

1 **AMENDMENTS RELATING TO CERTAIN TAXES**
2 **ADMINISTERED BY OR LICENSE PLATES ISSUED**
3 **BY THE STATE TAX COMMISSION**

4 2008 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Stephen E. Sandstrom**

7 Senate Sponsor: _____

8
9 **LONG TITLE**

10 **General Description:**

11 This bill amends the Revenue and Taxation and Motor Vehicle titles and related
12 provisions.

13 **Highlighted Provisions:**

14 This bill:

15 ▶ provides that under certain circumstances the State Tax Commission may not issue
16 or renew a type of support special group license plate;

17 ▶ requires the State Tax Commission to report to the Transportation Interim
18 Committee under certain circumstances relating to issuing or renewing a type of
19 support special group license plate;

20 ▶ requires the State Tax Commission to report to the Revenue and Taxation Interim
21 Committee if the Internal Revenue Code:

- 22 • does not impose a federal estate tax; and
- 23 • does not establish a date for reinstating a federal estate tax;

24 ▶ requires the Revenue and Taxation Interim Committee to prepare legislation to
25 repeal the state inheritance tax if the State Tax Commission reports that the Internal
26 Revenue Code:

- 27 • does not impose a federal estate tax; and



- 28 • does not establish a date for reinstating a federal estate tax;
- 29 ▶ provides a state and local sales and use tax exemption relating to a privately owned
- 30 golf course;
- 31 ▶ repeals a requirement that a tax rate decal be placed on a fuel pump;
- 32 ▶ repeals the Illegal Drug Stamp Tax Act; and
- 33 ▶ makes technical changes.

34 **Monies Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 This bill takes effect on July 1, 2008.

38 **Utah Code Sections Affected:**

39 **AMENDS:**

- 40 **41-1a-422**, as last amended by Laws of Utah 2007, Chapters 173, 179, and 325
- 41 **59-11-102**, as last amended by Laws of Utah 2007, Chapter 306
- 42 **59-12-102**, as last amended by Laws of Utah 2007, Chapters 9, 214, 224, and 288
- 43 **59-12-104**, as last amended by Laws of Utah 2007, Chapters 76, 195, 214, 224, 288,
- 44 295, and 329
- 45 **63-38-9**, as last amended by Laws of Utah 2007, Chapter 122
- 46 **63-38a-104**, as last amended by Laws of Utah 1994, Chapter 211

47 **ENACTS:**

- 48 **59-11-116**, Utah Code Annotated 1953

49 **REPEALS:**

- 50 **59-13-104**, as enacted by Laws of Utah 1998, Chapter 253
- 51 **59-19-101**, as enacted by Laws of Utah 1988, Chapter 246
- 52 **59-19-102**, as enacted by Laws of Utah 1988, Chapter 246
- 53 **59-19-103**, as enacted by Laws of Utah 1988, Chapter 246
- 54 **59-19-104**, as enacted by Laws of Utah 1988, Chapter 246
- 55 **59-19-105**, as last amended by Laws of Utah 1989, Chapter 242
- 56 **59-19-106**, as last amended by Laws of Utah 1989, Chapter 242
- 57 **59-19-107**, as enacted by Laws of Utah 1988, Chapter 246

58

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

60 Section 1. Section **41-1a-422** is amended to read:

61 **41-1a-422. Support special group license plates -- Contributor -- Voluntary**
62 **contribution collection procedures -- Circumstances under which commission may not**
63 **issue or renew -- Report to Transportation Interim Committee.**

64 (1) As used in this section:

65 (a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who
66 has donated or in whose name at least \$25 has been donated to:

67 (A) a scholastic scholarship fund of a single named institution;

68 (B) the Department of Veterans' Affairs for veterans' programs;

69 (C) the Division of Wildlife Resources for the Wildlife Resources Account created in
70 Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection,
71 access, and management of wildlife habitat;

72 (D) the Department of Agriculture and Food for the benefit of conservation districts;

73 (E) the Division of Parks and Recreation for the benefit of snowmobile programs;

74 (F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with
75 the donation evenly divided between the two;

76 (G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America
77 council as specified by the contributor;

78 (H) No More Homeless Pets in Utah for distribution to organizations or individuals
79 that provide spay and neuter programs that subsidize the sterilization of domestic animals;

80 (I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth
81 development programs;

82 (J) the Utah Association of Public School Foundations to support public education; or

83 (K) the Utah Housing Opportunity Restricted Account created in Section 61-2-28 to
84 assist people who have severe housing needs.

85 (ii) (A) For a veterans' special group license plate, "contributor" means a person who
86 has donated or in whose name at least a \$25 donation at the time of application and \$10 annual
87 donation thereafter has been made.

88 (B) For a Utah Housing Opportunity special group license plate, "contributor" means a
89 person who:

90 (I) has donated or in whose name at least \$30 has been donated at the time of
91 application and annually after the time of application; and

92 (II) is a member of a trade organization for real estate licensees that has more than
93 15,000 Utah members.

94 (b) "Institution" means a state institution of higher education as defined under Section
95 53B-3-102 or a private institution of higher education in the state accredited by a regional or
96 national accrediting agency recognized by the United States Department of Education.

97 (2) (a) An applicant for original or renewal collegiate special group license plates under
98 Subsection (1)(a)(i) must be a contributor to the institution named in the application and
99 present the original contribution verification form under Subsection (2)(b) or make a
100 contribution to the division at the time of application under Subsection (3).

101 (b) An institution with a support special group license plate shall issue to a contributor
102 a verification form designed by the commission containing:

103 (i) the name of the contributor;

104 (ii) the institution to which a donation was made;

105 (iii) the date of the donation; and

106 (iv) an attestation that the donation was for a scholastic scholarship.

107 (c) The state auditor may audit each institution to verify that the moneys collected by
108 the institutions from contributors are used for scholastic scholarships.

109 (d) After an applicant has been issued collegiate license plates or renewal decals, the
110 commission shall charge the institution whose plate was issued, a fee determined in accordance
111 with Section 63-38-3.2 for management and administrative expenses incurred in issuing and
112 renewing the collegiate license plates.

113 (e) If the contribution is made at the time of application, the contribution shall be
114 collected, treated, and deposited as provided under Subsection (3).

115 (3) (a) An applicant for original or renewal support special group license plates under
116 this section must be a contributor to the sponsoring organization associated with the license
117 plate.

118 (b) This contribution shall be:

119 (i) unless collected by the named institution under Subsection (2), collected by the
120 division;

121 (ii) considered a voluntary contribution for the funding of the activities specified under
122 this section and not a motor vehicle registration fee; and

123 (iii) deposited into the appropriate account less actual administrative costs associated
124 with issuing the license plates.

125 (c) The donation described in Subsection (1)(a) must be made in the 12 months prior to
126 registration or renewal of registration.

127 (d) The donation described in Subsection (1)(a) shall be a one-time donation made to
128 the division when issuing original:

- 129 (i) snowmobile license plates; or
- 130 (ii) conservation license plates.

131 (4) Veterans' license plates shall display one of the symbols representing the Army,
132 Navy, Air Force, Marines, Coast Guard, or American Legion.

133 (5) (a) As used in this section, "type of support special group license plate" means a
134 license plate issued with respect to one entity listed in Subsection (1)(a)(i).

135 (b) Notwithstanding the other provisions of this section and subject to Subsections
136 (5)(c) and (d), beginning on the July 1 immediately following the last day of the three-year
137 period described in Subsection (5)(c), the commission may not issue or renew a type of support
138 special group license plate under this section if the commission determines that, for each year
139 of the three-year period described in Subsection (5)(c), there are 300 or fewer vehicles
140 registered under Part 2, Registration, that are allowed to display the type of support special
141 group license plate.

142 (c) (i) Subject to Subsection (5)(c)(ii), the three-year period described in Subsection
143 (5)(b) is a three consecutive year time period that begins on the October 1 immediately
144 following the last day of a calendar year in which on each day of that calendar year there are
145 300 or fewer vehicles registered under Part 2, Registration, that are allowed to display a type of
146 support special group license plate.

147 (ii) For purposes of Subsection (5)(c)(i), if a type of support special group license plate
148 is not in existence for a portion of a calendar year, that calendar year is not considered to be a
149 calendar year in which on each day of that calendar year there are 300 or fewer vehicles
150 registered under Part 2, Registration, that are allowed to display a type of support special group
151 license plate.

152 (d) If the commission determines that, for each year of the three-year period described
153 in Subsection (5)(c), there are 300 or fewer vehicles registered under Part 2, Registration, that
154 are allowed to display a type of support special group license plate, the commission shall report
155 its intent to not issue or renew that type of support special group license plate:

156 (i) to the Transportation Interim Committee; and

157 (ii) on or before the November interim meeting immediately following the last day of
158 the three-year period described in Subsection (5)(c).

159 Section 2. Section **59-11-102** is amended to read:

160 **59-11-102. Definitions.**

161 As used in this chapter:

162 (1) "Decedent" means a deceased natural person.

163 (2) "Federal credit" means the maximum amount of the credit for estate death taxes
164 allowed by Section 2011 in respect to a decedent's taxable estate.

165 (3) "Federal estate tax" means a tax imposed:

166 (a) on the right to transfer property at the death of a person; and

167 (b) under the Internal Revenue Code.

168 [~~3~~] (4) "Gross estate" means "gross estate" as defined in Section 2031, Internal
169 Revenue Code.

170 [~~4~~] (5) "Nonresident" means a decedent who was domiciled outside of this state at the
171 time of death.

172 [~~5~~] (6) "Other state" means any state in the United States other than this state, the
173 District of Columbia, or any possession or territory of the United States.

174 [~~6~~] (7) "Person" includes any natural person, corporation, association, partnership,
175 joint venture, syndicate, estate, trust, or other entity under which business or other activities
176 may be conducted.

177 [~~7~~] (8) "Personal representative" means the executor, administrator, or trustee of a
178 decedent's estate, or, if there is no executor, administrator, or trustee appointed, qualified, and
179 acting within this state, then any person in actual or constructive possession of any property of
180 the decedent.

181 [~~8~~] (9) "Resident" means a decedent who was domiciled in this state at the time of
182 death.

183 ~~[(9)]~~ (10) "Section 2011" means "Section 2011," Internal Revenue Code.

184 ~~[(10)]~~ (11) "Taxable estate" means "taxable estate" as defined in Section 2051, Internal
185 Revenue Code.

186 ~~[(11)]~~ (12) "Transfer" means "transfer" as described in Section 2001, Internal Revenue
187 Code.

188 Section 3. Section **59-11-116** is enacted to read:

189 **59-11-116. Commission report to Revenue and Taxation Interim Committee --**
190 **Revenue and Taxation Interim Committee requirement to draft legislation to repeal tax**
191 **under this chapter.**

192 (1) Subject to Subsection (2), the commission shall report to the Revenue and Taxation
193 Interim Committee if:

194 (a) a federal estate tax is not imposed under the Internal Revenue Code; and

195 (b) a date for reinstating the imposition of a federal estate tax is not established in the
196 Internal Revenue Code.

197 (2) The commission shall make the report required by Subsection (1) at the first
198 Revenue and Taxation Interim Committee meeting after the date on which a federal estate tax
199 is not imposed under the Internal Revenue Code.

200 (3) If the commission makes the report described in Subsection (1) to the Revenue and
201 Taxation Interim Committee, the Revenue and Taxation Interim Committee shall prepare
202 legislation to repeal the tax under this chapter.

203 Section 4. Section **59-12-102** is amended to read:

204 **59-12-102. Definitions.**

205 As used in this chapter:

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

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

209 (2) "Agreement" means the Streamlined Sales and Use Tax Agreement described in
210 Section 59-12-102.1.

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

212 (a) listed under Subsection (4); and

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

- 214 (4) "Agreement sales and use tax" means a tax imposed under:
- 215 (a) Subsection 59-12-103(2)(a)(i);
- 216 (b) Subsection 59-12-103(2)(b)(i);
- 217 (c) Subsection 59-12-103(2)(c)(i);
- 218 (d) Subsection 59-12-103(2)(d)(i);
- 219 (e) Subsection 59-12-103(2)(e)(ii)(A);
- 220 (f) Subsection 59-12-103(2)(e)(iii)(A);
- 221 (g) Section 59-12-204;
- 222 (h) Section 59-12-401;
- 223 (i) Section 59-12-402;
- 224 (j) Section 59-12-501;
- 225 (k) Section 59-12-502;
- 226 (l) Section 59-12-703;
- 227 (m) Section 59-12-802;
- 228 (n) Section 59-12-804;
- 229 (o) Section 59-12-1001;
- 230 (p) Section 59-12-1102;
- 231 (q) Section 59-12-1302;
- 232 (r) Section 59-12-1402;
- 233 (s) Section 59-12-1503; or
- 234 (t) Section 59-12-1703.
- 235 (5) "Aircraft" is as defined in Section 72-10-102.
- 236 (6) "Alcoholic beverage" means a beverage that:
- 237 (a) is suitable for human consumption; and
- 238 (b) contains .5% or more alcohol by volume.
- 239 (7) "Area agency on aging" is as defined in Section 62A-3-101.
- 240 (8) "Assisted amusement device" means an amusement device, skill device, or ride
- 241 device that is started and stopped by an individual:
- 242 (a) who is not the purchaser or renter of the right to use or operate the amusement
- 243 device, skill device, or ride device; and
- 244 (b) at the direction of the seller of the right to use the amusement device, skill device,

245 or ride device.

