

Representative Stephen E. Sandstrom proposes the following substitute bill:

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

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen E. Sandstrom

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ provides that under certain circumstances the State Tax Commission may not issue or renew a type of support special group license plate;
- ▶ requires the State Tax Commission to report to the Transportation Interim Committee under certain circumstances relating to issuing or renewing a type of support special group license plate;
- ▶ provides that a person is exempt from certain license plate fees if:
 - the person is issued a support special group license plate;
 - the State Tax Commission determines that the support special group license plate is of a type that the State Tax Commission may not issue or renew; and
 - the person is required to replace the support special group license plate with another license plate;



26 ▶ provides a state and local sales and use tax exemption relating to a privately owned
27 golf course; and

28 ▶ makes technical changes.

29 **Monies Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 This bill takes effect on July 1, 2008.

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **41-1a-422**, as last amended by Laws of Utah 2007, Chapters 173, 179, and 325

36 **41-1a-1211**, as last amended by Laws of Utah 2007, Chapter 274

37 **59-12-102**, as last amended by Laws of Utah 2007, Chapters 9, 214, 224, and 288

38 **59-12-104**, as last amended by Laws of Utah 2007, Chapters 76, 195, 214, 224, 288,
39 295, and 329



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

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

43 **41-1a-422. Support special group license plates -- Contributor -- Voluntary**
44 **contribution collection procedures -- Circumstances under which commission may not**
45 **issue or renew -- Report to Transportation Interim Committee.**

46 (1) As used in this section:

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

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

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

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

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

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

56 (F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with

57 the donation evenly divided between the two;

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

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

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

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

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

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

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

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

74 (II) is a member of a trade organization for real estate licensees that has more than
75 15,000 Utah members.

76 (b) "Institution" means a state institution of higher education as defined under Section
77 53B-3-102 or a private institution of higher education in the state accredited by a regional or
78 national accrediting agency recognized by the United States Department of Education.

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

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

85 (i) the name of the contributor;

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

87 (iii) the date of the donation; and

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

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

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

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

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

100 (b) This contribution shall be:

101 (i) unless collected by the named institution under Subsection (2), collected by the
102 division;

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

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

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

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

111 (i) snowmobile license plates; or

112 (ii) conservation license plates.

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

115 (5) (a) As used in this section:

116 (i) "Business day" means a day other than a Saturday, Sunday, or legal holiday.

117 (ii) "Type of support special group license plate" means a license plate issued with
118 respect to one entity listed in Subsection (1)(a)(i).

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

126 (c) (i) (A) Subject to Subsection (5)(c)(i)(B), the three-year period described in
127 Subsection (5)(b) is a three consecutive year time period that begins on the October 1
128 immediately following the last day of a calendar year in which on the last business day of each
129 month of that calendar year there are 300 or fewer vehicles registered under Part 2,
130 Registration, that are allowed to display a type of support special group license plate.

131 (B) For purposes of Subsection (5)(c)(i)(A), if a type of support special group license
132 plate is not in existence for a portion of a calendar year, that calendar year is not considered to
133 be a calendar year in which on the last business day of each month of that calendar year there
134 are 300 or fewer vehicles registered under Part 2, Registration, that are allowed to display a
135 type of support special group license plate.

136 (ii) For purposes of determining whether for each month of a three-year period there
137 are 300 or fewer vehicles registered under Part 2, Registration, that are allowed to display a
138 type of support special group license plate, the commission shall examine its motor vehicle
139 database on the last business day of each month to determine the number of vehicles that are
140 allowed to display a type of support special group license plate.

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

146 (i) to the Transportation Interim Committee; and

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

149 Section 2. Section **41-1a-1211** is amended to read:

150 **41-1a-1211. License plate fees -- Application fees for issuance and renewal of**
151 **personalized and special group license plates -- Replacement fee for license plates --**
152 **Postage fees.**

153 (1) ~~(a)~~ Except as provided in ~~[Subsection]~~ Subsections (11) and (12), a license plate fee
154 of \$5 per set shall be paid to the division for the issuance of any new license plate under Part 4,
155 License Plates and Registration Indicia.

156 (b) The license plate fee shall be deposited as follows:

157 ~~[(a)]~~ (i) \$4 as provided in Section 41-1a-1201; and

158 ~~[(b)]~~ (ii) \$1 in the Transportation Fund.

159 (2) An applicant for original issuance of personalized license plates issued under
160 Section 41-1a-410 shall pay a \$50 per set license plate application fee in addition to the fee
161 required in Subsection (1).

162 (3) Beginning July 1, 2003, a person who applies for a special group license plate shall
163 pay a \$5 fee for the original set of license plates in addition to the fee required under
164 Subsection (1).

165 (4) An applicant for original issuance of personalized special group license plates shall
166 pay the license plate application fees required in Subsection (2) in addition to the license plate
167 fees and license plate application fees established under Subsections (1) and (3).

168 (5) An applicant for renewal of personalized license plates issued under Section
169 41-1a-410 shall pay a \$10 per set application fee.

170 (6) (a) A fee of \$5 shall be paid to the division for the replacement of any license plate
171 issued under Part 4, License Plates and Registration Indicia.

172 (b) The license plate fee shall be deposited as follows:

173 ~~[(a)]~~ (i) \$4 as provided in Section 41-1a-1201; and

174 ~~[(b)]~~ (ii) \$1 in the Transportation Fund.

175 (7) The division may charge a fee established under Section 63-38-3.2 to recover its
176 costs for the replacement of decals issued under Section 41-1a-418.

177 (8) The division may charge a fee established under Section 63-38-3.2 to recover the
178 cost of issuing stickers under Section 41-1a-416.

179 (9) In addition to any other fees required by this section, the division shall assess a fee
180 established under Section 63-38-3.2 to cover postage expenses if new or replacement license

181 plates are mailed to the applicant.

182 (10) The fees required under this section are separate from and in addition to
183 registration fees required under Section 41-1a-1206.

184 (11) (a) An applicant for a license plate issued under Section 41-1a-407 is not subject
185 to the license plate fee under Subsection (1).

186 (b) An applicant for a Purple Heart special group license plate issued in accordance
187 with Section 41-1a-421 is exempt from the fees under Subsections (1), (3), and (7).

188 (12) A person is exempt from the fee under Subsection (1) or (6) if:

189 (a) the person is issued a support special group license plate in accordance with Section
190 41-1a-422;

191 (b) after the person is issued the support special group license plate, the commission
192 determines in accordance with Subsection 41-1a-422(5) that the support special group license
193 plate described in Subsection (12)(a) is of a type of support special group license plate that the
194 commission may not issue or renew; and

195 (c) upon renewal or reissuance, the person is required to replace the support special
196 group license plate with a license plate that is not of the type of support special group license
197 plate that the commission may not issue or renew.

198 Section 3. Section **59-12-102** is amended to read:

199 **59-12-102. Definitions.**

200 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

243 by an individual:

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

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

248 (10) "Authorized carrier" means:

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

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

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

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

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

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

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

261 (B) animal waste;

262 (C) methane produced:

263 (I) at landfills; or

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

265 (D) aquatic plants; and

266 (E) agricultural products.

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

268 (i) black liquor;

269 (ii) treated woods; or

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

271 (A) at landfills; or

272 (B) as a byproduct of the treatment of wastewater residuals.

273 (12) (a) "Bundled transaction" means the sale of two or more items of tangible personal

274 property if:

275 (i) one or more of the items of tangible personal property is food and food ingredients;

276 and

277 (ii) the items of tangible personal property are:

278 (A) distinct and identifiable; and

279 (B) sold for one price that is not itemized.

280 (b) "Bundled transaction" does not include the sale of tangible personal property if the

281 sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of

282 tangible personal property included in the transaction.

283 (c) For purposes of Subsection (12)(a)(ii)(A), tangible personal property that is distinct

284 and identifiable does not include:

285 (i) packaging that:

286 (A) accompanies the sale of the tangible personal property; and

287 (B) is incidental or immaterial to the sale of the tangible personal property;

288 (ii) tangible personal property provided free of charge with the purchase of another

289 item of tangible personal property; or

290 (iii) an item of tangible personal property included in the definition of "purchase

291 price."

292 (d) For purposes of Subsection (12)(c)(ii), an item of tangible personal property is

293 provided free of charge with the purchase of another item of tangible personal property if the

294 sales price of the purchased item of tangible personal property does not vary depending on the

295 inclusion of the tangible personal property provided free of charge.

