1192 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
1193 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
1194 Manufacturing; or
1195 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 1196 (62) "Life science research and development facility" means a facility owned, leased,
1197 or rented by a life science establishment if research and development is performed in 51% or
1198 more of the total area of the facility.
- 1199 (63) "Load and leave" means delivery to a purchaser by use of a tangible storage media
1200 if the tangible storage media is not physically transferred to the purchaser.
- 1201 (64) "Local taxing jurisdiction" means a:
1202 (a) county that is authorized to impose an agreement sales and use tax;
1203 (b) city that is authorized to impose an agreement sales and use tax; or
1204 (c) town that is authorized to impose an agreement sales and use tax.
- 1205 (65) "Manufactured home" means the same as that term is defined in Section

1206 15A-1-302.

1207 (66) "Manufacturing facility" means:

1208 (a) an establishment described in:

1209 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
1210 the federal Executive Office of the President, Office of Management and Budget; or

1211 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
1212 American Industry Classification System of the federal Executive Office of the President,
1213 Office of Management and Budget;

1214 (b) a scrap recycler if:

1215 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1216 one or more of the following items into prepared grades of processed materials for use in new
1217 products:

1218 (A) iron;

1219 (B) steel;

1220 (C) nonferrous metal;

1221 (D) paper;

1222 (E) glass;

1223 (F) plastic;

1224 (G) textile; or

1225 (H) rubber; and

1226 (ii) the new products under Subsection (66)(b)(i) would otherwise be made with
1227 nonrecycled materials; or

1228 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
1229 placed in service on or after May 1, 2006.

1230 (67) (a) "Marketplace" means a physical or electronic place, platform, or forum where
1231 tangible personal property, a product transferred electronically, or a service is offered for sale.

1232 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a
1233 dedicated sales software application.

1234 (68) (a) "Marketplace facilitator" means a person, including an affiliate of the person,
1235 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to
1236 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or
1237 controls and that directly or indirectly:

1238 (i) does any of the following:

1239 (A) lists, makes available, or advertises tangible personal property, a product
1240 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the
1241 person owns, operates, or controls;

1242 (B) facilitates the sale of a marketplace seller's tangible personal property, product
1243 transferred electronically, or service by transmitting or otherwise communicating an offer or
1244 acceptance of a retail sale between the marketplace seller and a purchaser using the
1245 marketplace;

1246 (C) owns, rents, licenses, makes available, or operates any electronic or physical
1247 infrastructure or any property, process, method, copyright, trademark, or patent that connects a
1248 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal
1249 property, a product transferred electronically, or a service;

1250 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible
1251 personal property, a product transferred electronically, or a service, regardless of ownership or
1252 control of the tangible personal property, the product transferred electronically, or the service
1253 that is the subject of the retail sale;

1254 (E) provides software development or research and development activities related to
1255 any activity described in this Subsection (68)(a)(i), if the software development or research and
1256 development activity is directly related to the person's marketplace;

1257 (F) provides or offers fulfillment or storage services for a marketplace seller;

1258 (G) sets prices for the sale of tangible personal property, a product transferred
1259 electronically, or a service by a marketplace seller;

1260 (H) provides or offers customer service to a marketplace seller or a marketplace seller's
1261 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal

1262 property, a product transferred electronically, or a service sold by a marketplace seller on the
1263 person's marketplace; or

1264 (I) brands or otherwise identifies sales as those of the person; and

1265 (ii) does any of the following:

1266 (A) collects the sales price or purchase price of a retail sale of tangible personal
1267 property, a product transferred electronically, or a service;

1268 (B) provides payment processing services for a retail sale of tangible personal property,
1269 a product transferred electronically, or a service;

1270 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing
1271 fee, a fee for inserting or making available tangible personal property, a product transferred
1272 electronically, or a service on the person's marketplace, or other consideration for the
1273 facilitation of a retail sale of tangible personal property, a product transferred electronically, or
1274 a service, regardless of ownership or control of the tangible personal property, the product
1275 transferred electronically, or the service that is the subject of the retail sale;

1276 (D) through terms and conditions, an agreement, or another arrangement with a third
1277 person, collects payment from a purchase for a retail sale of tangible personal property, a
1278 product transferred electronically, or a service and transmits that payment to the marketplace
1279 seller, regardless of whether the third person receives compensation or other consideration in
1280 exchange for the service; or

1281 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
1282 property, a product transferred electronically, or service offered for sale.

1283 (b) "Marketplace facilitator" does not include a person that only provides payment
1284 processing services.

1285 (69) "Marketplace seller" means a seller that makes one or more retail sales through a
1286 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the
1287 seller is required to be registered to collect and remit the tax under this part.

1288 (70) "Member of the immediate family of the producer" means a person who is related
1289 to a producer described in Subsection 59-12-104(20)(a) as a:

- 1290 (a) child or stepchild, regardless of whether the child or stepchild is:
1291 (i) an adopted child or adopted stepchild; or
1292 (ii) a foster child or foster stepchild;
1293 (b) grandchild or stepgrandchild;
1294 (c) grandparent or stepgrandparent;
1295 (d) nephew or stepnephew;
1296 (e) niece or stepniece;
1297 (f) parent or stepparent;
1298 (g) sibling or stepsibling;
1299 (h) spouse;
1300 (i) person who is the spouse of a person described in Subsections (70)(a) through (g);
1301 or
1302 (j) person similar to a person described in Subsections (70)(a) through (i) as
1303 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
1304 Administrative Rulemaking Act.
1305 (71) "Mobile home" means the same as that term is defined in Section [15A-1-302](#).
1306 (72) "Mobile telecommunications service" means the same as that term is defined in
1307 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
1308 (73) (a) "Mobile wireless service" means a telecommunications service, regardless of
1309 the technology used, if:
1310 (i) the origination point of the conveyance, routing, or transmission is not fixed;
1311 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
1312 (iii) the origination point described in Subsection (73)(a)(i) and the termination point
1313 described in Subsection (73)(a)(ii) are not fixed.
1314 (b) "Mobile wireless service" includes a telecommunications service that is provided
1315 by a commercial mobile radio service provider.
1316 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1317 commission may by rule define "commercial mobile radio service provider."

1318 (74) (a) Except as provided in Subsection (74)(c), "mobility enhancing equipment"

1319 means equipment that is:

1320 (i) primarily and customarily used to provide or increase the ability to move from one
1321 place to another;

1322 (ii) appropriate for use in a:

1323 (A) home; or

1324 (B) motor vehicle; and

1325 (iii) not generally used by persons with normal mobility.

1326 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
1327 the equipment described in Subsection (74)(a).

1328 (c) "Mobility enhancing equipment" does not include:

1329 (i) a motor vehicle;

1330 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
1331 vehicle manufacturer;

1332 (iii) durable medical equipment; or

1333 (iv) a prosthetic device.

1334 (75) "Model 1 seller" means a seller registered under the agreement that has selected a
1335 certified service provider as the seller's agent to perform the seller's sales and use tax functions
1336 for agreement sales and use taxes, as outlined in the contract between the governing board of
1337 the agreement and the certified service provider, other than the seller's obligation under Section
1338 [59-12-124](#) to remit a tax on the seller's own purchases.

1339 (76) "Model 2 seller" means a seller registered under the agreement that:

1340 (a) except as provided in Subsection (76)(b), has selected a certified automated system
1341 to perform the seller's sales tax functions for agreement sales and use taxes; and

1342 (b) retains responsibility for remitting all of the sales tax:

1343 (i) collected by the seller; and

1344 (ii) to the appropriate local taxing jurisdiction.

1345 (77) (a) Subject to Subsection (77)(b), "model 3 seller" means a seller registered under

1346 the agreement that has:

- 1347 (i) sales in at least five states that are members of the agreement;
1348 (ii) total annual sales revenues of at least \$500,000,000;
1349 (iii) a proprietary system that calculates the amount of tax:
1350 (A) for an agreement sales and use tax; and
1351 (B) due to each local taxing jurisdiction; and
1352 (iv) entered into a performance agreement with the governing board of the agreement.

1353 (b) For purposes of Subsection (77)(a), "model 3 seller" includes an affiliated group of
1354 sellers using the same proprietary system.

1355 (78) "Model 4 seller" means a seller that is registered under the agreement and is not a
1356 model 1 seller, model 2 seller, or model 3 seller.

1357 (79) "Modular home" means a modular unit as defined in Section 15A-1-302.

1358 (80) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

1359 (81) "Oil sands" means impregnated bituminous sands that:

1360 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
1361 other hydrocarbons, or otherwise treated;

1362 (b) yield mixtures of liquid hydrocarbon; and

1363 (c) require further processing other than mechanical blending before becoming finished
1364 petroleum products.

1365 (82) "Oil shale" means a group of fine black to dark brown shales containing kerogen
1366 material that yields petroleum upon heating and distillation.

1367 (83) "Optional computer software maintenance contract" means a computer software
1368 maintenance contract that a customer is not obligated to purchase as a condition to the retail
1369 sale of computer software.

1370 (84) (a) "Other fuels" means products that burn independently to produce heat or
1371 energy.

1372 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
1373 personal property.

1374 (85) (a) "Paging service" means a telecommunications service that provides
1375 transmission of a coded radio signal for the purpose of activating a specific pager.

1376 (b) For purposes of Subsection (85)(a), the transmission of a coded radio signal
1377 includes a transmission by message or sound.

1378 (86) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

1379 (87) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

1380 (88) (a) "Permanently attached to real property" means that for tangible personal
1381 property attached to real property:

1382 (i) the attachment of the tangible personal property to the real property:

1383 (A) is essential to the use of the tangible personal property; and

1384 (B) suggests that the tangible personal property will remain attached to the real
1385 property in the same place over the useful life of the tangible personal property; or

1386 (ii) if the tangible personal property is detached from the real property, the detachment
1387 would:

1388 (A) cause substantial damage to the tangible personal property; or

1389 (B) require substantial alteration or repair of the real property to which the tangible
1390 personal property is attached.

1391 (b) "Permanently attached to real property" includes:

1392 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1393 (A) essential to the operation of the tangible personal property; and

1394 (B) attached only to facilitate the operation of the tangible personal property;

1395 (ii) a temporary detachment of tangible personal property from real property for a
1396 repair or renovation if the repair or renovation is performed where the tangible personal
1397 property and real property are located; or

1398 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
1399 Subsection (88)(c)(iii) or (iv).

1400 (c) "Permanently attached to real property" does not include:

1401 (i) the attachment of portable or movable tangible personal property to real property if

1402 that portable or movable tangible personal property is attached to real property only for:

1403 (A) convenience;

1404 (B) stability; or

1405 (C) for an obvious temporary purpose;

1406 (ii) the detachment of tangible personal property from real property except for the

1407 detachment described in Subsection (88)(b)(ii);

1408 (iii) an attachment of the following tangible personal property to real property if the

1409 attachment to real property is only through a line that supplies water, electricity, gas,

1410 telecommunications, cable, or supplies a similar item as determined by the commission by rule

1411 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

1412 (A) a computer;

1413 (B) a telephone;

1414 (C) a television; or

1415 (D) tangible personal property similar to Subsections (88)(c)(iii)(A) through (C) as

1416 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

1417 Administrative Rulemaking Act; or

1418 (iv) an item listed in Subsection (129)(c).

1419 (89) "Person" includes any individual, firm, partnership, joint venture, association,

1420 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,

1421 municipality, district, or other local governmental entity of the state, or any group or

1422 combination acting as a unit.

1423 (90) "Place of primary use":

1424 (a) for telecommunications service other than mobile telecommunications service,

1425 means the street address representative of where the customer's use of the telecommunications

1426 service primarily occurs, which shall be:

1427 (i) the residential street address of the customer; or

1428 (ii) the primary business street address of the customer; or

1429 (b) for mobile telecommunications service, means the same as that term is defined in

1430 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1431 (91) (a) "Postpaid calling service" means a telecommunications service a person
1432 obtains by making a payment on a call-by-call basis:

1433 (i) through the use of a:

1434 (A) bank card;

1435 (B) credit card;

1436 (C) debit card; or

1437 (D) travel card; or

1438 (ii) by a charge made to a telephone number that is not associated with the origination
1439 or termination of the telecommunications service.

1440 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
1441 service, that would be a prepaid wireless calling service if the service were exclusively a
1442 telecommunications service.

1443 (92) "Postproduction" means an activity related to the finishing or duplication of a
1444 medium described in Subsection 59-12-104(54)(a).