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

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

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

253 (10) "Authorized carrier" means:

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

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

259 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
260 stock, the holder of a certificate issued by the United States Surface Transportation Board.

261 (11) (a) Except as provided in Subsection (11)(b), "biomass energy" means any of the
262 following that is used as the primary source of energy to produce fuel or electricity:

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

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

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

266 (B) animal waste;

267 (C) methane produced:

268 (I) at landfills; or

269 (II) as a byproduct of the treatment of wastewater residuals;

270 (D) aquatic plants; and

271 (E) agricultural products.

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

273 (i) black liquor;

274 (ii) treated woods; or

275 (iii) biomass from municipal solid waste other than methane produced:

276 (A) at landfills; or
277 (B) as a byproduct of the treatment of wastewater residuals.
278 (12) (a) "Bundled transaction" means the sale of two or more items of tangible personal
279 property if:
280 (i) one or more of the items of tangible personal property is food and food ingredients;
281 and
282 (ii) the items of tangible personal property are:
283 (A) distinct and identifiable; and
284 (B) sold for one price that is not itemized.
285 (b) "Bundled transaction" does not include the sale of tangible personal property if the
286 sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of
287 tangible personal property included in the transaction.
288 (c) For purposes of Subsection (12)(a)(ii)(A), tangible personal property that is distinct
289 and identifiable does not include:
290 (i) packaging that:
291 (A) accompanies the sale of the tangible personal property; and
292 (B) is incidental or immaterial to the sale of the tangible personal property;
293 (ii) tangible personal property provided free of charge with the purchase of another
294 item of tangible personal property; or
295 (iii) an item of tangible personal property included in the definition of "purchase
296 price."
297 (d) For purposes of Subsection (12)(c)(ii), an item of tangible personal property is
298 provided free of charge with the purchase of another item of tangible personal property if the
299 sales price of the purchased item of tangible personal property does not vary depending on the
300 inclusion of the tangible personal property provided free of charge.
301 (13) "Certified automated system" means software certified by the governing board of
302 the agreement in accordance with Section 59-12-102.1 that:
303 (a) calculates the agreement sales and use tax imposed within a local taxing
304 jurisdiction:
305 (i) on a transaction; and
306 (ii) in the states that are members of the agreement;

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

309 (c) maintains a record of the transaction described in Subsection (13)(a)(i).

310 (14) "Certified service provider" means an agent certified:

311 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;
312 and

313 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
314 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's
315 own purchases.

316 (15) (a) Subject to Subsection (15)(b), "clothing" means all human wearing apparel
317 suitable for general use.

318 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
319 commission shall make rules:

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

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

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

324 (17) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
325 fuels that does not constitute industrial use under Subsection (42) or residential use under
326 Subsection (80).

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

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

332 (ii) For purposes of Subsection (18)(b)(i), in accordance with Title 63, Chapter 46a,
333 Utah Administrative Rulemaking Act, the commission may make rules defining what
334 constitutes a person's place of employment.

335 (19) "Component part" includes:

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

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

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

341 (d) feed, seeds, and seedlings.

342 (20) "Computer" means an electronic device that accepts information:

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

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

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

346 (21) "Computer software" means a set of coded instructions designed to cause:

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

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

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

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

353 (24) (a) "Delivery charge" means a charge:

354 (i) by a seller of:

355 (A) tangible personal property; or

356 (B) services; and

357 (ii) for preparation and delivery of the tangible personal property or services described
358 in Subsection (24)(a)(i) to a location designated by the purchaser.

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

360 (i) transportation;

361 (ii) shipping;

362 (iii) postage;

363 (iv) handling;

364 (v) crating; or

365 (vi) packing.

366 (25) (a) "Dental prosthesis" means the following if fabricated in a laboratory:

367 (i) a bridge;

368 (ii) a crown if that crown covers at least 75% of a tooth structure;

- 369 (iii) a denture;
- 370 (iv) an implant;
- 371 (v) an orthodontic device designed to:
- 372 (A) retain the position or spacing of teeth; and
- 373 (B) replace a missing tooth;
- 374 (vi) a partial denture; or
- 375 (vii) a device similar to Subsections (25)(a)(i) through (vi).
- 376 (b) "Dental prosthesis" does not include an appliance or device, other than a device
- 377 described in Subsection (25)(a), if that appliance or device is used in orthodontic therapy to
- 378 apply force to the teeth and their supporting structures to:
- 379 (i) produce changes in their relationship to each other; and
- 380 (ii) control their growth and development.
- 381 (26) "Dietary supplement" means a product, other than tobacco, that:
- 382 (a) is intended to supplement the diet;
- 383 (b) contains one or more of the following dietary ingredients:
- 384 (i) a vitamin;
- 385 (ii) a mineral;
- 386 (iii) an herb or other botanical;
- 387 (iv) an amino acid;
- 388 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 389 dietary intake; or
- 390 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 391 described in Subsections (26)(b)(i) through (v);
- 392 (c) (i) except as provided in Subsection (26)(c)(ii), is intended for ingestion in:
- 393 (A) tablet form;
- 394 (B) capsule form;
- 395 (C) powder form;
- 396 (D) softgel form;
- 397 (E) gelcap form; or
- 398 (F) liquid form; or
- 399 (ii) notwithstanding Subsection (26)(c)(i), if the product is not intended for ingestion in

400 a form described in Subsections (26)(c)(i)(A) through (F), is not represented:

401 (A) as conventional food; and

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

403 (I) a meal; or

404 (II) the diet; and

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

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

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

408 (27) (a) "Direct mail" means printed material delivered or distributed by United States
409 mail or other delivery service:

410 (i) to:

411 (A) a mass audience; or

412 (B) addressees on a mailing list provided by a purchaser of the mailing list; and

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

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

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

418 (28) (a) "Disposable home medical equipment or supplies" means medical equipment
419 or supplies that:

420 (i) cannot withstand repeated use; and

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

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

423 (B) a health care provider as defined in Section 78-14-3;

424 (C) an office of a health care provider described in Subsection (28)(a)(ii)(B); or

425 (D) a person similar to a person described in Subsections (28)(a)(ii)(A) through (C).

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

427 (i) a drug;

428 (ii) durable medical equipment;

429 (iii) a hearing aid;

430 (iv) a hearing aid accessory;

- 431 (v) mobility enhancing equipment; or
- 432 (vi) tangible personal property used to correct impaired vision, including:
- 433 (A) eyeglasses; or
- 434 (B) contact lenses.
- 435 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 436 commission may by rule define what constitutes medical equipment or supplies.

437 (29) (a) "Drug" means a compound, substance, or preparation, or a component of a
438 compound, substance, or preparation that is:

- 439 (i) recognized in:
 - 440 (A) the official United States Pharmacopoeia;
 - 441 (B) the official Homeopathic Pharmacopoeia of the United States;
 - 442 (C) the official National Formulary; or
 - 443 (D) a supplement to a publication listed in Subsections (29)(a)(i)(A) through (C);
- 444 (ii) intended for use in the:
 - 445 (A) diagnosis of disease;
 - 446 (B) cure of disease;
 - 447 (C) mitigation of disease;
 - 448 (D) treatment of disease; or
 - 449 (E) prevention of disease; or
- 450 (iii) intended to affect:
 - 451 (A) the structure of the body; or
 - 452 (B) any function of the body.
- 453 (b) "Drug" does not include:
 - 454 (i) food and food ingredients;
 - 455 (ii) a dietary supplement;
 - 456 (iii) an alcoholic beverage; or
 - 457 (iv) a prosthetic device.

458 (30) (a) Except as provided in Subsection (30)(c), "durable medical equipment" means
459 equipment that:

- 460 (i) can withstand repeated use;
- 461 (ii) is primarily and customarily used to serve a medical purpose;

- 462 (iii) generally is not useful to a person in the absence of illness or injury; and
- 463 (iv) is not worn in or on the body.
- 464 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 465 equipment described in Subsection (30)(a).
- 466 (c) Notwithstanding Subsection (30)(a), "durable medical equipment" does not include
- 467 mobility enhancing equipment.
- 468 (31) "Electronic" means:
- 469 (a) relating to technology; and
- 470 (b) having:
- 471 (i) electrical capabilities;
- 472 (ii) digital capabilities;
- 473 (iii) magnetic capabilities;
- 474 (iv) wireless capabilities;
- 475 (v) optical capabilities;
- 476 (vi) electromagnetic capabilities; or
- 477 (vii) capabilities similar to Subsections (31)(b)(i) through (vi).
- 478 (32) "Employee" is as defined in Section 59-10-401.
- 479 (33) "Fixed guideway" means a public transit facility that uses and occupies:
- 480 (a) rail for the use of public transit; or
- 481 (b) a separate right-of-way for the use of public transit.
- 482 (34) (a) "Food and food ingredients" means substances:
- 483 (i) regardless of whether the substances are in:
- 484 (A) liquid form;
- 485 (B) concentrated form;
- 486 (C) solid form;
- 487 (D) frozen form;
- 488 (E) dried form; or
- 489 (F) dehydrated form; and
- 490 (ii) that are:
- 491 (A) sold for:
- 492 (I) ingestion by humans; or

- 493 (II) chewing by humans; and
- 494 (B) consumed for the substance's:
- 495 (I) taste; or
- 496 (II) nutritional value.
- 497 (b) "Food and food ingredients" includes an item described in Subsection (66)(b)(iii).
- 498 (c) "Food and food ingredients" does not include:
- 499 (i) an alcoholic beverage;
- 500 (ii) tobacco; or
- 501 (iii) prepared food.
- 502 (35) (a) "Fundraising sales" means sales:
- 503 (i) (A) made by a school; or
- 504 (B) made by a school student;
- 505 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 506 materials, or provide transportation; and
- 507 (iii) that are part of an officially sanctioned school activity.
- 508 (b) For purposes of Subsection (35)(a)(iii), "officially sanctioned school activity"
- 509 means a school activity:
- 510 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 511 district governing the authorization and supervision of fundraising activities;
- 512 (ii) that does not directly or indirectly compensate an individual teacher or other
- 513 educational personnel by direct payment, commissions, or payment in kind; and
- 514 (iii) the net or gross revenues from which are deposited in a dedicated account
- 515 controlled by the school or school district.
- 516 (36) "Geothermal energy" means energy contained in heat that continuously flows
- 517 outward from the earth that is used as the sole source of energy to produce electricity.
- 518 (37) "Governing board of the agreement" means the governing board of the agreement
- 519 that is:
- 520 (a) authorized to administer the agreement; and
- 521 (b) established in accordance with the agreement.
- 522 (38) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
- 523 (i) the executive branch of the state, including all departments, institutions, boards,

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

525 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
526 Office of the Court Administrator, and similar administrative units in the judicial branch;

527 (iii) the legislative branch of the state, including the House of Representatives, the
528 Senate, the Legislative Printing Office, the Office of Legislative Research and General
529 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
530 Analyst;

531 (iv) the National Guard;

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

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

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

536 (i) a college campus of the Utah College of Applied Technology;

537 (ii) a school;

538 (iii) the State Board of Education;

539 (iv) the State Board of Regents; or

540 (v) a state institution of higher education as defined in Section 53B-3-102.

541 (39) (a) "Hearing aid" means:

542 (i) an instrument or device having an electronic component that is designed to:

543 (A) (I) improve impaired human hearing; or

544 (II) correct impaired human hearing; and

545 (B) (I) be worn in the human ear; or

546 (II) affixed behind the human ear;

547 (ii) an instrument or device that is surgically implanted into the cochlea; or

548 (iii) a telephone amplifying device.

