

TRANSIT AND ROAD FUNDING AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Francis D. Gibson

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill enacts and modifies provisions relating to local option sales and use taxes for public transit and roads.

Highlighted Provisions:

This bill:

▶ modifies the use of a local option sales and use tax for highways and public transit;

▶ authorizes a county to impose sales and use taxes for public transit and road

purposes; and

▶ establishes the process for imposing the county option sales and use taxes and the

tax rates and uses of tax revenue.

Money Appropriated in this Bill:

None

Other Special Clauses:

⠠→ [None] This bill provides a special effective date. ←⠠

Utah Code Sections Affected:

AMENDS:

59-12-102, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422

59-12-2203, as last amended by Laws of Utah 2015, Chapter 275

59-12-2208, as enacted by Laws of Utah 2010, Chapter 263

59-12-2219, as last amended by Laws of Utah 2016, Chapter 373

H.B. 423



28 ENACTS:

29 [59-12-2220](#), Utah Code Annotated 1953

30 [59-12-2221](#), Utah Code Annotated 1953

31

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

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

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

35 As used in this chapter:

36 (1) "800 service" means a telecommunications service that:

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

38 (b) is typically marketed:

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

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

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

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

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

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

45 Federal Communications Commission.

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

47 (i) a subscriber purchases;

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

49 the subscriber's:

50 (A) prerecorded announcement; or

51 (B) live service; and

52 (iii) is typically marketed:

53 (A) under the name 900 service; or

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

55 Communications Commission.

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

57 (i) a collection service a seller of a telecommunications service provides to a

58 subscriber; or

- 59 (ii) the following a subscriber sells to the subscriber's customer:
- 60 (A) a product; or
- 61 (B) a service.
- 62 (3) (a) "Admission or user fees" includes season passes.
- 63 (b) "Admission or user fees" does not include annual membership dues to private
- 64 organizations.
- 65 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 66 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 67 Agreement after November 12, 2002.
- 68 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 69 (a) listed under Subsection (6); and
- 70 (b) that are imposed within a local taxing jurisdiction.
- 71 (6) "Agreement sales and use tax" means a tax imposed under:
- 72 (a) Subsection 59-12-103(2)(a)(i)(A);
- 73 (b) Subsection 59-12-103(2)(b)(i);
- 74 (c) Subsection 59-12-103(2)(c)(i);
- 75 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 76 (e) Section 59-12-204;
- 77 (f) Section 59-12-401;
- 78 (g) Section 59-12-402;
- 79 (h) Section 59-12-402.1;
- 80 (i) Section 59-12-703;
- 81 (j) Section 59-12-802;
- 82 (k) Section 59-12-804;
- 83 (l) Section 59-12-1102;
- 84 (m) Section 59-12-1302;
- 85 (n) Section 59-12-1402;
- 86 (o) Section 59-12-1802;
- 87 (p) Section 59-12-2003;
- 88 (q) Section 59-12-2103;
- 89 (r) Section 59-12-2213;

90 (s) Section [59-12-2214](#);

91 (t) Section [59-12-2215](#);

92 (u) Section [59-12-2216](#);

93 (v) Section [59-12-2217](#);

94 (w) Section [59-12-2218](#); [~~or~~]

95 (x) Section [59-12-2219](#)[~~;~~];

96 (y) Section [59-12-2220](#); or

97 (z) Section [59-12-2221](#).

98 (7) "Aircraft" means the same as that term is defined in Section [72-10-102](#).

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

100 (a) except for:

101 (i) an airline as defined in Section [59-2-102](#); or

102 (ii) an affiliated group, as defined in Section [59-7-101](#), except that "affiliated group"

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

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

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

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

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

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

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

114 (A) an inspection;

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

116 (C) changing landing gear; and

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

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

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

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

123 (9) "Alcoholic beverage" means a beverage that:

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

126 (10) "Alternative energy" means:

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

143 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
144 facility" means a facility that:

- 145 (i) uses alternative energy to produce electricity; and
- 146 (ii) has a production capacity of two megawatts or greater.
- 147 (b) A facility is an alternative energy electricity production facility regardless of
148 whether the facility is:
 - 149 (i) connected to an electric grid; or
 - 150 (ii) located on the premises of an electricity consumer.

151 (12) (a) "Ancillary service" means a service associated with, or incidental to, the

152 provision of telecommunications service.

153 (b) "Ancillary service" includes:

154 (i) a conference bridging service;

155 (ii) a detailed communications billing service;

156 (iii) directory assistance;

157 (iv) a vertical service; or

158 (v) a voice mail service.

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

160 [62A-3-101](#).

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

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

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

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

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

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

174 (16) "Authorized carrier" means:

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

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

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

183 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
184 following that is used as the primary source of energy to produce fuel or electricity:

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

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

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

188 (B) animal waste;

189 (C) waste vegetable oil;

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

193 (E) aquatic plants; and

194 (F) agricultural products.

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

196 (i) black liquor; or

197 (ii) treated woods.

198 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
199 property, products, or services if the tangible personal property, products, or services are:

200 (i) distinct and identifiable; and

201 (ii) sold for one nonitemized price.

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

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

206 (ii) the sale of real property;

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

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

209 (A) the tangible personal property:

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

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

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

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

- 214 (A) one service is provided that is essential to the use or receipt of a second service;
- 215 (B) the first service is provided exclusively in connection with the second service; and
- 216 (C) the second service is the true object of the transaction;

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

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

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

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

226 (A) that retail sale includes:

227 (I) food and food ingredients;

228 (II) a drug;

229 (III) durable medical equipment;

230 (IV) mobility enhancing equipment;

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

232 (VI) a prosthetic device; or

233 (VII) a medical supply; and

234 (B) subject to Subsection (18)(f):

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

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

239 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
240 service that is distinct and identifiable does not include:

241 (A) packaging that:

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

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

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

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

249 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
250 product, or a service is provided free of charge with the purchase of another item of tangible
251 personal property, a product, or a service if the sales price of the purchased item of tangible
252 personal property, product, or service does not vary depending on the inclusion of the tangible
253 personal property, product, or service provided free of charge.

254 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
255 does not include a price that is separately identified by tangible personal property, product, or
256 service on the following, regardless of whether the following is in paper format or electronic
257 format:

258 (A) a binding sales document; or

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

260 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
261 supporting sales-related document that is available to a purchaser includes:

262 (A) a bill of sale;

263 (B) a contract;

264 (C) an invoice;

265 (D) a lease agreement;

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

267 (F) a price list;

268 (G) a rate card;

269 (H) a receipt; or

270 (I) a service agreement.

271 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
272 property or a product subject to taxation under this chapter is de minimis if:

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

275 (B) the seller's sales price of the tangible personal property or product is 10% or less of

276 the seller's total sales price of the bundled transaction.

277 (ii) For purposes of Subsection (18)(b)(vi), a seller:

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

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

284 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
285 contract to determine if the sales price of tangible personal property or a product is de minimis.

286 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
287 the seller's purchase price and the seller's sales price to determine if tangible personal property
288 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
289 price of that retail sale.

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

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

294 (i) on a transaction; and

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

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

298 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

299 (20) "Certified service provider" means an agent certified:

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

301 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
302 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
303 own purchases.

304 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
305 suitable for general use.

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

307 commission shall make rules:

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

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

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

312 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
313 fuels that does not constitute industrial use under Subsection (56) or residential use under
314 Subsection (106).

315 (24) (a) "Common carrier" means a person engaged in or transacting the business of
316 transporting passengers, freight, merchandise, or other property for hire within this state.

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

320 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
321 Utah Administrative Rulemaking Act, the commission may make rules defining what
322 constitutes a person's place of employment.

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

325 (25) "Component part" includes:

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

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

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

331 (d) feed, seeds, and seedlings.

332 (26) "Computer" means an electronic device that accepts information:

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

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

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

336 (27) "Computer software" means a set of coded instructions designed to cause:

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

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

339 (28) "Computer software maintenance contract" means a contract that obligates a seller
340 of computer software to provide a customer with:

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

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

343 (c) a combination of Subsections (28)(a) and (b).

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

346 (b) "Conference bridging service" may include providing a telephone number as part of
347 the ancillary service described in Subsection (29)(a).

348 (c) "Conference bridging service" does not include a telecommunications service used
349 to reach the ancillary service described in Subsection (29)(a).

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

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

354 (32) (a) "Delivery charge" means a charge:

355 (i) by a seller of:

356 (A) tangible personal property;

357 (B) a product transferred electronically; or

358 (C) services; and

359 (ii) for preparation and delivery of the tangible personal property, product transferred
360 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
361 purchaser.

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

363 (i) transportation;

364 (ii) shipping;

365 (iii) postage;

366 (iv) handling;

367 (v) crating; or

368 (vi) packing.

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

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

372 (a) is intended to supplement the diet;

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

374 (i) a vitamin;

375 (ii) a mineral;

376 (iii) an herb or other botanical;

377 (iv) an amino acid;

378 (v) a dietary substance for use by humans to supplement the diet by increasing the total
379 dietary intake; or

380 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
381 described in Subsections (34)(b)(i) through (v);

382 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

383 (A) tablet form;

384 (B) capsule form;

385 (C) powder form;

386 (D) softgel form;

387 (E) gelcap form; or

388 (F) liquid form; or

389 (ii) if the product is not intended for ingestion in a form described in Subsections
390 (34)(c)(i)(A) through (F), is not represented:

391 (A) as conventional food; and

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

393 (I) a meal; or

394 (II) the diet; and

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

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

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

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

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

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

403 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
404 sense as a book.

405 (38) (a) "Direct mail" means printed material delivered or distributed by United States
406 mail or other delivery service:

407 (i) to:

408 (A) a mass audience; or

409 (B) addressees on a mailing list provided:

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

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

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

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

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

417 (39) "Directory assistance" means an ancillary service of providing:

418 (a) address information; or

419 (b) telephone number information.