1445 (93) "Prepaid calling service" means a telecommunications service:

1446 (a) that allows a purchaser access to telecommunications service that is exclusively
1447 telecommunications service;

1448 (b) that:

1449 (i) is paid for in advance; and

1450 (ii) enables the origination of a call using an:

1451 (A) access number; or

1452 (B) authorization code;

1453 (c) that is dialed:

1454 (i) manually; or

1455 (ii) electronically; and

1456 (d) sold in predetermined units or dollars that decline:

1457 (i) by a known amount; and

- 1458 (ii) with use.
- 1459 (94) "Prepaid wireless calling service" means a telecommunications service:
- 1460 (a) that provides the right to utilize:
- 1461 (i) mobile wireless service; and
- 1462 (ii) other service that is not a telecommunications service, including:
- 1463 (A) the download of a product transferred electronically;
- 1464 (B) a content service; or
- 1465 (C) an ancillary service;
- 1466 (b) that:
- 1467 (i) is paid for in advance; and
- 1468 (ii) enables the origination of a call using an:
- 1469 (A) access number; or
- 1470 (B) authorization code;
- 1471 (c) that is dialed:
- 1472 (i) manually; or
- 1473 (ii) electronically; and
- 1474 (d) sold in predetermined units or dollars that decline:
- 1475 (i) by a known amount; and
- 1476 (ii) with use.
- 1477 (95) (a) "Prepared food" means:
- 1478 (i) food:
- 1479 (A) sold in a heated state; or
- 1480 (B) heated by a seller;
- 1481 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 1482 item; or
- 1483 (iii) except as provided in Subsection (95)(c), food sold with an eating utensil provided
- 1484 by the seller, including a:
- 1485 (A) plate;

1486 (B) knife;
1487 (C) fork;
1488 (D) spoon;
1489 (E) glass;
1490 (F) cup;
1491 (G) napkin; or
1492 (H) straw.
1493 (b) "Prepared food" does not include:
1494 (i) food that a seller only:
1495 (A) cuts;
1496 (B) repackages; or
1497 (C) pasteurizes; or
1498 (ii) (A) the following:
1499 (I) raw egg;
1500 (II) raw fish;
1501 (III) raw meat;
1502 (IV) raw poultry; or
1503 (V) a food containing an item described in Subsections (95)(b)(ii)(A)(I) through (IV);
1504 and
1505 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
1506 Food and Drug Administration's Food Code that a consumer cook the items described in
1507 Subsection (95)(b)(ii)(A) to prevent food borne illness; or
1508 (iii) the following if sold without eating utensils provided by the seller:
1509 (A) food and food ingredients sold by a seller if the seller's proper primary
1510 classification under the 2002 North American Industry Classification System of the federal
1511 Executive Office of the President, Office of Management and Budget, is manufacturing in
1512 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
1513 Manufacturing;

- 1514 (B) food and food ingredients sold in an unheated state:
1515 (I) by weight or volume; and
1516 (II) as a single item; or
1517 (C) a bakery item, including:
1518 (I) a bagel;
1519 (II) a bar;
1520 (III) a biscuit;
1521 (IV) bread;
1522 (V) a bun;
1523 (VI) a cake;
1524 (VII) a cookie;
1525 (VIII) a croissant;
1526 (IX) a danish;
1527 (X) a donut;
1528 (XI) a muffin;
1529 (XII) a pastry;
1530 (XIII) a pie;
1531 (XIV) a roll;
1532 (XV) a tart;
1533 (XVI) a torte; or
1534 (XVII) a tortilla.
1535 (c) An eating utensil provided by the seller does not include the following used to
1536 transport the food:
1537 (i) a container; or
1538 (ii) packaging.
1539 (96) "Prescription" means an order, formula, or recipe that is issued:
1540 (a) (i) orally;
1541 (ii) in writing;

1542 (iii) electronically; or
1543 (iv) by any other manner of transmission; and
1544 (b) by a licensed practitioner authorized by the laws of a state.
1545 (97) (a) Except as provided in Subsection (97)(b)(ii) or (iii), "prewritten computer
1546 software" means computer software that is not designed and developed:
1547 (i) by the author or other creator of the computer software; and
1548 (ii) to the specifications of a specific purchaser.
1549 (b) "Prewritten computer software" includes:
1550 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
1551 software is not designed and developed:
1552 (A) by the author or other creator of the computer software; and
1553 (B) to the specifications of a specific purchaser;
1554 (ii) computer software designed and developed by the author or other creator of the
1555 computer software to the specifications of a specific purchaser if the computer software is sold
1556 to a person other than the purchaser; or
1557 (iii) except as provided in Subsection (97)(c), prewritten computer software or a
1558 prewritten portion of prewritten computer software:
1559 (A) that is modified or enhanced to any degree; and
1560 (B) if the modification or enhancement described in Subsection (97)(b)(iii)(A) is
1561 designed and developed to the specifications of a specific purchaser.
1562 (c) "Prewritten computer software" does not include a modification or enhancement
1563 described in Subsection (97)(b)(iii) if the charges for the modification or enhancement are:
1564 (i) reasonable; and
1565 (ii) subject to Subsections 59-12-103(2)(~~f~~)(f)(ii) and (2)(~~f~~)(g)(i), separately stated
1566 on the invoice or other statement of price provided to the purchaser at the time of sale or later,
1567 as demonstrated by:
1568 (A) the books and records the seller keeps at the time of the transaction in the regular
1569 course of business, including books and records the seller keeps at the time of the transaction in

- 1570 the regular course of business for nontax purposes;
- 1571 (B) a preponderance of the facts and circumstances at the time of the transaction; and
- 1572 (C) the understanding of all of the parties to the transaction.
- 1573 (98) (a) "Private communications service" means a telecommunications service:
- 1574 (i) that entitles a customer to exclusive or priority use of one or more communications
- 1575 channels between or among termination points; and
- 1576 (ii) regardless of the manner in which the one or more communications channels are
- 1577 connected.
- 1578 (b) "Private communications service" includes the following provided in connection
- 1579 with the use of one or more communications channels:
- 1580 (i) an extension line;
- 1581 (ii) a station;
- 1582 (iii) switching capacity; or
- 1583 (iv) another associated service that is provided in connection with the use of one or
- 1584 more communications channels as defined in Section [59-12-215](#).
- 1585 (99) (a) Except as provided in Subsection (99)(b), "product transferred electronically"
- 1586 means a product transferred electronically that would be subject to a tax under this chapter if
- 1587 that product was transferred in a manner other than electronically.
- 1588 (b) "Product transferred electronically" does not include:
- 1589 (i) an ancillary service;
- 1590 (ii) computer software; or
- 1591 (iii) a telecommunications service.
- 1592 (100) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 1593 (i) artificially replace a missing portion of the body;
- 1594 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1595 (iii) support a weak or deformed portion of the body.
- 1596 (b) "Prosthetic device" includes:
- 1597 (i) parts used in the repairs or renovation of a prosthetic device;

- 1598 (ii) replacement parts for a prosthetic device;
1599 (iii) a dental prosthesis; or
1600 (iv) a hearing aid.
- 1601 (c) "Prosthetic device" does not include:
1602 (i) corrective eyeglasses; or
1603 (ii) contact lenses.
- 1604 (101) (a) "Protective equipment" means an item:
1605 (i) for human wear; and
1606 (ii) that is:
1607 (A) designed as protection:
1608 (I) to the wearer against injury or disease; or
1609 (II) against damage or injury of other persons or property; and
1610 (B) not suitable for general use.
- 1611 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1612 commission shall make rules:
1613 (i) listing the items that constitute "protective equipment"; and
1614 (ii) that are consistent with the list of items that constitute "protective equipment"
1615 under the agreement.
- 1616 (102) (a) For purposes of Subsection 59-12-104(41), "publication" means any written
1617 or printed matter, other than a photocopy:
1618 (i) regardless of:
1619 (A) characteristics;
1620 (B) copyright;
1621 (C) form;
1622 (D) format;
1623 (E) method of reproduction; or
1624 (F) source; and
1625 (ii) made available in printed or electronic format.

1626 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1627 commission may by rule define the term "photocopy."

1628 (103) (a) "Purchase price" and "sales price" mean the total amount of consideration:
1629 (i) valued in money; and
1630 (ii) for which tangible personal property, a product transferred electronically, or
1631 services are:

1632 (A) sold;
1633 (B) leased; or
1634 (C) rented.

1635 (b) "Purchase price" and "sales price" include:
1636 (i) the seller's cost of the tangible personal property, a product transferred
1637 electronically, or services sold;
1638 (ii) expenses of the seller, including:
1639 (A) the cost of materials used;
1640 (B) a labor cost;
1641 (C) a service cost;
1642 (D) interest;
1643 (E) a loss;
1644 (F) the cost of transportation to the seller; or
1645 (G) a tax imposed on the seller;
1646 (iii) a charge by the seller for any service necessary to complete the sale; or
1647 (iv) consideration a seller receives from a person other than the purchaser if:
1648 (A) (I) the seller actually receives consideration from a person other than the purchaser;
1649 and
1650 (II) the consideration described in Subsection (103)(b)(iv)(A)(I) is directly related to a
1651 price reduction or discount on the sale;
1652 (B) the seller has an obligation to pass the price reduction or discount through to the
1653 purchaser;

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

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

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

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

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

(Aa) invoice the purchaser receives; or

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

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

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

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

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

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

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

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

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

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

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

(104) "Purchaser" means a person to whom:

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

(b) a product is transferred electronically; or

(c) a service is furnished.

(105) "Qualifying enterprise data center" means an establishment that will:

(a) own and operate a data center facility that will house a group of networked server computers in one physical location in order to centralize the dissemination, management, and storage of data and information;

(b) be located in the state;

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

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

(e) be owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment; and

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

- 1710 (i) the establishment; or
1711 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1712 establishment.
- 1713 (106) "Regularly rented" means:
1714 (a) rented to a guest for value three or more times during a calendar year; or
1715 (b) advertised or held out to the public as a place that is regularly rented to guests for
1716 value.
- 1717 (107) "Rental" means the same as that term is defined in Subsection (60).
- 1718 (108) (a) Except as provided in Subsection (108)(b), "repairs or renovations of tangible
1719 personal property" means:
1720 (i) a repair or renovation of tangible personal property that is not permanently attached
1721 to real property; or
1722 (ii) attaching tangible personal property or a product transferred electronically to other
1723 tangible personal property or detaching tangible personal property or a product transferred
1724 electronically from other tangible personal property if:
1725 (A) the other tangible personal property to which the tangible personal property or
1726 product transferred electronically is attached or from which the tangible personal property or
1727 product transferred electronically is detached is not permanently attached to real property; and
1728 (B) the attachment of tangible personal property or a product transferred electronically
1729 to other tangible personal property or detachment of tangible personal property or a product
1730 transferred electronically from other tangible personal property is made in conjunction with a
1731 repair or replacement of tangible personal property or a product transferred electronically.
- 1732 (b) "Repairs or renovations of tangible personal property" does not include:
1733 (i) attaching prewritten computer software to other tangible personal property if the
1734 other tangible personal property to which the prewritten computer software is attached is not
1735 permanently attached to real property; or
1736 (ii) detaching prewritten computer software from other tangible personal property if the
1737 other tangible personal property from which the prewritten computer software is detached is

1738 not permanently attached to real property.

1739 (109) "Research and development" means the process of inquiry or experimentation
1740 aimed at the discovery of facts, devices, technologies, or applications and the process of
1741 preparing those devices, technologies, or applications for marketing.

1742 (110) (a) "Residential telecommunications services" means a telecommunications
1743 service or an ancillary service that is provided to an individual for personal use:

1744 (i) at a residential address; or

1745 (ii) at an institution, including a nursing home or a school, if the telecommunications
1746 service or ancillary service is provided to and paid for by the individual residing at the
1747 institution rather than the institution.

1748 (b) For purposes of Subsection (110)(a)(i), a residential address includes an:

1749 (i) apartment; or

1750 (ii) other individual dwelling unit.

1751 (111) "Residential use" means the use in or around a home, apartment building,
1752 sleeping quarters, and similar facilities or accommodations.

1753 (112) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1754 than:

1755 (a) resale;

1756 (b) sublease; or

1757 (c) subrent.

1758 (113) (a) "Retailer" means any person, unless prohibited by the Constitution of the
1759 United States or federal law, that is engaged in a regularly organized business in tangible
1760 personal property or any other taxable transaction under Subsection [59-12-103](#)(1), and who is
1761 selling to the user or consumer and not for resale.

1762 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1763 engaged in the business of selling to users or consumers within the state.

1764 (114) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1765 otherwise, in any manner, of tangible personal property or any other taxable transaction under

1766 Subsection 59-12-103(1), for consideration.

1767 (b) "Sale" includes:

1768 (i) installment and credit sales;

1769 (ii) any closed transaction constituting a sale;

1770 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1771 chapter;

1772 (iv) any transaction if the possession of property is transferred but the seller retains the
1773 title as security for the payment of the price; and

1774 (v) any transaction under which right to possession, operation, or use of any article of
1775 tangible personal property is granted under a lease or contract and the transfer of possession
1776 would be taxable if an outright sale were made.