549 (b) "Hearing aid" does not include:

550 (i) except as provided in Subsection (39)(a)(i)(B) or (39)(a)(ii), an instrument or device
551 having an electronic component that is designed to be worn on the body;

552 (ii) except as provided in Subsection (39)(a)(iii), an assistive listening device or system
553 designed to be used by one individual, including:

554 (A) a personal amplifying system;

- 555 (B) a personal FM system;
- 556 (C) a television listening system; or
- 557 (D) a device or system similar to a device or system described in Subsections
- 558 (39)(b)(ii)(A) through (C); or
- 559 (iii) an assistive listening device or system designed to be used by more than one
- 560 individual, including:
 - 561 (A) a device or system installed in:
 - 562 (I) an auditorium;
 - 563 (II) a church;
 - 564 (III) a conference room;
 - 565 (IV) a synagogue; or
 - 566 (V) a theater; or
 - 567 (B) a device or system similar to a device or system described in Subsections
- 568 (39)(b)(iii)(A)(I) through (V).
- 569 (40) (a) "Hearing aid accessory" means a hearing aid:
 - 570 (i) component;
 - 571 (ii) attachment; or
 - 572 (iii) accessory.
- 573 (b) "Hearing aid accessory" includes:
 - 574 (i) a hearing aid neck loop;
 - 575 (ii) a hearing aid cord;
 - 576 (iii) a hearing aid ear mold;
 - 577 (iv) hearing aid tubing;
 - 578 (v) a hearing aid ear hook; or
 - 579 (vi) a hearing aid remote control.
- 580 (c) "Hearing aid accessory" does not include:
 - 581 (i) a component, attachment, or accessory designed to be used only with an:
 - 582 (A) instrument or device described in Subsection (39)(b)(i); or
 - 583 (B) assistive listening device or system described in Subsection (39)(b)(ii) or (iii); or
 - 584 (ii) a hearing aid battery.
- 585 (41) "Hydroelectric energy" means water used as the sole source of energy to produce

586 electricity.

587 (42) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or

588 other fuels:

589 (a) in mining or extraction of minerals;

590 (b) in agricultural operations to produce an agricultural product up to the time of

591 harvest or placing the agricultural product into a storage facility, including:

592 (i) commercial greenhouses;

593 (ii) irrigation pumps;

594 (iii) farm machinery;

595 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not

596 registered under Title 41, Chapter 1a, Part 2, Registration; and

597 (v) other farming activities;

598 (c) in manufacturing tangible personal property at an establishment described in SIC

599 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal

600 Executive Office of the President, Office of Management and Budget;

601 (d) by a scrap recycler if:

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

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

604 products:

605 (A) iron;

606 (B) steel;

607 (C) nonferrous metal;

608 (D) paper;

609 (E) glass;

610 (F) plastic;

611 (G) textile; or

612 (H) rubber; and

613 (ii) the new products under Subsection (42)(d)(i) would otherwise be made with

614 nonrecycled materials; or

615 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a

616 cogeneration facility as defined in Section 54-2-1.

617 (43) (a) Except as provided in Subsection (43)(b), "installation charge" means a charge
618 for installing tangible personal property.

619 (b) Notwithstanding Subsection (43)(a), "installation charge" does not include a charge
620 for repairs or renovations of tangible personal property.

621 (44) (a) "Lease" or "rental" means a transfer of possession or control of tangible
622 personal property for:

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

624 (B) an indeterminate term; and

625 (ii) consideration.

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

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

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

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

636 (A) upon completion of required payments; and

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

638 (I) \$100; or

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

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

643 (d) For purposes of Subsection (44)(c)(iii), an operator is necessary for equipment to
644 perform as designed if the operator's duties exceed the:

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

646 (ii) maintenance of tangible personal property; or

647 (iii) inspection of tangible personal property.

648 (45) "Load and leave" means delivery to a purchaser by use of a tangible storage media
649 if the tangible storage media is not physically transferred to the purchaser.

650 (46) "Local taxing jurisdiction" means a:

- 651 (a) county that is authorized to impose an agreement sales and use tax;
- 652 (b) city that is authorized to impose an agreement sales and use tax; or
- 653 (c) town that is authorized to impose an agreement sales and use tax.

654 (47) "Manufactured home" is as defined in Section 58-56-3.

655 (48) For purposes of Section 59-12-104, "manufacturing facility" means:

656 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
657 Industrial Classification Manual of the federal Executive Office of the President, Office of
658 Management and Budget;

659 (b) a scrap recycler if:

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

- 663 (A) iron;
- 664 (B) steel;
- 665 (C) nonferrous metal;
- 666 (D) paper;
- 667 (E) glass;
- 668 (F) plastic;
- 669 (G) textile; or
- 670 (H) rubber; and

671 (ii) the new products under Subsection (48)(b)(i) would otherwise be made with
672 nonrecycled materials; or

673 (c) a cogeneration facility as defined in Section 54-2-1.

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

- 676 (a) child or stepchild, regardless of whether the child or stepchild is:
 - 677 (i) an adopted child or adopted stepchild; or
 - 678 (ii) a foster child or foster stepchild;

- 679 (b) grandchild or stepgrandchild;
- 680 (c) grandparent or stepgrandparent;
- 681 (d) nephew or stepnephew;
- 682 (e) niece or stepniece;
- 683 (f) parent or stepparent;
- 684 (g) sibling or stepsibling;
- 685 (h) spouse;
- 686 (i) person who is the spouse of a person described in Subsections (49)(a) through (g);

687 or

- 688 (j) person similar to a person described in Subsections (49)(a) through (i) as
- 689 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
- 690 Administrative Rulemaking Act.

691 (50) "Mobile home" is as defined in Section 58-56-3.

692 (51) "Mobile telecommunications service" is as defined in the Mobile
693 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

694 (52) (a) Except as provided in Subsection (52)(c), "mobility enhancing equipment"
695 means equipment that is:

- 696 (i) primarily and customarily used to provide or increase the ability to move from one
- 697 place to another;
- 698 (ii) appropriate for use in a:
 - 699 (A) home; or
 - 700 (B) motor vehicle; and
 - 701 (iii) not generally used by persons with normal mobility.

702 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
703 the equipment described in Subsection (52)(a).

704 (c) Notwithstanding Subsection (52)(a), "mobility enhancing equipment" does not
705 include:

- 706 (i) a motor vehicle;
- 707 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
- 708 vehicle manufacturer;
- 709 (iii) durable medical equipment; or

710 (iv) a prosthetic device.

711 (53) "Model 1 seller" means a seller that has selected a certified service provider as the
712 seller's agent to perform all of the seller's sales and use tax functions for agreement sales and
713 use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the
714 seller's own purchases.

715 (54) "Model 2 seller" means a seller that:

716 (a) except as provided in Subsection (54)(b), has selected a certified automated system
717 to perform the seller's sales tax functions for agreement sales and use taxes; and

718 (b) notwithstanding Subsection (54)(a), retains responsibility for remitting all of the
719 sales tax:

720 (i) collected by the seller; and

721 (ii) to the appropriate local taxing jurisdiction.

722 (55) (a) Subject to Subsection (55)(b), "model 3 seller" means a seller that has:

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

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

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

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

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

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

729 (b) For purposes of Subsection (55)(a), "model 3 seller" includes an affiliated group of
730 sellers using the same proprietary system.

731 (56) "Modular home" means a modular unit as defined in Section 58-56-3.

732 (57) "Motor vehicle" is as defined in Section 41-1a-102.

733 (58) "Oil shale" means a group of fine black to dark brown shales containing
734 bituminous material that yields petroleum upon distillation.

735 (59) (a) "Other fuels" means products that burn independently to produce heat or
736 energy.

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

739 (60) "Pawnbroker" is as defined in Section 13-32a-102.

740 (61) "Pawn transaction" is as defined in Section 13-32a-102.

- 741 (62) (a) "Permanently attached to real property" means that for tangible personal
742 property attached to real property:
- 743 (i) the attachment of the tangible personal property to the real property:
- 744 (A) is essential to the use of the tangible personal property; and
- 745 (B) suggests that the tangible personal property will remain attached to the real
746 property in the same place over the useful life of the tangible personal property; or
- 747 (ii) if the tangible personal property is detached from the real property, the detachment
748 would:
- 749 (A) cause substantial damage to the tangible personal property; or
- 750 (B) require substantial alteration or repair of the real property to which the tangible
751 personal property is attached.
- 752 (b) "Permanently attached to real property" includes:
- 753 (i) the attachment of an accessory to the tangible personal property if the accessory is:
- 754 (A) essential to the operation of the tangible personal property; and
- 755 (B) attached only to facilitate the operation of the tangible personal property;
- 756 (ii) a temporary detachment of tangible personal property from real property for a
757 repair or renovation if the repair or renovation is performed where the tangible personal
758 property and real property are located; or
- 759 (iii) an attachment of the following tangible personal property to real property,
760 regardless of whether the attachment to real property is only through a line that supplies water,
761 electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by
762 rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:
- 763 (A) property attached to oil, gas, or water pipelines, other than the property listed in
764 Subsection (62)(c)(iii);
- 765 (B) a hot water heater;
- 766 (C) a water softener system; or
- 767 (D) a water filtration system, other than a water filtration system manufactured as part
768 of a refrigerator.
- 769 (c) "Permanently attached to real property" does not include:
- 770 (i) the attachment of portable or movable tangible personal property to real property if
771 that portable or movable tangible personal property is attached to real property only for:

772 (A) convenience;

773 (B) stability; or

774 (C) for an obvious temporary purpose;

775 (ii) the detachment of tangible personal property from real property other than the

776 detachment described in Subsection (62)(b)(ii); or

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

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

779 cable, or supplies a similar item as determined by the commission by rule made in accordance

780 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

781 (A) a refrigerator;

782 (B) a washer;

783 (C) a dryer;

784 (D) a stove;

785 (E) a television;

786 (F) a computer;

787 (G) a telephone; or

788 (H) tangible personal property similar to Subsections (62)(c)(iii)(A) through (G) as

789 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah

790 Administrative Rulemaking Act.

791 (63) "Person" includes any individual, firm, partnership, joint venture, association,

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

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

794 combination acting as a unit.

795 (64) "Place of primary use":

796 (a) for telephone service other than mobile telecommunications service, means the

797 street address representative of where the purchaser's use of the telephone service primarily

798 occurs, which shall be:

799 (i) the residential street address of the purchaser; or

800 (ii) the primary business street address of the purchaser; or

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

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

803 (65) "Postproduction" means an activity related to the finishing or duplication of a
804 medium described in Subsection 59-12-104(56)(a).

805 (66) (a) "Prepared food" means:
806 (i) food:
807 (A) sold in a heated state; or
808 (B) heated by a seller;
809 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
810 item; or
811 (iii) except as provided in Subsection (66)(c), food sold with an eating utensil provided
812 by the seller, including a:
813 (A) plate;
814 (B) knife;
815 (C) fork;
816 (D) spoon;
817 (E) glass;
818 (F) cup;
819 (G) napkin; or
820 (H) straw.

821 (b) "Prepared food" does not include:
822 (i) food that a seller only:
823 (A) cuts;
824 (B) repackages; or
825 (C) pasteurizes; or
826 (ii) (A) the following:
827 (I) raw egg;
828 (II) raw fish;
829 (III) raw meat;
830 (IV) raw poultry; or
831 (V) a food containing an item described in Subsections (66)(b)(ii)(A)(I) through (IV);
832 and
833 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the

834 Food and Drug Administration's Food Code that a consumer cook the items described in
835 Subsection (66)(b)(ii)(A) to prevent food borne illness; or
836 (iii) the following if sold without eating utensils provided by the seller:
837 (A) food and food ingredients sold by a seller if the seller's proper primary
838 classification under the 2002 North American Industry Classification System of the federal
839 Executive Office of the President, Office of Management and Budget, is manufacturing in
840 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
841 Manufacturing;
842 (B) food and food ingredients sold in an unheated state:
843 (I) by weight or volume; and
844 (II) as a single item; or
845 (C) a bakery item, including:
846 (I) a bagel;
847 (II) a bar;
848 (III) a biscuit;
849 (IV) bread;
850 (V) a bun;
851 (VI) a cake;
852 (VII) a cookie;
853 (VIII) a croissant;
854 (IX) a danish;
855 (X) a donut;
856 (XI) a muffin;
857 (XII) a pastry;
858 (XIII) a pie;
859 (XIV) a roll;
860 (XV) a tart;
861 (XVI) a torte; or
862 (XVII) a tortilla.
863 (c) Notwithstanding Subsection (66)(a)(iii), an eating utensil provided by the seller
864 does not include the following used to transport the food:

- 865 (i) a container; or
866 (ii) packaging.
- 867 (67) "Prescription" means an order, formula, or recipe that is issued:
868 (a) (i) orally;
869 (ii) in writing;
870 (iii) electronically; or
871 (iv) by any other manner of transmission; and
872 (b) by a licensed practitioner authorized by the laws of a state.
- 873 (68) (a) Except as provided in Subsection (68)(b)(ii) or (iii), "prewritten computer
874 software" means computer software that is not designed and developed:
875 (i) by the author or other creator of the computer software; and
876 (ii) to the specifications of a specific purchaser.
- 877 (b) "Prewritten computer software" includes:
878 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
879 software is not designed and developed:
880 (A) by the author or other creator of the computer software; and
881 (B) to the specifications of a specific purchaser;
882 (ii) notwithstanding Subsection (68)(a), computer software designed and developed by
883 the author or other creator of the computer software to the specifications of a specific purchaser
884 if the computer software is sold to a person other than the purchaser; or
885 (iii) notwithstanding Subsection (68)(a) and except as provided in Subsection (68)(c),
886 prewritten computer software or a prewritten portion of prewritten computer software:
887 (A) that is modified or enhanced to any degree; and
888 (B) if the modification or enhancement described in Subsection (68)(b)(iii)(A) is
889 designed and developed to the specifications of a specific purchaser.
- 890 (c) Notwithstanding Subsection (68)(b)(iii), "prewritten computer software" does not
891 include a modification or enhancement described in Subsection (68)(b)(iii) if the charges for
892 the modification or enhancement are:
893 (i) reasonable; and
894 (ii) separately stated on the invoice or other statement of price provided to the
895 purchaser.