420 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
421 or supplies that:

422 (i) cannot withstand repeated use; and

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

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

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

426 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

427 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

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

429 (i) a drug;

430 (ii) durable medical equipment;

- 431 (iii) a hearing aid;
- 432 (iv) a hearing aid accessory;
- 433 (v) mobility enhancing equipment; or
- 434 (vi) tangible personal property used to correct impaired vision, including:
 - 435 (A) eyeglasses; or
 - 436 (B) contact lenses.
- 437 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 438 commission may by rule define what constitutes medical equipment or supplies.
- 439 (41) "Drilling equipment manufacturer" means a facility:
 - 440 (a) located in the state;
 - 441 (b) with respect to which 51% or more of the manufacturing activities of the facility
 - 442 consist of manufacturing component parts of drilling equipment;
 - 443 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
 - 444 manufacturing process; and
 - 445 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
 - 446 manufacturing process.
- 447 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 448 compound, substance, or preparation that is:
 - 449 (i) recognized in:
 - 450 (A) the official United States Pharmacopoeia;
 - 451 (B) the official Homeopathic Pharmacopoeia of the United States;
 - 452 (C) the official National Formulary; or
 - 453 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
 - 454 (ii) intended for use in the:
 - 455 (A) diagnosis of disease;
 - 456 (B) cure of disease;
 - 457 (C) mitigation of disease;
 - 458 (D) treatment of disease; or
 - 459 (E) prevention of disease; or
 - 460 (iii) intended to affect:
 - 461 (A) the structure of the body; or

- 462 (B) any function of the body.
- 463 (b) "Drug" does not include:
- 464 (i) food and food ingredients;
- 465 (ii) a dietary supplement;
- 466 (iii) an alcoholic beverage; or
- 467 (iv) a prosthetic device.

468 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
469 equipment that:

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

474 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
475 equipment described in Subsection (43)(a).

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

477 (44) "Electronic" means:

- 478 (a) relating to technology; and
- 479 (b) having:
- 480 (i) electrical capabilities;
- 481 (ii) digital capabilities;
- 482 (iii) magnetic capabilities;
- 483 (iv) wireless capabilities;
- 484 (v) optical capabilities;
- 485 (vi) electromagnetic capabilities; or
- 486 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).

487 (45) "Electronic financial payment service" means an establishment:

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

491 (b) that performs electronic financial payment services.

492 (46) "Employee" means the same as that term is defined in Section [59-10-401](#).

- 493 (47) "Fixed guideway" means a public transit facility that uses and occupies:
- 494 (a) rail for the use of public transit; or
- 495 (b) a separate right-of-way for the use of public transit.
- 496 (48) "Fixed wing turbine powered aircraft" means an aircraft that:
- 497 (a) is powered by turbine engines;
- 498 (b) operates on jet fuel; and
- 499 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 500 (49) "Fixed wireless service" means a telecommunications service that provides radio
- 501 communication between fixed points.
- 502 (50) (a) "Food and food ingredients" means substances:
- 503 (i) regardless of whether the substances are in:
- 504 (A) liquid form;
- 505 (B) concentrated form;
- 506 (C) solid form;
- 507 (D) frozen form;
- 508 (E) dried form; or
- 509 (F) dehydrated form; and
- 510 (ii) that are:
- 511 (A) sold for:
- 512 (I) ingestion by humans; or
- 513 (II) chewing by humans; and
- 514 (B) consumed for the substance's:
- 515 (I) taste; or
- 516 (II) nutritional value.
- 517 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
- 518 (c) "Food and food ingredients" does not include:
- 519 (i) an alcoholic beverage;
- 520 (ii) tobacco; or
- 521 (iii) prepared food.
- 522 (51) (a) "Fundraising sales" means sales:
- 523 (i) (A) made by a school; or

524 (B) made by a school student;

525 (ii) that are for the purpose of raising funds for the school to purchase equipment,

526 materials, or provide transportation; and

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

528 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"

529 means a school activity:

530 (i) that is conducted in accordance with a formal policy adopted by the school or school

531 district governing the authorization and supervision of fundraising activities;

532 (ii) that does not directly or indirectly compensate an individual teacher or other

533 educational personnel by direct payment, commissions, or payment in kind; and

534 (iii) the net or gross revenues from which are deposited in a dedicated account

535 controlled by the school or school district.

536 (52) "Geothermal energy" means energy contained in heat that continuously flows

537 outward from the earth that is used as the sole source of energy to produce electricity.

538 (53) "Governing board of the agreement" means the governing board of the agreement

539 that is:

540 (a) authorized to administer the agreement; and

541 (b) established in accordance with the agreement.

542 (54) (a) For purposes of Subsection [59-12-104](#)(41), "governmental entity" means:

543 (i) the executive branch of the state, including all departments, institutions, boards,

544 divisions, bureaus, offices, commissions, and committees;

545 (ii) the judicial branch of the state, including the courts, the Judicial Council, the

546 Office of the Court Administrator, and similar administrative units in the judicial branch;

547 (iii) the legislative branch of the state, including the House of Representatives, the

548 Senate, the Legislative Printing Office, the Office of Legislative Research and General

549 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal

550 Analyst;

551 (iv) the National Guard;

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

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

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

555 education, including:

556 (i) a school;

557 (ii) the State Board of Education;

558 (iii) the State Board of Regents; or

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

560 (55) "Hydroelectric energy" means water used as the sole source of energy to produce
561 electricity.

562 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
563 other fuels:

564 (a) in mining or extraction of minerals;

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

567 (i) commercial greenhouses;

568 (ii) irrigation pumps;

569 (iii) farm machinery;

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

572 (v) other farming activities;

573 (c) in manufacturing tangible personal property at an establishment described in SIC
574 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
575 Executive Office of the President, Office of Management and Budget;

576 (d) by a scrap recycler if:

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

580 (A) iron;

581 (B) steel;

582 (C) nonferrous metal;

583 (D) paper;

584 (E) glass;

585 (F) plastic;

586 (G) textile; or
587 (H) rubber; and
588 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with
589 nonrecycled materials; or

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

592 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge
593 for installing:

- 594 (i) tangible personal property; or
- 595 (ii) a product transferred electronically.
- 596 (b) "Installation charge" does not include a charge for:

597 (i) repairs or renovations of:

598 (A) tangible personal property; or

599 (B) a product transferred electronically; or

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

601 (A) to other tangible personal property; and

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

603 (58) "Institution of higher education" means an institution of higher education listed in
604 Section 53B-2-101.

605 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible
606 personal property or a product transferred electronically for:

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

608 (B) an indeterminate term; and

609 (ii) consideration.

610 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
611 amount of consideration may be increased or decreased by reference to the amount realized
612 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
613 Code.

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

615 (i) a transfer of possession or control of property under a security agreement or
616 deferred payment plan that requires the transfer of title upon completion of the required

- 617 payments;
- 618 (ii) a transfer of possession or control of property under an agreement that requires the
619 transfer of title:
- 620 (A) upon completion of required payments; and
- 621 (B) if the payment of an option price does not exceed the greater of:
- 622 (I) \$100; or
- 623 (II) 1% of the total required payments; or
- 624 (iii) providing tangible personal property along with an operator for a fixed period of
625 time or an indeterminate period of time if the operator is necessary for equipment to perform as
626 designed.
- 627 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to
628 perform as designed if the operator's duties exceed the:
- 629 (i) set-up of tangible personal property;
- 630 (ii) maintenance of tangible personal property; or
- 631 (iii) inspection of tangible personal property.
- 632 (60) "Life science establishment" means an establishment in this state that is classified
633 under the following NAICS codes of the 2007 North American Industry Classification System
634 of the federal Executive Office of the President, Office of Management and Budget:
- 635 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 636 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
637 Manufacturing; or
- 638 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 639 (61) "Life science research and development facility" means a facility owned, leased,
640 or rented by a life science establishment if research and development is performed in 51% or
641 more of the total area of the facility.
- 642 (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media
643 if the tangible storage media is not physically transferred to the purchaser.
- 644 (63) "Local taxing jurisdiction" means a:
- 645 (a) county that is authorized to impose an agreement sales and use tax;
- 646 (b) city that is authorized to impose an agreement sales and use tax; or
- 647 (c) town that is authorized to impose an agreement sales and use tax.

- 648 (64) "Manufactured home" means the same as that term is defined in Section
649 [15A-1-302](#).
- 650 (65) "Manufacturing facility" means:
- 651 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
652 Industrial Classification Manual of the federal Executive Office of the President, Office of
653 Management and Budget;
- 654 (b) a scrap recycler if:
- 655 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
656 one or more of the following items into prepared grades of processed materials for use in new
657 products:
- 658 (A) iron;
 - 659 (B) steel;
 - 660 (C) nonferrous metal;
 - 661 (D) paper;
 - 662 (E) glass;
 - 663 (F) plastic;
 - 664 (G) textile; or
 - 665 (H) rubber; and
- 666 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with
667 nonrecycled materials; or
- 668 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is
669 placed in service on or after May 1, 2006.
- 670 (66) "Member of the immediate family of the producer" means a person who is related
671 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:
- 672 (a) child or stepchild, regardless of whether the child or stepchild is:
 - 673 (i) an adopted child or adopted stepchild; or
 - 674 (ii) a foster child or foster stepchild;
 - 675 (b) grandchild or stepgrandchild;
 - 676 (c) grandparent or stepgrandparent;
 - 677 (d) nephew or stepnephew;
 - 678 (e) niece or stepniece;

- 679 (f) parent or stepparent;
680 (g) sibling or stepsibling;
681 (h) spouse;
682 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);

683 or

- 684 (j) person similar to a person described in Subsections (66)(a) through (i) as
685 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
686 Administrative Rulemaking Act.

687 (67) "Mobile home" means the same as that term is defined in Section [15A-1-302](#).

688 (68) "Mobile telecommunications service" is as defined in the Mobile
689 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

690 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of
691 the technology used, if:

- 692 (i) the origination point of the conveyance, routing, or transmission is not fixed;
693 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
694 (iii) the origination point described in Subsection (69)(a)(i) and the termination point
695 described in Subsection (69)(a)(ii) are not fixed.

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

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

700 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment"
701 means equipment that is:

- 702 (i) primarily and customarily used to provide or increase the ability to move from one
703 place to another;
704 (ii) appropriate for use in a:
705 (A) home; or
706 (B) motor vehicle; and
707 (iii) not generally used by persons with normal mobility.

708 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
709 the equipment described in Subsection (70)(a).

- 710 (c) "Mobility enhancing equipment" does not include:
- 711 (i) a motor vehicle;
- 712 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
- 713 vehicle manufacturer;
- 714 (iii) durable medical equipment; or
- 715 (iv) a prosthetic device.

716 (71) "Model 1 seller" means a seller registered under the agreement that has selected a
717 certified service provider as the seller's agent to perform all of the seller's sales and use tax
718 functions for agreement sales and use taxes other than the seller's obligation under Section
719 [59-12-124](#) to remit a tax on the seller's own purchases.