1777 (115) "Sale at retail" means the same as that term is defined in Subsection (112).

1778 (116) "Sale-leaseback transaction" means a transaction by which title to tangible
1779 personal property or a product transferred electronically that is subject to a tax under this
1780 chapter is transferred:

1781 (a) by a purchaser-lessee;

1782 (b) to a lessor;

1783 (c) for consideration; and

1784 (d) if:

1785 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1786 of the tangible personal property or product transferred electronically;

1787 (ii) the sale of the tangible personal property or product transferred electronically to the
1788 lessor is intended as a form of financing:

1789 (A) for the tangible personal property or product transferred electronically; and

1790 (B) to the purchaser-lessee; and

1791 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1792 is required to:

1793 (A) capitalize the tangible personal property or product transferred electronically for

1794 financial reporting purposes; and

1795 (B) account for the lease payments as payments made under a financing arrangement.

1796 (117) "Sales price" means the same as that term is defined in Subsection (103).

1797 (118) (a) "Sales relating to schools" means the following sales by, amounts paid to, or

1798 amounts charged by a school:

1799 (i) sales that are directly related to the school's educational functions or activities

1800 including:

1801 (A) the sale of:

1802 (I) textbooks;

1803 (II) textbook fees;

1804 (III) laboratory fees;

1805 (IV) laboratory supplies; or

1806 (V) safety equipment;

1807 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1808 that:

1809 (I) a student is specifically required to wear as a condition of participation in a

1810 school-related event or school-related activity; and

1811 (II) is not readily adaptable to general or continued usage to the extent that it takes the

1812 place of ordinary clothing;

1813 (C) sales of the following if the net or gross revenues generated by the sales are

1814 deposited into a school district fund or school fund dedicated to school meals:

1815 (I) food and food ingredients; or

1816 (II) prepared food; or

1817 (D) transportation charges for official school activities; or

1818 (ii) amounts paid to or amounts charged by a school for admission to a school-related

1819 event or school-related activity.

1820 (b) "Sales relating to schools" does not include:

1821 (i) bookstore sales of items that are not educational materials or supplies;

- 1822 (ii) except as provided in Subsection (118)(a)(i)(B):
1823 (A) clothing;
1824 (B) clothing accessories or equipment;
1825 (C) protective equipment; or
1826 (D) sports or recreational equipment; or
1827 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1828 event or school-related activity if the amounts paid or charged are passed through to a person:
1829 (A) other than a:
1830 (I) school;
1831 (II) nonprofit organization authorized by a school board or a governing body of a
1832 private school to organize and direct a competitive secondary school activity; or
1833 (III) nonprofit association authorized by a school board or a governing body of a
1834 private school to organize and direct a competitive secondary school activity; and
1835 (B) that is required to collect sales and use taxes under this chapter.
1836 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1837 commission may make rules defining the term "passed through."
1838 (119) For purposes of this section and Section 59-12-104, "school" means:
1839 (a) an elementary school or a secondary school that:
1840 (i) is a:
1841 (A) public school; or
1842 (B) private school; and
1843 (ii) provides instruction for one or more grades kindergarten through 12; or
1844 (b) a public school district.
1845 (120) (a) "Seller" means a person that makes a sale, lease, or rental of:
1846 (i) tangible personal property;
1847 (ii) a product transferred electronically; or
1848 (iii) a service.
1849 (b) "Seller" includes a marketplace facilitator.

1850 (121) (a) "Semiconductor fabricating, processing, research, or development materials"
1851 means tangible personal property or a product transferred electronically if the tangible personal
1852 property or product transferred electronically is:

- 1853 (i) used primarily in the process of:
- 1854 (A) (I) manufacturing a semiconductor;
- 1855 (II) fabricating a semiconductor; or
- 1856 (III) research or development of a:
- 1857 (Aa) semiconductor; or
- 1858 (Bb) semiconductor manufacturing process; or
- 1859 (B) maintaining an environment suitable for a semiconductor; or
- 1860 (ii) consumed primarily in the process of:
- 1861 (A) (I) manufacturing a semiconductor;
- 1862 (II) fabricating a semiconductor; or
- 1863 (III) research or development of a:
- 1864 (Aa) semiconductor; or
- 1865 (Bb) semiconductor manufacturing process; or
- 1866 (B) maintaining an environment suitable for a semiconductor.
- 1867 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1868 includes:
- 1869 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1870 transferred electronically described in Subsection (121)(a); or
- 1871 (ii) a chemical, catalyst, or other material used to:
- 1872 (A) produce or induce in a semiconductor a:
- 1873 (I) chemical change; or
- 1874 (II) physical change;
- 1875 (B) remove impurities from a semiconductor; or
- 1876 (C) improve the marketable condition of a semiconductor.
- 1877 (122) "Senior citizen center" means a facility having the primary purpose of providing

1878 services to the aged as defined in Section [62A-3-101](#).

1879 (123) (a) Subject to Subsections (123)(b) and (c), "short-term lodging consumable"

1880 means tangible personal property that:

1881 (i) a business that provides accommodations and services described in Subsection

1882 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services

1883 to a purchaser;

1884 (ii) is intended to be consumed by the purchaser; and

1885 (iii) is:

1886 (A) included in the purchase price of the accommodations and services; and

1887 (B) not separately stated on an invoice, bill of sale, or other similar document provided

1888 to the purchaser.

1889 (b) "Short-term lodging consumable" includes:

1890 (i) a beverage;

1891 (ii) a brush or comb;

1892 (iii) a cosmetic;

1893 (iv) a hair care product;

1894 (v) lotion;

1895 (vi) a magazine;

1896 (vii) makeup;

1897 (viii) a meal;

1898 (ix) mouthwash;

1899 (x) nail polish remover;

1900 (xi) a newspaper;

1901 (xii) a notepad;

1902 (xiii) a pen;

1903 (xiv) a pencil;

1904 (xv) a razor;

1905 (xvi) saline solution;

- 1906 (xvii) a sewing kit;
1907 (xviii) shaving cream;
1908 (xix) a shoe shine kit;
1909 (xx) a shower cap;
1910 (xxi) a snack item;
1911 (xxii) soap;
1912 (xxiii) toilet paper;
1913 (xxiv) a toothbrush;
1914 (xxv) toothpaste; or
1915 (xxvi) an item similar to Subsections (123)(b)(i) through (xxv) as the commission may
1916 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1917 Rulemaking Act.
- 1918 (c) "Short-term lodging consumable" does not include:
1919 (i) tangible personal property that is cleaned or washed to allow the tangible personal
1920 property to be reused; or
1921 (ii) a product transferred electronically.
- 1922 (124) "Simplified electronic return" means the electronic return:
1923 (a) described in Section 318(C) of the agreement; and
1924 (b) approved by the governing board of the agreement.
- 1925 (125) "Solar energy" means the sun used as the sole source of energy for producing
1926 electricity.
- 1927 (126) (a) "Sports or recreational equipment" means an item:
1928 (i) designed for human use; and
1929 (ii) that is:
1930 (A) worn in conjunction with:
1931 (I) an athletic activity; or
1932 (II) a recreational activity; and
1933 (B) not suitable for general use.

1934 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1935 commission shall make rules:

1936 (i) listing the items that constitute "sports or recreational equipment"; and

1937 (ii) that are consistent with the list of items that constitute "sports or recreational
1938 equipment" under the agreement.

1939 (127) "State" means the state of Utah, its departments, and agencies.

1940 (128) "Storage" means any keeping or retention of tangible personal property or any
1941 other taxable transaction under Subsection [59-12-103](#)(1), in this state for any purpose except
1942 sale in the regular course of business.

1943 (129) (a) Except as provided in Subsection (129)(d) or (e), "tangible personal property"
1944 means personal property that:

1945 (i) may be:

1946 (A) seen;

1947 (B) weighed;

1948 (C) measured;

1949 (D) felt; or

1950 (E) touched; or

1951 (ii) is in any manner perceptible to the senses.

1952 (b) "Tangible personal property" includes:

1953 (i) electricity;

1954 (ii) water;

1955 (iii) gas;

1956 (iv) steam; or

1957 (v) prewritten computer software, regardless of the manner in which the prewritten
1958 computer software is transferred.

1959 (c) "Tangible personal property" includes the following regardless of whether the item
1960 is attached to real property:

1961 (i) a dishwasher;

- 1962 (ii) a dryer;
1963 (iii) a freezer;
1964 (iv) a microwave;
1965 (v) a refrigerator;
1966 (vi) a stove;
1967 (vii) a washer; or
1968 (viii) an item similar to Subsections (129)(c)(i) through (vii) as determined by the
1969 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1970 Rulemaking Act.
- 1971 (d) "Tangible personal property" does not include a product that is transferred
1972 electronically.
- 1973 (e) "Tangible personal property" does not include the following if attached to real
1974 property, regardless of whether the attachment to real property is only through a line that
1975 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1976 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1977 Rulemaking Act:
- 1978 (i) a hot water heater;
1979 (ii) a water filtration system; or
1980 (iii) a water softener system.
- 1981 (130) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1982 software" means an item listed in Subsection (130)(b) if that item is purchased or leased
1983 primarily to enable or facilitate one or more of the following to function:
- 1984 (i) telecommunications switching or routing equipment, machinery, or software; or
1985 (ii) telecommunications transmission equipment, machinery, or software.
- 1986 (b) The following apply to Subsection (130)(a):
- 1987 (i) a pole;
1988 (ii) software;
1989 (iii) a supplementary power supply;

1990 (iv) temperature or environmental equipment or machinery;
1991 (v) test equipment;
1992 (vi) a tower; or
1993 (vii) equipment, machinery, or software that functions similarly to an item listed in
1994 Subsections (130)(b)(i) through (vi) as determined by the commission by rule made in
1995 accordance with Subsection (130)(c).
1996 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1997 commission may by rule define what constitutes equipment, machinery, or software that
1998 functions similarly to an item listed in Subsections (130)(b)(i) through (vi).
1999 (131) "Telecommunications equipment, machinery, or software required for 911
2000 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
2001 Sec. 20.18.
2002 (132) "Telecommunications maintenance or repair equipment, machinery, or software"
2003 means equipment, machinery, or software purchased or leased primarily to maintain or repair
2004 one or more of the following, regardless of whether the equipment, machinery, or software is
2005 purchased or leased as a spare part or as an upgrade or modification to one or more of the
2006 following:
2007 (a) telecommunications enabling or facilitating equipment, machinery, or software;
2008 (b) telecommunications switching or routing equipment, machinery, or software; or
2009 (c) telecommunications transmission equipment, machinery, or software.
2010 (133) (a) "Telecommunications service" means the electronic conveyance, routing, or
2011 transmission of audio, data, video, voice, or any other information or signal to a point, or
2012 among or between points.
2013 (b) "Telecommunications service" includes:
2014 (i) an electronic conveyance, routing, or transmission with respect to which a computer
2015 processing application is used to act:
2016 (A) on the code, form, or protocol of the content;
2017 (B) for the purpose of electronic conveyance, routing, or transmission; and

2018 (C) regardless of whether the service:
2019 (I) is referred to as voice over Internet protocol service; or
2020 (II) is classified by the Federal Communications Commission as enhanced or value
2021 added;
2022 (ii) an 800 service;
2023 (iii) a 900 service;
2024 (iv) a fixed wireless service;
2025 (v) a mobile wireless service;
2026 (vi) a postpaid calling service;
2027 (vii) a prepaid calling service;
2028 (viii) a prepaid wireless calling service; or
2029 (ix) a private communications service.
2030 (c) "Telecommunications service" does not include:
2031 (i) advertising, including directory advertising;
2032 (ii) an ancillary service;
2033 (iii) a billing and collection service provided to a third party;
2034 (iv) a data processing and information service if:
2035 (A) the data processing and information service allows data to be:
2036 (I) (Aa) acquired;
2037 (Bb) generated;
2038 (Cc) processed;
2039 (Dd) retrieved; or
2040 (Ee) stored; and
2041 (II) delivered by an electronic transmission to a purchaser; and
2042 (B) the purchaser's primary purpose for the underlying transaction is the processed data
2043 or information;
2044 (v) installation or maintenance of the following on a customer's premises:
2045 (A) equipment; or

2046 (B) wiring;
2047 (vi) Internet access service;
2048 (vii) a paging service;
2049 (viii) a product transferred electronically, including:
2050 (A) music;
2051 (B) reading material;
2052 (C) a ring tone;
2053 (D) software; or
2054 (E) video;
2055 (ix) a radio and television audio and video programming service:
2056 (A) regardless of the medium; and
2057 (B) including:
2058 (I) furnishing conveyance, routing, or transmission of a television audio and video
2059 programming service by a programming service provider;
2060 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
2061 (III) audio and video programming services delivered by a commercial mobile radio
2062 service provider as defined in 47 C.F.R. Sec. 20.3;
2063 (x) a value-added nonvoice data service; or
2064 (xi) tangible personal property.
2065 (134) (a) "Telecommunications service provider" means a person that:
2066 (i) owns, controls, operates, or manages a telecommunications service; and
2067 (ii) engages in an activity described in Subsection (134)(a)(i) for the shared use with or
2068 resale to any person of the telecommunications service.
2069 (b) A person described in Subsection (134)(a) is a telecommunications service provider
2070 whether or not the Public Service Commission of Utah regulates:
2071 (i) that person; or
2072 (ii) the telecommunications service that the person owns, controls, operates, or
2073 manages.