896 (69) (a) Subject to Subsections (69)(b) and (c), "privately owned golf course" means a
897 golf course that:

898 (i) is owned or operated by a business entity that is not a governmental entity as
899 defined in Section 59-2-511; and

900 (ii) may be used by the public for golfing or golfing practice.

901 (b) "Privately owned golf course" includes:

902 (i) a club house operated in conjunction with a golf course;

903 (ii) a driving range operated in conjunction with a golf course;

904 (iii) an irrigation system associated with a golf course;

905 (iv) landscaping associated with a golf course;

906 (v) a path associated with a golf course;

907 (vi) a patio associated with a golf course;

908 (vii) a pro shop operated in conjunction with a golf course; or

909 (viii) a restaurant operated in conjunction with a golf course.

910 (c) "Privately owned golf course" does not include a private golf course or private
911 country club that restricts the use of the private golf course or private country club or a facility
912 of the private golf course or private country club to:

913 (i) a member of the private golf course or private country club; or

914 (ii) a guest of a member described in Subsection (69)(c)(i).

915 ~~[(69)]~~ (70) (a) "Prosthetic device" means a device that is worn on or in the body to:

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

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

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

919 (b) "Prosthetic device" includes:

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

921 (ii) replacement parts for a prosthetic device; or

922 (iii) a dental prosthesis.

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

924 (i) corrective eyeglasses;

925 (ii) contact lenses; or

926 (iii) hearing aids.

- 927 [~~(70)~~] (71) (a) "Protective equipment" means an item:
- 928 (i) for human wear; and
- 929 (ii) that is:
- 930 (A) designed as protection:
- 931 (I) to the wearer against injury or disease; or
- 932 (II) against damage or injury of other persons or property; and
- 933 (B) not suitable for general use.
- 934 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 935 commission shall make rules:
- 936 (i) listing the items that constitute "protective equipment"; and
- 937 (ii) that are consistent with the list of items that constitute "protective equipment"
- 938 under the agreement.
- 939 [~~(71)~~] (72) (a) For purposes of Subsection 59-12-104(41), "publication" means any
- 940 written or printed matter, other than a photocopy:
- 941 (i) regardless of:
- 942 (A) characteristics;
- 943 (B) copyright;
- 944 (C) form;
- 945 (D) format;
- 946 (E) method of reproduction; or
- 947 (F) source; and
- 948 (ii) made available in printed or electronic format.
- 949 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 950 commission may by rule define the term "photocopy."
- 951 [~~(72)~~] (73) (a) "Purchase price" and "sales price" mean the total amount of
- 952 consideration:
- 953 (i) valued in money; and
- 954 (ii) for which tangible personal property or services are:
- 955 (A) sold;
- 956 (B) leased; or
- 957 (C) rented.

- 958 (b) "Purchase price" and "sales price" include:
- 959 (i) the seller's cost of the tangible personal property or services sold;
- 960 (ii) expenses of the seller, including:
- 961 (A) the cost of materials used;
- 962 (B) a labor cost;
- 963 (C) a service cost;
- 964 (D) interest;
- 965 (E) a loss;
- 966 (F) the cost of transportation to the seller; or
- 967 (G) a tax imposed on the seller; or
- 968 (iii) a charge by the seller for any service necessary to complete the sale.
- 969 (c) "Purchase price" and "sales price" do not include:
- 970 (i) a discount:
- 971 (A) in a form including:
- 972 (I) cash;
- 973 (II) term; or
- 974 (III) coupon;
- 975 (B) that is allowed by a seller;
- 976 (C) taken by a purchaser on a sale; and
- 977 (D) that is not reimbursed by a third party; or
- 978 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 979 provided to the purchaser:
- 980 (A) the amount of a trade-in;
- 981 (B) the following from credit extended on the sale of tangible personal property or
- 982 services:
- 983 (I) interest charges;
- 984 (II) financing charges; or
- 985 (III) carrying charges;
- 986 (C) a tax or fee legally imposed directly on the consumer;
- 987 (D) a delivery charge; or
- 988 (E) an installation charge.

989 [~~(73)~~] (74) "Purchaser" means a person to whom:

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

991 (b) a service is furnished.

992 [~~(74)~~] (75) "Regularly rented" means:

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

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

995 value.

996 [~~(75)~~] (76) "Renewable energy" means:

997 (a) biomass energy;

998 (b) hydroelectric energy;

999 (c) geothermal energy;

1000 (d) solar energy; or

1001 (e) wind energy.

1002 [~~(76)~~] (77) (a) "Renewable energy production facility" means a facility that:

1003 (i) uses renewable energy to produce electricity; and

1004 (ii) has a production capacity of 20 kilowatts or greater.

1005 (b) A facility is a renewable energy production facility regardless of whether the
1006 facility is:

1007 (i) connected to an electric grid; or

1008 (ii) located on the premises of an electricity consumer.

1009 [~~(77)~~] (78) "Rental" is as defined in Subsection (44).

1010 [~~(78)~~] (79) "Repairs or renovations of tangible personal property" means:

1011 (a) a repair or renovation of tangible personal property that is not permanently attached
1012 to real property; or

1013 (b) attaching tangible personal property to other tangible personal property if the other
1014 tangible personal property to which the tangible personal property is attached is not
1015 permanently attached to real property.

1016 [~~(79)~~] (80) "Research and development" means the process of inquiry or
1017 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
1018 process of preparing those devices, technologies, or applications for marketing.

1019 [~~(80)~~] (81) "Residential use" means the use in or around a home, apartment building,

1020 sleeping quarters, and similar facilities or accommodations.

1021 ~~[(81)]~~ (82) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
1022 other than:

1023 (a) resale;

1024 (b) sublease; or

1025 (c) subrent.

1026 ~~[(82)]~~ (83) (a) "Retailer" means any person engaged in a regularly organized business
1027 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1),
1028 and who is selling to the user or consumer and not for resale.

1029 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1030 engaged in the business of selling to users or consumers within the state.

1031 ~~[(83)]~~ (84) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1032 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1033 Subsection 59-12-103(1), for consideration.

1034 (b) "Sale" includes:

1035 (i) installment and credit sales;

1036 (ii) any closed transaction constituting a sale;

1037 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1038 chapter;

1039 (iv) any transaction if the possession of property is transferred but the seller retains the
1040 title as security for the payment of the price; and

1041 (v) any transaction under which right to possession, operation, or use of any article of
1042 tangible personal property is granted under a lease or contract and the transfer of possession
1043 would be taxable if an outright sale were made.

1044 ~~[(84)]~~ (85) "Sale at retail" is as defined in Subsection ~~[(81)]~~ (82).

1045 ~~[(85)]~~ (86) "Sale-leaseback transaction" means a transaction by which title to tangible
1046 personal property that is subject to a tax under this chapter is transferred:

1047 (a) by a purchaser-lessee;

1048 (b) to a lessor;

1049 (c) for consideration; and

1050 (d) if:

1051 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1052 of the tangible personal property;

1053 (ii) the sale of the tangible personal property to the lessor is intended as a form of
1054 financing:

1055 (A) for the property; and

1056 (B) to the purchaser-lessee; and

1057 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1058 is required to:

1059 (A) capitalize the property for financial reporting purposes; and

1060 (B) account for the lease payments as payments made under a financing arrangement.

1061 [~~(86)~~] (87) "Sales price" is as defined in Subsection [~~(72)~~] (73).

1062 [~~(87)~~] (88) (a) "Sales relating to schools" means the following sales by, amounts paid
1063 to, or amounts charged by a school:

1064 (i) sales that are directly related to the school's educational functions or activities

1065 including:

1066 (A) the sale of:

1067 (I) textbooks;

1068 (II) textbook fees;

1069 (III) laboratory fees;

1070 (IV) laboratory supplies; or

1071 (V) safety equipment;

1072 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1073 that:

1074 (I) a student is specifically required to wear as a condition of participation in a
1075 school-related event or school-related activity; and

1076 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1077 place of ordinary clothing;

1078 (C) sales of the following if the net or gross revenues generated by the sales are
1079 deposited into a school district fund or school fund dedicated to school meals:

1080 (I) food and food ingredients; or

1081 (II) prepared food; or

1082 (D) transportation charges for official school activities; or
1083 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1084 event or school-related activity.

1085 (b) "Sales relating to schools" does not include:
1086 (i) bookstore sales of items that are not educational materials or supplies;
1087 (ii) except as provided in Subsection [~~(87)~~] (88)(a)(i)(B):
1088 (A) clothing;
1089 (B) clothing accessories or equipment;
1090 (C) protective equipment; or
1091 (D) sports or recreational equipment; or
1092 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1093 event or school-related activity if the amounts paid or charged are passed through to a person:
1094 (A) other than a:
1095 (I) school;
1096 (II) nonprofit organization authorized by a school board or a governing body of a
1097 private school to organize and direct a competitive secondary school activity; or
1098 (III) nonprofit association authorized by a school board or a governing body of a
1099 private school to organize and direct a competitive secondary school activity; and
1100 (B) that is required to collect sales and use taxes under this chapter.
1101 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1102 commission may make rules defining the term "passed through."
1103 [~~(88)~~] (89) For purposes of this section and Section 59-12-104, "school":
1104 (a) means:
1105 (i) an elementary school or a secondary school that:
1106 (A) is a:
1107 (I) public school; or
1108 (II) private school; and
1109 (B) provides instruction for one or more grades kindergarten through 12; or
1110 (ii) a public school district; and
1111 (b) includes the Electronic High School as defined in Section 53A-15-1002.
1112 [~~(89)~~] (90) "Seller" means a person that makes a sale, lease, or rental of:

- 1113 (a) tangible personal property; or
- 1114 (b) a service.
- 1115 [~~90~~] (91) (a) "Semiconductor fabricating, processing, research, or development
- 1116 materials" means tangible personal property:
- 1117 (i) used primarily in the process of:
- 1118 (A) (I) manufacturing a semiconductor;
- 1119 (II) fabricating a semiconductor; or
- 1120 (III) research or development of a:
- 1121 (Aa) semiconductor; or
- 1122 (Bb) semiconductor manufacturing process; or
- 1123 (B) maintaining an environment suitable for a semiconductor; or
- 1124 (ii) consumed primarily in the process of:
- 1125 (A) (I) manufacturing a semiconductor;
- 1126 (II) fabricating a semiconductor; or
- 1127 (III) research or development of a:
- 1128 (Aa) semiconductor; or
- 1129 (Bb) semiconductor manufacturing process; or
- 1130 (B) maintaining an environment suitable for a semiconductor.
- 1131 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1132 includes:
- 1133 (i) parts used in the repairs or renovations of tangible personal property described in
- 1134 Subsection [~~90~~] (91)(a); or
- 1135 (ii) a chemical, catalyst, or other material used to:
- 1136 (A) produce or induce in a semiconductor a:
- 1137 (I) chemical change; or
- 1138 (II) physical change;
- 1139 (B) remove impurities from a semiconductor; or
- 1140 (C) improve the marketable condition of a semiconductor.
- 1141 [~~91~~] (92) "Senior citizen center" means a facility having the primary purpose of
- 1142 providing services to the aged as defined in Section 62A-3-101.
- 1143 [~~92~~] (93) "Simplified electronic return" means the electronic return:

- 1144 (a) described in Section 318(C) of the agreement; and
- 1145 (b) approved by the governing board of the agreement.
- 1146 [~~93~~] 94 "Solar energy" means the sun used as the sole source of energy for
- 1147 producing electricity.
- 1148 [~~94~~] 95 (a) "Sports or recreational equipment" means an item:
- 1149 (i) designed for human use; and
- 1150 (ii) that is:
- 1151 (A) worn in conjunction with:
- 1152 (I) an athletic activity; or
- 1153 (II) a recreational activity; and
- 1154 (B) not suitable for general use.
- 1155 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1156 commission shall make rules:
- 1157 (i) listing the items that constitute "sports or recreational equipment"; and
- 1158 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1159 equipment" under the agreement.
- 1160 [~~95~~] 96 "State" means the state of Utah, its departments, and agencies.
- 1161 [~~96~~] 97 "Storage" means any keeping or retention of tangible personal property or
- 1162 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 1163 except sale in the regular course of business.
- 1164 [~~97~~] 98 (a) "Tangible personal property" means personal property that:
- 1165 (i) may be:
- 1166 (A) seen;
- 1167 (B) weighed;
- 1168 (C) measured;
- 1169 (D) felt; or
- 1170 (E) touched; or
- 1171 (ii) is in any manner perceptible to the senses.
- 1172 (b) "Tangible personal property" includes:
- 1173 (i) electricity;
- 1174 (ii) water;

- 1175 (iii) gas;
- 1176 (iv) steam; or
- 1177 (v) prewritten computer software.
- 1178 ~~[(98)]~~ (99) "Tar sands" means impregnated sands that yield mixtures of liquid
- 1179 hydrocarbon and require further processing other than mechanical blending before becoming
- 1180 finished petroleum products.
- 1181 ~~[(99)]~~ (100) (a) "Telecommunications enabling or facilitating equipment, machinery, or
- 1182 software" means an item listed in Subsection ~~[(99)]~~ (100)(b) if that item is purchased or leased
- 1183 primarily to enable or facilitate one or more of the following to function:
- 1184 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1185 (ii) telecommunications transmission equipment, machinery, or software.
- 1186 (b) The following apply to Subsection ~~[(99)]~~ (100)(a):
- 1187 (i) a pole;
- 1188 (ii) software;
- 1189 (iii) a supplementary power supply;
- 1190 (iv) temperature or environmental equipment or machinery;
- 1191 (v) test equipment;
- 1192 (vi) a tower; or
- 1193 (vii) equipment, machinery, or software that functions similarly to an item listed in
- 1194 Subsections ~~[(99)]~~ (100)(b)(i) through (vi) as determined by the commission by rule made in
- 1195 accordance with Subsection ~~[(99)]~~ (100)(c).
- 1196 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1197 commission may by rule define what constitutes equipment, machinery, or software that
- 1198 functions similarly to an item listed in Subsections ~~[(99)]~~ (100)(b)(i) through (vi).
- 1199 ~~[(100)]~~ (101) "Telecommunications equipment, machinery, or software required for
- 1200 911 service" means equipment, machinery, or software that is required to comply with 47
- 1201 C.F.R. Sec. 20.18.
- 1202 ~~[(101)]~~ (102) "Telecommunications maintenance or repair equipment, machinery, or
- 1203 software" means equipment, machinery, or software purchased or leased primarily to maintain
- 1204 or repair one or more of the following, regardless of whether the equipment, machinery, or
- 1205 software is purchased or leased as a spare part or as an upgrade or modification to one or more

1206 of the following:

- 1207 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1208 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1209 (c) telecommunications transmission equipment, machinery, or software.

1210 [~~(102)~~] (103) (a) "Telecommunications switching or routing equipment, machinery, or
 1211 software" means an item listed in Subsection [~~(102)~~] (103)(b) if that item is purchased or
 1212 leased primarily for switching or routing:

- 1213 (i) voice communications;
- 1214 (ii) data communications; or
- 1215 (iii) telephone service.

1216 (b) The following apply to Subsection [~~(102)~~] (103)(a):

- 1217 (i) a bridge;
- 1218 (ii) a computer;
- 1219 (iii) a cross connect;
- 1220 (iv) a modem;
- 1221 (v) a multiplexer;
- 1222 (vi) plug in circuitry;
- 1223 (vii) a router;
- 1224 (viii) software;
- 1225 (ix) a switch; or
- 1226 (x) equipment, machinery, or software that functions similarly to an item listed in
 1227 Subsections [~~(102)~~] (103)(b)(i) through (ix) as determined by the commission by rule made in
 1228 accordance with Subsection [~~(102)~~] (103)(c).

1229 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 1230 commission may by rule define what constitutes equipment, machinery, or software that
 1231 functions similarly to an item listed in Subsections [~~(102)~~] (103)(b)(i) through (ix).

1232 [~~(103)~~] (104) (a) "Telecommunications transmission equipment, machinery, or
 1233 software" means an item listed in Subsection [~~(103)~~] (104)(b) if that item is purchased or
 1234 leased primarily for sending, receiving, or transporting:

- 1235 (i) voice communications;
- 1236 (ii) data communications; or

- 1237 (iii) telephone service.
- 1238 (b) The following apply to Subsection [~~(103)~~] (104)(a):
- 1239 (i) an amplifier;
- 1240 (ii) a cable;
- 1241 (iii) a closure;
- 1242 (iv) a conduit;
- 1243 (v) a controller;
- 1244 (vi) a duplexer;
- 1245 (vii) a filter;
- 1246 (viii) an input device;
- 1247 (ix) an input/output device;
- 1248 (x) an insulator;
- 1249 (xi) microwave machinery or equipment;
- 1250 (xii) an oscillator;
- 1251 (xiii) an output device;
- 1252 (xiv) a pedestal;
- 1253 (xv) a power converter;
- 1254 (xvi) a power supply;
- 1255 (xvii) a radio channel;
- 1256 (xviii) a radio receiver;
- 1257 (xix) a radio transmitter;
- 1258 (xx) a repeater;
- 1259 (xxi) software;
- 1260 (xxii) a terminal;
- 1261 (xxiii) a timing unit;
- 1262 (xxiv) a transformer;
- 1263 (xxv) a wire; or
- 1264 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1265 Subsections [~~(103)~~] (104)(b)(i) through (xxv) as determined by the commission by rule made in
- 1266 accordance with Subsection [~~(103)~~] (104)(c).
- 1267 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1268 commission may by rule define what constitutes equipment, machinery, or software that
1269 functions similarly to an item listed in Subsections [~~(103)~~] (104)(b)(i) through (xxv).

1270 [~~(104)~~] (105) (a) "Telephone service" means a two-way transmission:

1271 (i) by:

1272 (A) wire;

1273 (B) radio;

1274 (C) lightwave; or

1275 (D) other electromagnetic means; and

1276 (ii) of one or more of the following:

1277 (A) a sign;

1278 (B) a signal;

1279 (C) writing;

1280 (D) an image;

1281 (E) sound;

1282 (F) a message;

1283 (G) data; or

1284 (H) other information of any nature.

1285 (b) "Telephone service" includes:

1286 (i) mobile telecommunications service;

1287 (ii) private communications service; or

1288 (iii) automated digital telephone answering service.

1289 (c) "Telephone service" does not include a service or a transaction that a state or a
1290 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
1291 Tax Freedom Act, Pub. L. No. 105-277.

1292 [~~(105)~~] (106) Notwithstanding where a call is billed or paid, "telephone service
1293 address" means:

1294 (a) if the location described in this Subsection [~~(105)~~] (106)(a) is known, the location
1295 of the telephone service equipment:

1296 (i) to which a call is charged; and

1297 (ii) from which the call originates or terminates;

1298 (b) if the location described in Subsection [~~(105)~~] (106)(a) is not known but the

1299 location described in this Subsection [~~(105)~~] (106)(b) is known, the location of the origination
1300 point of the signal of the telephone service first identified by:

1301 (i) the telecommunications system of the seller; or

1302 (ii) if the system used to transport the signal is not that of the seller, information

1303 received by the seller from its service provider; or

1304 (c) if the locations described in Subsection [~~(105)~~] (106)(a) or (b) are not known, the
1305 location of a purchaser's primary place of use.

1306 [~~(106)~~] (107) (a) "Telephone service provider" means a person that:

1307 (i) owns, controls, operates, or manages a telephone service; and

1308 (ii) engages in an activity described in Subsection [~~(106)~~] (107)(a)(i) for the shared use
1309 with or resale to any person of the telephone service.

1310 (b) A person described in Subsection [~~(106)~~] (107)(a) is a telephone service provider
1311 whether or not the Public Service Commission of Utah regulates:

1312 (i) that person; or

1313 (ii) the telephone service that the person owns, controls, operates, or manages.

1314 [~~(107)~~] (108) "Tobacco" means:

1315 (a) a cigarette;

1316 (b) a cigar;

1317 (c) chewing tobacco;

1318 (d) pipe tobacco; or

1319 (e) any other item that contains tobacco.

1320 [~~(108)~~] (109) "Unassisted amusement device" means an amusement device, skill

1321 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
1322 operate the amusement device, skill device, or ride device.

1323 [~~(109)~~] (110) (a) "Use" means the exercise of any right or power over tangible personal
1324 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
1325 property, item, or service.

1326 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
1327 the regular course of business and held for resale.

1328 [~~(110)~~] (111) (a) Subject to Subsection [~~(110)~~] (111)(b), "vehicle" means the following
1329 that are required to be titled, registered, or titled and registered:

- 1330 (i) an aircraft as defined in Section 72-10-102;
- 1331 (ii) a vehicle as defined in Section 41-1a-102;
- 1332 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1333 (iv) a vessel as defined in Section 41-1a-102.
- 1334 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1335 (i) a vehicle described in Subsection [~~(110)~~] (111)(a); or
- 1336 (ii) (A) a locomotive;
- 1337 (B) a freight car;
- 1338 (C) railroad work equipment; or
- 1339 (D) other railroad rolling stock.
- 1340 [~~(111)~~] (112) "Vehicle dealer" means a person engaged in the business of buying,
- 1341 selling, or exchanging a vehicle as defined in Subsection [~~(110)~~] (111).
- 1342 [~~(112)~~] (113) (a) Except as provided in Subsection [~~(112)~~] (113)(b), "waste energy
- 1343 facility" means a facility that generates electricity:
- 1344 (i) using as the primary source of energy waste materials that would be placed in a
- 1345 landfill or refuse pit if it were not used to generate electricity, including:
- 1346 (A) tires;
- 1347 (B) waste coal; or
- 1348 (C) oil shale; and
- 1349 (ii) in amounts greater than actually required for the operation of the facility.
- 1350 (b) "Waste energy facility" does not include a facility that incinerates:
- 1351 (i) municipal solid waste;
- 1352 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1353 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1354 [~~(113)~~] (114) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1355 [~~(114)~~] (115) "Wind energy" means wind used as the sole source of energy to produce
- 1356 electricity.
- 1357 [~~(115)~~] (116) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
- 1358 geographic location by the United States Postal Service.
- 1359 Section 5. Section **59-12-104** is amended to read:
- 1360 **59-12-104. Exemptions.**

- 1361 The following sales and uses are exempt from the taxes imposed by this chapter:
- 1362 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
1363 under Chapter 13, Motor and Special Fuel Tax Act;
- 1364 (2) sales to the state, its institutions, and its political subdivisions; however, this
1365 exemption does not apply to sales of:
- 1366 (a) construction materials except:
- 1367 (i) construction materials purchased by or on behalf of institutions of the public
1368 education system as defined in Utah Constitution Article X, Section 2, provided the
1369 construction materials are clearly identified and segregated and installed or converted to real
1370 property which is owned by institutions of the public education system; and
- 1371 (ii) construction materials purchased by the state, its institutions, or its political
1372 subdivisions which are installed or converted to real property by employees of the state, its
1373 institutions, or its political subdivisions; or
- 1374 (b) tangible personal property in connection with the construction, operation,
1375 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
1376 providing additional project capacity, as defined in Section 11-13-103;
- 1377 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
- 1378 (i) the proceeds of each sale do not exceed \$1; and
- 1379 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
1380 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 1381 (b) Subsection (3)(a) applies to:
- 1382 (i) food and food ingredients; or
- 1383 (ii) prepared food;
- 1384 (4) sales of the following to a commercial airline carrier for in-flight consumption:
- 1385 (a) food and food ingredients;
- 1386 (b) prepared food; or
- 1387 (c) services related to Subsection (4)(a) or (b);
- 1388 (5) sales of parts and equipment for installation in aircraft operated by common carriers
1389 in interstate or foreign commerce;
- 1390 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
1391 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture

1392 exhibitor, distributor, or commercial television or radio broadcaster;

1393 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
1394 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
1395 washing of tangible personal property;

1396 (b) if a seller that sells at the same business location assisted cleaning or washing of
1397 tangible personal property and cleaning or washing of tangible personal property that is not
1398 assisted cleaning or washing of tangible personal property, the exemption described in
1399 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
1400 or washing of the tangible personal property; and