720 (72) "Model 2 seller" means a seller registered under the agreement that:

- 721 (a) except as provided in Subsection (72)(b), has selected a certified automated system
- 722 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 723 (b) retains responsibility for remitting all of the sales tax:
 - 724 (i) collected by the seller; and
 - 725 (ii) to the appropriate local taxing jurisdiction.

726 (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under
727 the agreement that has:

- 728 (i) sales in at least five states that are members of the agreement;
- 729 (ii) total annual sales revenues of at least \$500,000,000;
- 730 (iii) a proprietary system that calculates the amount of tax:
 - 731 (A) for an agreement sales and use tax; and
 - 732 (B) due to each local taxing jurisdiction; and
- 733 (iv) entered into a performance agreement with the governing board of the agreement.
- 734 (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of
735 sellers using the same proprietary system.

736 (74) "Model 4 seller" means a seller that is registered under the agreement and is not a
737 model 1 seller, model 2 seller, or model 3 seller.

738 (75) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

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

740 (77) "Oil sands" means impregnated bituminous sands that:

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

743 (b) yield mixtures of liquid hydrocarbon; and

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

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

748 (79) "Optional computer software maintenance contract" means a computer software
749 maintenance contract that a customer is not obligated to purchase as a condition to the retail
750 sale of computer software.

751 (80) (a) "Other fuels" means products that burn independently to produce heat or
752 energy.

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

755 (81) (a) "Paging service" means a telecommunications service that provides
756 transmission of a coded radio signal for the purpose of activating a specific pager.

757 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal
758 includes a transmission by message or sound.

759 (82) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).

760 (83) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

761 (84) (a) "Permanently attached to real property" means that for tangible personal
762 property attached to real property:

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

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

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

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

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

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

772 (b) "Permanently attached to real property" includes:
773 (i) the attachment of an accessory to the tangible personal property if the accessory is:
774 (A) essential to the operation of the tangible personal property; and
775 (B) attached only to facilitate the operation of the tangible personal property;
776 (ii) a temporary detachment of tangible personal property from real property for a
777 repair or renovation if the repair or renovation is performed where the tangible personal
778 property and real property are located; or
779 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
780 Subsection (84)(c)(iii) or (iv).
781 (c) "Permanently attached to real property" does not include:
782 (i) the attachment of portable or movable tangible personal property to real property if
783 that portable or movable tangible personal property is attached to real property only for:
784 (A) convenience;
785 (B) stability; or
786 (C) for an obvious temporary purpose;
787 (ii) the detachment of tangible personal property from real property except for the
788 detachment described in Subsection (84)(b)(ii);
789 (iii) an attachment of the following tangible personal property to real property if the
790 attachment to real property is only through a line that supplies water, electricity, gas,
791 telecommunications, cable, or supplies a similar item as determined by the commission by rule
792 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
793 (A) a computer;
794 (B) a telephone;
795 (C) a television; or
796 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as
797 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
798 Administrative Rulemaking Act; or
799 (iv) an item listed in Subsection (125)(c).
800 (85) "Person" includes any individual, firm, partnership, joint venture, association,
801 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
802 municipality, district, or other local governmental entity of the state, or any group or

803 combination acting as a unit.

804 (86) "Place of primary use":

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

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

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

810 (b) for mobile telecommunications service, is as defined in the Mobile

811 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

812 (87) (a) "Postpaid calling service" means a telecommunications service a person
813 obtains by making a payment on a call-by-call basis:

814 (i) through the use of a:

815 (A) bank card;

816 (B) credit card;

817 (C) debit card; or

818 (D) travel card; or

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

821 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
822 service, that would be a prepaid wireless calling service if the service were exclusively a
823 telecommunications service.

824 (88) "Postproduction" means an activity related to the finishing or duplication of a
825 medium described in Subsection [59-12-104\(54\)\(a\)](#).

826 (89) "Prepaid calling service" means a telecommunications service:

827 (a) that allows a purchaser access to telecommunications service that is exclusively
828 telecommunications service;

829 (b) that:

830 (i) is paid for in advance; and

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

832 (A) access number; or

833 (B) authorization code;

- 834 (c) that is dialed:
- 835 (i) manually; or
- 836 (ii) electronically; and
- 837 (d) sold in predetermined units or dollars that decline:
- 838 (i) by a known amount; and
- 839 (ii) with use.
- 840 (90) "Prepaid wireless calling service" means a telecommunications service:
- 841 (a) that provides the right to utilize:
- 842 (i) mobile wireless service; and
- 843 (ii) other service that is not a telecommunications service, including:
- 844 (A) the download of a product transferred electronically;
- 845 (B) a content service; or
- 846 (C) an ancillary service;
- 847 (b) that:
- 848 (i) is paid for in advance; and
- 849 (ii) enables the origination of a call using an:
- 850 (A) access number; or
- 851 (B) authorization code;
- 852 (c) that is dialed:
- 853 (i) manually; or
- 854 (ii) electronically; and
- 855 (d) sold in predetermined units or dollars that decline:
- 856 (i) by a known amount; and
- 857 (ii) with use.
- 858 (91) (a) "Prepared food" means:
- 859 (i) food:
- 860 (A) sold in a heated state; or
- 861 (B) heated by a seller;
- 862 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 863 item; or
- 864 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided

865 by the seller, including a:

- 866 (A) plate;
- 867 (B) knife;
- 868 (C) fork;
- 869 (D) spoon;
- 870 (E) glass;
- 871 (F) cup;
- 872 (G) napkin; or
- 873 (H) straw.

874 (b) "Prepared food" does not include:

875 (i) food that a seller only:

- 876 (A) cuts;
- 877 (B) repackages; or
- 878 (C) pasteurizes; or

879 (ii) (A) the following:

- 880 (I) raw egg;
- 881 (II) raw fish;
- 882 (III) raw meat;
- 883 (IV) raw poultry; or
- 884 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);

885 and

886 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
887 Food and Drug Administration's Food Code that a consumer cook the items described in
888 Subsection (91)(b)(ii)(A) to prevent food borne illness; or

889 (iii) the following if sold without eating utensils provided by the seller:

890 (A) food and food ingredients sold by a seller if the seller's proper primary
891 classification under the 2002 North American Industry Classification System of the federal
892 Executive Office of the President, Office of Management and Budget, is manufacturing in
893 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
894 Manufacturing;

895 (B) food and food ingredients sold in an unheated state:

- 896 (I) by weight or volume; and
- 897 (II) as a single item; or
- 898 (C) a bakery item, including:
 - 899 (I) a bagel;
 - 900 (II) a bar;
 - 901 (III) a biscuit;
 - 902 (IV) bread;
 - 903 (V) a bun;
 - 904 (VI) a cake;
 - 905 (VII) a cookie;
 - 906 (VIII) a croissant;
 - 907 (IX) a danish;
 - 908 (X) a donut;
 - 909 (XI) a muffin;
 - 910 (XII) a pastry;
 - 911 (XIII) a pie;
 - 912 (XIV) a roll;
 - 913 (XV) a tart;
 - 914 (XVI) a torte; or
 - 915 (XVII) a tortilla.
- 916 (c) An eating utensil provided by the seller does not include the following used to
- 917 transport the food:
 - 918 (i) a container; or
 - 919 (ii) packaging.
- 920 (92) "Prescription" means an order, formula, or recipe that is issued:
 - 921 (a) (i) orally;
 - 922 (ii) in writing;
 - 923 (iii) electronically; or
 - 924 (iv) by any other manner of transmission; and
 - 925 (b) by a licensed practitioner authorized by the laws of a state.
- 926 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer

- 927 software" means computer software that is not designed and developed:
- 928 (i) by the author or other creator of the computer software; and
- 929 (ii) to the specifications of a specific purchaser.
- 930 (b) "Prewritten computer software" includes:
- 931 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 932 software is not designed and developed:
- 933 (A) by the author or other creator of the computer software; and
- 934 (B) to the specifications of a specific purchaser;
- 935 (ii) computer software designed and developed by the author or other creator of the
- 936 computer software to the specifications of a specific purchaser if the computer software is sold
- 937 to a person other than the purchaser; or
- 938 (iii) except as provided in Subsection (93)(c), prewritten computer software or a
- 939 prewritten portion of prewritten computer software:
- 940 (A) that is modified or enhanced to any degree; and
- 941 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is
- 942 designed and developed to the specifications of a specific purchaser.
- 943 (c) "Prewritten computer software" does not include a modification or enhancement
- 944 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:
- 945 (i) reasonable; and
- 946 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
- 947 invoice or other statement of price provided to the purchaser at the time of sale or later, as
- 948 demonstrated by:
- 949 (A) the books and records the seller keeps at the time of the transaction in the regular
- 950 course of business, including books and records the seller keeps at the time of the transaction in
- 951 the regular course of business for nontax purposes;
- 952 (B) a preponderance of the facts and circumstances at the time of the transaction; and
- 953 (C) the understanding of all of the parties to the transaction.
- 954 (94) (a) "Private communications service" means a telecommunications service:
- 955 (i) that entitles a customer to exclusive or priority use of one or more communications
- 956 channels between or among termination points; and
- 957 (ii) regardless of the manner in which the one or more communications channels are

958 connected.

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

961 (i) an extension line;

962 (ii) a station;

963 (iii) switching capacity; or

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

966 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"
967 means a product transferred electronically that would be subject to a tax under this chapter if
968 that product was transferred in a manner other than electronically.

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

970 (i) an ancillary service;

971 (ii) computer software; or

972 (iii) a telecommunications service.

973 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:

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

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

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

977 (b) "Prosthetic device" includes:

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

979 (ii) replacement parts for a prosthetic device;

980 (iii) a dental prosthesis; or

981 (iv) a hearing aid.

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

983 (i) corrective eyeglasses; or

984 (ii) contact lenses.