296 (13) "Certified automated system" means software certified by the governing board of

297 the agreement in accordance with Section 59-12-102.1 that:

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

299 jurisdiction:

300 (i) on a transaction; and

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

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

303 member of the agreement; and

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

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

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

307 and

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

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

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

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

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

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

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

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

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

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

330 (19) "Component part" includes:

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

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

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

- 336 (d) feed, seeds, and seedlings.
- 337 (20) "Computer" means an electronic device that accepts information:
- 338 (a) (i) in digital form; or
- 339 (ii) in a form similar to digital form; and
- 340 (b) manipulates that information for a result based on a sequence of instructions.
- 341 (21) "Computer software" means a set of coded instructions designed to cause:
- 342 (a) a computer to perform a task; or
- 343 (b) automatic data processing equipment to perform a task.
- 344 (22) "Construction materials" means any tangible personal property that will be
- 345 converted into real property.
- 346 (23) "Delivered electronically" means delivered to a purchaser by means other than
- 347 tangible storage media.
- 348 (24) (a) "Delivery charge" means a charge:
- 349 (i) by a seller of:
- 350 (A) tangible personal property; or
- 351 (B) services; and
- 352 (ii) for preparation and delivery of the tangible personal property or services described
- 353 in Subsection (24)(a)(i) to a location designated by the purchaser.
- 354 (b) "Delivery charge" includes a charge for the following:
- 355 (i) transportation;
- 356 (ii) shipping;
- 357 (iii) postage;
- 358 (iv) handling;
- 359 (v) crating; or
- 360 (vi) packing.
- 361 (25) (a) "Dental prosthesis" means the following if fabricated in a laboratory:
- 362 (i) a bridge;
- 363 (ii) a crown if that crown covers at least 75% of a tooth structure;
- 364 (iii) a denture;
- 365 (iv) an implant;
- 366 (v) an orthodontic device designed to:

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

- 398 (I) a meal; or
- 399 (II) the diet; and
- 400 (d) is required to be labeled as a dietary supplement:
- 401 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 402 (ii) as required by 21 C.F.R. Sec. 101.36.
- 403 (27) (a) "Direct mail" means printed material delivered or distributed by United States
- 404 mail or other delivery service:
- 405 (i) to:
- 406 (A) a mass audience; or
- 407 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
- 408 (ii) if the cost of the printed material is not billed directly to the recipients.
- 409 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 410 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 411 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 412 single address.
- 413 (28) (a) "Disposable home medical equipment or supplies" means medical equipment
- 414 or supplies that:
- 415 (i) cannot withstand repeated use; and
- 416 (ii) are purchased by, for, or on behalf of a person other than:
- 417 (A) a health care facility as defined in Section 26-21-2;
- 418 (B) a health care provider as defined in Section 78-14-3;
- 419 (C) an office of a health care provider described in Subsection (28)(a)(ii)(B); or
- 420 (D) a person similar to a person described in Subsections (28)(a)(ii)(A) through (C).
- 421 (b) "Disposable home medical equipment or supplies" does not include:
- 422 (i) a drug;
- 423 (ii) durable medical equipment;
- 424 (iii) a hearing aid;
- 425 (iv) a hearing aid accessory;
- 426 (v) mobility enhancing equipment; or
- 427 (vi) tangible personal property used to correct impaired vision, including:
- 428 (A) eyeglasses; or

429 (B) contact lenses.

430 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
431 commission may by rule define what constitutes medical equipment or supplies.

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

434 (i) recognized in:

435 (A) the official United States Pharmacopoeia;

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

437 (C) the official National Formulary; or

438 (D) a supplement to a publication listed in Subsections (29)(a)(i)(A) through (C);

439 (ii) intended for use in the:

440 (A) diagnosis of disease;

441 (B) cure of disease;

442 (C) mitigation of disease;

443 (D) treatment of disease; or

444 (E) prevention of disease; or

445 (iii) intended to affect:

446 (A) the structure of the body; or

447 (B) any function of the body.

448 (b) "Drug" does not include:

449 (i) food and food ingredients;

450 (ii) a dietary supplement;

451 (iii) an alcoholic beverage; or

452 (iv) a prosthetic device.

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

455 (i) can withstand repeated use;

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

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

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

459 (b) "Durable medical equipment" includes parts used in the repair or replacement of the

460 equipment described in Subsection (30)(a).

461 (c) Notwithstanding Subsection (30)(a), "durable medical equipment" does not include
462 mobility enhancing equipment.

463 (31) "Electronic" means:

464 (a) relating to technology; and

465 (b) having:

466 (i) electrical capabilities;

467 (ii) digital capabilities;

468 (iii) magnetic capabilities;

469 (iv) wireless capabilities;

470 (v) optical capabilities;

471 (vi) electromagnetic capabilities; or

472 (vii) capabilities similar to Subsections (31)(b)(i) through (vi).

473 (32) "Employee" is as defined in Section 59-10-401.

474 (33) "Fixed guideway" means a public transit facility that uses and occupies:

475 (a) rail for the use of public transit; or

476 (b) a separate right-of-way for the use of public transit.

477 (34) (a) "Food and food ingredients" means substances:

478 (i) regardless of whether the substances are in:

479 (A) liquid form;

480 (B) concentrated form;

481 (C) solid form;

482 (D) frozen form;

483 (E) dried form; or

484 (F) dehydrated form; and

485 (ii) that are:

486 (A) sold for:

487 (I) ingestion by humans; or

488 (II) chewing by humans; and

489 (B) consumed for the substance's:

490 (I) taste; or

491 (II) nutritional value.

492 (b) "Food and food ingredients" includes an item described in Subsection (66)(b)(iii).

493 (c) "Food and food ingredients" does not include:

494 (i) an alcoholic beverage;

495 (ii) tobacco; or

496 (iii) prepared food.

497 (35) (a) "Fundraising sales" means sales:

498 (i) (A) made by a school; or

499 (B) made by a school student;

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

501 materials, or provide transportation; and

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

503 (b) For purposes of Subsection (35)(a)(iii), "officially sanctioned school activity"

504 means a school activity:

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

506 district governing the authorization and supervision of fundraising activities;

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

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

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

510 controlled by the school or school district.

511 (36) "Geothermal energy" means energy contained in heat that continuously flows

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

513 (37) "Governing board of the agreement" means the governing board of the agreement

514 that is:

515 (a) authorized to administer the agreement; and

516 (b) established in accordance with the agreement.

517 (38) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

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

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

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

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

522 (iii) the legislative branch of the state, including the House of Representatives, the
523 Senate, the Legislative Printing Office, the Office of Legislative Research and General
524 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
525 Analyst;

526 (iv) the National Guard;

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

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

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

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

532 (ii) a school;

533 (iii) the State Board of Education;

534 (iv) the State Board of Regents; or

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

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

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

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

539 (II) correct impaired human hearing; and

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

541 (II) affixed behind the human ear;

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

543 (iii) a telephone amplifying device.

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

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

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

549 (A) a personal amplifying system;

550 (B) a personal FM system;

551 (C) a television listening system; or

552 (D) a device or system similar to a device or system described in Subsections

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

- 584 (a) in mining or extraction of minerals;
- 585 (b) in agricultural operations to produce an agricultural product up to the time of
- 586 harvest or placing the agricultural product into a storage facility, including:
- 587 (i) commercial greenhouses;
- 588 (ii) irrigation pumps;
- 589 (iii) farm machinery;
- 590 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 591 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 592 (v) other farming activities;
- 593 (c) in manufacturing tangible personal property at an establishment described in SIC
- 594 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 595 Executive Office of the President, Office of Management and Budget;
- 596 (d) by a scrap recycler if:
- 597 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 598 one or more of the following items into prepared grades of processed materials for use in new
- 599 products:
- 600 (A) iron;
- 601 (B) steel;
- 602 (C) nonferrous metal;
- 603 (D) paper;
- 604 (E) glass;
- 605 (F) plastic;
- 606 (G) textile; or
- 607 (H) rubber; and
- 608 (ii) the new products under Subsection (42)(d)(i) would otherwise be made with
- 609 nonrecycled materials; or
- 610 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
- 611 cogeneration facility as defined in Section 54-2-1.
- 612 (43) (a) Except as provided in Subsection (43)(b), "installation charge" means a charge
- 613 for installing tangible personal property.
- 614 (b) Notwithstanding Subsection (43)(a), "installation charge" does not include a charge

615 for repairs or renovations of tangible personal property.