1401 (c) for purposes of Subsection (7)(b) and in accordance with Title 63, Chapter 46a,
1402 Utah Administrative Rulemaking Act, the commission may make rules:

1403 (i) governing the circumstances under which sales are at the same business location;
1404 and

1405 (ii) establishing the procedures and requirements for a seller to separately account for
1406 sales of assisted cleaning or washing of tangible personal property;

1407 (8) sales made to or by religious or charitable institutions in the conduct of their regular
1408 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
1409 fulfilled;

1410 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
1411 this state if the vehicle is:

1412 (a) not registered in this state; and

1413 (b) (i) not used in this state; or

1414 (ii) used in this state:

1415 (A) if the vehicle is not used to conduct business, for a time period that does not
1416 exceed the longer of:

1417 (I) 30 days in any calendar year; or

1418 (II) the time period necessary to transport the vehicle to the borders of this state; or

1419 (B) if the vehicle is used to conduct business, for the time period necessary to transport
1420 the vehicle to the borders of this state;

1421 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

1422 (i) the item is intended for human use; and

- 1423 (ii) (A) a prescription was issued for the item; or
- 1424 (B) the item was purchased by a hospital or other medical facility; and
- 1425 (b) (i) Subsection (10)(a) applies to:
- 1426 (A) a drug;
- 1427 (B) a syringe; or
- 1428 (C) a stoma supply; and
- 1429 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1430 commission may by rule define the terms:
- 1431 (A) "syringe"; or
- 1432 (B) "stoma supply";
- 1433 (11) sales or use of property, materials, or services used in the construction of or
- 1434 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
- 1435 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 1436 (i) the following if the item described in Subsection (12)(c) is not available to the
- 1437 general public:
- 1438 (A) a church; or
- 1439 (B) a charitable institution;
- 1440 (ii) an institution of higher education if:
- 1441 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 1442 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 1443 offered by the institution of higher education; or
- 1444 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 1445 (i) a medical facility; or
- 1446 (ii) a nursing facility; and
- 1447 (c) Subsections (12)(a) and (b) apply to:
- 1448 (i) food and food ingredients;
- 1449 (ii) prepared food; or
- 1450 (iii) alcoholic beverages;
- 1451 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 1452 by a person:
- 1453 (i) regardless of the number of transactions involving the sale of that tangible personal

1454 property by that person; and

1455 (ii) not regularly engaged in the business of selling that type of tangible personal
1456 property;

1457 (b) this Subsection (13) does not apply if:

1458 (i) the sale is one of a series of sales of a character to indicate that the person is
1459 regularly engaged in the business of selling that type of tangible personal property;

1460 (ii) the person holds that person out as regularly engaged in the business of selling that
1461 type of tangible personal property;

1462 (iii) the person sells an item of tangible personal property that the person purchased as
1463 a sale that is exempt under Subsection (25); or

1464 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
1465 this state in which case the tax is based upon:

1466 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
1467 sold; or

1468 (B) in the absence of a bill of sale or other written evidence of value, the fair market
1469 value of the vehicle or vessel being sold at the time of the sale as determined by the
1470 commission; and

1471 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1472 commission shall make rules establishing the circumstances under which:

1473 (i) a person is regularly engaged in the business of selling a type of tangible personal
1474 property;

1475 (ii) a sale of tangible personal property is one of a series of sales of a character to
1476 indicate that a person is regularly engaged in the business of selling that type of tangible
1477 personal property; or

1478 (iii) a person holds that person out as regularly engaged in the business of selling a type
1479 of tangible personal property;

1480 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
1481 July 1, 2006, for a purchase or lease by a manufacturing facility other than a cogeneration
1482 facility, for the following:

1483 (i) machinery and equipment that:

1484 (A) is used:

1485 (I) for a manufacturing facility other than a manufacturing facility that is a scrap
1486 recycler described in Subsection 59-12-102(48)(b):
1487 (Aa) in the manufacturing process; and
1488 (Bb) to manufacture an item sold as tangible personal property; or
1489 (II) for a manufacturing facility that is a scrap recycler described in Subsection
1490 59-12-102(48)(b), to process an item sold as tangible personal property; and
1491 (B) has an economic life of three or more years; and
1492 (ii) normal operating repair or replacement parts that:
1493 (A) have an economic life of three or more years; and
1494 (B) are used:
1495 (I) for a manufacturing facility in the state other than a manufacturing facility that is a
1496 scrap recycler described in Subsection 59-12-102(48)(b), in the manufacturing process; or
1497 (II) for a manufacturing facility in the state that is a scrap recycler described in
1498 Subsection 59-12-102(48)(b), to process an item sold as tangible personal property;
1499 (b) (i) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
1500 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
1501 for the following:
1502 (A) machinery and equipment that:
1503 (I) is used:
1504 (Aa) in the manufacturing process; and
1505 (Bb) to manufacture an item sold as tangible personal property; and
1506 (II) has an economic life of three or more years; and
1507 (B) normal operating repair or replacement parts that:
1508 (I) are used in the manufacturing process in a manufacturing facility in the state; and
1509 (II) have an economic life of three or more years; and
1510 (ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,
1511 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may
1512 claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:
1513 (A) for sales and use taxes paid under this chapter on the purchase or lease payment;
1514 and
1515 (B) in accordance with Section 59-12-110;

1516 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
1517 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
1518 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
1519 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
1520 of the 2002 North American Industry Classification System of the federal Executive Office of
1521 the President, Office of Management and Budget:

1522 (i) machinery and equipment that:

1523 (A) are used in:

1524 (I) the production process, other than the production of real property; or

1525 (II) research and development; and

1526 (B) have an economic life of three or more years; and

1527 (ii) normal operating repair or replacement parts that:

1528 (A) have an economic life of three or more years; and

1529 (B) are used in:

1530 (I) the production process, other than the production of real property, in an

1531 establishment described in this Subsection (14)(c) in the state; or

1532 (II) research and development in an establishment described in this Subsection (14)(c)
1533 in the state;

1534 (d) for purposes of this Subsection (14) and in accordance with Title 63, Chapter 46a,
1535 Utah Administrative Rulemaking Act, the commission:

1536 (i) shall by rule define the term "establishment"; and

1537 (ii) may by rule define what constitutes:

1538 (A) processing an item sold as tangible personal property;

1539 (B) the production process, other than the production of real property; or

1540 (C) research and development; and

1541 (e) on or before October 1, 2011, and every five years after October 1, 2011, the
1542 commission shall:

1543 (i) review the exemptions described in this Subsection (14) and make
1544 recommendations to the Revenue and Taxation Interim Committee concerning whether the
1545 exemptions should be continued, modified, or repealed; and

1546 (ii) include in its report:

- 1547 (A) the cost of the exemptions;
- 1548 (B) the purpose and effectiveness of the exemptions; and
- 1549 (C) the benefits of the exemptions to the state;
- 1550 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
- 1551 (i) tooling;
- 1552 (ii) special tooling;
- 1553 (iii) support equipment;
- 1554 (iv) special test equipment; or
- 1555 (v) parts used in the repairs or renovations of tooling or equipment described in
- 1556 Subsections (15)(a)(i) through (iv); and
- 1557 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
- 1558 (i) the tooling, equipment, or parts are used or consumed exclusively in the
- 1559 performance of any aerospace or electronics industry contract with the United States
- 1560 government or any subcontract under that contract; and
- 1561 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
- 1562 title to the tooling, equipment, or parts is vested in the United States government as evidenced
- 1563 by:
- 1564 (A) a government identification tag placed on the tooling, equipment, or parts; or
- 1565 (B) listing on a government-approved property record if placing a government
- 1566 identification tag on the tooling, equipment, or parts is impractical;
- 1567 (16) sales of newspapers or newspaper subscriptions;
- 1568 (17) (a) except as provided in Subsection (17)(b), tangible personal property traded in
- 1569 as full or part payment of the purchase price, except that for purposes of calculating sales or use
- 1570 tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and
- 1571 the tax is based upon:
- 1572 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
- 1573 vehicle being traded in; or
- 1574 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
- 1575 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
- 1576 commission; and
- 1577 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the

1578 following items of tangible personal property traded in as full or part payment of the purchase
1579 price:

- 1580 (i) money;
- 1581 (ii) electricity;
- 1582 (iii) water;
- 1583 (iv) gas; or
- 1584 (v) steam;

1585 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
1586 used or consumed primarily and directly in farming operations, regardless of whether the
1587 tangible personal property:

1588 (A) becomes part of real estate; or

1589 (B) is installed by a:

- 1590 (I) farmer;
- 1591 (II) contractor; or
- 1592 (III) subcontractor; or

1593 (ii) sales of parts used in the repairs or renovations of tangible personal property if the
1594 tangible personal property is exempt under Subsection (18)(a)(i); and

1595 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following
1596 tangible personal property are subject to the taxes imposed by this chapter:

1597 (i) (A) subject to Subsection (18)(b)(i)(B), the following tangible personal property if
1598 the tangible personal property is used in a manner that is incidental to farming:

- 1599 (I) machinery;
- 1600 (II) equipment;
- 1601 (III) materials; or
- 1602 (IV) supplies; and

1603 (B) tangible personal property that is considered to be used in a manner that is
1604 incidental to farming includes:

- 1605 (I) hand tools; or
- 1606 (II) maintenance and janitorial equipment and supplies;

1607 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property if the tangible
1608 personal property is used in an activity other than farming; and

1609 (B) tangible personal property that is considered to be used in an activity other than
1610 farming includes:

1611 (I) office equipment and supplies; or
1612 (II) equipment and supplies used in:
1613 (Aa) the sale or distribution of farm products;
1614 (Bb) research; or
1615 (Cc) transportation; or
1616 (iii) a vehicle required to be registered by the laws of this state during the period
1617 ending two years after the date of the vehicle's purchase;

1618 (19) sales of hay;
1619 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
1620 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
1621 garden, farm, or other agricultural produce is sold by:
1622 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
1623 agricultural produce;
1624 (b) an employee of the producer described in Subsection (20)(a); or
1625 (c) a member of the immediate family of the producer described in Subsection (20)(a);
1626 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
1627 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

1628 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
1629 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
1630 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
1631 manufacturer, processor, wholesaler, or retailer;

1632 (23) property stored in the state for resale;
1633 (24) (a) purchases of property if:
1634 (i) the property is:
1635 (A) purchased outside of this state;
1636 (B) brought into this state:
1637 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
1638 (II) by a nonresident person who is not living or working in this state at the time of the
1639 purchase;

1640 (C) used for the personal use or enjoyment of the nonresident person described in
1641 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
1642 (D) not used in conducting business in this state; and
1643 (ii) for:
1644 (A) property other than the property described in Subsection (24)(a)(ii)(B), the first use
1645 of the property for a purpose for which the property is designed occurs outside of this state;
1646 (B) a boat, the boat is registered outside of this state; or
1647 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
1648 outside of this state;
1649 (b) the exemption provided for in Subsection (24)(a) does not apply to:
1650 (i) a lease or rental of property; or
1651 (ii) a sale of a vehicle exempt under Subsection (33); and
1652 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for
1653 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
1654 following:
1655 (i) conducting business in this state if that phrase has the same meaning in this
1656 Subsection (24) as in Subsection (66);
1657 (ii) the first use of property if that phrase has the same meaning in this Subsection (24)
1658 as in Subsection (66); or
1659 (iii) a purpose for which property is designed if that phrase has the same meaning in
1660 this Subsection (24) as in Subsection (66);
1661 (25) property purchased for resale in this state, in the regular course of business, either
1662 in its original form or as an ingredient or component part of a manufactured or compounded
1663 product;
1664 (26) property upon which a sales or use tax was paid to some other state, or one of its
1665 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
1666 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
1667 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
1668 Act;
1669 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
1670 person for use in compounding a service taxable under the subsections;

1671 (28) purchases made in accordance with the special supplemental nutrition program for
1672 women, infants, and children established in 42 U.S.C. Sec. 1786;

1673 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
1674 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
1675 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
1676 Manual of the federal Executive Office of the President, Office of Management and Budget;

1677 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
1678 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

1679 (a) not registered in this state; and

1680 (b) (i) not used in this state; or

1681 (ii) used in this state:

1682 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
1683 time period that does not exceed the longer of:

1684 (I) 30 days in any calendar year; or

1685 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
1686 the borders of this state; or

1687 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
1688 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
1689 state;

1690 (31) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah
1691 where a sales or use tax is not imposed, even if the title is passed in Utah;

1692 (32) amounts paid for the purchase of telephone service for purposes of providing
1693 telephone service;

1694 (33) sales, leases, or uses of the following:

1695 (a) a vehicle by an authorized carrier; or

1696 (b) tangible personal property that is installed on a vehicle:

1697 (i) sold or leased to or used by an authorized carrier; and

1698 (ii) before the vehicle is placed in service for the first time;