985 (97) (a) "Protective equipment" means an item:

986 (i) for human wear; and

987 (ii) that is:

988 (A) designed as protection:

- 989 (I) to the wearer against injury or disease; or
- 990 (II) against damage or injury of other persons or property; and
- 991 (B) not suitable for general use.
- 992 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 993 commission shall make rules:
 - 994 (i) listing the items that constitute "protective equipment"; and
 - 995 (ii) that are consistent with the list of items that constitute "protective equipment"
- 996 under the agreement.
- 997 (98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 998 printed matter, other than a photocopy:
 - 999 (i) regardless of:
 - 1000 (A) characteristics;
 - 1001 (B) copyright;
 - 1002 (C) form;
 - 1003 (D) format;
 - 1004 (E) method of reproduction; or
 - 1005 (F) source; and
 - 1006 (ii) made available in printed or electronic format.
- 1007 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1008 commission may by rule define the term "photocopy."
- 1009 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:
 - 1010 (i) valued in money; and
 - 1011 (ii) for which tangible personal property, a product transferred electronically, or
 - 1012 services are:
 - 1013 (A) sold;
 - 1014 (B) leased; or
 - 1015 (C) rented.
- 1016 (b) "Purchase price" and "sales price" include:
 - 1017 (i) the seller's cost of the tangible personal property, a product transferred
 - 1018 electronically, or services sold;
 - 1019 (ii) expenses of the seller, including:

- 1020 (A) the cost of materials used;
- 1021 (B) a labor cost;
- 1022 (C) a service cost;
- 1023 (D) interest;
- 1024 (E) a loss;
- 1025 (F) the cost of transportation to the seller; or
- 1026 (G) a tax imposed on the seller;
- 1027 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1028 (iv) consideration a seller receives from a person other than the purchaser if:
- 1029 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 1030 and
- 1031 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
- 1032 price reduction or discount on the sale;
- 1033 (B) the seller has an obligation to pass the price reduction or discount through to the
- 1034 purchaser;
- 1035 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 1036 the seller at the time of the sale to the purchaser; and
- 1037 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 1038 seller to claim a price reduction or discount; and
- 1039 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 1040 coupon, or other documentation with the understanding that the person other than the seller
- 1041 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 1042 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 1043 organization allowed a price reduction or discount, except that a preferred customer card that is
- 1044 available to any patron of a seller does not constitute membership in a group or organization
- 1045 allowed a price reduction or discount; or
- 1046 (III) the price reduction or discount is identified as a third party price reduction or
- 1047 discount on the:
- 1048 (Aa) invoice the purchaser receives; or
- 1049 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1050 (c) "Purchase price" and "sales price" do not include:

- 1051 (i) a discount:
- 1052 (A) in a form including:
- 1053 (I) cash;
- 1054 (II) term; or
- 1055 (III) coupon;
- 1056 (B) that is allowed by a seller;
- 1057 (C) taken by a purchaser on a sale; and
- 1058 (D) that is not reimbursed by a third party; or
- 1059 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
- 1060 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
- 1061 sale or later, as demonstrated by the books and records the seller keeps at the time of the
- 1062 transaction in the regular course of business, including books and records the seller keeps at the
- 1063 time of the transaction in the regular course of business for nontax purposes, by a
- 1064 preponderance of the facts and circumstances at the time of the transaction, and by the
- 1065 understanding of all of the parties to the transaction:
- 1066 (A) the following from credit extended on the sale of tangible personal property or
- 1067 services:
- 1068 (I) a carrying charge;
- 1069 (II) a financing charge; or
- 1070 (III) an interest charge;
- 1071 (B) a delivery charge;
- 1072 (C) an installation charge;
- 1073 (D) a manufacturer rebate on a motor vehicle; or
- 1074 (E) a tax or fee legally imposed directly on the consumer.
- 1075 (100) "Purchaser" means a person to whom:
- 1076 (a) a sale of tangible personal property is made;
- 1077 (b) a product is transferred electronically; or
- 1078 (c) a service is furnished.
- 1079 (101) "Qualifying enterprise data center" means an establishment that will:
- 1080 (a) own and operate a data center facility that will house a group of networked server
- 1081 computers in one physical location in order to centralize the dissemination, management, and

1082 storage of data and information;

1083 (b) be located in the state;

1084 (c) be a new operation constructed on or after July 1, 2016;

1085 (d) consist of one or more buildings that total 150,000 or more square feet;

1086 (e) be owned or leased by:

1087 (i) the establishment; or

1088 (ii) a person under common ownership, as defined in Section 59-7-101, of the

1089 establishment; and

1090 (f) be located on one or more parcels of land that are owned or leased by:

1091 (i) the establishment; or

1092 (ii) a person under common ownership, as defined in Section 59-7-101, of the

1093 establishment.

1094 (102) "Regularly rented" means:

1095 (a) rented to a guest for value three or more times during a calendar year; or

1096 (b) advertised or held out to the public as a place that is regularly rented to guests for
1097 value.

1098 (103) "Rental" means the same as that term is defined in Subsection (59).

1099 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible
1100 personal property" means:

1101 (i) a repair or renovation of tangible personal property that is not permanently attached
1102 to real property; or

1103 (ii) attaching tangible personal property or a product transferred electronically to other
1104 tangible personal property or detaching tangible personal property or a product transferred
1105 electronically from other tangible personal property if:

1106 (A) the other tangible personal property to which the tangible personal property or
1107 product transferred electronically is attached or from which the tangible personal property or
1108 product transferred electronically is detached is not permanently attached to real property; and

1109 (B) the attachment of tangible personal property or a product transferred electronically
1110 to other tangible personal property or detachment of tangible personal property or a product
1111 transferred electronically from other tangible personal property is made in conjunction with a
1112 repair or replacement of tangible personal property or a product transferred electronically.

- 1113 (b) "Repairs or renovations of tangible personal property" does not include:
- 1114 (i) attaching prewritten computer software to other tangible personal property if the
- 1115 other tangible personal property to which the prewritten computer software is attached is not
- 1116 permanently attached to real property; or
- 1117 (ii) detaching prewritten computer software from other tangible personal property if the
- 1118 other tangible personal property from which the prewritten computer software is detached is
- 1119 not permanently attached to real property.
- 1120 (105) "Research and development" means the process of inquiry or experimentation
- 1121 aimed at the discovery of facts, devices, technologies, or applications and the process of
- 1122 preparing those devices, technologies, or applications for marketing.
- 1123 (106) (a) "Residential telecommunications services" means a telecommunications
- 1124 service or an ancillary service that is provided to an individual for personal use:
- 1125 (i) at a residential address; or
- 1126 (ii) at an institution, including a nursing home or a school, if the telecommunications
- 1127 service or ancillary service is provided to and paid for by the individual residing at the
- 1128 institution rather than the institution.
- 1129 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:
- 1130 (i) apartment; or
- 1131 (ii) other individual dwelling unit.
- 1132 (107) "Residential use" means the use in or around a home, apartment building,
- 1133 sleeping quarters, and similar facilities or accommodations.
- 1134 (108) (a) "Retailer" means any person engaged in a regularly organized business in
- 1135 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
- 1136 who is selling to the user or consumer and not for resale.
- 1137 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
- 1138 engaged in the business of selling to users or consumers within the state.
- 1139 (109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
- 1140 than:
- 1141 (a) resale;
- 1142 (b) sublease; or
- 1143 (c) subrent.

1144 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1145 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1146 Subsection 59-12-103(1), for consideration.

1147 (b) "Sale" includes:

1148 (i) installment and credit sales;

1149 (ii) any closed transaction constituting a sale;

1150 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1151 chapter;

1152 (iv) any transaction if the possession of property is transferred but the seller retains the
1153 title as security for the payment of the price; and

1154 (v) any transaction under which right to possession, operation, or use of any article of
1155 tangible personal property is granted under a lease or contract and the transfer of possession
1156 would be taxable if an outright sale were made.

1157 (111) "Sale at retail" means the same as that term is defined in Subsection (109).

1158 (112) "Sale-leaseback transaction" means a transaction by which title to tangible
1159 personal property or a product transferred electronically that is subject to a tax under this
1160 chapter is transferred:

1161 (a) by a purchaser-lessee;

1162 (b) to a lessor;

1163 (c) for consideration; and

1164 (d) if:

1165 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1166 of the tangible personal property or product transferred electronically;

1167 (ii) the sale of the tangible personal property or product transferred electronically to the
1168 lessor is intended as a form of financing:

1169 (A) for the tangible personal property or product transferred electronically; and

1170 (B) to the purchaser-lessee; and

1171 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1172 is required to:

1173 (A) capitalize the tangible personal property or product transferred electronically for
1174 financial reporting purposes; and

- 1175 (B) account for the lease payments as payments made under a financing arrangement.
- 1176 (113) "Sales price" means the same as that term is defined in Subsection (99).
- 1177 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
- 1178 amounts charged by a school:
 - 1179 (i) sales that are directly related to the school's educational functions or activities
 - 1180 including:
 - 1181 (A) the sale of:
 - 1182 (I) textbooks;
 - 1183 (II) textbook fees;
 - 1184 (III) laboratory fees;
 - 1185 (IV) laboratory supplies; or
 - 1186 (V) safety equipment;
 - 1187 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
 - 1188 that:
 - 1189 (I) a student is specifically required to wear as a condition of participation in a
 - 1190 school-related event or school-related activity; and
 - 1191 (II) is not readily adaptable to general or continued usage to the extent that it takes the
 - 1192 place of ordinary clothing;
 - 1193 (C) sales of the following if the net or gross revenues generated by the sales are
 - 1194 deposited into a school district fund or school fund dedicated to school meals:
 - 1195 (I) food and food ingredients; or
 - 1196 (II) prepared food; or
 - 1197 (D) transportation charges for official school activities; or
 - 1198 (ii) amounts paid to or amounts charged by a school for admission to a school-related
 - 1199 event or school-related activity.
 - 1200 (b) "Sales relating to schools" does not include:
 - 1201 (i) bookstore sales of items that are not educational materials or supplies;
 - 1202 (ii) except as provided in Subsection (114)(a)(i)(B):
 - 1203 (A) clothing;
 - 1204 (B) clothing accessories or equipment;
 - 1205 (C) protective equipment; or

- 1206 (D) sports or recreational equipment; or
- 1207 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1208 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1209 (A) other than a:
- 1210 (I) school;
- 1211 (II) nonprofit organization authorized by a school board or a governing body of a
- 1212 private school to organize and direct a competitive secondary school activity; or
- 1213 (III) nonprofit association authorized by a school board or a governing body of a
- 1214 private school to organize and direct a competitive secondary school activity; and
- 1215 (B) that is required to collect sales and use taxes under this chapter.
- 1216 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1217 commission may make rules defining the term "passed through."
- 1218 (115) For purposes of this section and Section [59-12-104](#), "school":
- 1219 (a) means:
- 1220 (i) an elementary school or a secondary school that:
- 1221 (A) is a:
- 1222 (I) public school; or
- 1223 (II) private school; and
- 1224 (B) provides instruction for one or more grades kindergarten through 12; or
- 1225 (ii) a public school district; and
- 1226 (b) includes the Electronic High School as defined in Section [53A-15-1002](#).
- 1227 (116) "Seller" means a person that makes a sale, lease, or rental of:
- 1228 (a) tangible personal property;
- 1229 (b) a product transferred electronically; or
- 1230 (c) a service.
- 1231 (117) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1232 means tangible personal property or a product transferred electronically if the tangible personal
- 1233 property or product transferred electronically is:
- 1234 (i) used primarily in the process of:
- 1235 (A) (I) manufacturing a semiconductor;
- 1236 (II) fabricating a semiconductor; or