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

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

619 (B) an indeterminate term; and

620 (ii) consideration.

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

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

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

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

631 (A) upon completion of required payments; and

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

633 (I) \$100; or

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

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

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

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

641 (ii) maintenance of tangible personal property; or

642 (iii) inspection of tangible personal property.

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

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

- 646 (a) county that is authorized to impose an agreement sales and use tax;
- 647 (b) city that is authorized to impose an agreement sales and use tax; or
- 648 (c) town that is authorized to impose an agreement sales and use tax.
- 649 (47) "Manufactured home" is as defined in Section 58-56-3.
- 650 (48) For purposes of Section 59-12-104, "manufacturing facility" means:
- 651 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
- 652 Industrial Classification Manual of the federal Executive Office of the President, Office of
- 653 Management and Budget;
- 654 (b) a scrap recycler if:
- 655 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 656 one or more of the following items into prepared grades of processed materials for use in new
- 657 products:
- 658 (A) iron;
- 659 (B) steel;
- 660 (C) nonferrous metal;
- 661 (D) paper;
- 662 (E) glass;
- 663 (F) plastic;
- 664 (G) textile; or
- 665 (H) rubber; and
- 666 (ii) the new products under Subsection (48)(b)(i) would otherwise be made with
- 667 nonrecycled materials; or
- 668 (c) a cogeneration facility as defined in Section 54-2-1.
- 669 (49) "Member of the immediate family of the producer" means a person who is related
- 670 to a producer described in Subsection 59-12-104(20)(a) as a:
- 671 (a) child or stepchild, regardless of whether the child or stepchild is:
- 672 (i) an adopted child or adopted stepchild; or
- 673 (ii) a foster child or foster stepchild;
- 674 (b) grandchild or stepgrandchild;
- 675 (c) grandparent or stepgrandparent;
- 676 (d) nephew or stepnephew;

- 677 (e) niece or stepniece;
- 678 (f) parent or stepparent;
- 679 (g) sibling or stepsibling;
- 680 (h) spouse;
- 681 (i) person who is the spouse of a person described in Subsections (49)(a) through (g);

682 or

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

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

687 (51) "Mobile telecommunications service" is as defined in the Mobile

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

689 (52) (a) Except as provided in Subsection (52)(c), "mobility enhancing equipment"

690 means equipment that is:

- 691 (i) primarily and customarily used to provide or increase the ability to move from one
- 692 place to another;

- 693 (ii) appropriate for use in a:

- 694 (A) home; or

- 695 (B) motor vehicle; and

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

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

- 699 (c) Notwithstanding Subsection (52)(a), "mobility enhancing equipment" does not
- 700 include:

- 701 (i) a motor vehicle;

- 702 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
- 703 vehicle manufacturer;

- 704 (iii) durable medical equipment; or

- 705 (iv) a prosthetic device.

706 (53) "Model 1 seller" means a seller that has selected a certified service provider as the

707 seller's agent to perform all of the seller's sales and use tax functions for agreement sales and

708 use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the
709 seller's own purchases.

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

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

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

715 (i) collected by the seller; and

716 (ii) to the appropriate local taxing jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

736 (62) (a) "Permanently attached to real property" means that for tangible personal
737 property attached to real property:

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

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

770 (ii) the detachment of tangible personal property from real property other than the
771 detachment described in Subsection (62)(b)(ii); or

772 (iii) an attachment of the following tangible personal property to real property if the
773 attachment to real property is only through a line that supplies water, electricity, gas, telephone,
774 cable, or supplies a similar item as determined by the commission by rule made in accordance
775 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

776 (A) a refrigerator;

777 (B) a washer;

778 (C) a dryer;

779 (D) a stove;

780 (E) a television;

781 (F) a computer;

782 (G) a telephone; or

783 (H) tangible personal property similar to Subsections (62)(c)(iii)(A) through (G) as
784 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
785 Administrative Rulemaking Act.

786 (63) "Person" includes any individual, firm, partnership, joint venture, association,
787 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
788 municipality, district, or other local governmental entity of the state, or any group or
789 combination acting as a unit.

790 (64) "Place of primary use":

791 (a) for telephone service other than mobile telecommunications service, means the
792 street address representative of where the purchaser's use of the telephone service primarily
793 occurs, which shall be:

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

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

796 (b) for mobile telecommunications service, is as defined in the Mobile
797 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

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

800 (66) (a) "Prepared food" means:

- 801 (i) food:
- 802 (A) sold in a heated state; or
- 803 (B) heated by a seller;
- 804 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 805 item; or
- 806 (iii) except as provided in Subsection (66)(c), food sold with an eating utensil provided
- 807 by the seller, including a:
- 808 (A) plate;
- 809 (B) knife;
- 810 (C) fork;
- 811 (D) spoon;
- 812 (E) glass;
- 813 (F) cup;
- 814 (G) napkin; or
- 815 (H) straw.
- 816 (b) "Prepared food" does not include:
- 817 (i) food that a seller only:
- 818 (A) cuts;
- 819 (B) repackages; or
- 820 (C) pasteurizes; or
- 821 (ii) (A) the following:
- 822 (I) raw egg;
- 823 (II) raw fish;
- 824 (III) raw meat;
- 825 (IV) raw poultry; or
- 826 (V) a food containing an item described in Subsections (66)(b)(ii)(A)(I) through (IV);
- 827 and
- 828 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 829 Food and Drug Administration's Food Code that a consumer cook the items described in
- 830 Subsection (66)(b)(ii)(A) to prevent food borne illness; or
- 831 (iii) the following if sold without eating utensils provided by the seller:

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

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

838 (I) by weight or volume; and

839 (II) as a single item; or

840 (C) a bakery item, including:

841 (I) a bagel;

842 (II) a bar;

843 (III) a biscuit;

844 (IV) bread;

845 (V) a bun;

846 (VI) a cake;

847 (VII) a cookie;

848 (VIII) a croissant;

849 (IX) a danish;

850 (X) a donut;

851 (XI) a muffin;

852 (XII) a pastry;

853 (XIII) a pie;

854 (XIV) a roll;

855 (XV) a tart;

856 (XVI) a torte; or

857 (XVII) a tortilla.

858 (c) Notwithstanding Subsection (66)(a)(iii), an eating utensil provided by the seller
859 does not include the following used to transport the food:

860 (i) a container; or

861 (ii) packaging.

862 (67) "Prescription" means an order, formula, or recipe that is issued:

- 863 (a) (i) orally;
- 864 (ii) in writing;
- 865 (iii) electronically; or
- 866 (iv) by any other manner of transmission; and
- 867 (b) by a licensed practitioner authorized by the laws of a state.
- 868 (68) (a) Except as provided in Subsection (68)(b)(ii) or (iii), "prewritten computer
- 869 software" means computer software that is not designed and developed:
 - 870 (i) by the author or other creator of the computer software; and
 - 871 (ii) to the specifications of a specific purchaser.
- 872 (b) "Prewritten computer software" includes:
 - 873 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
 - 874 software is not designed and developed:
 - 875 (A) by the author or other creator of the computer software; and
 - 876 (B) to the specifications of a specific purchaser;
 - 877 (ii) notwithstanding Subsection (68)(a), computer software designed and developed by
 - 878 the author or other creator of the computer software to the specifications of a specific purchaser
 - 879 if the computer software is sold to a person other than the purchaser; or
 - 880 (iii) notwithstanding Subsection (68)(a) and except as provided in Subsection (68)(c),
 - 881 prewritten computer software or a prewritten portion of prewritten computer software:
 - 882 (A) that is modified or enhanced to any degree; and
 - 883 (B) if the modification or enhancement described in Subsection (68)(b)(iii)(A) is
 - 884 designed and developed to the specifications of a specific purchaser.
 - 885 (c) Notwithstanding Subsection (68)(b)(iii), "prewritten computer software" does not
 - 886 include a modification or enhancement described in Subsection (68)(b)(iii) if the charges for
 - 887 the modification or enhancement are:
 - 888 (i) reasonable; and
 - 889 (ii) separately stated on the invoice or other statement of price provided to the
 - 890 purchaser.
- 891 (69) (a) Subject to Subsections (69)(b) and (c), "privately owned golf course" means a
- 892 golf course that:
 - 893 (i) is owned or operated by a business entity that is not a governmental entity as

894 defined in Section 59-2-511; and

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

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

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

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

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

900 (iv) landscaping associated with a golf course;

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

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

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

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

905 (c) "Privately owned golf course" does not include a private golf course or private

906 country club that restricts the use of the private golf course or private country club or a facility

907 of the private golf course or private country club to:

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

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

910 ~~[(69)]~~ (70) (a) "Prosthetic device" means a device that is worn on or in the body to:

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

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

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

914 (b) "Prosthetic device" includes:

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

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

917 (iii) a dental prosthesis.