1699 (34) (a) 45% of the sales price of any new manufactured home; and

1700 (b) 100% of the sales price of any used manufactured home;

1701 (35) sales relating to schools and fundraising sales;

- 1702 (36) sales or rentals of durable medical equipment if:
- 1703 (a) a person presents a prescription for the durable medical equipment; and
- 1704 (b) the durable medical equipment is used for home use only;
- 1705 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 1706 Section 72-11-102; and
- 1707 (b) the commission shall by rule determine the method for calculating sales exempt
- 1708 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 1709 (38) sales to a ski resort of:
- 1710 (a) snowmaking equipment;
- 1711 (b) ski slope grooming equipment;
- 1712 (c) passenger ropeways as defined in Section 72-11-102; or
- 1713 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 1714 described in Subsections (38)(a) through (c);
- 1715 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 1716 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 1717 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 1718 59-12-102;
- 1719 (b) if a seller that sells or rents at the same business location the right to use or operate
- 1720 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 1721 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 1722 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 1723 amusement, entertainment, or recreation for the assisted amusement devices; and
- 1724 (c) for purposes of Subsection (40)(b) and in accordance with Title 63, Chapter 46a,
- 1725 Utah Administrative Rulemaking Act, the commission may make rules:
- 1726 (i) governing the circumstances under which sales are at the same business location;
- 1727 and
- 1728 (ii) establishing the procedures and requirements for a seller to separately account for
- 1729 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
- 1730 assisted amusement devices;
- 1731 (41) (a) sales of photocopies by:
- 1732 (i) a governmental entity; or

- 1733 (ii) an entity within the state system of public education, including:
1734 (A) a school; or
1735 (B) the State Board of Education; or
1736 (b) sales of publications by a governmental entity;
1737 (42) amounts paid for admission to an athletic event at an institution of higher
1738 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
1739 20 U.S.C. Sec. 1681 et seq.;
- 1740 (43) sales of telephone service charged to a prepaid telephone calling card;
1741 (44) (a) sales of:
1742 (i) hearing aids;
1743 (ii) hearing aid accessories; or
1744 (iii) except as provided in Subsection (44)(b), parts used in the repairs or renovations
1745 of hearing aids or hearing aid accessories; and
1746 (b) for purposes of this Subsection (44), notwithstanding Subsection (44)(a)(iii),
1747 "parts" does not include batteries;
- 1748 (45) (a) sales made to or by:
1749 (i) an area agency on aging; or
1750 (ii) a senior citizen center owned by a county, city, or town; or
1751 (b) sales made by a senior citizen center that contracts with an area agency on aging;
1752 (46) sales or leases of semiconductor fabricating, processing, research, or development
1753 materials regardless of whether the semiconductor fabricating, processing, research, or
1754 development materials:
1755 (a) actually come into contact with a semiconductor; or
1756 (b) ultimately become incorporated into real property;
- 1757 (47) an amount paid by or charged to a purchaser for accommodations and services
1758 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
1759 59-12-104.2;
- 1760 (48) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
1761 sports event registration certificate in accordance with Section 41-3-306 for the event period
1762 specified on the temporary sports event registration certificate;
- 1763 (49) sales or uses of electricity, if the sales or uses are:

1764 (a) made under a tariff adopted by the Public Service Commission of Utah only for
1765 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
1766 source, as designated in the tariff by the Public Service Commission of Utah; and

1767 (b) for an amount of electricity that is:

1768 (i) unrelated to the amount of electricity used by the person purchasing the electricity
1769 under the tariff described in Subsection (49)(a); and

1770 (ii) equivalent to the number of kilowatthours specified in the tariff described in
1771 Subsection (49)(a) that may be purchased under the tariff described in Subsection (49)(a);

1772 (50) sales or rentals of mobility enhancing equipment if a person presents a
1773 prescription for the mobility enhancing equipment;

1774 (51) sales of water in a:

1775 (a) pipe;

1776 (b) conduit;

1777 (c) ditch; or

1778 (d) reservoir;

1779 (52) sales of currency or coinage that constitute legal tender of the United States or of a
1780 foreign nation;

1781 (53) (a) sales of an item described in Subsection (53)(b) if the item:

1782 (i) does not constitute legal tender of any nation; and

1783 (ii) has a gold, silver, or platinum content of 80% or more; and

1784 (b) Subsection (53)(a) applies to a gold, silver, or platinum:

1785 (i) ingot;

1786 (ii) bar;

1787 (iii) medallion; or

1788 (iv) decorative coin;

1789 (54) amounts paid on a sale-leaseback transaction;

1790 (55) sales of a prosthetic device:

1791 (a) for use on or in a human;

1792 (b) for which a prescription is issued; and

1793 (c) to a person that presents a prescription for the prosthetic device;

1794 (56) (a) except as provided in Subsection (56)(b), purchases, leases, or rentals of

1795 machinery or equipment by an establishment described in Subsection (56)(c) if the machinery
1796 or equipment is primarily used in the production or postproduction of the following media for
1797 commercial distribution:

- 1798 (i) a motion picture;
- 1799 (ii) a television program;
- 1800 (iii) a movie made for television;
- 1801 (iv) a music video;
- 1802 (v) a commercial;
- 1803 (vi) a documentary; or
- 1804 (vii) a medium similar to Subsections (56)(a)(i) through (vi) as determined by the

1805 commission by administrative rule made in accordance with Subsection (56)(d); or

- 1806 (b) notwithstanding Subsection (56)(a), purchases, leases, or rentals of machinery or
1807 equipment by an establishment described in Subsection (56)(c) that is used for the production
1808 or postproduction of the following are subject to the taxes imposed by this chapter:

- 1809 (i) a live musical performance;
- 1810 (ii) a live news program; or
- 1811 (iii) a live sporting event;
- 1812 (c) the following establishments listed in the 1997 North American Industry
1813 Classification System of the federal Executive Office of the President, Office of Management
1814 and Budget, apply to Subsections (56)(a) and (b):
- 1815 (i) NAICS Code 512110; or
- 1816 (ii) NAICS Code 51219; and
- 1817 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1818 commission may by rule:

- 1819 (i) prescribe what constitutes a medium similar to Subsections (56)(a)(i) through (vi);

1820 or

- 1821 (ii) define:
 - 1822 (A) "commercial distribution";
 - 1823 (B) "live musical performance";
 - 1824 (C) "live news program"; or
 - 1825 (D) "live sporting event";

1826 (57) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
1827 or before June 30, 2009, of machinery or equipment that:
1828 (i) is leased or purchased for or by a facility that:
1829 (A) is a renewable energy production facility;
1830 (B) is located in the state; and
1831 (C) (I) becomes operational on or after July 1, 2004; or
1832 (II) has its generation capacity increased by one or more megawatts on or after July 1,
1833 2004 as a result of the use of the machinery or equipment;
1834 (ii) has an economic life of five or more years; and
1835 (iii) is used to make the facility or the increase in capacity of the facility described in
1836 Subsection (57)(a)(i) operational up to the point of interconnection with an existing
1837 transmission grid including:
1838 (A) a wind turbine;
1839 (B) generating equipment;
1840 (C) a control and monitoring system;
1841 (D) a power line;
1842 (E) substation equipment;
1843 (F) lighting;
1844 (G) fencing;
1845 (H) pipes; or
1846 (I) other equipment used for locating a power line or pole; and
1847 (b) this Subsection (57) does not apply to:
1848 (i) machinery or equipment used in construction of:
1849 (A) a new renewable energy production facility; or
1850 (B) the increase in the capacity of a renewable energy production facility;
1851 (ii) contracted services required for construction and routine maintenance activities;
1852 and
1853 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
1854 of the facility described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or
1855 acquired after:
1856 (A) the renewable energy production facility described in Subsection (57)(a)(i) is

1857 operational as described in Subsection (57)(a)(iii); or
1858 (B) the increased capacity described in Subsection (57)(a)(i) is operational as described
1859 in Subsection (57)(a)(iii);
1860 (58) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
1861 or before June 30, 2009, of machinery or equipment that:
1862 (i) is leased or purchased for or by a facility that:
1863 (A) is a waste energy production facility;
1864 (B) is located in the state; and
1865 (C) (I) becomes operational on or after July 1, 2004; or
1866 (II) has its generation capacity increased by one or more megawatts on or after July 1,
1867 2004 as a result of the use of the machinery or equipment;
1868 (ii) has an economic life of five or more years; and
1869 (iii) is used to make the facility or the increase in capacity of the facility described in
1870 Subsection (58)(a)(i) operational up to the point of interconnection with an existing
1871 transmission grid including:
1872 (A) generating equipment;
1873 (B) a control and monitoring system;
1874 (C) a power line;
1875 (D) substation equipment;
1876 (E) lighting;
1877 (F) fencing;
1878 (G) pipes; or
1879 (H) other equipment used for locating a power line or pole; and
1880 (b) this Subsection (58) does not apply to:
1881 (i) machinery or equipment used in construction of:
1882 (A) a new waste energy facility; or
1883 (B) the increase in the capacity of a waste energy facility;
1884 (ii) contracted services required for construction and routine maintenance activities;
1885 and
1886 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
1887 described in Subsection (58)(a)(i)(C)(II), machinery or equipment used or acquired after:

1888 (A) the waste energy facility described in Subsection (58)(a)(i) is operational as
1889 described in Subsection (58)(a)(iii); or
1890 (B) the increased capacity described in Subsection (58)(a)(i) is operational as described
1891 in Subsection (58)(a)(iii);
1892 (59) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
1893 or before June 30, 2009, of machinery or equipment that:
1894 (i) is leased or purchased for or by a facility that:
1895 (A) is located in the state;
1896 (B) produces fuel from biomass energy including:
1897 (I) methanol; or
1898 (II) ethanol; and
1899 (C) (I) becomes operational on or after July 1, 2004; or
1900 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
1901 a result of the installation of the machinery or equipment;
1902 (ii) has an economic life of five or more years; and
1903 (iii) is installed on the facility described in Subsection (59)(a)(i);
1904 (b) this Subsection (59) does not apply to:
1905 (i) machinery or equipment used in construction of:
1906 (A) a new facility described in Subsection (59)(a)(i); or
1907 (B) the increase in capacity of the facility described in Subsection (59)(a)(i); or
1908 (ii) contracted services required for construction and routine maintenance activities;
1909 and
1910 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
1911 described in Subsection (59)(a)(i)(C)(II), machinery or equipment used or acquired after:
1912 (A) the facility described in Subsection (59)(a)(i) is operational; or
1913 (B) the increased capacity described in Subsection (59)(a)(i) is operational;
1914 (60) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle
1915 for purchasing the new vehicle;
1916 (61) (a) subject to Subsection (61)(b), sales of tangible personal property to persons
1917 within this state that is subsequently shipped outside the state and incorporated pursuant to
1918 contract into and becomes a part of real property located outside of this state, except to the

1919 extent that the other state or political entity imposes a sales, use, gross receipts, or other similar
1920 transaction excise tax on it against which the other state or political entity allows a credit for
1921 taxes imposed by this chapter; and

1922 (b) the exemption provided for in Subsection (61)(a):

1923 (i) is allowed only if the exemption is applied:

1924 (A) in calculating the purchase price of the tangible personal property; and

1925 (B) to a written contract that is in effect on July 1, 2004; and

1926 (ii) (A) does not apply beginning on the day on which the contract described in

1927 Subsection (61)(b)(i):

1928 (I) is substantially modified; or

1929 (II) terminates; and

1930 (B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

1931 the commission may by rule prescribe the circumstances under which a contract is substantially
1932 modified;

1933 (62) purchases:

1934 (a) of one or more of the following items in printed or electronic format:

1935 (i) a list containing information that includes one or more:

1936 (A) names; or

1937 (B) addresses; or

1938 (ii) a database containing information that includes one or more:

1939 (A) names; or

1940 (B) addresses; and

1941 (b) used to send direct mail;

1942 (63) redemptions or repurchases of property by a person if that property was:

1943 (a) delivered to a pawnbroker as part of a pawn transaction; and

1944 (b) redeemed or repurchased within the time period established in a written agreement

1945 between the person and the pawnbroker for redeeming or repurchasing the property;

1946 (64) (a) purchases or leases of an item described in Subsection (64)(b) if the item:

1947 (i) is purchased or leased by, or on behalf of, a telephone service provider; and

1948 (ii) has a useful economic life of one or more years; and

1949 (b) the following apply to Subsection (64)(a):

1950 (i) telecommunications enabling or facilitating equipment, machinery, or software;
1951 (ii) telecommunications equipment, machinery, or software required for 911 service;
1952 (iii) telecommunications maintenance or repair equipment, machinery, or software;
1953 (iv) telecommunications switching or routing equipment, machinery, or software; or
1954 (v) telecommunications transmission equipment, machinery, or software;
1955 (65) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of tangible
1956 personal property used in the research and development of coal-to-liquids, oil shale, or tar
1957 sands technology; and