- 1237 (III) research or development of a:
- 1238 (Aa) semiconductor; or
- 1239 (Bb) semiconductor manufacturing process; or
- 1240 (B) maintaining an environment suitable for a semiconductor; or
- 1241 (ii) consumed primarily in the process of:
- 1242 (A) (I) manufacturing a semiconductor;
- 1243 (II) fabricating a semiconductor; or
- 1244 (III) research or development of a:
- 1245 (Aa) semiconductor; or
- 1246 (Bb) semiconductor manufacturing process; or
- 1247 (B) maintaining an environment suitable for a semiconductor.
- 1248 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1249 includes:
- 1250 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1251 transferred electronically described in Subsection (117)(a); or
- 1252 (ii) a chemical, catalyst, or other material used to:
- 1253 (A) produce or induce in a semiconductor a:
- 1254 (I) chemical change; or
- 1255 (II) physical change;
- 1256 (B) remove impurities from a semiconductor; or
- 1257 (C) improve the marketable condition of a semiconductor.
- 1258 (118) "Senior citizen center" means a facility having the primary purpose of providing
- 1259 services to the aged as defined in Section [62A-3-101](#).
- 1260 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"
- 1261 means tangible personal property that:
- 1262 (i) a business that provides accommodations and services described in Subsection
- 1263 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services
- 1264 to a purchaser;
- 1265 (ii) is intended to be consumed by the purchaser; and
- 1266 (iii) is:
- 1267 (A) included in the purchase price of the accommodations and services; and

1268 (B) not separately stated on an invoice, bill of sale, or other similar document provided
1269 to the purchaser.

1270 (b) "Short-term lodging consumable" includes:

1271 (i) a beverage;

1272 (ii) a brush or comb;

1273 (iii) a cosmetic;

1274 (iv) a hair care product;

1275 (v) lotion;

1276 (vi) a magazine;

1277 (vii) makeup;

1278 (viii) a meal;

1279 (ix) mouthwash;

1280 (x) nail polish remover;

1281 (xi) a newspaper;

1282 (xii) a notepad;

1283 (xiii) a pen;

1284 (xiv) a pencil;

1285 (xv) a razor;

1286 (xvi) saline solution;

1287 (xvii) a sewing kit;

1288 (xviii) shaving cream;

1289 (xix) a shoe shine kit;

1290 (xx) a shower cap;

1291 (xxi) a snack item;

1292 (xxii) soap;

1293 (xxiii) toilet paper;

1294 (xxiv) a toothbrush;

1295 (xxv) toothpaste; or

1296 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may
1297 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1298 Rulemaking Act.

- 1299 (c) "Short-term lodging consumable" does not include:
- 1300 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1301 property to be reused; or
- 1302 (ii) a product transferred electronically.
- 1303 (120) "Simplified electronic return" means the electronic return:
- 1304 (a) described in Section 318(C) of the agreement; and
- 1305 (b) approved by the governing board of the agreement.
- 1306 (121) "Solar energy" means the sun used as the sole source of energy for producing
- 1307 electricity.
- 1308 (122) (a) "Sports or recreational equipment" means an item:
- 1309 (i) designed for human use; and
- 1310 (ii) that is:
- 1311 (A) worn in conjunction with:
- 1312 (I) an athletic activity; or
- 1313 (II) a recreational activity; and
- 1314 (B) not suitable for general use.
- 1315 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1316 commission shall make rules:
- 1317 (i) listing the items that constitute "sports or recreational equipment"; and
- 1318 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1319 equipment" under the agreement.
- 1320 (123) "State" means the state of Utah, its departments, and agencies.
- 1321 (124) "Storage" means any keeping or retention of tangible personal property or any
- 1322 other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose except
- 1323 sale in the regular course of business.
- 1324 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"
- 1325 means personal property that:
- 1326 (i) may be:
- 1327 (A) seen;
- 1328 (B) weighed;
- 1329 (C) measured;

- 1330 (D) felt; or
- 1331 (E) touched; or
- 1332 (ii) is in any manner perceptible to the senses.
- 1333 (b) "Tangible personal property" includes:
- 1334 (i) electricity;
- 1335 (ii) water;
- 1336 (iii) gas;
- 1337 (iv) steam; or
- 1338 (v) prewritten computer software, regardless of the manner in which the prewritten
- 1339 computer software is transferred.
- 1340 (c) "Tangible personal property" includes the following regardless of whether the item
- 1341 is attached to real property:
- 1342 (i) a dishwasher;
- 1343 (ii) a dryer;
- 1344 (iii) a freezer;
- 1345 (iv) a microwave;
- 1346 (v) a refrigerator;
- 1347 (vi) a stove;
- 1348 (vii) a washer; or
- 1349 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the
- 1350 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1351 Rulemaking Act.
- 1352 (d) "Tangible personal property" does not include a product that is transferred
- 1353 electronically.
- 1354 (e) "Tangible personal property" does not include the following if attached to real
- 1355 property, regardless of whether the attachment to real property is only through a line that
- 1356 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 1357 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1358 Rulemaking Act:
- 1359 (i) a hot water heater;
- 1360 (ii) a water filtration system; or

1361 (iii) a water softener system.

1362 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1363 software" means an item listed in Subsection (126)(b) if that item is purchased or leased
1364 primarily to enable or facilitate one or more of the following to function:

1365 (i) telecommunications switching or routing equipment, machinery, or software; or

1366 (ii) telecommunications transmission equipment, machinery, or software.

1367 (b) The following apply to Subsection (126)(a):

1368 (i) a pole;

1369 (ii) software;

1370 (iii) a supplementary power supply;

1371 (iv) temperature or environmental equipment or machinery;

1372 (v) test equipment;

1373 (vi) a tower; or

1374 (vii) equipment, machinery, or software that functions similarly to an item listed in
1375 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in
1376 accordance with Subsection (126)(c).

1377 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1378 commission may by rule define what constitutes equipment, machinery, or software that
1379 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

1380 (127) "Telecommunications equipment, machinery, or software required for 911
1381 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
1382 Sec. 20.18.

1383 (128) "Telecommunications maintenance or repair equipment, machinery, or software"
1384 means equipment, machinery, or software purchased or leased primarily to maintain or repair
1385 one or more of the following, regardless of whether the equipment, machinery, or software is
1386 purchased or leased as a spare part or as an upgrade or modification to one or more of the
1387 following:

1388 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1389 (b) telecommunications switching or routing equipment, machinery, or software; or

1390 (c) telecommunications transmission equipment, machinery, or software.

1391 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or

1392 transmission of audio, data, video, voice, or any other information or signal to a point, or
1393 among or between points.

1394 (b) "Telecommunications service" includes:

1395 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1396 processing application is used to act:

1397 (A) on the code, form, or protocol of the content;

1398 (B) for the purpose of electronic conveyance, routing, or transmission; and

1399 (C) regardless of whether the service:

1400 (I) is referred to as voice over Internet protocol service; or

1401 (II) is classified by the Federal Communications Commission as enhanced or value
1402 added;

1403 (ii) an 800 service;

1404 (iii) a 900 service;

1405 (iv) a fixed wireless service;

1406 (v) a mobile wireless service;

1407 (vi) a postpaid calling service;

1408 (vii) a prepaid calling service;

1409 (viii) a prepaid wireless calling service; or

1410 (ix) a private communications service.

1411 (c) "Telecommunications service" does not include:

1412 (i) advertising, including directory advertising;

1413 (ii) an ancillary service;

1414 (iii) a billing and collection service provided to a third party;

1415 (iv) a data processing and information service if:

1416 (A) the data processing and information service allows data to be:

1417 (I) (Aa) acquired;

1418 (Bb) generated;

1419 (Cc) processed;

1420 (Dd) retrieved; or

1421 (Ee) stored; and

1422 (II) delivered by an electronic transmission to a purchaser; and

- 1423 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1424 or information;
- 1425 (v) installation or maintenance of the following on a customer's premises:
- 1426 (A) equipment; or
- 1427 (B) wiring;
- 1428 (vi) Internet access service;
- 1429 (vii) a paging service;
- 1430 (viii) a product transferred electronically, including:
- 1431 (A) music;
- 1432 (B) reading material;
- 1433 (C) a ring tone;
- 1434 (D) software; or
- 1435 (E) video;
- 1436 (ix) a radio and television audio and video programming service:
- 1437 (A) regardless of the medium; and
- 1438 (B) including:
- 1439 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1440 programming service by a programming service provider;
- 1441 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1442 (III) audio and video programming services delivered by a commercial mobile radio
- 1443 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1444 (x) a value-added nonvoice data service; or
- 1445 (xi) tangible personal property.
- 1446 (130) (a) "Telecommunications service provider" means a person that:
- 1447 (i) owns, controls, operates, or manages a telecommunications service; and
- 1448 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or
- 1449 resale to any person of the telecommunications service.
- 1450 (b) A person described in Subsection (130)(a) is a telecommunications service provider
- 1451 whether or not the Public Service Commission of Utah regulates:
- 1452 (i) that person; or
- 1453 (ii) the telecommunications service that the person owns, controls, operates, or

1454 manages.

1455 (131) (a) "Telecommunications switching or routing equipment, machinery, or
1456 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
1457 primarily for switching or routing:

- 1458 (i) an ancillary service;
- 1459 (ii) data communications;
- 1460 (iii) voice communications; or
- 1461 (iv) telecommunications service.

1462 (b) The following apply to Subsection (131)(a):

- 1463 (i) a bridge;
- 1464 (ii) a computer;
- 1465 (iii) a cross connect;
- 1466 (iv) a modem;
- 1467 (v) a multiplexer;
- 1468 (vi) plug in circuitry;
- 1469 (vii) a router;
- 1470 (viii) software;
- 1471 (ix) a switch; or

1472 (x) equipment, machinery, or software that functions similarly to an item listed in
1473 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in
1474 accordance with Subsection (131)(c).