2074 (135) (a) "Telecommunications switching or routing equipment, machinery, or
2075 software" means an item listed in Subsection (135)(b) if that item is purchased or leased
2076 primarily for switching or routing:

- 2077 (i) an ancillary service;
- 2078 (ii) data communications;
- 2079 (iii) voice communications; or
- 2080 (iv) telecommunications service.

2081 (b) The following apply to Subsection (135)(a):

- 2082 (i) a bridge;
- 2083 (ii) a computer;
- 2084 (iii) a cross connect;
- 2085 (iv) a modem;
- 2086 (v) a multiplexer;
- 2087 (vi) plug in circuitry;
- 2088 (vii) a router;
- 2089 (viii) software;
- 2090 (ix) a switch; or
- 2091 (x) equipment, machinery, or software that functions similarly to an item listed in
- 2092 Subsections (135)(b)(i) through (ix) as determined by the commission by rule made in
- 2093 accordance with Subsection (135)(c).

2094 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2095 commission may by rule define what constitutes equipment, machinery, or software that
2096 functions similarly to an item listed in Subsections (135)(b)(i) through (ix).

2097 (136) (a) "Telecommunications transmission equipment, machinery, or software"
2098 means an item listed in Subsection (136)(b) if that item is purchased or leased primarily for
2099 sending, receiving, or transporting:

- 2100 (i) an ancillary service;
- 2101 (ii) data communications;

- 2102 (iii) voice communications; or
2103 (iv) telecommunications service.
2104 (b) The following apply to Subsection (136)(a):
2105 (i) an amplifier;
2106 (ii) a cable;
2107 (iii) a closure;
2108 (iv) a conduit;
2109 (v) a controller;
2110 (vi) a duplexer;
2111 (vii) a filter;
2112 (viii) an input device;
2113 (ix) an input/output device;
2114 (x) an insulator;
2115 (xi) microwave machinery or equipment;
2116 (xii) an oscillator;
2117 (xiii) an output device;
2118 (xiv) a pedestal;
2119 (xv) a power converter;
2120 (xvi) a power supply;
2121 (xvii) a radio channel;
2122 (xviii) a radio receiver;
2123 (xix) a radio transmitter;
2124 (xx) a repeater;
2125 (xxi) software;
2126 (xxii) a terminal;
2127 (xxiii) a timing unit;
2128 (xxiv) a transformer;
2129 (xxv) a wire; or

2130 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
2131 Subsections (136)(b)(i) through (xxv) as determined by the commission by rule made in
2132 accordance with Subsection (136)(c).

2133 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2134 commission may by rule define what constitutes equipment, machinery, or software that
2135 functions similarly to an item listed in Subsections (136)(b)(i) through (xxv).

2136 (137) (a) "Textbook for a higher education course" means a textbook or other printed
2137 material that is required for a course:

2138 (i) offered by an institution of higher education; and

2139 (ii) that the purchaser of the textbook or other printed material attends or will attend.

2140 (b) "Textbook for a higher education course" includes a textbook in electronic format.

2141 (138) "Tobacco" means:

2142 (a) a cigarette;

2143 (b) a cigar;

2144 (c) chewing tobacco;

2145 (d) pipe tobacco; or

2146 (e) any other item that contains tobacco.

2147 (139) "Unassisted amusement device" means an amusement device, skill device, or
2148 ride device that is started and stopped by the purchaser or renter of the right to use or operate
2149 the amusement device, skill device, or ride device.

2150 (140) (a) "Use" means the exercise of any right or power over tangible personal
2151 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
2152 incident to the ownership or the leasing of that tangible personal property, product transferred
2153 electronically, or service.

2154 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
2155 property, a product transferred electronically, or a service in the regular course of business and
2156 held for resale.

2157 (141) "Value-added nonvoice data service" means a service:

2158 (a) that otherwise meets the definition of a telecommunications service except that a
2159 computer processing application is used to act primarily for a purpose other than conveyance,
2160 routing, or transmission; and

2161 (b) with respect to which a computer processing application is used to act on data or
2162 information:

- 2163 (i) code;
- 2164 (ii) content;
- 2165 (iii) form; or
- 2166 (iv) protocol.

2167 (142) (a) Subject to Subsection (142)(b), "vehicle" means the following that are
2168 required to be titled, registered, or titled and registered:

- 2169 (i) an aircraft as defined in Section 72-10-102;
- 2170 (ii) a vehicle as defined in Section 41-1a-102;
- 2171 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 2172 (iv) a vessel as defined in Section 41-1a-102.

2173 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 2174 (i) a vehicle described in Subsection (142)(a); or
- 2175 (ii) (A) a locomotive;
- 2176 (B) a freight car;
- 2177 (C) railroad work equipment; or
- 2178 (D) other railroad rolling stock.

2179 (143) "Vehicle dealer" means a person engaged in the business of buying, selling, or
2180 exchanging a vehicle as defined in Subsection (142).

2181 (144) (a) "Vertical service" means an ancillary service that:

- 2182 (i) is offered in connection with one or more telecommunications services; and
- 2183 (ii) offers an advanced calling feature that allows a customer to:
 - 2184 (A) identify a caller; and
 - 2185 (B) manage multiple calls and call connections.

2186 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
2187 conference bridging service.

2188 (145) (a) "Voice mail service" means an ancillary service that enables a customer to
2189 receive, send, or store a recorded message.

2190 (b) "Voice mail service" does not include a vertical service that a customer is required
2191 to have in order to utilize a voice mail service.

2192 (146) (a) Except as provided in Subsection (146)(b), "waste energy facility" means a
2193 facility that generates electricity:

2194 (i) using as the primary source of energy waste materials that would be placed in a
2195 landfill or refuse pit if it were not used to generate electricity, including:

2196 (A) tires;

2197 (B) waste coal;

2198 (C) oil shale; or

2199 (D) municipal solid waste; and

2200 (ii) in amounts greater than actually required for the operation of the facility.

2201 (b) "Waste energy facility" does not include a facility that incinerates:

2202 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

2203 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

2204 (147) "Watercraft" means a vessel as defined in Section 73-18-2.

2205 (148) "Wind energy" means wind used as the sole source of energy to produce
2206 electricity.

2207 (149) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
2208 location by the United States Postal Service.

2209 Section 7. Section **59-12-103** is amended to read:

2210 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
2211 **tax revenues.**

2212 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
2213 sales price for amounts paid or charged for the following transactions:

2214 (a) retail sales of tangible personal property made within the state;
2215 (b) amounts paid for:
2216 (i) telecommunications service, other than mobile telecommunications service, that
2217 originates and terminates within the boundaries of this state;
2218 (ii) mobile telecommunications service that originates and terminates within the
2219 boundaries of one state only to the extent permitted by the Mobile Telecommunications
2220 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
2221 (iii) an ancillary service associated with a:
2222 (A) telecommunications service described in Subsection (1)(b)(i); or
2223 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
2224 (c) sales of the following for commercial use:
2225 (i) gas;
2226 (ii) electricity;
2227 (iii) heat;
2228 (iv) coal;
2229 (v) fuel oil; or
2230 (vi) other fuels;
2231 (d) sales of the following for residential use:
2232 (i) gas;
2233 (ii) electricity;
2234 (iii) heat;
2235 (iv) coal;
2236 (v) fuel oil; or
2237 (vi) other fuels;
2238 (e) sales of prepared food;
2239 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
2240 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
2241 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,

2242 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
2243 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
2244 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
2245 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
2246 horseback rides, sports activities, or any other amusement, entertainment, recreation,
2247 exhibition, cultural, or athletic activity;

2248 (g) amounts paid or charged for services for repairs or renovations of tangible personal
2249 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

2250 (i) the tangible personal property; and

2251 (ii) parts used in the repairs or renovations of the tangible personal property described
2252 in Subsection (1)(g)(i), regardless of whether:

2253 (A) any parts are actually used in the repairs or renovations of that tangible personal
2254 property; or

2255 (B) the particular parts used in the repairs or renovations of that tangible personal
2256 property are exempt from a tax under this chapter;

2257 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
2258 assisted cleaning or washing of tangible personal property;

2259 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
2260 accommodations and services that are regularly rented for less than 30 consecutive days;

2261 (j) amounts paid or charged for laundry or dry cleaning services;

2262 (k) amounts paid or charged for leases or rentals of tangible personal property if within
2263 this state the tangible personal property is:

2264 (i) stored;

2265 (ii) used; or

2266 (iii) otherwise consumed;

2267 (l) amounts paid or charged for tangible personal property if within this state the
2268 tangible personal property is:

2269 (i) stored;

2270 (ii) used; or
2271 (iii) consumed; and
2272 (m) amounts paid or charged for a sale:
2273 (i) (A) of a product transferred electronically; or
2274 (B) of a repair or renovation of a product transferred electronically; and
2275 (ii) regardless of whether the sale provides:
2276 (A) a right of permanent use of the product; or
2277 (B) a right to use the product that is less than a permanent use, including a right:
2278 (I) for a definite or specified length of time; and
2279 (II) that terminates upon the occurrence of a condition.
2280 (2) (a) Except as provided in Subsections (2)(b) through ~~[(c)]~~ (f), a state tax and a local
2281 tax are imposed on a transaction described in Subsection (1) equal to the sum of:
2282 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
2283 ~~[(A) (I) through March 31, 2019, 4.70%; and]~~
2284 ~~[(H) beginning on April 1, 2019;]~~ (A) 4.70% plus the rate specified in Subsection
2285 ~~[(H)]~~ (12)(a); and
2286 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
2287 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
2288 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
2289 State Sales and Use Tax Act; and
2290 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
2291 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
2292 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
2293 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
2294 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2295 transaction under this chapter other than this part.
2296 (b) Except as provided in Subsection ~~[(2)(d) or (e)]~~ (2)(e) or (f), a state tax and a local
2297 tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

2298 (i) a state tax imposed on the transaction at a tax rate of 2%; and
2299 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2300 transaction under this chapter other than this part.

2301 (c) Except as provided in Subsection ~~[(2)(d) or (e)]~~ (2)(e) or (f), a state tax and a local
2302 tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

2303 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
2304 a tax rate of 1.75%; and

2305 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2306 amounts paid or charged for food and food ingredients under this chapter other than this part.

2307 (d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts
2308 paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at
2309 a rate of 4.85%.

2310 ~~[(d)]~~ (e) (i) For a bundled transaction that is attributable to food and food ingredients
2311 and tangible personal property other than food and food ingredients, a state tax and a local tax
2312 is imposed on the entire bundled transaction equal to the sum of:

2313 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

2314 (I) the tax rate described in Subsection (2)(a)(i)(A); and

2315 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
2316 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2317 [59-12-211](#) through [59-12-215](#) is in a county in which the state imposes the tax under Part 18,
2318 Additional State Sales and Use Tax Act; and

2319 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
2320 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2321 [59-12-211](#) through [59-12-215](#) is in a city, town, or the unincorporated area of a county in which
2322 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2323 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
2324 described in Subsection (2)(a)(ii).

2325 (ii) If an optional computer software maintenance contract is a bundled transaction that

2326 consists of taxable and nontaxable products that are not separately itemized on an invoice or
2327 similar billing document, the purchase of the optional computer software maintenance contract
2328 is 40% taxable under this chapter and 60% nontaxable under this chapter.

2329 (iii) Subject to Subsection (2)~~[(d)]~~(e)(iv), for a bundled transaction other than a
2330 bundled transaction described in Subsection (2)~~[(d)]~~(e)(i) or (ii):

2331 (A) if the sales price of the bundled transaction is attributable to tangible personal
2332 property, a product, or a service that is subject to taxation under this chapter and tangible
2333 personal property, a product, or service that is not subject to taxation under this chapter, the
2334 entire bundled transaction is subject to taxation under this chapter unless:

2335 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2336 personal property, product, or service that is not subject to taxation under this chapter from the
2337 books and records the seller keeps in the seller's regular course of business; or

2338 (II) state or federal law provides otherwise; or

2339 (B) if the sales price of a bundled transaction is attributable to two or more items of
2340 tangible personal property, products, or services that are subject to taxation under this chapter
2341 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
2342 higher tax rate unless:

2343 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2344 personal property, product, or service that is subject to taxation under this chapter at the lower
2345 tax rate from the books and records the seller keeps in the seller's regular course of business; or

2346 (II) state or federal law provides otherwise.