1958 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1959 commission may, for purposes of Subsection (65)(a), make rules defining what constitutes
1960 tangible personal property used in the research and development of coal-to-liquids, oil shale,
1961 and tar sands technology;

1962 (66) (a) purchases of property if:

1963 (i) the property is:

1964 (A) purchased outside of this state;

1965 (B) brought into this state at any time after the purchase described in Subsection

1966 (66)(a)(i)(A); and

1967 (C) used in conducting business in this state; and

1968 (ii) for:

1969 (A) property other than the property described in Subsection (66)(a)(ii)(B), the first use
1970 of the property for a purpose for which the property is designed occurs outside of this state; or

1971 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
1972 outside of this state;

1973 (b) the exemption provided for in Subsection (66)(a) does not apply to:

1974 (i) a lease or rental of property; or

1975 (ii) a sale of a vehicle exempt under Subsection (33); and

1976 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for
1977 purposes of Subsection (66)(a), the commission may by rule define what constitutes the
1978 following:

1979 (i) conducting business in this state if that phrase has the same meaning in this
1980 Subsection (66) as in Subsection (24);

1981 (ii) the first use of property if that phrase has the same meaning in this Subsection (66)
1982 as in Subsection (24); or

1983 (iii) a purpose for which property is designed if that phrase has the same meaning in
1984 this Subsection (66) as in Subsection (24);

1985 (67) sales of disposable home medical equipment or supplies if:

1986 (a) a person presents a prescription for the disposable home medical equipment or
1987 supplies;

1988 (b) the disposable home medical equipment or supplies are used exclusively by the
1989 person to whom the prescription described in Subsection (67)(a) is issued; and

1990 (c) the disposable home medical equipment and supplies are listed as eligible for
1991 payment under:

1992 (i) Title XVIII, federal Social Security Act; or

1993 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
1994 [and]

1995 (68) sales to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
1996 District Act, or to a subcontractor of a public transit district, including sales of construction
1997 materials that are to be installed or converted to real property owned by the public transit
1998 district[-]; and

1999 (69) amounts paid by a privately owned golf course for the following if the following
2000 are predominantly used in operating the privately owned golf course:

2001 (a) equipment;

2002 (b) machinery;

2003 (c) a supply; or

2004 (d) a repair or replacement part.

2005 Section 6. Section **63-38-9** is amended to read:

2006 **63-38-9. Revenue types -- Disposition of funds collected or credited by a state**
2007 **agency.**

2008 (1) (a) The revenues enumerated in this section are established as major revenue types.

2009 (b) The Division of Finance shall:

2010 (i) account for revenues in accordance with generally accepted accounting principles;

2011 and

- 2012 (ii) use the major revenue types in internal accounting.
- 2013 (c) Each agency shall:
- 2014 (i) use the major revenue types enumerated in this section to account for revenues;
- 2015 (ii) deposit revenues and other public funds received by them by following the
- 2016 procedures and requirements of Title 51, Chapter 7, State Money Management Act; and
- 2017 (iii) expend revenues and public funds as required by this chapter.
- 2018 (2) The major revenue types are:
- 2019 (a) free revenue;
- 2020 (b) restricted revenue;
- 2021 (c) dedicated credits; and
- 2022 (d) fixed collections.
- 2023 (3) (a) Free revenue includes:
- 2024 (i) collections that are required by law to be deposited in the General Fund, the
- 2025 Education Fund, the Uniform School Fund, or the Transportation Fund;
- 2026 (ii) collections that are not otherwise designated by law;
- 2027 (iii) collections that are not externally restricted; and
- 2028 (iv) collections that are not included in an approved work program.
- 2029 (b) Each agency shall deposit its free revenues into the appropriate fund.
- 2030 (c) An agency may expend free revenues up to the amount specifically appropriated by
- 2031 the Legislature.
- 2032 (d) Any free revenue funds appropriated by the Legislature to an agency that remain
- 2033 unexpended at the end of the fiscal year lapse to the source fund unless the Legislature provides
- 2034 by law that those funds are nonlapsing.
- 2035 (4) (a) Restricted revenues are collections deposited by law into a separate fund or
- 2036 subfund that are designated for a specific program or purpose.
- 2037 (b) Each agency shall deposit its restricted revenues into a restricted fund.
- 2038 (c) The Legislature may appropriate restricted revenues from a restricted fund for the
- 2039 specific purpose or program designated by law.
- 2040 (d) If the fund equity of a restricted fund is insufficient to provide the funds
- 2041 appropriated from it by the Legislature, the Division of Finance may reduce the appropriation
- 2042 to a level that ensures that the fund equity is not less than zero.

2043 (e) Any restricted revenue funds appropriated by the Legislature to an agency that
2044 remain unexpended at the end of the fiscal year lapse to the restricted fund unless the
2045 Legislature provides by law that those funds, or the program or line item financed by those
2046 funds, are nonlapsing.

2047 (5) (a) Dedicated credits and federal revenues are collections by an agency that are
2048 deposited directly into an account for expenditure on a separate line item and program.

2049 (b) An agency may expend dedicated credits for any purpose within the program or line
2050 item.

2051 (c) (i) An agency may expend dedicated credits in excess of the amount appropriated as
2052 dedicated credits by the Legislature by following the procedures contained in this Subsection
2053 (5)(c).

2054 (ii) The agency shall develop a new work program and the justification for the work
2055 program and submit it to the Division of Finance and the director of the Governor's Office of
2056 Planning and Budget. Except for [~~monies deposited as dedicated credits in the Drug Stamp
2057 Tax Fund under Section 59-19-105 or~~] line items covering tuition and federal vocational funds
2058 at institutions of higher learning, any expenditure of dedicated credits in excess of amounts
2059 appropriated as dedicated credits by the Legislature may not be used to permanently increase
2060 personnel within the agency unless approved by the Legislature.

2061 (iii) The Division of Finance and the director of the Governor's Office of Planning and
2062 Budget shall review the program and submit their findings and recommendations to the
2063 governor.

2064 (iv) The governor may authorize the agency to expend its excess dedicated credits by
2065 approving the submitted work program.

2066 (v) The state's fiscal officer shall notify the Legislature by providing notice of the
2067 governor's action to the Office of Legislative Fiscal Analyst.

2068 (d) (i) All excess dedicated credits lapse to the appropriate fund at the end of the fiscal
2069 year unless the Legislature has designated the entire program or line item that is partially or
2070 fully funded from dedicated credits as nonlapsing.

2071 (ii) The Division of Finance shall determine the appropriate fund into which the
2072 dedicated credits lapse.

2073 (6) (a) Fixed collections are collections:

2074 (i) fixed by law or by the appropriation act at a specific amount; and
2075 (ii) required by law to be deposited into a separate line item and program.

2076 (b) The Legislature may establish by law the maximum amount of fixed collections
2077 that an agency may expend.

2078 (c) If an agency receives less than the maximum amount of expendable fixed
2079 collections established by law, the agency's authority to expend is limited to the amount of
2080 fixed collections that it receives.

2081 (d) If an agency receives fixed collections greater than the maximum amount of
2082 expendable fixed collections established by law, those excess amounts lapse to the General
2083 Fund, the Education Fund, the Uniform School Fund, or the Transportation Fund as designated
2084 by the director of the Division of Finance at the end of the fiscal year.

2085 (7) (a) Unless otherwise specifically provided by law, when an agency has a program
2086 or line item that is funded by more than one major revenue type, the agency shall expend its
2087 dedicated credits and fixed collections first.

2088 (b) Unless otherwise specifically provided by law, when programs or line items are
2089 funded by more than one major revenue type and include both free revenue and restricted
2090 revenue, an agency shall expend those sources based upon a proration of the amounts
2091 appropriated from each of those major revenue types.

2092 Section 7. Section **63-38a-104** is amended to read:

2093 **63-38a-104. Disposition of revenues.**

2094 (1) (a) Each agency shall include in its annual budget request estimates of dedicated
2095 credits revenues and fixed collections revenues that are identified by, collected for, or set by the
2096 agency.

2097 (b) If the Legislature or the Division of Finance establishes a new revenue type by law,
2098 the agency shall include that new revenue type in its budget request for the next fiscal year.

2099 (c) (i) Except as provided in Subsection (c)(ii), if any agency fails to include the
2100 estimates of a revenue type in its annual budget request, the Division of Finance shall deposit
2101 the monies collected in that revenue type into the General Fund or other appropriate fund as
2102 free or restricted revenue.

2103 (ii) The Division of Finance may not deposit the monies collected from a revenue type
2104 not included in an agency's annual budget request into the General Fund or other appropriate

2105 fund if the agency did not include the estimates of the revenue type in its annual budget request
 2106 because the Legislature had not yet established or authorized the new revenue type by law.

2107 (2) (a) (i) Except as provided in Subsection (2)(b), each agency that receives dedicated
 2108 credits and fixed collections revenues greater than the amount appropriated to them by the
 2109 Legislature in the annual appropriations act may expend the excess up to 25% of the amount
 2110 appropriated if the expenditure is authorized by an amended work program approved as
 2111 provided in Section 63-38-11. However, except for [~~monies deposited as dedicated credits in~~
 2112 ~~the Illegal Drug Stamp Tax Fund under Section 59-19-105 or~~] line items covering tuition and
 2113 federal vocational funds at institutions of higher learning, any expenditure of dedicated credits
 2114 in excess of amounts appropriated by the Legislature may not be used to permanently increase
 2115 personnel within the agency unless approved by the Legislature.

2116 (ii) The Division of Finance shall deposit the balance of that excess into the General
 2117 Fund or other appropriate fund as free or restricted revenue.

2118 (b) Notwithstanding the requirements of Subsection (2)(a), when an agency's dedicated
 2119 credits and fixed collections revenues represent over 90% of the budget of the program for
 2120 which they are collected, the agency may expend 100% of the excess of the amount
 2121 appropriated if the expenditure is authorized by an amended work program approved as
 2122 provided in Section 63-38-11.

2123 Section 8. **Repealer.**

2124 This bill repeals:

2125 Section **59-13-104, Tax rate decals -- Posted on pump.**

2126 Section **59-19-101, Short title.**

2127 Section **59-19-102, Definitions.**

2128 Section **59-19-103, Tax imposed on marihuana and controlled substances.**

2129 Section **59-19-104, Stamps evidencing tax paid to be provided and sold by the**
 2130 **commission.**

2131 Section **59-19-105, Stamps to be affixed to marihuana and controlled substance --**
 2132 **Anonymity provided when purchasing stamps -- Collection and distribution of tax --**
 2133 **Property in kind.**

2134 Section **59-19-106, Civil penalty -- Criminal penalty -- Statute of limitations --**
 2135 **Burden of proof.**

2136 Section **59-19-107, Commission to administer tax -- No criminal immunity for**
2137 **dealers.**
2138 Section 9. **Effective date.**
2139 This bill takes effect on July 1, 2008.

Legislative Review Note
as of 2-19-08 11:20 AM

Office of Legislative Research and General Counsel

Fiscal Note**H.B. 455 - Amendments Relating to Certain Taxes Administered by or License Plates Issued by the State Tax Commission**

2008 General Session

State of Utah

State Impact

One-thousand individuals will not be able to purchase special group license plates with enactment of this bill. Due to this provision, restricted revenue will decrease by \$25,000. Of the individuals that will be required to get different plates, a \$5 new plate fee will increase revenue to the Transportation Fund by \$1,000 and \$4,000 to dedicated credits to cover the costs of license plate production. In addition, purchases made by privately owned golf courses for certain expenditures would be exempt from sales tax. This would lead to a decrease in revenue to the General Fund of \$260,000 in FY 2009 and \$268,000 in FY 2010. Also, the provisions related to the Illegal Drug Stamp Tax Act will likely have no fiscal impact.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	\$0	(\$260,000)	(\$268,000)
Transportation Fund	\$0	\$1,000	\$1,000	\$0	\$1,000	\$1,000
Dedicated Credits	\$0	\$4,000	\$4,000	\$0	\$4,000	\$4,000
Restricted Funds	\$0	(\$25,000)	(\$25,000)	\$0	(\$25,000)	(\$25,000)
Total	\$0	(\$20,000)	(\$20,000)	\$0	(\$280,000)	(\$288,000)

Individual, Business and/or Local Impact

Privately owned golf courses will benefit by having certain purchases not subject to the state or local sales tax. Individuals that frequent privately owned golf courses may benefit through decreased costs. Locals are likely to experience decreased revenue of \$80,000 in FY 2009 and \$83,000 in FY 2010.