1475 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1476 commission may by rule define what constitutes equipment, machinery, or software that
1477 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

1478 (132) (a) "Telecommunications transmission equipment, machinery, or software"
1479 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for
1480 sending, receiving, or transporting:

- 1481 (i) an ancillary service;
- 1482 (ii) data communications;
- 1483 (iii) voice communications; or
- 1484 (iv) telecommunications service.

- 1485 (b) The following apply to Subsection (132)(a):
- 1486 (i) an amplifier;
 - 1487 (ii) a cable;
 - 1488 (iii) a closure;
 - 1489 (iv) a conduit;
 - 1490 (v) a controller;
 - 1491 (vi) a duplexer;
 - 1492 (vii) a filter;
 - 1493 (viii) an input device;
 - 1494 (ix) an input/output device;
 - 1495 (x) an insulator;
 - 1496 (xi) microwave machinery or equipment;
 - 1497 (xii) an oscillator;
 - 1498 (xiii) an output device;
 - 1499 (xiv) a pedestal;
 - 1500 (xv) a power converter;
 - 1501 (xvi) a power supply;
 - 1502 (xvii) a radio channel;
 - 1503 (xviii) a radio receiver;
 - 1504 (xix) a radio transmitter;
 - 1505 (xx) a repeater;
 - 1506 (xxi) software;
 - 1507 (xxii) a terminal;
 - 1508 (xxiii) a timing unit;
 - 1509 (xxiv) a transformer;
 - 1510 (xxv) a wire; or
 - 1511 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
 - 1512 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in
 - 1513 accordance with Subsection (132)(c).
- 1514 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1515 commission may by rule define what constitutes equipment, machinery, or software that

1516 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

1517 (133) (a) "Textbook for a higher education course" means a textbook or other printed
1518 material that is required for a course:

1519 (i) offered by an institution of higher education; and

1520 (ii) that the purchaser of the textbook or other printed material attends or will attend.

1521 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1522 (134) "Tobacco" means:

1523 (a) a cigarette;

1524 (b) a cigar;

1525 (c) chewing tobacco;

1526 (d) pipe tobacco; or

1527 (e) any other item that contains tobacco.

1528 (135) "Unassisted amusement device" means an amusement device, skill device, or
1529 ride device that is started and stopped by the purchaser or renter of the right to use or operate
1530 the amusement device, skill device, or ride device.

1531 (136) (a) "Use" means the exercise of any right or power over tangible personal
1532 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),
1533 incident to the ownership or the leasing of that tangible personal property, product transferred
1534 electronically, or service.

1535 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1536 property, a product transferred electronically, or a service in the regular course of business and
1537 held for resale.

1538 (137) "Value-added nonvoice data service" means a service:

1539 (a) that otherwise meets the definition of a telecommunications service except that a
1540 computer processing application is used to act primarily for a purpose other than conveyance,
1541 routing, or transmission; and

1542 (b) with respect to which a computer processing application is used to act on data or
1543 information:

1544 (i) code;

1545 (ii) content;

1546 (iii) form; or

- 1547 (iv) protocol.
- 1548 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are
1549 required to be titled, registered, or titled and registered:
- 1550 (i) an aircraft as defined in Section 72-10-102;
- 1551 (ii) a vehicle as defined in Section 41-1a-102;
- 1552 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1553 (iv) a vessel as defined in Section 41-1a-102.
- 1554 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1555 (i) a vehicle described in Subsection (138)(a); or
- 1556 (ii) (A) a locomotive;
- 1557 (B) a freight car;
- 1558 (C) railroad work equipment; or
- 1559 (D) other railroad rolling stock.
- 1560 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or
1561 exchanging a vehicle as defined in Subsection (138).
- 1562 (140) (a) "Vertical service" means an ancillary service that:
- 1563 (i) is offered in connection with one or more telecommunications services; and
- 1564 (ii) offers an advanced calling feature that allows a customer to:
- 1565 (A) identify a caller; and
- 1566 (B) manage multiple calls and call connections.
- 1567 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1568 conference bridging service.
- 1569 (141) (a) "Voice mail service" means an ancillary service that enables a customer to
1570 receive, send, or store a recorded message.
- 1571 (b) "Voice mail service" does not include a vertical service that a customer is required
1572 to have in order to utilize a voice mail service.
- 1573 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a
1574 facility that generates electricity:
- 1575 (i) using as the primary source of energy waste materials that would be placed in a
1576 landfill or refuse pit if it were not used to generate electricity, including:
- 1577 (A) tires;

- 1578 (B) waste coal;
- 1579 (C) oil shale; or
- 1580 (D) municipal solid waste; and
- 1581 (ii) in amounts greater than actually required for the operation of the facility.
- 1582 (b) "Waste energy facility" does not include a facility that incinerates:
- 1583 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1584 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1585 (143) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1586 (144) "Wind energy" means wind used as the sole source of energy to produce
- 1587 electricity.
- 1588 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
- 1589 location by the United States Postal Service.
- 1590 Section 2. Section 59-12-2203 is amended to read:
- 1591 **59-12-2203. Authority to impose a sales and use tax under this part.**
- 1592 (1) As provided in this Subsection (1), one of the following sales and use taxes may be
- 1593 imposed within the boundaries of a local taxing jurisdiction:
- 1594 (a) a county, city, or town may impose the sales and use tax authorized by Section
- 1595 59-12-2213 in accordance with Section 59-12-2213; or
- 1596 (b) a city or town may impose the sales and use tax authorized by Section 59-12-2215
- 1597 in accordance with Section 59-12-2215.
- 1598 (2) As provided in this Subsection (2), one of the following sales and use taxes may be
- 1599 imposed within the boundaries of a local taxing jurisdiction:
- 1600 (a) a county, city, or town may impose the sales and use tax authorized by Section
- 1601 59-12-2214 in accordance with Section 59-12-2214; or
- 1602 (b) a county may impose the sales and use tax authorized by Section 59-12-2216 in
- 1603 accordance with Section 59-12-2216.
- 1604 (3) As provided in this Subsection (3), one of the following sales and use taxes may be
- 1605 imposed within the boundaries of a local taxing jurisdiction:
- 1606 (a) a county may impose the sales and use tax authorized by Section 59-12-2217 in
- 1607 accordance with Section 59-12-2217; or
- 1608 (b) a county, city, or town may impose the sales and use tax authorized by Section

1609 [59-12-2218](#) in accordance with Section [59-12-2218](#).

1610 (4) ~~[A]~~ As provided in this Subsection (4), one of the following sales and use taxes
 1611 may be imposed within the boundaries of a local taxing jurisdiction:

1612 (a) a county may impose the sales and use tax authorized by Section [59-12-2219](#) in
 1613 accordance with Section [59-12-2219](#)~~[-];~~ or

1614 (b) a county may impose the sales and use tax authorized by Section [59-12-2220](#) in
 1615 accordance with Section [59-12-2220](#).

1616 (5) A county may impose the sales and use tax authorized by Section [59-12-2221](#) in
 1617 accordance with Section [59-12-2221](#).

1618 Section 3. Section **59-12-2208** is amended to read:

1619 **59-12-2208. Legislative body approval requirements -- Voter approval**
 1620 **requirements.**

1621 (1) Subject to the other provisions of this section, before imposing a sales and use tax
 1622 under this part, a county, city, or town legislative body ~~shall~~:

1623 (a) shall obtain approval to impose the sales and use tax from a majority of the
 1624 members of the county, city, or town legislative body; and

1625 (b) (i) except as provided in Sections [59-12-2220](#) and [59-12-2221](#), shall submit an
 1626 opinion question to the county's, city's, or town's registered voters voting on the imposition of
 1627 the sales and use tax so that each registered voter has the opportunity to express the registered
 1628 voter's opinion on whether a sales and use tax should be imposed under this section~~[-];~~ or

1629 (ii) may submit an opinion question, as provided in this section, if imposing a sales and
 1630 use tax under Section [59-12-2220](#) or [59-12-2221](#).

1631 (2) The opinion question required by this section shall state:

1632 "Shall (insert the name of the county, city, or town), Utah, be authorized to impose a
 1633 (insert the tax rate of the sales and use tax) sales and use tax for (list the purposes for which the
 1634 revenues collected from the sales and use tax shall be expended)?"

1635 (3) (a) Subject to Subsection (3)(b), the election required by this section shall be held:

1636 (i) at a regular general election conducted in accordance with the procedures and
 1637 requirements of Title 20A, Election Code, governing regular general elections; or

1638 (ii) at a municipal general election conducted in accordance with the procedures and
 1639 requirements of Section [20A-1-202](#).

1640 (b) (i) Subject to Subsection (3)(b)(ii), the county clerk of the county in which the
1641 opinion question required by this section will be submitted to registered voters shall, no later
1642 than 15 days before the date of the election:

1643 (A) publish a notice:

1644 (I) once in a newspaper published in that county; and

1645 (II) as required in Section 45-1-101; or

1646 (B) (I) cause a copy of the notice to be posted in a conspicuous place most likely to
1647 give notice of the election to the registered voters voting on the imposition of the sales and use
1648 tax; and

1649 (II) prepare an affidavit of that posting, showing a copy of the notice and the places
1650 where the notice was posted.

1651 (ii) The notice under Subsection (3)(b)(i) shall:

1652 (A) state that an opinion question will be submitted to the county's, city's, or town's
1653 registered voters voting on the imposition of a sales and use tax under this section so that each
1654 registered voter has the opportunity to express the registered voter's opinion on whether a sales
1655 and use tax should be imposed under this section; and

1656 (B) list the purposes for which the revenues collected from the sales and use tax shall
1657 be expended.

1658 (4) A county, city, or town that submits an opinion question to registered voters under
1659 this section is subject to Section 20A-11-1203.

1660 (5) Subject to Section 59-12-2209, if a county, city, or town legislative body
1661 determines that a majority of the county's, city's, or town's registered voters voting on the
1662 imposition of a sales and use tax under this part have voted in favor of the imposition of the
1663 sales and use tax in accordance with this section, the county, city, or town legislative body shall
1664 impose the sales and use tax.