2347 (iv) For purposes of Subsection (2)~~[(d)]~~(e)(iii), books and records that a seller keeps in
2348 the seller's regular course of business includes books and records the seller keeps in the regular
2349 course of business for nontax purposes.

2350 ~~[(e)]~~ (f) (i) Except as otherwise provided in this chapter and subject to Subsections
2351 (2)~~[(e)]~~(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal
2352 property, a product, or a service that is subject to taxation under this chapter, and the sale,
2353 lease, or rental of tangible personal property, other property, a product, or a service that is not

subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

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

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

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

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

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

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

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

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

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

(ii) For purposes of Subsection (2)~~[(f)]~~(g)(i), books and records that a seller keeps in

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

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

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

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

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

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

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

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

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

- 2410 (ii) Subsection (2)[~~(f)~~](j)(i) applies to the tax rates described in the following:
- 2411 (A) Subsection (2)(a)(i)(A);
- 2412 (B) Subsection (2)(b)(i);
- 2413 (C) Subsection (2)(c)(i); or
- 2414 (D) Subsection (2)[~~(f)~~](e)(i)(A)(I).
- 2415 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 2416 the commission may by rule define the term "catalogue sale."
- 2417 (3) (a) The following state taxes shall be deposited into the General Fund:
- 2418 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 2419 (ii) the tax imposed by Subsection (2)(b)(i);
- 2420 (iii) the tax imposed by Subsection (2)(c)(i); [~~or~~] and
- 2421 (iv) the tax imposed by Subsection (2)[~~(f)~~](e)(i)(A)(I).
- 2422 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 2423 in this chapter:
- 2424 (i) the tax imposed by Subsection (2)(a)(ii);
- 2425 (ii) the tax imposed by Subsection (2)(b)(ii);
- 2426 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 2427 (iv) the tax imposed by Subsection (2)[~~(f)~~](e)(i)(B).
- 2428 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General
- 2429 Fund.
- 2430 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 2431 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
- 2432 through (g):
- 2433 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 2434 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 2435 (B) for the fiscal year; or
- 2436 (ii) \$17,500,000.
- 2437 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

2438 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
2439 Department of Natural Resources to:

2440 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
2441 protect sensitive plant and animal species; or

2442 (B) award grants, up to the amount authorized by the Legislature in an appropriations
2443 act, to political subdivisions of the state to implement the measures described in Subsections
2444 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

2445 (ii) Money transferred to the Department of Natural Resources under Subsection
2446 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
2447 person to list or attempt to have listed a species as threatened or endangered under the
2448 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

2449 (iii) At the end of each fiscal year:

2450 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2451 Conservation and Development Fund created in Section 73-10-24;

2452 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2453 Program Subaccount created in Section 73-10c-5; and

2454 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2455 Program Subaccount created in Section 73-10c-5.

2456 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
2457 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
2458 created in Section 4-18-106.

2459 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
2460 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
2461 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
2462 water rights.

2463 (ii) At the end of each fiscal year:

2464 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2465 Conservation and Development Fund created in Section 73-10-24;

2466 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2467 Program Subaccount created in Section 73-10c-5; and

2468 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2469 Program Subaccount created in Section 73-10c-5.

2470 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
2471 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
2472 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

2473 (ii) In addition to the uses allowed of the Water Resources Conservation and
2474 Development Fund under Section 73-10-24, the Water Resources Conservation and
2475 Development Fund may also be used to:

2476 (A) conduct hydrologic and geotechnical investigations by the Division of Water
2477 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
2478 quantifying surface and ground water resources and describing the hydrologic systems of an
2479 area in sufficient detail so as to enable local and state resource managers to plan for and
2480 accommodate growth in water use without jeopardizing the resource;

2481 (B) fund state required dam safety improvements; and

2482 (C) protect the state's interest in interstate water compact allocations, including the
2483 hiring of technical and legal staff.

2484 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2485 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
2486 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2487 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2488 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
2489 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2490 (i) provide for the installation and repair of collection, treatment, storage, and
2491 distribution facilities for any public water system, as defined in Section 19-4-102;

2492 (ii) develop underground sources of water, including springs and wells; and

2493 (iii) develop surface water sources.

2494 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2495 2006, the difference between the following amounts shall be expended as provided in this
2496 Subsection (5), if that difference is greater than \$1:

2497 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
2498 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

2499 (ii) \$17,500,000.

2500 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

2501 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
2502 credits; and

2503 (B) expended by the Department of Natural Resources for watershed rehabilitation or
2504 restoration.

2505 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2506 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
2507 created in Section 73-10-24.

2508 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
2509 remaining difference described in Subsection (5)(a) shall be:

2510 (A) transferred each fiscal year to the Division of Water Resources as dedicated
2511 credits; and

2512 (B) expended by the Division of Water Resources for cloud-seeding projects
2513 authorized by Title 73, Chapter 15, Modification of Weather.

2514 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2515 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
2516 created in Section 73-10-24.

2517 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
2518 remaining difference described in Subsection (5)(a) shall be deposited into the Water
2519 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
2520 Division of Water Resources for:

2521 (i) preconstruction costs:

2522 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
2523 26, Bear River Development Act; and

2524 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
2525 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2526 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
2527 Chapter 26, Bear River Development Act;

2528 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
2529 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2530 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
2531 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2532 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
2533 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
2534 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
2535 incurred for employing additional technical staff for the administration of water rights.

2536 (f) At the end of each fiscal year, any unexpended dedicated credits described in
2537 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
2538 Fund created in Section 73-10-24.

2539 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
2540 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
2541 (1) for the fiscal year shall be deposited as follows:

2542 ~~[(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)~~
2543 ~~shall be deposited into the Transportation Investment Fund of 2005 created by Section~~
2544 ~~72-2-124;]~~

2545 ~~[(b) for fiscal year 2017-18 only:]~~

2546 ~~[(i) 80% of the revenue described in this Subsection (6) shall be deposited into the~~
2547 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

2548 ~~[(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the~~
2549 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;]~~

2550 ~~[(c) for fiscal year 2018-19 only:]~~
2551 ~~[(i) 60% of the revenue described in this Subsection (6) shall be deposited into the~~
2552 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~
2553 ~~[(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the~~
2554 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;]~~
2555 ~~[(d) for fiscal year 2019-20 only:]~~
2556 ~~[(i) 40% of the revenue described in this Subsection (6) shall be deposited into the~~
2557 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~
2558 ~~[(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the~~
2559 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;]~~
2560 ~~[(e)]~~ (a) for fiscal year 2020-21 only:
2561 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
2562 Transportation Investment Fund of 2005 created by Section 72-2-124; and
2563 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
2564 Water Infrastructure Restricted Account created by Section 73-10g-103; and
2565 ~~[(f)]~~ (b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue
2566 described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted
2567 Account created by Section 73-10g-103.
2568 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
2569 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
2570 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
2571 created by Section 72-2-124:
2572 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
2573 the revenues collected from the following taxes, which represents a portion of the
2574 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
2575 on vehicles and vehicle-related products:
2576 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
2577 (B) the tax imposed by Subsection (2)(b)(i);

2578 (C) the tax imposed by Subsection (2)(c)(i); and
2579 (D) the tax imposed by Subsection (2)~~(d)~~(e)(i)(A)(I); plus
2580 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
2581 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
2582 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
2583 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

2584 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
2585 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
2586 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
2587 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
2588 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
2589 (7)(a) equal to the product of:

2590 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
2591 previous fiscal year; and
2592 (B) the total sales and use tax revenue generated by the taxes described in Subsections
2593 (7)(a)(i)(A) through (D) in the current fiscal year.

2594 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
2595 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
2596 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of
2597 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
2598 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

2599 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
2600 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited
2601 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues
2602 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the
2603 current fiscal year under Subsection (7)(a).

2604 ~~[(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited~~
2605 ~~under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall~~

2606 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into
2607 the Transportation Investment Fund of 2005 created by Section ~~72-2-124~~.]

2608 ~~[(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under~~
2609 ~~Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit~~
2610 ~~\$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the~~
2611 ~~Transportation Investment Fund of 2005 created by Section ~~72-2-124~~.~~]

2612 ~~[(c)-(i)]~~ (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited
2613 under Subsections (6) and (7), and subject to Subsection (8)~~[(c)-(ii)]~~(b), for a fiscal year
2614 beginning on or after July 1, 2018, the commission shall annually deposit into the
2615 Transportation Investment Fund of 2005 created by Section ~~72-2-124~~ a portion of the taxes
2616 listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the
2617 following taxes:

2618 ~~[(A)]~~ (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

2619 ~~[(B)]~~ (ii) the tax imposed by Subsection (2)(b)(i);

2620 ~~[(C)]~~ (iii) the tax imposed by Subsection (2)(c)(i); and

2621 ~~[(D)]~~ (iv) the tax imposed by Subsection (2)~~[(d)]~~(e)(i)(A)(I).

2622 ~~[(ii)]~~ (b) For a fiscal year beginning on or after July 1, 2019, the commission shall
2623 annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection
2624 (8)(c)~~[(i)]~~ by an amount that is equal to 35% of the amount of revenue generated in the current
2625 fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or
2626 received for sale or use in this state that exceeds 29.4 cents per gallon.

2627 ~~[(iii)]~~ (c) The commission shall annually deposit the amount described in Subsection
2628 (8)~~[(c)-(ii)]~~(b) into the Transit and Transportation Investment Fund created in Section ~~72-2-124~~.

2629 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2630 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
2631 created by Section ~~35A-8-1009~~ and expended as provided in Section ~~35A-8-1009~~.

2632 ~~[(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),~~
2633 ~~in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17~~

2634 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
2635 of 2005 created by Section ~~72-2-124~~ the amount of tax revenue generated by a .05% tax rate on
2636 the transactions described in Subsection (1).]

2637 ~~[(b)]~~ (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection
2638 (10)~~[(c)]~~(b), and in addition to any amounts deposited under Subsections (6), (7), and (8), the
2639 Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by
2640 Section ~~72-2-124~~ the amount of revenue described as follows:

2641 ~~[(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%~~
2642 ~~tax rate on the transactions described in Subsection (1);]~~

2643 ~~[(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a~~
2644 ~~.05% tax rate on the transactions described in Subsection (1);]~~

2645 ~~[(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%~~
2646 ~~tax rate on the transactions described in Subsection (1);]~~

2647 ~~[(iv)]~~ (i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
2648 .05% tax rate on the transactions described in Subsection (1); and

2649 ~~[(v)]~~ (ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a
2650 .05% tax rate on the transactions described in Subsection (1).

2651 ~~[(c)]~~ (b) For purposes of ~~[Subsections (10)(a) and (b)]~~ Subsection (10)(a), the Division
2652 of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue
2653 generated by amounts paid or charged for food and food ingredients, except for tax revenue
2654 generated by a bundled transaction attributable to food and food ingredients and tangible
2655 personal property other than food and food ingredients described in Subsection (2)~~[(d)]~~(e).

2656 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
2657 fiscal year during which the Division of Finance receives notice under Section ~~63N-2-510~~ that
2658 construction on a qualified hotel, as defined in Section ~~63N-2-502~~, has begun, the Division of
2659 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
2660 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
2661 created in Section ~~63N-2-512~~.

2662 ~~[(12)(a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the~~
2663 ~~Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed~~
2664 ~~under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section~~
2665 ~~35A-8-308.]~~

2666 ~~[(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division~~
2667 ~~of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under~~
2668 ~~Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.]~~

2669 ~~[(13)]~~ (12) (a) The rate specified in this subsection is 0.15%.

2670 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall~~[-(i) on or before~~
2671 ~~September 30, 2019, transfer the amount of revenue collected from the rate described in~~
2672 ~~Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the~~
2673 ~~transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the~~
2674 ~~Medicaid Expansion Fund created in Section 26-36b-208, and (ii)]~~, for a fiscal year beginning
2675 on or after July 1, 2019, annually transfer the amount of revenue collected from the rate
2676 described in Subsection ~~[(13)]~~ (12)(a) on the transactions that are subject to the sales and use
2677 tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section
2678 26-36b-208.