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

919 (i) corrective eyeglasses;

920 (ii) contact lenses; or

921 (iii) hearing aids.

922 ~~[(70)]~~ (71) (a) "Protective equipment" means an item:

923 (i) for human wear; and

924 (ii) that is:

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

- 956 (A) the cost of materials used;
- 957 (B) a labor cost;
- 958 (C) a service cost;
- 959 (D) interest;
- 960 (E) a loss;
- 961 (F) the cost of transportation to the seller; or
- 962 (G) a tax imposed on the seller; or
- 963 (iii) a charge by the seller for any service necessary to complete the sale.
- 964 (c) "Purchase price" and "sales price" do not include:
- 965 (i) a discount:
- 966 (A) in a form including:
- 967 (I) cash;
- 968 (II) term; or
- 969 (III) coupon;
- 970 (B) that is allowed by a seller;
- 971 (C) taken by a purchaser on a sale; and
- 972 (D) that is not reimbursed by a third party; or
- 973 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 974 provided to the purchaser:
- 975 (A) the amount of a trade-in;
- 976 (B) the following from credit extended on the sale of tangible personal property or
- 977 services:
- 978 (I) interest charges;
- 979 (II) financing charges; or
- 980 (III) carrying charges;
- 981 (C) a tax or fee legally imposed directly on the consumer;
- 982 (D) a delivery charge; or
- 983 (E) an installation charge.
- 984 [~~(73)~~] (74) "Purchaser" means a person to whom:
- 985 (a) a sale of tangible personal property is made; or
- 986 (b) a service is furnished.

987 [~~(74)~~] (75) "Regularly rented" means:

- 988 (a) rented to a guest for value three or more times during a calendar year; or
- 989 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 990 value.

991 [~~(75)~~] (76) "Renewable energy" means:

- 992 (a) biomass energy;
- 993 (b) hydroelectric energy;
- 994 (c) geothermal energy;
- 995 (d) solar energy; or
- 996 (e) wind energy.

997 [~~(76)~~] (77) (a) "Renewable energy production facility" means a facility that:

- 998 (i) uses renewable energy to produce electricity; and
- 999 (ii) has a production capacity of 20 kilowatts or greater.

1000 (b) A facility is a renewable energy production facility regardless of whether the

1001 facility is:

- 1002 (i) connected to an electric grid; or
- 1003 (ii) located on the premises of an electricity consumer.

1004 [~~(77)~~] (78) "Rental" is as defined in Subsection (44).

1005 [~~(78)~~] (79) "Repairs or renovations of tangible personal property" means:

- 1006 (a) a repair or renovation of tangible personal property that is not permanently attached
- 1007 to real property; or
- 1008 (b) attaching tangible personal property to other tangible personal property if the other
- 1009 tangible personal property to which the tangible personal property is attached is not
- 1010 permanently attached to real property.

1011 [~~(79)~~] (80) "Research and development" means the process of inquiry or

1012 experimentation aimed at the discovery of facts, devices, technologies, or applications and the

1013 process of preparing those devices, technologies, or applications for marketing.

1014 [~~(80)~~] (81) "Residential use" means the use in or around a home, apartment building,

1015 sleeping quarters, and similar facilities or accommodations.

1016 [~~(81)~~] (82) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose

1017 other than:

- 1018 (a) resale;
- 1019 (b) sublease; or
- 1020 (c) subrent.
- 1021 ~~[(82)]~~ (83) (a) "Retailer" means any person engaged in a regularly organized business
- 1022 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1),
- 1023 and who is selling to the user or consumer and not for resale.
- 1024 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
- 1025 engaged in the business of selling to users or consumers within the state.
- 1026 ~~[(83)]~~ (84) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
- 1027 otherwise, in any manner, of tangible personal property or any other taxable transaction under
- 1028 Subsection 59-12-103(1), for consideration.
- 1029 (b) "Sale" includes:
- 1030 (i) installment and credit sales;
- 1031 (ii) any closed transaction constituting a sale;
- 1032 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 1033 chapter;
- 1034 (iv) any transaction if the possession of property is transferred but the seller retains the
- 1035 title as security for the payment of the price; and
- 1036 (v) any transaction under which right to possession, operation, or use of any article of
- 1037 tangible personal property is granted under a lease or contract and the transfer of possession
- 1038 would be taxable if an outright sale were made.
- 1039 ~~[(84)]~~ (85) "Sale at retail" is as defined in Subsection ~~[(81)]~~ (82).
- 1040 ~~[(85)]~~ (86) "Sale-leaseback transaction" means a transaction by which title to tangible
- 1041 personal property that is subject to a tax under this chapter is transferred:
- 1042 (a) by a purchaser-lessee;
- 1043 (b) to a lessor;
- 1044 (c) for consideration; and
- 1045 (d) if:
- 1046 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
- 1047 of the tangible personal property;
- 1048 (ii) the sale of the tangible personal property to the lessor is intended as a form of

1049 financing:

1050 (A) for the property; and

1051 (B) to the purchaser-lessee; and

1052 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

1053 is required to:

1054 (A) capitalize the property for financial reporting purposes; and

1055 (B) account for the lease payments as payments made under a financing arrangement.

1056 [~~(86)~~ (87) "Sales price" is as defined in Subsection [~~(72)~~ (73).

1057 [~~(87)~~ (88) (a) "Sales relating to schools" means the following sales by, amounts paid

1058 to, or amounts charged by a school:

1059 (i) sales that are directly related to the school's educational functions or activities

1060 including:

1061 (A) the sale of:

1062 (I) textbooks;

1063 (II) textbook fees;

1064 (III) laboratory fees;

1065 (IV) laboratory supplies; or

1066 (V) safety equipment;

1067 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1068 that:

1069 (I) a student is specifically required to wear as a condition of participation in a

1070 school-related event or school-related activity; and

1071 (II) is not readily adaptable to general or continued usage to the extent that it takes the

1072 place of ordinary clothing;

1073 (C) sales of the following if the net or gross revenues generated by the sales are

1074 deposited into a school district fund or school fund dedicated to school meals:

1075 (I) food and food ingredients; or

1076 (II) prepared food; or

1077 (D) transportation charges for official school activities; or

1078 (ii) amounts paid to or amounts charged by a school for admission to a school-related

1079 event or school-related activity.

- 1080 (b) "Sales relating to schools" does not include:
- 1081 (i) bookstore sales of items that are not educational materials or supplies;
- 1082 (ii) except as provided in Subsection [~~(87)~~] (88)(a)(i)(B):
- 1083 (A) clothing;
- 1084 (B) clothing accessories or equipment;
- 1085 (C) protective equipment; or
- 1086 (D) sports or recreational equipment; or
- 1087 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1088 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1089 (A) other than a:
- 1090 (I) school;
- 1091 (II) nonprofit organization authorized by a school board or a governing body of a
- 1092 private school to organize and direct a competitive secondary school activity; or
- 1093 (III) nonprofit association authorized by a school board or a governing body of a
- 1094 private school to organize and direct a competitive secondary school activity; and
- 1095 (B) that is required to collect sales and use taxes under this chapter.
- 1096 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1097 commission may make rules defining the term "passed through."
- 1098 [~~(88)~~] (89) For purposes of this section and Section 59-12-104, "school":
- 1099 (a) means:
- 1100 (i) an elementary school or a secondary school that:
- 1101 (A) is a:
- 1102 (I) public school; or
- 1103 (II) private school; and
- 1104 (B) provides instruction for one or more grades kindergarten through 12; or
- 1105 (ii) a public school district; and
- 1106 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1107 [~~(89)~~] (90) "Seller" means a person that makes a sale, lease, or rental of:
- 1108 (a) tangible personal property; or
- 1109 (b) a service.
- 1110 [~~(90)~~] (91) (a) "Semiconductor fabricating, processing, research, or development