1665 (6) If, after imposing a sales and use tax under this part, a county, city, or town
1666 legislative body seeks to impose a tax rate for the sales and use tax that exceeds or is less than
1667 the tax rate stated in the opinion question described in Subsection (2) or repeals the tax rate
1668 stated in the opinion question described in Subsection (2), the county, city, or town legislative
1669 body shall:

1670 (a) obtain approval from a majority of the members of the county, city, or town

1671 legislative body to impose a tax rate for the sales and use tax that exceeds or is less than the tax
1672 rate stated in the opinion question described in Subsection (2) or repeals the tax rate stated in
1673 the opinion question described in Subsection (2); and

1674 (b) in accordance with the procedures and requirements of this section, submit an
1675 opinion question to the county's, city's, or town's registered voters voting on the tax rate so that
1676 each registered voter has the opportunity to express the registered voter's opinion on whether to
1677 impose a tax rate for the sales and use tax that exceeds or is less than the tax rate stated in the
1678 opinion question described in Subsection (2) or repeal the tax rate stated in the opinion
1679 question described in Subsection (2).

1680 Section 4. Section **59-12-2219** is amended to read:

1681 **59-12-2219. County option sales and use tax for highways and public transit --**
1682 **Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant**
1683 **existing budgeted transportation revenue.**

1684 (1) As used in this section:

1685 (a) "Class B road" means the same as that term is defined in Section [72-3-103](#).

1686 (b) "Class C road" means the same as that term is defined in Section [72-3-104](#).

1687 (c) "Eligible political subdivision" means a political subdivision that:

1688 (i) (A) on May 12, 2015, provides public transit services; or

1689 (B) after May 12, 2015, provides written notice to the commission in accordance with
1690 Subsection (10)(b) that it intends to provide public transit service within a county;

1691 (ii) is not a public transit district; and

1692 (iii) is not annexed into a public transit district.

1693 (d) "Public transit district" means a public transit district organized under Title 17B,
1694 Chapter 2a, Part 8, Public Transit District Act.

1695 (2) Subject to the other provisions of this part, a county legislative body may impose a
1696 sales and use tax of .25% on the transactions described in Subsection [59-12-103](#)(1) within the
1697 county, including the cities and towns within the county.

1698 (3) The commission shall distribute sales and use tax revenue collected under this
1699 section as provided in Subsections (4) through (10).

1700 (4) If the entire boundary of a county that imposes a sales and use tax under this section
1701 is annexed into a single public transit district, the commission shall distribute the sales and use

1702 tax revenue collected within the county as follows:

1703 (a) .10% shall be transferred to the [~~public transit district in accordance with Section~~
1704 ~~59-12-2206~~] county legislative body, to be expended for public transit capital and service
1705 delivery expenses;

1706 (b) .10% shall be distributed as provided in Subsection (8); and

1707 (c) .05% shall be distributed to the county legislative body.

1708 (5) If the entire boundary of a county that imposes a sales and use tax under this section
1709 is not annexed into a single public transit district, but a city or town within the county is
1710 annexed into a single public transit district that also has a county of the first class annexed into
1711 the same public transit district, the commission shall distribute the sales and use tax revenue
1712 collected within the county as follows:

1713 (a) for a city or town within the county that is annexed into a single public transit
1714 district, the commission shall distribute the sales and use tax revenue collected within that city
1715 or town as follows:

1716 (i) .10% shall be transferred to the [~~public transit district in accordance with Section~~
1717 ~~59-12-2206~~] county legislative body, to be expended for public transit capital and service
1718 delivery expenses;

1719 (ii) .10% shall be distributed as provided in Subsection (8); and

1720 (iii) .05% shall be distributed to the county legislative body;

1721 (b) for an eligible political subdivision within the county, the commission shall
1722 distribute the sales and use tax revenue collected within that eligible political subdivision as
1723 follows:

1724 (i) .10% shall be transferred to the eligible political subdivision in accordance with
1725 Section ~~59-12-2206~~;

1726 (ii) .10% shall be distributed as provided in Subsection (8); and

1727 (iii) .05% shall be distributed to the county legislative body; and

1728 (c) the commission shall distribute the sales and use tax revenue, except for the sales
1729 and use tax revenue described in Subsections (5)(a) and (b), as follows:

1730 (i) .10% shall be distributed as provided in Subsection (8); and

1731 (ii) .15% shall be distributed to the county legislative body.

1732 (6) For a county not described in Subsection (4) or (5), if the entire boundary of a

1733 county of the first or second class that imposes a sales and use tax under this section is not
1734 annexed into a single public transit district, or if there is not a public transit district within the
1735 county, the commission shall distribute the sales and use tax revenue collected within the
1736 county as follows:

1737 (a) for a city or town within the county that is annexed into a single public transit
1738 district, the commission shall distribute the sales and use tax revenue collected within that city
1739 or town as follows:

1740 (i) .10% shall be transferred to the ~~[public transit district in accordance with Section~~
1741 59-12-2206] county legislative body, to be expended for public transit capital and service
1742 delivery expenses;

1743 (ii) .10% shall be distributed as provided in Subsection (8); and

1744 (iii) .05% shall be distributed to the county legislative body;

1745 (b) for an eligible political subdivision within the county, the commission shall
1746 distribute the sales and use tax revenue collected within that eligible political subdivision as
1747 follows:

1748 (i) .10% shall be transferred to the eligible political subdivision in accordance with
1749 Section 59-12-2206;

1750 (ii) .10% shall be distributed as provided in Subsection (8); and

1751 (iii) .05% shall be distributed to the county legislative body; and

1752 (c) the commission shall distribute the sales and use tax revenue, except for the sales
1753 and use tax revenue described in Subsections (6)(a) and (b), as follows:

1754 (i) .10% shall be distributed as provided in Subsection (8); and

1755 (ii) .15% shall be distributed to the county legislative body.

1756 (7) For a county not described in Subsection (4) or (5), if the entire boundary of a
1757 county of the third, fourth, fifth, or sixth class that imposes a sales and use tax under this
1758 section is not annexed into a single public transit district, or if there is not a public transit
1759 district within the county, the commission shall distribute the sales and use tax revenue
1760 collected within the county as follows:

1761 (a) for a city or town within the county that is annexed into a single public transit
1762 district, the commission shall distribute the sales and use tax revenue collected within that city
1763 or town as follows:

1764 (i) .10% shall be distributed as provided in Subsection (8);
1765 (ii) .10% shall be distributed as provided in Subsection (9); and
1766 (iii) .05% shall be distributed to the county legislative body;
1767 (b) for an eligible political subdivision within the county, the commission shall
1768 distribute the sales and use tax revenue collected within that eligible political subdivision as
1769 follows:

1770 (i) .10% shall be distributed as provided in Subsection (8);
1771 (ii) .10% shall be distributed as provided in Subsection (9); and
1772 (iii) .05% shall be distributed to the county legislative body; and
1773 (c) the commission shall distribute the sales and use tax revenue, except for the sales
1774 and use tax revenue described in Subsections (7)(a) and (b), as follows:

1775 (i) .10% shall be distributed as provided in Subsection (8); and
1776 (ii) .15% shall be distributed to the county legislative body.

1777 (8) (a) Subject to Subsection (8)(b), the commission shall make the distributions
1778 required by Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i),
1779 (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) as follows:

1780 (i) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii),
1781 (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) within the
1782 counties that impose a tax under this section shall be distributed to the unincorporated areas,
1783 cities, and towns within those counties on the basis of the percentage that the population of
1784 each unincorporated area, city, or town bears to the total population of all of the counties that
1785 impose a tax under this section; and

1786 (ii) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii),
1787 (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) within the
1788 counties that impose a tax under this section shall be distributed to the unincorporated areas,
1789 cities, and towns within those counties on the basis of the location of the transaction as
1790 determined under Sections 59-12-211 through 59-12-215.

1791 (b) (i) Population for purposes of this Subsection (8) shall be determined on the basis
1792 of the most recent official census or census estimate of the United States Census Bureau.

1793 (ii) If a needed population estimate is not available from the United States Census
1794 Bureau, population figures shall be derived from an estimate from the Utah Population

1795 Estimates Committee created by executive order of the governor.

1796 (9) (a) (i) Subject to the requirements in Subsections (9)(b) and (c), a county legislative
1797 body:

1798 (A) for a county that obtained approval from a majority of the county's registered
1799 voters voting on the imposition of a sales and use tax under this section prior to May 10, 2016,
1800 may, in consultation with any cities, towns, or eligible political subdivisions within the county,
1801 and in compliance with the requirements for changing an allocation under Subsection (9)(e),
1802 allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying
1803 the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a
1804 public transit district or an eligible political subdivision; or

1805 (B) for a county that obtains approval from a majority of the county's registered voters
1806 voting on the imposition of a sales and use tax under this section on or after May 10, 2016,
1807 shall, in consultation with any cities, towns, or eligible political subdivisions within the county,
1808 allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying
1809 the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a
1810 public transit district or an eligible political subdivision.

1811 (ii) If a county described in Subsection (9)(a)(i)(A) does not allocate the revenue under
1812 Subsection (7)(a)(ii) or (7)(b)(ii) in accordance with Subsection (9)(a)(i)(A), the commission
1813 shall distribute 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to:

1814 (A) a public transit district for a city or town within the county that is annexed into a
1815 single public transit district; or

1816 (B) an eligible political subdivision within the county.

1817 (b) If a county legislative body allocates the revenue as described in Subsection
1818 (9)(a)(i), the county legislative body shall allocate not less than 25% of the revenue under
1819 Subsection (7)(a)(ii) or (7)(b)(ii) to:

1820 (i) a public transit district for a city or town within the county that is annexed into a
1821 single public transit district; or

1822 (ii) an eligible political subdivision within the county.

1823 (c) Notwithstanding Section [59-12-2208](#), the opinion question required by Section
1824 [59-12-2208](#) shall state the allocations the county legislative body makes in accordance with this
1825 Subsection (9).

1826 (d) The commission shall make the distributions required by Subsection (7)(a)(ii) or
1827 (7)(b)(ii) as follows:

1828 (i) the percentage specified by a county legislative body shall be distributed in
1829 accordance with a resolution adopted by a county legislative body under Subsection (9)(a) to an
1830 eligible political subdivision or a public transit district within the county; and

1831 (ii) except as provided in Subsection (9)(a)(ii), if a county legislative body allocates
1832 less than 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to a public transit district
1833 or an eligible political subdivision, the remainder of the revenue under Subsection (7)(a)(ii) or
1834 (7)(b)(ii) not allocated by a county legislative body through a resolution under Subsection
1835 (9)(a) shall be distributed as follows:

1836 (A) 50% of the revenue as provided in Subsection (8); and

1837 (B) 50% of the revenue to the county legislative body.