2679 Section 8. Section 59-12-104 is amended to read:

2680 **59-12-104. Exemptions.**

2681 Exemptions from the taxes imposed by this chapter are as follows:

2682 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
2683 under Chapter 13, Motor and Special Fuel Tax Act;

2684 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
2685 subdivisions; however, this exemption does not apply to sales of:

2686 (a) construction materials except:

2687 (i) construction materials purchased by or on behalf of institutions of the public
2688 education system as defined in Utah Constitution, Article X, Section 2, provided the
2689 construction materials are clearly identified and segregated and installed or converted to real

2690 property which is owned by institutions of the public education system; and
2691 (ii) construction materials purchased by the state, its institutions, or its political
2692 subdivisions which are installed or converted to real property by employees of the state, its
2693 institutions, or its political subdivisions; or
2694 (b) tangible personal property in connection with the construction, operation,
2695 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
2696 providing additional project capacity, as defined in Section 11-13-103;
2697 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
2698 (i) the proceeds of each sale do not exceed \$1; and
2699 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
2700 the cost of the item described in Subsection (3)(b) as goods consumed; and
2701 (b) Subsection (3)(a) applies to:
2702 (i) food and food ingredients; or
2703 (ii) prepared food;
2704 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
2705 (i) alcoholic beverages;
2706 (ii) food and food ingredients; or
2707 (iii) prepared food;
2708 (b) sales of tangible personal property or a product transferred electronically:
2709 (i) to a passenger;
2710 (ii) by a commercial airline carrier; and
2711 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
2712 (c) services related to Subsection (4)(a) or (b);
2713 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
2714 and equipment:
2715 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
2716 North American Industry Classification System of the federal Executive Office of the
2717 President, Office of Management and Budget; and

2718 (II) for:

2719 (Aa) installation in an aircraft, including services relating to the installation of parts or

2720 equipment in the aircraft;

2721 (Bb) renovation of an aircraft; or

2722 (Cc) repair of an aircraft; or

2723 (B) for installation in an aircraft operated by a common carrier in interstate or foreign

2724 commerce; or

2725 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an

2726 aircraft operated by a common carrier in interstate or foreign commerce; and

2727 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,

2728 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a

2729 refund:

2730 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

2731 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

2732 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for

2733 the sale prior to filing for the refund;

2734 (iv) for sales and use taxes paid under this chapter on the sale;

2735 (v) in accordance with Section 59-1-1410; and

2736 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if

2737 the person files for the refund on or before September 30, 2011;

2738 (6) sales of commercials, motion picture films, prerecorded audio program tapes or

2739 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture

2740 exhibitor, distributor, or commercial television or radio broadcaster;

2741 (7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of

2742 cleaning or washing of tangible personal property if the cleaning or washing of the tangible

2743 personal property is not assisted cleaning or washing of tangible personal property;

2744 (b) if a seller that sells at the same business location assisted cleaning or washing of

2745 tangible personal property and cleaning or washing of tangible personal property that is not

2746 assisted cleaning or washing of tangible personal property, the exemption described in
2747 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
2748 or washing of the tangible personal property; and

2749 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
2750 Utah Administrative Rulemaking Act, the commission may make rules:

2751 (i) governing the circumstances under which sales are at the same business location;
2752 and

2753 (ii) establishing the procedures and requirements for a seller to separately account for
2754 sales of assisted cleaning or washing of tangible personal property;

2755 (8) sales made to or by religious or charitable institutions in the conduct of their regular
2756 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
2757 fulfilled;

2758 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
2759 this state if the vehicle is:

2760 (a) not registered in this state; and

2761 (b) (i) not used in this state; or

2762 (ii) used in this state:

2763 (A) if the vehicle is not used to conduct business, for a time period that does not
2764 exceed the longer of:

2765 (I) 30 days in any calendar year; or

2766 (II) the time period necessary to transport the vehicle to the borders of this state; or

2767 (B) if the vehicle is used to conduct business, for the time period necessary to transport
2768 the vehicle to the borders of this state;

2769 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

2770 (i) the item is intended for human use; and

2771 (ii) (A) a prescription was issued for the item; or

2772 (B) the item was purchased by a hospital or other medical facility; and

2773 (b) (i) Subsection (10)(a) applies to:

2774 (A) a drug;
2775 (B) a syringe; or
2776 (C) a stoma supply; and
2777 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2778 commission may by rule define the terms:
2779 (A) "syringe"; or
2780 (B) "stoma supply";
2781 (11) purchases or leases exempt under Section 19-12-201;
2782 (12) (a) sales of an item described in Subsection (12)(c) served by:
2783 (i) the following if the item described in Subsection (12)(c) is not available to the
2784 general public:
2785 (A) a church; or
2786 (B) a charitable institution; or
2787 (ii) an institution of higher education if:
2788 (A) the item described in Subsection (12)(c) is not available to the general public; or
2789 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
2790 offered by the institution of higher education; or
2791 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
2792 (i) a medical facility; or
2793 (ii) a nursing facility; and
2794 (c) Subsections (12)(a) and (b) apply to:
2795 (i) food and food ingredients;
2796 (ii) prepared food; or
2797 (iii) alcoholic beverages;
2798 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
2799 or a product transferred electronically by a person:
2800 (i) regardless of the number of transactions involving the sale of that tangible personal
2801 property or product transferred electronically by that person; and

2802 (ii) not regularly engaged in the business of selling that type of tangible personal
2803 property or product transferred electronically;

2804 (b) this Subsection (13) does not apply if:

2805 (i) the sale is one of a series of sales of a character to indicate that the person is
2806 regularly engaged in the business of selling that type of tangible personal property or product
2807 transferred electronically;

2808 (ii) the person holds that person out as regularly engaged in the business of selling that
2809 type of tangible personal property or product transferred electronically;

2810 (iii) the person sells an item of tangible personal property or product transferred
2811 electronically that the person purchased as a sale that is exempt under Subsection (25); or

2812 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
2813 this state in which case the tax is based upon:

2814 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
2815 sold; or

2816 (B) in the absence of a bill of sale or other written evidence of value, the fair market
2817 value of the vehicle or vessel being sold at the time of the sale as determined by the
2818 commission; and

2819 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2820 commission shall make rules establishing the circumstances under which:

2821 (i) a person is regularly engaged in the business of selling a type of tangible personal
2822 property or product transferred electronically;

2823 (ii) a sale of tangible personal property or a product transferred electronically is one of
2824 a series of sales of a character to indicate that a person is regularly engaged in the business of
2825 selling that type of tangible personal property or product transferred electronically; or

2826 (iii) a person holds that person out as regularly engaged in the business of selling a type
2827 of tangible personal property or product transferred electronically;

2828 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal
2829 operating repair or replacement parts, or materials, except for office equipment or office

2830 supplies, by:

2831 (a) a manufacturing facility that:

2832 (i) is located in the state; and

2833 (ii) uses or consumes the machinery, equipment, normal operating repair or
2834 replacement parts, or materials:

2835 (A) in the manufacturing process to manufacture an item sold as tangible personal
2836 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
2837 Utah Administrative Rulemaking Act; or

2838 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
2839 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
2840 Administrative Rulemaking Act;

2841 (b) an establishment, as the commission defines that term in accordance with Title
2842 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

2843 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
2844 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
2845 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
2846 2002 North American Industry Classification System of the federal Executive Office of the
2847 President, Office of Management and Budget;

2848 (ii) is located in the state; and

2849 (iii) uses or consumes the machinery, equipment, normal operating repair or
2850 replacement parts, or materials in:

2851 (A) the production process to produce an item sold as tangible personal property, as the
2852 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
2853 Administrative Rulemaking Act;

2854 (B) research and development, as the commission may define that phrase in accordance
2855 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2856 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
2857 produced from mining;

2858 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
2859 mining; or

2860 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

2861 (c) an establishment, as the commission defines that term in accordance with Title 63G,
2862 Chapter 3, Utah Administrative Rulemaking Act, that:

2863 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
2864 American Industry Classification System of the federal Executive Office of the President,
2865 Office of Management and Budget;

2866 (ii) is located in the state; and

2867 (iii) uses or consumes the machinery, equipment, normal operating repair or
2868 replacement parts, or materials in the operation of the web search portal;

2869 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

2870 (i) tooling;

2871 (ii) special tooling;

2872 (iii) support equipment;

2873 (iv) special test equipment; or

2874 (v) parts used in the repairs or renovations of tooling or equipment described in
2875 Subsections (15)(a)(i) through (iv); and

2876 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

2877 (i) the tooling, equipment, or parts are used or consumed exclusively in the
2878 performance of any aerospace or electronics industry contract with the United States
2879 government or any subcontract under that contract; and

2880 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
2881 title to the tooling, equipment, or parts is vested in the United States government as evidenced
2882 by:

2883 (A) a government identification tag placed on the tooling, equipment, or parts; or

2884 (B) listing on a government-approved property record if placing a government
2885 identification tag on the tooling, equipment, or parts is impractical;

2886 (16) sales of newspapers or newspaper subscriptions;

2887 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a

2888 product transferred electronically traded in as full or part payment of the purchase price, except

2889 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,

2890 trade-ins are limited to other vehicles only, and the tax is based upon:

2891 (i) the bill of sale or other written evidence of value of the vehicle being sold and the

2892 vehicle being traded in; or

2893 (ii) in the absence of a bill of sale or other written evidence of value, the then existing

2894 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the

2895 commission; and

2896 (b) Subsection (17)(a) does not apply to the following items of tangible personal

2897 property or products transferred electronically traded in as full or part payment of the purchase

2898 price:

2899 (i) money;

2900 (ii) electricity;

2901 (iii) water;

2902 (iv) gas; or

2903 (v) steam;

2904 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property

2905 or a product transferred electronically used or consumed primarily and directly in farming

2906 operations, regardless of whether the tangible personal property or product transferred

2907 electronically:

2908 (A) becomes part of real estate; or

2909 (B) is installed by a:

2910 (I) farmer;

2911 (II) contractor; or

2912 (III) subcontractor; or

2913 (ii) sales of parts used in the repairs or renovations of tangible personal property or a

2914 product transferred electronically if the tangible personal property or product transferred
2915 electronically is exempt under Subsection (18)(a)(i); and
2916 (b) amounts paid or charged for the following are subject to the taxes imposed by this
2917 chapter:
2918 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
2919 supplies if used in a manner that is incidental to farming; and
2920 (B) tangible personal property that is considered to be used in a manner that is
2921 incidental to farming includes:
2922 (I) hand tools; or
2923 (II) maintenance and janitorial equipment and supplies;
2924 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
2925 transferred electronically if the tangible personal property or product transferred electronically
2926 is used in an activity other than farming; and
2927 (B) tangible personal property or a product transferred electronically that is considered
2928 to be used in an activity other than farming includes:
2929 (I) office equipment and supplies; or
2930 (II) equipment and supplies used in:
2931 (Aa) the sale or distribution of farm products;
2932 (Bb) research; or
2933 (Cc) transportation; or
2934 (iii) a vehicle required to be registered by the laws of this state during the period
2935 ending two years after the date of the vehicle's purchase;
2936 (19) sales of hay;
2937 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
2938 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
2939 garden, farm, or other agricultural produce is sold by:
2940 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
2941 agricultural produce;

- 2942 (b) an employee of the producer described in Subsection (20)(a); or
- 2943 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 2944 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
- 2945 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 2946 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
- 2947 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
- 2948 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
- 2949 manufacturer, processor, wholesaler, or retailer;
- 2950 (23) a product stored in the state for resale;
- 2951 (24) (a) purchases of a product if:
- 2952 (i) the product is:
- 2953 (A) purchased outside of this state;
- 2954 (B) brought into this state:
- 2955 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- 2956 (II) by a nonresident person who is not living or working in this state at the time of the
- 2957 purchase;
- 2958 (C) used for the personal use or enjoyment of the nonresident person described in
- 2959 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- 2960 (D) not used in conducting business in this state; and
- 2961 (ii) for:
- 2962 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
- 2963 the product for a purpose for which the product is designed occurs outside of this state;
- 2964 (B) a boat, the boat is registered outside of this state; or
- 2965 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
- 2966 outside of this state;
- 2967 (b) the exemption provided for in Subsection (24)(a) does not apply to:
- 2968 (i) a lease or rental of a product; or
- 2969 (ii) a sale of a vehicle exempt under Subsection (33); and

2970 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2971 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
2972 following:

2973 (i) conducting business in this state if that phrase has the same meaning in this
2974 Subsection (24) as in Subsection (63);

2975 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
2976 as in Subsection (63); or

2977 (iii) a purpose for which a product is designed if that phrase has the same meaning in
2978 this Subsection (24) as in Subsection (63);

2979 (25) a product purchased for resale in the regular course of business, either in its
2980 original form or as an ingredient or component part of a manufactured or compounded product;

2981 (26) a product upon which a sales or use tax was paid to some other state, or one of its
2982 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
2983 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
2984 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
2985 Act;