- 1111 materials" means tangible personal property:
- 1112 (i) used primarily in the process of:
- 1113 (A) (I) manufacturing a semiconductor;
- 1114 (II) fabricating a semiconductor; or
- 1115 (III) research or development of a:
- 1116 (Aa) semiconductor; or
- 1117 (Bb) semiconductor manufacturing process; or
- 1118 (B) maintaining an environment suitable for a semiconductor; or
- 1119 (ii) consumed primarily in the process of:
- 1120 (A) (I) manufacturing a semiconductor;
- 1121 (II) fabricating a semiconductor; or
- 1122 (III) research or development of a:
- 1123 (Aa) semiconductor; or
- 1124 (Bb) semiconductor manufacturing process; or
- 1125 (B) maintaining an environment suitable for a semiconductor.
- 1126 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1127 includes:
- 1128 (i) parts used in the repairs or renovations of tangible personal property described in
- 1129 Subsection [~~(90)~~] (91)(a); or
- 1130 (ii) a chemical, catalyst, or other material used to:
- 1131 (A) produce or induce in a semiconductor a:
- 1132 (I) chemical change; or
- 1133 (II) physical change;
- 1134 (B) remove impurities from a semiconductor; or
- 1135 (C) improve the marketable condition of a semiconductor.
- 1136 [~~(91)~~] (92) "Senior citizen center" means a facility having the primary purpose of
- 1137 providing services to the aged as defined in Section 62A-3-101.
- 1138 [~~(92)~~] (93) "Simplified electronic return" means the electronic return:
- 1139 (a) described in Section 318(C) of the agreement; and
- 1140 (b) approved by the governing board of the agreement.
- 1141 [~~(93)~~] (94) "Solar energy" means the sun used as the sole source of energy for

1142 producing electricity.

1143 [~~94~~] (95) (a) "Sports or recreational equipment" means an item:

1144 (i) designed for human use; and

1145 (ii) that is:

1146 (A) worn in conjunction with:

1147 (I) an athletic activity; or

1148 (II) a recreational activity; and

1149 (B) not suitable for general use.

1150 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1151 commission shall make rules:

1152 (i) listing the items that constitute "sports or recreational equipment"; and

1153 (ii) that are consistent with the list of items that constitute "sports or recreational

1154 equipment" under the agreement.

1155 [~~95~~] (96) "State" means the state of Utah, its departments, and agencies.

1156 [~~96~~] (97) "Storage" means any keeping or retention of tangible personal property or

1157 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose

1158 except sale in the regular course of business.

1159 [~~97~~] (98) (a) "Tangible personal property" means personal property that:

1160 (i) may be:

1161 (A) seen;

1162 (B) weighed;

1163 (C) measured;

1164 (D) felt; or

1165 (E) touched; or

1166 (ii) is in any manner perceptible to the senses.

1167 (b) "Tangible personal property" includes:

1168 (i) electricity;

1169 (ii) water;

1170 (iii) gas;

1171 (iv) steam; or

1172 (v) prewritten computer software.

1173 ~~[(98)]~~ (99) "Tar sands" means impregnated sands that yield mixtures of liquid
1174 hydrocarbon and require further processing other than mechanical blending before becoming
1175 finished petroleum products.

1176 ~~[(99)]~~ (100) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1177 software" means an item listed in Subsection ~~[(99)]~~ (100)(b) if that item is purchased or leased
1178 primarily to enable or facilitate one or more of the following to function:

1179 (i) telecommunications switching or routing equipment, machinery, or software; or

1180 (ii) telecommunications transmission equipment, machinery, or software.

1181 (b) The following apply to Subsection ~~[(99)]~~ (100)(a):

1182 (i) a pole;

1183 (ii) software;

1184 (iii) a supplementary power supply;

1185 (iv) temperature or environmental equipment or machinery;

1186 (v) test equipment;

1187 (vi) a tower; or

1188 (vii) equipment, machinery, or software that functions similarly to an item listed in
1189 Subsections ~~[(99)]~~ (100)(b)(i) through (vi) as determined by the commission by rule made in
1190 accordance with Subsection ~~[(99)]~~ (100)(c).

1191 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1192 commission may by rule define what constitutes equipment, machinery, or software that
1193 functions similarly to an item listed in Subsections ~~[(99)]~~ (100)(b)(i) through (vi).

1194 ~~[(100)]~~ (101) "Telecommunications equipment, machinery, or software required for
1195 911 service" means equipment, machinery, or software that is required to comply with 47
1196 C.F.R. Sec. 20.18.

1197 ~~[(101)]~~ (102) "Telecommunications maintenance or repair equipment, machinery, or
1198 software" means equipment, machinery, or software purchased or leased primarily to maintain
1199 or repair one or more of the following, regardless of whether the equipment, machinery, or
1200 software is purchased or leased as a spare part or as an upgrade or modification to one or more
1201 of the following:

1202 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1203 (b) telecommunications switching or routing equipment, machinery, or software; or

1204 (c) telecommunications transmission equipment, machinery, or software.
1205 [~~(102)~~] (103) (a) "Telecommunications switching or routing equipment, machinery, or
1206 software" means an item listed in Subsection [~~(102)~~] (103)(b) if that item is purchased or
1207 leased primarily for switching or routing:

- 1208 (i) voice communications;
- 1209 (ii) data communications; or
- 1210 (iii) telephone service.

1211 (b) The following apply to Subsection [~~(102)~~] (103)(a):

- 1212 (i) a bridge;
- 1213 (ii) a computer;
- 1214 (iii) a cross connect;
- 1215 (iv) a modem;
- 1216 (v) a multiplexer;
- 1217 (vi) plug in circuitry;
- 1218 (vii) a router;
- 1219 (viii) software;
- 1220 (ix) a switch; or
- 1221 (x) equipment, machinery, or software that functions similarly to an item listed in

1222 Subsections [~~(102)~~] (103)(b)(i) through (ix) as determined by the commission by rule made in
1223 accordance with Subsection [~~(102)~~] (103)(c).

1224 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1225 commission may by rule define what constitutes equipment, machinery, or software that
1226 functions similarly to an item listed in Subsections [~~(102)~~] (103)(b)(i) through (ix).

1227 [~~(103)~~] (104) (a) "Telecommunications transmission equipment, machinery, or
1228 software" means an item listed in Subsection [~~(103)~~] (104)(b) if that item is purchased or
1229 leased primarily for sending, receiving, or transporting:

- 1230 (i) voice communications;
- 1231 (ii) data communications; or
- 1232 (iii) telephone service.

1233 (b) The following apply to Subsection [~~(103)~~] (104)(a):

- 1234 (i) an amplifier;

- 1235 (ii) a cable;
- 1236 (iii) a closure;
- 1237 (iv) a conduit;
- 1238 (v) a controller;
- 1239 (vi) a duplexer;
- 1240 (vii) a filter;
- 1241 (viii) an input device;
- 1242 (ix) an input/output device;
- 1243 (x) an insulator;
- 1244 (xi) microwave machinery or equipment;
- 1245 (xii) an oscillator;
- 1246 (xiii) an output device;
- 1247 (xiv) a pedestal;
- 1248 (xv) a power converter;
- 1249 (xvi) a power supply;
- 1250 (xvii) a radio channel;
- 1251 (xviii) a radio receiver;
- 1252 (xix) a radio transmitter;
- 1253 (xx) a repeater;
- 1254 (xxi) software;
- 1255 (xxii) a terminal;
- 1256 (xxiii) a timing unit;
- 1257 (xxiv) a transformer;
- 1258 (xxv) a wire; or
- 1259 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1260 Subsections [~~(103)~~] (104)(b)(i) through (xxv) as determined by the commission by rule made in
- 1261 accordance with Subsection [~~(103)~~] (104)(c).
- 1262 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1263 commission may by rule define what constitutes equipment, machinery, or software that
- 1264 functions similarly to an item listed in Subsections [~~(103)~~] (104)(b)(i) through (xxv).
- 1265 [~~(104)~~] (105) (a) "Telephone service" means a two-way transmission:

- 1266 (i) by:
- 1267 (A) wire;
- 1268 (B) radio;
- 1269 (C) lightwave; or
- 1270 (D) other electromagnetic means; and
- 1271 (ii) of one or more of the following:
- 1272 (A) a sign;
- 1273 (B) a signal;
- 1274 (C) writing;
- 1275 (D) an image;
- 1276 (E) sound;
- 1277 (F) a message;
- 1278 (G) data; or
- 1279 (H) other information of any nature.
- 1280 (b) "Telephone service" includes:
- 1281 (i) mobile telecommunications service;
- 1282 (ii) private communications service; or
- 1283 (iii) automated digital telephone answering service.
- 1284 (c) "Telephone service" does not include a service or a transaction that a state or a
- 1285 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
- 1286 Tax Freedom Act, Pub. L. No. 105-277.
- 1287 ~~[(+05)]~~ (106) Notwithstanding where a call is billed or paid, "telephone service
- 1288 address" means:
- 1289 (a) if the location described in this Subsection ~~[(+05)]~~ (106)(a) is known, the location
- 1290 of the telephone service equipment:
- 1291 (i) to which a call is charged; and
- 1292 (ii) from which the call originates or terminates;
- 1293 (b) if the location described in Subsection ~~[(+05)]~~ (106)(a) is not known but the
- 1294 location described in this Subsection ~~[(+05)]~~ (106)(b) is known, the location of the origination
- 1295 point of the signal of the telephone service first identified by:
- 1296 (i) the telecommunications system of the seller; or

1297 (ii) if the system used to transport the signal is not that of the seller, information
1298 received by the seller from its service provider; or

1299 (c) if the locations described in Subsection [~~(105)~~] (106)(a) or (b) are not known, the
1300 location of a purchaser's primary place of use.

1301 [~~(106)~~] (107) (a) "Telephone service provider" means a person that:

1302 (i) owns, controls, operates, or manages a telephone service; and

1303 (ii) engages in an activity described in Subsection [~~(106)~~] (107)(a)(i) for the shared use
1304 with or resale to any person of the telephone service.

1305 (b) A person described in Subsection [~~(106)~~] (107)(a) is a telephone service provider
1306 whether or not the Public Service Commission of Utah regulates:

1307 (i) that person; or

1308 (ii) the telephone service that the person owns, controls, operates, or manages.

1309 [~~(107)~~] (108) "Tobacco" means:

1310 (a) a cigarette;

1311 (b) a cigar;

1312 (c) chewing tobacco;

1313 (d) pipe tobacco; or

1314 (e) any other item that contains tobacco.

1315 [~~(108)~~] (109) "Unassisted amusement device" means an amusement device, skill

1316 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
1317 operate the amusement device, skill device, or ride device.

1318 [~~(109)~~] (110) (a) "Use" means the exercise of any right or power over tangible personal
1319 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
1320 property, item, or service.

1321 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
1322 the regular course of business and held for resale.

1323 [~~(110)~~] (111) (a) Subject to Subsection [~~(110)~~] (111)(b), "vehicle" means the following
1324 that are required to be titled, registered, or titled and registered:

1325 (i) an aircraft as defined in Section 72-10-102;

1326 (ii) a vehicle as defined in Section 41-1a-102;

1327 (iii) an off-highway vehicle as defined in Section 41-22-2; or

- 1328 (iv) a vessel as defined in Section 41-1a-102.
- 1329 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1330 (i) a vehicle described in Subsection [~~(110)~~] (111)(a); or
- 1331 (ii) (A) a locomotive;
- 1332 (B) a freight car;
- 1333 (C) railroad work equipment; or
- 1334 (D) other railroad rolling stock.
- 1335 [~~(111)~~] (112) "Vehicle dealer" means a person engaged in the business of buying,
- 1336 selling, or exchanging a vehicle as defined in Subsection [~~(110)~~] (111).
- 1337 [~~(112)~~] (113) (a) Except as provided in Subsection [~~(112)~~] (113)(b), "waste energy
- 1338 facility" means a facility that generates electricity:
- 1339 (i) using as the primary source of energy waste materials that would be placed in a
- 1340 landfill or refuse pit if it were not used to generate electricity, including:
- 1341 (A) tires;
- 1342 (B) waste coal; or
- 1343 (C) oil shale; and
- 1344 (ii) in amounts greater than actually required for the operation of the facility.
- 1345 (b) "Waste energy facility" does not include a facility that incinerates:
- 1346 (i) municipal solid waste;
- 1347 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1348 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1349 [~~(113)~~] (114) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1350 [~~(114)~~] (115) "Wind energy" means wind used as the sole source of energy to produce
- 1351 electricity.
- 1352 [~~(115)~~] (116) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
- 1353 geographic location by the United States Postal Service.
- 1354 Section 4. Section **59-12-104** is amended to read:
- 1355 **59-12-104. Exemptions.**
- 1356 The following sales and uses are exempt from the taxes imposed by this chapter:
- 1357 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
- 1358 under Chapter 13, Motor and Special Fuel Tax Act;

1359 (2) sales to the state, its institutions, and its political subdivisions; however, this
1360 exemption does not apply to sales of:

1361 (a) construction materials except:

1362 (i) construction materials purchased by or on behalf of institutions of the public
1363 education system as defined in Utah Constitution Article X, Section 2, provided the
1364 construction materials are clearly identified and segregated and installed or converted to real
1365 property which is owned by institutions of the public education system; and

1366 (ii) construction materials purchased by the state, its institutions, or its political
1367 subdivisions which are installed or converted to real property by employees of the state, its
1368 institutions, or its political subdivisions; or

1369 (b) tangible personal property in connection with the construction, operation,
1370 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
1371 providing additional project capacity, as defined in Section 11-13-103;

1372 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

1373 (i) the proceeds of each sale do not exceed \$1; and

1374 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
1375 the cost of the item described in Subsection (3)(b) as goods consumed; and

1376 (b) Subsection (3)(a) applies to:

1377 (i) food and food ingredients; or

1378 (ii) prepared food;

1379 (4) sales of the following to a commercial airline carrier for in-flight consumption:

1380 (a) food and food ingredients;

1381 (b) prepared food; or

1382 (c) services related to Subsection (4)(a) or (b);

1383 (5) sales of parts and equipment for installation in aircraft operated by common carriers
1384 in interstate or foreign commerce;

1385 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
1386 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
1387 exhibitor, distributor, or commercial television or radio broadcaster;

1388 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
1389 property if the cleaning or washing of the tangible personal property is not assisted cleaning or

1390 washing of tangible personal property;

1391 (b) if a seller that sells at the same business location assisted cleaning or washing of
1392 tangible personal property and cleaning or washing of tangible personal property that is not
1393 assisted cleaning or washing of tangible personal property, the exemption described in
1394 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
1395 or washing of the tangible personal property; and

1396 (c) for purposes of Subsection (7)(b) and in accordance with Title 63, Chapter 46a,
1397 Utah Administrative Rulemaking Act, the commission may make rules:

1398 (i) governing the circumstances under which sales are at the same business location;
1399 and

1400 (ii) establishing the procedures and requirements for a seller to separately account for
1401 sales of assisted cleaning or washing of tangible personal property;

1402 (8) sales made to or by religious or charitable institutions in the conduct of their regular
1403 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
1404 fulfilled;

1405 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
1406 this state if the vehicle is:

1407 (a) not registered in this state; and

1408 (b) (i) not used in this state; or

1409 (ii) used in this state:

1410 (A) if the vehicle is not used to conduct business, for a time period that does not
1411 exceed the longer of:

1412 (I) 30 days in any calendar year; or

1413 (II) the time period necessary to transport the vehicle to the borders of this state; or

1414 (B) if the vehicle is used to conduct business, for the time period necessary to transport
1415 the vehicle to the borders of this state;

1416 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

1417 (i) the item is intended for human use; and

1418 (ii) (A) a prescription was issued for the item; or

1419 (B) the item was purchased by a hospital or other medical facility; and

1420 (b) (i) Subsection (10)(a) applies to:

- 1421 (A) a drug;
- 1422 (B) a syringe; or
- 1423 (C) a stoma supply; and
- 1424 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1425 commission may by rule define the terms:
 - 1426 (A) "syringe"; or
 - 1427 (B) "stoma supply";
- 1428 (11) sales or use of property, materials, or services used in the construction of or
- 1429 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
- 1430 (12) (a) sales of an item described in Subsection (12)(c) served by:
 - 1431 (i) the following if the item described in Subsection (12)(c) is not available to the
 - 1432 general public:
 - 1433 (A) a church; or
 - 1434 (B) a charitable institution;
 - 1435 (ii) an institution of higher education if:
 - 1436 (A) the item described in Subsection (12)(c) is not available to the general public; or
 - 1437 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
 - 1438 offered by the institution of higher education; or
 - 1439 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
 - 1440 (i) a medical facility; or
 - 1441 (ii) a nursing facility; and
 - 1442 (c) Subsections (12)(a) and (b) apply to:
 - 1443 (i) food and food ingredients;
 - 1444 (ii) prepared food; or
 - 1445 (iii) alcoholic beverages;
 - 1446 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
 - 1447 by a person:
 - 1448 (i) regardless of the number of transactions involving the sale of that tangible personal
 - 1449 property by that person; and
 - 1450 (ii) not regularly engaged in the business of selling that type of tangible personal
 - 1451 property;

- 1452 (b) this Subsection (13) does not apply if:
- 1453 (i) the sale is one of a series of sales of a character to indicate that the person is
- 1454 regularly engaged in the business of selling that type of tangible personal property;
- 1455 (ii) the person holds that person out as regularly engaged in the business of selling that
- 1456 type of tangible personal property;
- 1457 (iii) the person sells an item of tangible personal property that the person purchased as
- 1458 a sale that is exempt under Subsection (25); or
- 1459 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
- 1460 this state in which case the tax is based upon:
- 1461 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
- 1462 sold; or
- 1463 (B) in the absence of a bill of sale or other written evidence of value, the fair market
- 1464 value of the vehicle or vessel being sold at the time of the sale as determined by the
- 1465 commission; and
- 1466 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1467 commission shall make rules establishing the circumstances under which:
- 1468 (i) a person is regularly engaged in the business of selling a type of tangible personal
- 1469 property;
- 1470 (ii) a sale of tangible personal property is one of a series of sales of a character to
- 1471 indicate that a person is regularly engaged in the business of selling that type of tangible
- 1472 personal property; or
- 1473 (iii) a person holds that person out as regularly engaged in the business of selling a type
- 1474 of tangible personal property;
- 1475 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
- 1476 July 1, 2006, for a purchase or lease by a manufacturing facility other than a cogeneration
- 1477 facility, for the following:
- 1478 (i) machinery and equipment that:
- 1479 (A) is used:
- 1480 (I) for a manufacturing facility other than a manufacturing facility that is a scrap
- 1481 recycler described in Subsection 59-12-102(48)(b):
- 1482 (Aa) in the manufacturing process; and

1483 (Bb) to manufacture an item sold as tangible personal property; or
1484 (II) for a manufacturing facility that is a scrap recycler described in Subsection
1485 59-12-102(48)(b), to process an item sold as tangible personal property; and
1486 (B) has an economic life of three or more years; and
1487 (ii) normal operating repair or replacement parts that:
1488 (A) have an economic life of three or more years; and
1489 (B) are used:
1490 (I) for a manufacturing facility in the state other than a manufacturing facility that is a
1491 scrap recycler described in Subsection 59-12-102(48)(b), in the manufacturing process; or
1492 (II) for a manufacturing facility in the state that is a scrap recycler described in
1493 Subsection 59-12-102(48)(b), to process an item sold as tangible personal property;
1494 (b) (i) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
1495 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
1496 for the following:
1497 (A) machinery and equipment that:
1498 (I) is used:
1499 (Aa) in the manufacturing process; and
1500 (Bb) to manufacture an item sold as tangible personal property; and
1501 (II) has an economic life of three or more years; and
1502 (B) normal operating repair or replacement parts that:
1503 (I) are used in the manufacturing process in a manufacturing facility in the state; and
1504 (II) have an economic life of three or more years; and
1505 (ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,
1506 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may
1507 claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:
1508 (A) for sales and use taxes paid under this chapter on the purchase or lease payment;
1509 and
1510 (B) in accordance with Section 59-12-110;
1511 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
1512 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
1513 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for

1514 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
1515 of the 2002 North American Industry Classification System of the federal Executive Office of
1516 the President, Office of Management and Budget:

1517 (i) machinery and equipment that:

1518 (A) are used in:

1519 (I) the production process, other than the production of real property; or

1520 (II) research and development; and

1521 (B) have an economic life of three or more years; and

1522 (ii) normal operating repair or replacement parts that:

1523 (A) have an economic life of three or more years; and

1524 (B) are used in:

1525 (I) the production process, other than the production of real property, in an

1526 establishment described in this Subsection (14)(c) in the state; or

1527 (II) research and development in an establishment described in this Subsection (14)(c)

1528 in the state;

1529 (d) for purposes of this Subsection (14) and in accordance with Title 63, Chapter 46a,

1530 Utah Administrative Rulemaking Act, the commission:

1531 (i) shall by rule define the term "establishment"; and

1532 (ii) may by rule define what constitutes:

1533 (A) processing an item sold as tangible personal property;

1534 (B) the production process, other than the production of real property; or

1535 (C) research and development; and

1536 (e) on or before October 1, 2011, and every five years after October 1, 2011, the

1537 commission shall:

1538 (i) review the exemptions described in this Subsection (14) and make

1539 recommendations to the Revenue and Taxation Interim Committee concerning whether the

1540 exemptions should be continued, modified, or repealed; and

1541 (ii) include in its report:

1542 (A) the cost of the exemptions;

1543 (B) the purpose and effectiveness of the exemptions; and

1544 (C) the benefits of the exemptions to the state;

- 1545 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
- 1546 (i) tooling;
- 1547 (ii) special tooling;
- 1548 (iii) support equipment;
- 1549 (iv) special test equipment; or
- 1550 (v) parts used in the repairs or renovations of tooling or equipment described in
- 1551 Subsections (15)(a)(i) through (iv); and
- 1552 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
- 1553 (i) the tooling, equipment, or parts are used or consumed exclusively in the
- 1554 performance of any aerospace or electronics industry contract with the United States
- 1555 government or any subcontract under that contract; and
- 1556 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
- 1557 title to the tooling, equipment, or parts is vested in the United States government as evidenced
- 1558 by:
- 1559 (A) a government identification tag placed on the tooling, equipment, or parts; or
- 1560 (B) listing on a government-approved property record if placing a government
- 1561 identification tag on the tooling, equipment, or parts is impractical;
- 1562 (16) sales of newspapers or newspaper subscriptions;
- 1563 (17) (a) except as provided in Subsection (17)(b), tangible personal property traded in
- 1564 as full or part payment of the purchase price, except that for purposes of calculating sales or use
- 1565 tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and
- 1566 the tax is based upon:
- 1567 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
- 1568 vehicle being traded in; or
- 1569 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
- 1570 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
- 1571 commission; and
- 1572 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
- 1573 following items of tangible personal property traded in as full or part payment of the purchase
- 1574 price:
- 1575 (i) money;

1576 (ii) electricity;
1577 (iii) water;
1578 (iv) gas; or
1579 (v) steam;
1580 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
1581 used or consumed primarily and directly in farming operations, regardless of whether the
1582 tangible personal property:
1583 (A) becomes part of real estate; or
1584 (B) is installed by a:
1585 (I) farmer;
1586 (II) contractor; or
1587 (III) subcontractor; or
1588 (ii) sales of parts used in the repairs or renovations of tangible personal property if the
1589 tangible personal property is exempt under Subsection (18)(a)(i); and
1590 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following
1591 tangible personal property are subject to the taxes imposed by this chapter:
1592 (i) (A) subject to Subsection (18)(b)(i)(B), the following tangible personal property if
1593 the tangible personal property is used in a manner that is incidental to farming:
1594 (I) machinery;
1595 (II) equipment;
1596 (III) materials; or
1597 (IV) supplies; and
1598 (B) tangible personal property that is considered to be used in a manner that is
1599 incidental to farming includes:
1600 (I) hand tools; or
1601 (II) maintenance and janitorial equipment and supplies;
1602 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property if the tangible
1603 personal property is used in an activity other than farming; and
1604 (B) tangible personal property that is considered to be used in an activity other than
1605 farming includes:
1606 (I) office equipment and supplies; or