1838 (e) If a county legislative body seeks to change an allocation specified in a resolution
1839 under Subsection (9)(a), the county legislative body may change the allocation by:

1840 (i) adopting a resolution in accordance with Subsection (9)(a) specifying the percentage
1841 of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit
1842 district or an eligible political subdivision;

1843 (ii) obtaining approval to change the allocation of the sales and use tax by a majority of
1844 all the members of the county legislative body; and

1845 (iii) subject to Subsection (9)(f):

1846 (A) in accordance with Section [59-12-2208](#), submitting an opinion question to the
1847 county's registered voters voting on changing the allocation so that each registered voter has the
1848 opportunity to express the registered voter's opinion on whether the allocation should be
1849 changed; and

1850 (B) in accordance with Section [59-12-2208](#), obtaining approval to change the
1851 allocation from a majority of the county's registered voters voting on changing the allocation.

1852 (f) Notwithstanding Section [59-12-2208](#), the opinion question required by Subsection
1853 (9)(e)(iii)(A) shall state the allocations specified in the resolution adopted in accordance with
1854 Subsection (9)(e) and approved by the county legislative body in accordance with Subsection
1855 (9)(e)(ii).

1856 (g) (i) If a county makes an allocation by adopting a resolution under Subsection (9)(a)

1857 or changes an allocation by adopting a resolution under Subsection (9)(e), the allocation shall
1858 take effect on the first distribution the commission makes under this section after a 90-day
1859 period that begins on the date the commission receives written notice meeting the requirements
1860 of Subsection (9)(g)(ii) from the county.

1861 (ii) The notice described in Subsection (9)(g)(i) shall state:

1862 (A) that the county will make or change the percentage of an allocation under
1863 Subsection (9)(a) or (e); and

1864 (B) the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be
1865 allocated to a public transit district or an eligible political subdivision.

1866 (10) (a) If a public transit district is organized after the date a county legislative body
1867 first imposes a tax under this section, a change in a distribution required by this section may
1868 not take effect until the first distribution the commission makes under this section after a
1869 90-day period that begins on the date the commission receives written notice from the public
1870 transit district of the organization of the public transit district.

1871 (b) If an eligible political subdivision intends to provide public transit service within a
1872 county after the date a county legislative body first imposes a tax under this section, a change
1873 in a distribution required by this section may not take effect until the first distribution the
1874 commission makes under this section after a 90-day period that begins on the date the
1875 commission receives written notice from the eligible political subdivision stating that the
1876 eligible political subdivision intends to provide public transit service within the county.

1877 (11) A county, city, or town may expend revenue collected from a tax under this
1878 section, except for revenue the commission distributes in accordance with Subsection (4)(a),
1879 (5)(a)(i), (5)(b)(i), or (9)(d)(i) for:

1880 (a) a class B road;

1881 (b) a class C road;

1882 (c) traffic and pedestrian safety, including for a class B road or class C road, for:

1883 (i) a sidewalk;

1884 (ii) curb and gutter;

1885 (iii) a safety feature;

1886 (iv) a traffic sign;

1887 (v) a traffic signal;

- 1888 (vi) street lighting; or
- 1889 (vii) a combination of Subsections (11)(c)(i) through (vi);
- 1890 (d) the construction, maintenance, or operation of an active transportation facility that
- 1891 is for nonmotorized vehicles and multimodal transportation and connects an origin with a
- 1892 destination;
- 1893 (e) public transit system services; or
- 1894 (f) a combination of Subsections (11)(a) through (e).
- 1895 (12) A public transit district or an eligible political subdivision may expend revenue
- 1896 the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), (5)(b)(i), or (9)(d)(i)
- 1897 for capital expenses and service delivery expenses of the public transit district or eligible
- 1898 political subdivision.
- 1899 (13) (a) Revenue collected from a sales and use tax under this section may not be used
- 1900 to supplant existing general fund appropriations that a county, city, or town has budgeted for
- 1901 transportation as of the date the tax becomes effective for a county, city, or town.
- 1902 (b) The limitation under Subsection (13)(a) does not apply to a designated
- 1903 transportation capital or reserve account a county, city, or town may have established prior to
- 1904 the date the tax becomes effective.
- 1905 Section 5. Section **59-12-2220** is enacted to read:
- 1906 **59-12-2220. County option sales and use tax for roads and public transit.**
- 1907 (1) As used in this section:
- 1908 (a) "Class B road" means the same as that term is defined in Section [72-3-103](#).
- 1909 (b) "Class C road" means the same as that term is defined in Section [72-3-104](#).
- 1910 (2) Subject to the other provisions of this part, a county legislative body may impose a
- 1911 sales and use tax of .25% on the transactions described in Subsection [59-12-103\(1\)](#) within the
- 1912 county, including the cities and towns within the county.
- 1913 (3) (a) The commission shall distribute sales and use tax revenue collected under this
- 1914 section as follows:
- 1915 (i) .10% shall be transferred to the county legislative body, to be expended for public
- 1916 transit capital and service delivery expenses;
- 1917 (ii) .10% shall be distributed as follows:
- 1918 (A) 50% of the total revenue collected under this Subsection (3)(a)(ii) within a county

1919 that imposes a tax under this section shall be distributed to the county, for the unincorporated
1920 area of the county, and to the cities and towns within the county on the basis of the percentage
1921 that the population of the unincorporated area, city, or town bears to the total population of the
1922 county that imposes a tax under this section; and

1923 (B) 50% of the total revenue collected under this Subsection (3)(a)(ii) within a county
1924 that imposes a tax under this section shall be distributed to the county, for the unincorporated
1925 area of the county, and to the cities and towns within the county on the basis of the location of
1926 the transaction, as determined under Sections [59-12-211](#) through [59-12-215](#); and

1927 (iii) .05% shall be distributed to the county legislative body.

1928 (b) (i) Population for purposes of Subsection (3)(a)(ii)(A) shall be determined on the
1929 basis of the most recent official census or census estimate of the United States Census Bureau.

1930 (ii) If a needed population estimate is not available from the United States Census
1931 Bureau, population figures shall be derived from an estimate from the Utah Population
1932 Estimates Committee created by executive order of the governor.

1933 (4) A county, city, or town may expend revenue collected from a tax under this section
1934 and distributed by the commission under Subsection (3)(a)(ii) for:

1935 (a) a class B road;

1936 (b) a class C road;

1937 (c) traffic and pedestrian safety, including for a class B road or class C road, for:

1938 (i) a sidewalk;

1939 (ii) curb and gutter;

1940 (iii) a safety feature;

1941 (iv) a traffic sign;

1942 (v) a traffic signal;

1943 (vi) street lighting; or

1944 (vii) a combination of Subsections (4)(c)(i) through (vi);

1945 (d) the construction, maintenance, or operation of an active transportation facility that
1946 is for nonmotorized vehicles and multimodal transportation and connects an origin with a
1947 destination;

1948 (e) public transit capital or system services; or

1949 (f) a combination of Subsections (4)(a) through (e).

1950 (5) (a) Revenue collected from a sales and use tax under this section may not be used
1951 to supplant existing general fund appropriations that a county, city, or town has budgeted for
1952 transportation as of the date the tax becomes effective for a county, city, or town.

1953 (b) The limitation under Subsection (5)(a) does not apply to a designated transportation
1954 capital or reserve account that a county, city, or town may have established prior to the date the
1955 tax becomes effective.

1956 Section 6. Section **59-12-2221** is enacted to read:

1957 **59-12-2221. Additional county option sales and use tax for public transit and**
1958 **roads.**

1959 (1) As used in this section:

1960 (a) "Class B road" means the same as that term is defined in Section [72-3-103](#).

1961 (b) "Class C road" means the same as that term is defined in Section [72-3-104](#).

1962 (2) Subject to the other provisions of this part, a county legislative body may impose a
1963 sales and use tax of .10% on the transactions described in Subsection [59-12-103](#)(1) within the
1964 county, including the cities and towns within the county.

1965 (3) (a) The commission shall distribute sales and use tax revenue collected under this
1966 section as follows:

1967 (i) .04% shall be transferred to the county legislative body, to be expended for public
1968 transit capital and service delivery expenses;

1969 (ii) .04% shall be distributed as follows:

1970 (A) 50% of the total revenue collected under this Subsection (3)(a)(ii) within a county
1971 that imposes a tax under this section shall be distributed to the county, for the unincorporated
1972 area of the county, and to the cities and towns within the county on the basis of the percentage
1973 that the population of the unincorporated area, city, or town bears to the total population of the
1974 county that imposes a tax under this section; and

1975 (B) 50% of the total revenue collected under this Subsection (3)(a)(ii) within a county
1976 that imposes a tax under this section shall be distributed to the county, for the unincorporated
1977 area of the county, and to the cities and towns within the county on the basis of the location of
1978 the transaction, as determined under Sections [59-12-211](#) through [59-12-215](#); and

1979 (iii) .02% shall be distributed to the county legislative body.

1980 (b) (i) Population for purposes of Subsection (3)(a)(ii)(A) shall be determined on the

1981 basis of the most recent official census or census estimate of the United States Census Bureau.

1982 (ii) If a needed population estimate is not available from the United States Census

1983 Bureau, population figures shall be derived from an estimate from the Utah Population

1984 Estimates Committee created by executive order of the governor.

1985 (4) A county, city, or town may expend revenue collected from a tax under this section

1986 and distributed by the commission under Subsection (3)(a)(ii) for:

1987 (a) a class B road;

1988 (b) a class C road;

1989 (c) traffic and pedestrian safety, including for a class B road or class C road, for:

1990 (i) a sidewalk;

1991 (ii) curb and gutter;

1992 (iii) a safety feature;

1993 (iv) a traffic sign;

1994 (v) a traffic signal;

1995 (vi) street lighting; or

1996 (vii) a combination of Subsections (4)(c)(i) through (vi);

1997 (d) the construction, maintenance, or operation of an active transportation facility that

1998 is for nonmotorized vehicles and multimodal transportation and connects an origin with a

1999 destination;

2000 (e) public transit capital or system services; or

2001 (f) a combination of Subsections (4)(a) through (e).

2002 (5) (a) Revenue collected from a sales and use tax under this section may not be used

2003 to supplant existing general fund appropriations that a county, city, or town has budgeted for

2004 transportation as of the date the tax becomes effective for a county, city, or town.

2005 (b) The limitation under Subsection (5)(a) does not apply to a designated transportation

2006 capital or reserve account that a county, city, or town may have established prior to the date the

2007 tax becomes effective.

2007a **H→ Section 7. Effective date.**

2007b **This bill takes effect on January 1, 2019. ←H**