2986 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
2987 person for use in compounding a service taxable under the subsections;

2988 (28) purchases made in accordance with the special supplemental nutrition program for
2989 women, infants, and children established in 42 U.S.C. Sec. 1786;

2990 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
2991 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
2992 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
2993 the President, Office of Management and Budget;

2994 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
2995 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

2996 (a) not registered in this state; and

2997 (b) (i) not used in this state; or

- 2998 (ii) used in this state:
- 2999 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
- 3000 time period that does not exceed the longer of:
- 3001 (I) 30 days in any calendar year; or
- 3002 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 3003 the borders of this state; or
- 3004 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
- 3005 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
- 3006 state;
- 3007 (31) sales of aircraft manufactured in Utah;
- 3008 (32) amounts paid for the purchase of telecommunications service for purposes of
- 3009 providing telecommunications service;
- 3010 (33) sales, leases, or uses of the following:
- 3011 (a) a vehicle by an authorized carrier; or
- 3012 (b) tangible personal property that is installed on a vehicle:
- 3013 (i) sold or leased to or used by an authorized carrier; and
- 3014 (ii) before the vehicle is placed in service for the first time;
- 3015 (34) (a) 45% of the sales price of any new manufactured home; and
- 3016 (b) 100% of the sales price of any used manufactured home;
- 3017 (35) sales relating to schools and fundraising sales;
- 3018 (36) sales or rentals of durable medical equipment if:
- 3019 (a) a person presents a prescription for the durable medical equipment; and
- 3020 (b) the durable medical equipment is used for home use only;
- 3021 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 3022 Section [72-11-102](#); and
- 3023 (b) the commission shall by rule determine the method for calculating sales exempt
- 3024 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 3025 (38) sales to a ski resort of:

- 3026 (a) snowmaking equipment;
- 3027 (b) ski slope grooming equipment;
- 3028 (c) passenger ropeways as defined in Section 72-11-102; or
- 3029 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 3030 described in Subsections (38)(a) through (c);
- 3031 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 3032 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 3033 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 3034 59-12-102;
- 3035 (b) if a seller that sells or rents at the same business location the right to use or operate
- 3036 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 3037 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 3038 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 3039 amusement, entertainment, or recreation for the assisted amusement devices; and
- 3040 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
- 3041 Utah Administrative Rulemaking Act, the commission may make rules:
- 3042 (i) governing the circumstances under which sales are at the same business location;
- 3043 and
- 3044 (ii) establishing the procedures and requirements for a seller to separately account for
- 3045 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
- 3046 assisted amusement devices;
- 3047 (41) (a) sales of photocopies by:
- 3048 (i) a governmental entity; or
- 3049 (ii) an entity within the state system of public education, including:
- 3050 (A) a school; or
- 3051 (B) the State Board of Education; or
- 3052 (b) sales of publications by a governmental entity;
- 3053 (42) amounts paid for admission to an athletic event at an institution of higher

3054 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
3055 20 U.S.C. Sec. 1681 et seq.;

3056 (43) (a) sales made to or by:

3057 (i) an area agency on aging; or

3058 (ii) a senior citizen center owned by a county, city, or town; or

3059 (b) sales made by a senior citizen center that contracts with an area agency on aging;

3060 (44) sales or leases of semiconductor fabricating, processing, research, or development

3061 materials regardless of whether the semiconductor fabricating, processing, research, or

3062 development materials:

3063 (a) actually come into contact with a semiconductor; or

3064 (b) ultimately become incorporated into real property;

3065 (45) an amount paid by or charged to a purchaser for accommodations and services

3066 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section

3067 59-12-104.2;

3068 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary

3069 sports event registration certificate in accordance with Section 41-3-306 for the event period

3070 specified on the temporary sports event registration certificate;

3071 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff

3072 adopted by the Public Service Commission only for purchase of electricity produced from a

3073 new alternative energy source built after January 1, 2016, as designated in the tariff by the

3074 Public Service Commission; and

3075 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies

3076 only to the portion of the tariff rate a customer pays under the tariff described in Subsection

3077 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the

3078 customer would have paid absent the tariff;

3079 (48) sales or rentals of mobility enhancing equipment if a person presents a

3080 prescription for the mobility enhancing equipment;

3081 (49) sales of water in a:

- 3082 (a) pipe;
3083 (b) conduit;
3084 (c) ditch; or
3085 (d) reservoir;
3086 (50) sales of currency or coins that constitute legal tender of a state, the United States,
3087 or a foreign nation;
3088 (51) (a) sales of an item described in Subsection (51)(b) if the item:
3089 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
3090 (ii) has a gold, silver, or platinum content of 50% or more; and
3091 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
3092 (i) ingot;
3093 (ii) bar;
3094 (iii) medallion; or
3095 (iv) decorative coin;
3096 (52) amounts paid on a sale-leaseback transaction;
3097 (53) sales of a prosthetic device:
3098 (a) for use on or in a human; and
3099 (b) (i) for which a prescription is required; or
3100 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
3101 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
3102 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
3103 or equipment is primarily used in the production or postproduction of the following media for
3104 commercial distribution:
3105 (i) a motion picture;
3106 (ii) a television program;
3107 (iii) a movie made for television;
3108 (iv) a music video;
3109 (v) a commercial;

3110 (vi) a documentary; or
3111 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
3112 commission by administrative rule made in accordance with Subsection (54)(d); or
3113 (b) purchases, leases, or rentals of machinery or equipment by an establishment
3114 described in Subsection (54)(c) that is used for the production or postproduction of the
3115 following are subject to the taxes imposed by this chapter:
3116 (i) a live musical performance;
3117 (ii) a live news program; or
3118 (iii) a live sporting event;
3119 (c) the following establishments listed in the 1997 North American Industry
3120 Classification System of the federal Executive Office of the President, Office of Management
3121 and Budget, apply to Subsections (54)(a) and (b):
3122 (i) NAICS Code 512110; or
3123 (ii) NAICS Code 51219; and
3124 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3125 commission may by rule:
3126 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
3127 or
3128 (ii) define:
3129 (A) "commercial distribution";
3130 (B) "live musical performance";
3131 (C) "live news program"; or
3132 (D) "live sporting event";
3133 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
3134 on or before June 30, 2027, of tangible personal property that:
3135 (i) is leased or purchased for or by a facility that:
3136 (A) is an alternative energy electricity production facility;
3137 (B) is located in the state; and

3138 (C) (I) becomes operational on or after July 1, 2004; or
3139 (II) has its generation capacity increased by one or more megawatts on or after July 1,
3140 2004, as a result of the use of the tangible personal property;
3141 (ii) has an economic life of five or more years; and
3142 (iii) is used to make the facility or the increase in capacity of the facility described in
3143 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
3144 transmission grid including:
3145 (A) a wind turbine;
3146 (B) generating equipment;
3147 (C) a control and monitoring system;
3148 (D) a power line;
3149 (E) substation equipment;
3150 (F) lighting;
3151 (G) fencing;
3152 (H) pipes; or
3153 (I) other equipment used for locating a power line or pole; and
3154 (b) this Subsection (55) does not apply to:
3155 (i) tangible personal property used in construction of:
3156 (A) a new alternative energy electricity production facility; or
3157 (B) the increase in the capacity of an alternative energy electricity production facility;
3158 (ii) contracted services required for construction and routine maintenance activities;
3159 and
3160 (iii) unless the tangible personal property is used or acquired for an increase in capacity
3161 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
3162 acquired after:
3163 (A) the alternative energy electricity production facility described in Subsection
3164 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
3165 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described

3166 in Subsection (55)(a)(iii);
3167 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
3168 on or before June 30, 2027, of tangible personal property that:
3169 (i) is leased or purchased for or by a facility that:
3170 (A) is a waste energy production facility;
3171 (B) is located in the state; and
3172 (C) (I) becomes operational on or after July 1, 2004; or
3173 (II) has its generation capacity increased by one or more megawatts on or after July 1,
3174 2004, as a result of the use of the tangible personal property;
3175 (ii) has an economic life of five or more years; and
3176 (iii) is used to make the facility or the increase in capacity of the facility described in
3177 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
3178 transmission grid including:
3179 (A) generating equipment;
3180 (B) a control and monitoring system;
3181 (C) a power line;
3182 (D) substation equipment;
3183 (E) lighting;
3184 (F) fencing;
3185 (G) pipes; or
3186 (H) other equipment used for locating a power line or pole; and
3187 (b) this Subsection (56) does not apply to:
3188 (i) tangible personal property used in construction of:
3189 (A) a new waste energy facility; or
3190 (B) the increase in the capacity of a waste energy facility;
3191 (ii) contracted services required for construction and routine maintenance activities;
3192 and
3193 (iii) unless the tangible personal property is used or acquired for an increase in capacity

3194 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

3195 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
3196 described in Subsection (56)(a)(iii); or

3197 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
3198 in Subsection (56)(a)(iii);

3199 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
3200 or before June 30, 2027, of tangible personal property that:

3201 (i) is leased or purchased for or by a facility that:

3202 (A) is located in the state;

3203 (B) produces fuel from alternative energy, including:

3204 (I) methanol; or

3205 (II) ethanol; and

3206 (C) (I) becomes operational on or after July 1, 2004; or

3207 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
3208 a result of the installation of the tangible personal property;

3209 (ii) has an economic life of five or more years; and

3210 (iii) is installed on the facility described in Subsection (57)(a)(i);

3211 (b) this Subsection (57) does not apply to:

3212 (i) tangible personal property used in construction of:

3213 (A) a new facility described in Subsection (57)(a)(i); or

3214 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

3215 (ii) contracted services required for construction and routine maintenance activities;

3216 and

3217 (iii) unless the tangible personal property is used or acquired for an increase in capacity
3218 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

3219 (A) the facility described in Subsection (57)(a)(i) is operational; or

3220 (B) the increased capacity described in Subsection (57)(a)(i) is operational;

3221 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a

product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

3250 (60) redemptions or repurchases of a product by a person if that product was:
3251 (a) delivered to a pawnbroker as part of a pawn transaction; and
3252 (b) redeemed or repurchased within the time period established in a written agreement
3253 between the person and the pawnbroker for redeeming or repurchasing the product;
3254 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
3255 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
3256 and
3257 (ii) has a useful economic life of one or more years; and
3258 (b) the following apply to Subsection (61)(a):
3259 (i) telecommunications enabling or facilitating equipment, machinery, or software;
3260 (ii) telecommunications equipment, machinery, or software required for 911 service;
3261 (iii) telecommunications maintenance or repair equipment, machinery, or software;
3262 (iv) telecommunications switching or routing equipment, machinery, or software; or
3263 (v) telecommunications transmission equipment, machinery, or software;
3264 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
3265 personal property or a product transferred electronically that are used in the research and
3266 development of alternative energy technology; and
3267 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3268 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
3269 purchases of tangible personal property or a product transferred electronically that are used in
3270 the research and development of alternative energy technology;
3271 (63) (a) purchases of tangible personal property or a product transferred electronically
3272 if:
3273 (i) the tangible personal property or product transferred electronically is:
3274 (A) purchased outside of this state;
3275 (B) brought into this state at any time after the purchase described in Subsection
3276 (63)(a)(i)(A); and
3277 (C) used in conducting business in this state; and

3278 (ii) for:

3279 (A) tangible personal property or a product transferred electronically other than the

3280 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property

3281 for a purpose for which the property is designed occurs outside of this state; or

3282 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

3283 outside of this state;

3284 (b) the exemption provided for in Subsection (63)(a) does not apply to:

3285 (i) a lease or rental of tangible personal property or a product transferred electronically;

3286 or

3287 (ii) a sale of a vehicle exempt under Subsection (33); and

3288 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

3289 purposes of Subsection (63)(a), the commission may by rule define what constitutes the

3290 following:

3291 (i) conducting business in this state if that phrase has the same meaning in this

3292 Subsection (63) as in Subsection (24);

3293 (ii) the first use of tangible personal property or a product transferred electronically if

3294 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

3295 (iii) a purpose for which tangible personal property or a product transferred

3296 electronically is designed if that phrase has the same meaning in this Subsection (63) as in

3297 Subsection (24);

3298 (64) sales of disposable home medical equipment or supplies if:

3299 (a) a person presents a prescription for the disposable home medical equipment or

3300 supplies;

3301 (b) the disposable home medical equipment or supplies are used exclusively by the

3302 person to whom the prescription described in Subsection (64)(a) is issued; and

3303 (c) the disposable home medical equipment and supplies are listed as eligible for

3304 payment under:

3305 (i) Title XVIII, federal Social Security Act; or

- 3306 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
3307 (65) sales:
3308 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
3309 District Act; or
3310 (b) of tangible personal property to a subcontractor of a public transit district, if the
3311 tangible personal property is:
3312 (i) clearly identified; and
3313 (ii) installed or converted to real property owned by the public transit district;
3314 (66) sales of construction materials:
3315 (a) purchased on or after July 1, 2010;
3316 (b) purchased by, on behalf of, or for the benefit of an international airport:
3317 (i) located within a county of the first class; and
3318 (ii) that has a United States customs office on its premises; and
3319 (c) if the construction materials are:
3320 (i) clearly identified;
3321 (ii) segregated; and
3322 (iii) installed or converted to real property:
3323 (A) owned or operated by the international airport described in Subsection (66)(b); and
3324 (B) located at the international airport described in Subsection (66)(b);
3325 (67) sales of construction materials:
3326 (a) purchased on or after July 1, 2008;
3327 (b) purchased by, on behalf of, or for the benefit of a new airport:
3328 (i) located within a county of the second class; and
3329 (ii) that is owned or operated by a city in which an airline as defined in Section
3330 59-2-102 is headquartered; and
3331 (c) if the construction materials are:
3332 (i) clearly identified;
3333 (ii) segregated; and

3334 (iii) installed or converted to real property:
3335 (A) owned or operated by the new airport described in Subsection (67)(b);
3336 (B) located at the new airport described in Subsection (67)(b); and
3337 (C) as part of the construction of the new airport described in Subsection (67)(b);
3338 (68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a
3339 common carrier that is a railroad for use in a locomotive engine;
3340 (69) purchases and sales described in Section 63H-4-111;
3341 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
3342 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
3343 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
3344 lists a state or country other than this state as the location of registry of the fixed wing turbine
3345 powered aircraft; or
3346 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
3347 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
3348 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
3349 lists a state or country other than this state as the location of registry of the fixed wing turbine
3350 powered aircraft;
3351 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
3352 (a) to a person admitted to an institution of higher education; and
3353 (b) by a seller, other than a bookstore owned by an institution of higher education, if
3354 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
3355 textbook for a higher education course;
3356 (72) a license fee or tax a municipality imposes in accordance with Subsection
3357 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
3358 level of municipal services;
3359 (73) amounts paid or charged for construction materials used in the construction of a
3360 new or expanding life science research and development facility in the state, if the construction
3361 materials are:

- 3362 (a) clearly identified;
- 3363 (b) segregated; and
- 3364 (c) installed or converted to real property;
- 3365 (74) amounts paid or charged for:
- 3366 (a) a purchase or lease of machinery and equipment that:
- 3367 (i) are used in performing qualified research:
- 3368 (A) as defined in Section 41(d), Internal Revenue Code; and
- 3369 (B) in the state; and
- 3370 (ii) have an economic life of three or more years; and
- 3371 (b) normal operating repair or replacement parts:
- 3372 (i) for the machinery and equipment described in Subsection (74)(a); and
- 3373 (ii) that have an economic life of three or more years;
- 3374 (75) a sale or lease of tangible personal property used in the preparation of prepared
- 3375 food if:
- 3376 (a) for a sale:
- 3377 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 3378 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
- 3379 tangible personal property prior to making the sale; or
- 3380 (b) for a lease:
- 3381 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 3382 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
- 3383 personal property prior to making the lease;
- 3384 (76) (a) purchases of machinery or equipment if:
- 3385 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 3386 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 3387 System of the federal Executive Office of the President, Office of Management and Budget;
- 3388 (ii) the machinery or equipment:
- 3389 (A) has an economic life of three or more years; and

3390 (B) is used by one or more persons who pay admission or user fees described in
3391 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
3392 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
3393 (A) amounts paid or charged as admission or user fees described in Subsection
3394 59-12-103(1)(f); and
3395 (B) subject to taxation under this chapter; and
3396 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3397 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
3398 previous calendar quarter is:
3399 (i) amounts paid or charged as admission or user fees described in Subsection
3400 59-12-103(1)(f); and
3401 (ii) subject to taxation under this chapter;
3402 (77) purchases of a short-term lodging consumable by a business that provides
3403 accommodations and services described in Subsection 59-12-103(1)(i);
3404 (78) amounts paid or charged to access a database:
3405 (a) if the primary purpose for accessing the database is to view or retrieve information
3406 from the database; and
3407 (b) not including amounts paid or charged for a:
3408 (i) digital audiowork;
3409 (ii) digital audio-visual work; or
3410 (iii) digital book;
3411 (79) amounts paid or charged for a purchase or lease made by an electronic financial
3412 payment service, of:
3413 (a) machinery and equipment that:
3414 (i) are used in the operation of the electronic financial payment service; and
3415 (ii) have an economic life of three or more years; and
3416 (b) normal operating repair or replacement parts that:
3417 (i) are used in the operation of the electronic financial payment service; and

- 3418 (ii) have an economic life of three or more years;
- 3419 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
- 3420 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
- 3421 product transferred electronically if the tangible personal property or product transferred
- 3422 electronically:
- 3423 (a) is stored, used, or consumed in the state; and
- 3424 (b) is temporarily brought into the state from another state:
- 3425 (i) during a disaster period as defined in Section 53-2a-1202;
- 3426 (ii) by an out-of-state business as defined in Section 53-2a-1202;
- 3427 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- 3428 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- 3429 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
- 3430 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
- 3431 Recreation Program;
- 3432 (83) amounts paid or charged for a purchase or lease of molten magnesium;
- 3433 (84) amounts paid or charged for a purchase or lease made by a qualifying enterprise
- 3434 data center of machinery, equipment, or normal operating repair or replacement parts, if the
- 3435 machinery, equipment, or normal operating repair or replacement parts:
- 3436 (a) are used in the operation of the establishment; and
- 3437 (b) have an economic life of one or more years;
- 3438 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
- 3439 vehicle that includes cleaning or washing of the interior of the vehicle;
- 3440 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
- 3441 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
- 3442 or consumed:
- 3443 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
- 3444 in Section 63M-4-701 located in the state;
- 3445 (b) if the machinery, equipment, normal operating repair or replacement parts,

3446 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:
3447 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
3448 added to gasoline or diesel fuel;
3449 (ii) research and development;
3450 (iii) transporting, storing, or managing raw materials, work in process, finished
3451 products, and waste materials produced from refining gasoline or diesel fuel, or adding
3452 blendstock to gasoline or diesel fuel;
3453 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
3454 refining; or
3455 (v) preventing, controlling, or reducing pollutants from refining; and
3456 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office
3457 of Energy Development under Subsection 63M-4-702(2);
3458 (87) amounts paid to or charged by a proprietor for accommodations and services, as
3459 defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax
3460 imposed under Section 63H-1-205;
3461 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
3462 operating repair or replacement parts, or materials, except for office equipment or office
3463 supplies, by an establishment, as the commission defines that term in accordance with Title
3464 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
3465 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
3466 American Industry Classification System of the federal Executive Office of the President,
3467 Office of Management and Budget;
3468 (b) is located in this state; and
3469 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
3470 materials in the operation of the establishment; and
3471 (89) amounts paid or charged for an item exempt under Section 59-12-104.10.
3472 Section 9. Section 59-12-108 is amended to read:
3473 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**

Certain amounts allocated to local taxing jurisdictions.

(1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this chapter of \$50,000 or more for the previous calendar year shall:

(i) file a return with the commission:

(A) monthly on or before the last day of the month immediately following the month for which the seller collects a tax under this chapter; and

(B) for the month for which the seller collects a tax under this chapter; and

(ii) except as provided in Subsection (1)(b), remit with the return required by Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax, fee, or charge described in Subsection (1)(c):

(A) if that seller's tax liability under this chapter for the previous calendar year is less than \$96,000, by any method permitted by the commission; or

(B) if that seller's tax liability under this chapter for the previous calendar year is \$96,000 or more, by electronic funds transfer.

(b) A seller shall remit electronically with the return required by Subsection (1)(a)(i) the amount the seller is required to remit to the commission for each tax, fee, or charge described in Subsection (1)(c) if that seller:

(i) is required by Section 59-12-107 to file the return electronically; or

(ii) (A) is required to collect and remit a tax under Section 59-12-107; and

(B) files a simplified electronic return.

(c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

(i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(ii) a fee under Section 19-6-714;

(iii) a fee under Section 19-6-805;

(iv) a charge under Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

(v) a tax under this chapter.

(d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for a method

for making same-day payments other than by electronic funds transfer if making payments by electronic funds transfer fails.

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall establish by rule procedures and requirements for determining the amount a seller is required to remit to the commission under this Subsection (1).

(2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month the amount allowed by this Subsection (2).

(b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month 1.31% of any amounts the seller is required to remit to the commission:

(i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax and a local tax imposed in accordance with the following, for the month for which the seller is filing a return in accordance with Subsection (1):

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

(B) Subsection 59-12-103(2)(b); ~~[and]~~

(C) Subsection 59-12-103(2)(d); and

(D) Subsection 59-12-103(2)(e); and

(ii) for an agreement sales and use tax.

(c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c).

(ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount equal to the sum of:

(A) 1.31% of any amounts the seller is required to remit to the commission for:

(I) the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c);

(II) the month for which the seller is filing a return in accordance with Subsection (1);

3530 and
3531 (III) an agreement sales and use tax; and
3532 (B) 1.31% of the difference between:
3533 (I) the amounts the seller would have been required to remit to the commission:
3534 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject
3535 to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);
3536 (Bb) for the month for which the seller is filing a return in accordance with Subsection
3537 (1); and
3538 (Cc) for an agreement sales and use tax; and
3539 (II) the amounts the seller is required to remit to the commission for:
3540 (Aa) the state tax and the local tax imposed in accordance with Subsection
3541 59-12-103(2)(c);
3542 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);
3543 and
3544 (Cc) an agreement sales and use tax.
3545 (d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
3546 each month 1% of any amounts the seller is required to remit to the commission:
3547 (i) for the month for which the seller is filing a return in accordance with Subsection
3548 (1); and
3549 (ii) under:
3550 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
3551 (B) Subsection 59-12-603(1)(a)(i)(A); or
3552 (C) Subsection 59-12-603(1)(a)(i)(B).
3553 (3) A state government entity that is required to remit taxes monthly in accordance
3554 with Subsection (1) may not retain any amount under Subsection (2).
3555 (4) A seller that has a tax liability under this chapter for the previous calendar year of
3556 less than \$50,000 may:
3557 (a) voluntarily meet the requirements of Subsection (1); and

3558 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
3559 amounts allowed by Subsection (2).

3560 (5) Penalties for late payment shall be as provided in Section 59-1-401.

3561 (6) (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted
3562 to the commission under this part, the commission shall each month calculate an amount equal
3563 to the difference between:

3564 (i) the total amount retained for that month by all sellers had the percentages listed
3565 under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and

3566 (ii) the total amount retained for that month by all sellers at the percentages listed
3567 under Subsections (2)(b) and (2)(c)(ii).

3568 (b) The commission shall each month allocate the amount calculated under Subsection
3569 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use
3570 tax that the commission distributes to each county, city, and town for that month compared to
3571 the total agreement sales and use tax that the commission distributes for that month to all
3572 counties, cities, and towns.

3573 (c) The amount the commission calculates under Subsection (6)(a) may not include an
3574 amount collected from a tax that:

3575 (i) the state imposes within a county, city, or town, including the unincorporated area
3576 of a county; and

3577 (ii) is not imposed within the entire state.

3578 Section 10. Section 72-2-131 is enacted to read:

3579 **72-2-131. Rail Transportation Restricted Account.**

3580 (1) There is created in the Transit Transportation Investment Fund, created in Section
3581 72-2-124, the Rail Transportation Restricted Account.

3582 (2) The account shall be funded by:

3583 (a) appropriations to the account by the Legislature;

3584 (b) private contributions;

3585 (c) donations or grants from public or private entities; and

3586 (d) interest earned on money in the account.

3587 (3) The Legislature shall appropriate funds in the account to the department.

3588 (4) Upon appropriation, the department shall use the money in the account for
3589 construction, reconstruction, or renovation projects related to railroad crossings on class A,
3590 class B, or class C roads.

3591 **Section 11. Appropriation.**

3592 The following sums of money are appropriated for the fiscal year beginning July 1,
3593 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for
3594 fiscal year 2021. The Legislature authorizes the State Division of Finance to transfer the
3595 following amounts between the following funds or accounts as indicated. Expenditures and
3596 outlays from the funds or accounts to which the money is transferred must be authorized by an
3597 appropriation.

3598 ITEM 1

3599 To Transit Transportation Investment Fund - Rail Transportation Restricted Account

3600 From General Fund \$3,660,000

3601 From General Fund, One-time (\$2,135,000)

3602 Schedule of Programs:

3603 Rail Transportation Restricted Account \$1,525,000

3604 **Section 12. Effective date.**

3605 This bill takes effect on January 1, 2021.