- 1607 (II) equipment and supplies used in:
- 1608 (Aa) the sale or distribution of farm products;
- 1609 (Bb) research; or
- 1610 (Cc) transportation; or
- 1611 (iii) a vehicle required to be registered by the laws of this state during the period
- 1612 ending two years after the date of the vehicle's purchase;
- 1613 (19) sales of hay;
- 1614 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
- 1615 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
- 1616 garden, farm, or other agricultural produce is sold by:
- 1617 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
- 1618 agricultural produce;
- 1619 (b) an employee of the producer described in Subsection (20)(a); or
- 1620 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 1621 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
- 1622 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 1623 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
- 1624 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
- 1625 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
- 1626 manufacturer, processor, wholesaler, or retailer;
- 1627 (23) property stored in the state for resale;
- 1628 (24) (a) purchases of property if:
- 1629 (i) the property is:
- 1630 (A) purchased outside of this state;
- 1631 (B) brought into this state:
- 1632 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- 1633 (II) by a nonresident person who is not living or working in this state at the time of the
- 1634 purchase;
- 1635 (C) used for the personal use or enjoyment of the nonresident person described in
- 1636 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- 1637 (D) not used in conducting business in this state; and

- 1638 (ii) for:
- 1639 (A) property other than the property described in Subsection (24)(a)(ii)(B), the first use
- 1640 of the property for a purpose for which the property is designed occurs outside of this state;
- 1641 (B) a boat, the boat is registered outside of this state; or
- 1642 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
- 1643 outside of this state;
- 1644 (b) the exemption provided for in Subsection (24)(a) does not apply to:
- 1645 (i) a lease or rental of property; or
- 1646 (ii) a sale of a vehicle exempt under Subsection (33); and
- 1647 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for
- 1648 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
- 1649 following:
- 1650 (i) conducting business in this state if that phrase has the same meaning in this
- 1651 Subsection (24) as in Subsection (66);
- 1652 (ii) the first use of property if that phrase has the same meaning in this Subsection (24)
- 1653 as in Subsection (66); or
- 1654 (iii) a purpose for which property is designed if that phrase has the same meaning in
- 1655 this Subsection (24) as in Subsection (66);
- 1656 (25) property purchased for resale in this state, in the regular course of business, either
- 1657 in its original form or as an ingredient or component part of a manufactured or compounded
- 1658 product;
- 1659 (26) property upon which a sales or use tax was paid to some other state, or one of its
- 1660 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
- 1661 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
- 1662 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
- 1663 Act;
- 1664 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
- 1665 person for use in compounding a service taxable under the subsections;
- 1666 (28) purchases made in accordance with the special supplemental nutrition program for
- 1667 women, infants, and children established in 42 U.S.C. Sec. 1786;
- 1668 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,

- 1669 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
1670 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
1671 Manual of the federal Executive Office of the President, Office of Management and Budget;
- 1672 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
1673 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
1674 (a) not registered in this state; and
1675 (b) (i) not used in this state; or
1676 (ii) used in this state:
1677 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
1678 time period that does not exceed the longer of:
1679 (I) 30 days in any calendar year; or
1680 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
1681 the borders of this state; or
1682 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
1683 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
1684 state;
- 1685 (31) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah
1686 where a sales or use tax is not imposed, even if the title is passed in Utah;
- 1687 (32) amounts paid for the purchase of telephone service for purposes of providing
1688 telephone service;
- 1689 (33) sales, leases, or uses of the following:
1690 (a) a vehicle by an authorized carrier; or
1691 (b) tangible personal property that is installed on a vehicle:
1692 (i) sold or leased to or used by an authorized carrier; and
1693 (ii) before the vehicle is placed in service for the first time;
- 1694 (34) (a) 45% of the sales price of any new manufactured home; and
1695 (b) 100% of the sales price of any used manufactured home;
- 1696 (35) sales relating to schools and fundraising sales;
- 1697 (36) sales or rentals of durable medical equipment if:
1698 (a) a person presents a prescription for the durable medical equipment; and
1699 (b) the durable medical equipment is used for home use only;

1700 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
1701 Section 72-11-102; and

1702 (b) the commission shall by rule determine the method for calculating sales exempt
1703 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

1704 (38) sales to a ski resort of:

1705 (a) snowmaking equipment;

1706 (b) ski slope grooming equipment;

1707 (c) passenger ropeways as defined in Section 72-11-102; or

1708 (d) parts used in the repairs or renovations of equipment or passenger ropeways
1709 described in Subsections (38)(a) through (c);

1710 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

1711 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
1712 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
1713 59-12-102;

1714 (b) if a seller that sells or rents at the same business location the right to use or operate
1715 for amusement, entertainment, or recreation one or more unassisted amusement devices and
1716 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
1717 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
1718 amusement, entertainment, or recreation for the assisted amusement devices; and

1719 (c) for purposes of Subsection (40)(b) and in accordance with Title 63, Chapter 46a,
1720 Utah Administrative Rulemaking Act, the commission may make rules:

1721 (i) governing the circumstances under which sales are at the same business location;
1722 and

1723 (ii) establishing the procedures and requirements for a seller to separately account for
1724 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
1725 assisted amusement devices;

1726 (41) (a) sales of photocopies by:

1727 (i) a governmental entity; or

1728 (ii) an entity within the state system of public education, including:

1729 (A) a school; or

1730 (B) the State Board of Education; or

1731 (b) sales of publications by a governmental entity;
1732 (42) amounts paid for admission to an athletic event at an institution of higher
1733 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
1734 20 U.S.C. Sec. 1681 et seq.;

1735 (43) sales of telephone service charged to a prepaid telephone calling card;
1736 (44) (a) sales of:
1737 (i) hearing aids;
1738 (ii) hearing aid accessories; or
1739 (iii) except as provided in Subsection (44)(b), parts used in the repairs or renovations
1740 of hearing aids or hearing aid accessories; and
1741 (b) for purposes of this Subsection (44), notwithstanding Subsection (44)(a)(iii),
1742 "parts" does not include batteries;

1743 (45) (a) sales made to or by:
1744 (i) an area agency on aging; or
1745 (ii) a senior citizen center owned by a county, city, or town; or
1746 (b) sales made by a senior citizen center that contracts with an area agency on aging;

1747 (46) sales or leases of semiconductor fabricating, processing, research, or development
1748 materials regardless of whether the semiconductor fabricating, processing, research, or
1749 development materials:
1750 (a) actually come into contact with a semiconductor; or
1751 (b) ultimately become incorporated into real property;

1752 (47) an amount paid by or charged to a purchaser for accommodations and services
1753 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
1754 59-12-104.2;

1755 (48) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
1756 sports event registration certificate in accordance with Section 41-3-306 for the event period
1757 specified on the temporary sports event registration certificate;

1758 (49) sales or uses of electricity, if the sales or uses are:
1759 (a) made under a tariff adopted by the Public Service Commission of Utah only for
1760 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
1761 source, as designated in the tariff by the Public Service Commission of Utah; and

- 1762 (b) for an amount of electricity that is:
- 1763 (i) unrelated to the amount of electricity used by the person purchasing the electricity
- 1764 under the tariff described in Subsection (49)(a); and
- 1765 (ii) equivalent to the number of kilowatthours specified in the tariff described in
- 1766 Subsection (49)(a) that may be purchased under the tariff described in Subsection (49)(a);
- 1767 (50) sales or rentals of mobility enhancing equipment if a person presents a
- 1768 prescription for the mobility enhancing equipment;
- 1769 (51) sales of water in a:
- 1770 (a) pipe;
- 1771 (b) conduit;
- 1772 (c) ditch; or
- 1773 (d) reservoir;
- 1774 (52) sales of currency or coinage that constitute legal tender of the United States or of a
- 1775 foreign nation;
- 1776 (53) (a) sales of an item described in Subsection (53)(b) if the item:
- 1777 (i) does not constitute legal tender of any nation; and
- 1778 (ii) has a gold, silver, or platinum content of 80% or more; and
- 1779 (b) Subsection (53)(a) applies to a gold, silver, or platinum:
- 1780 (i) ingot;
- 1781 (ii) bar;
- 1782 (iii) medallion; or
- 1783 (iv) decorative coin;
- 1784 (54) amounts paid on a sale-leaseback transaction;
- 1785 (55) sales of a prosthetic device:
- 1786 (a) for use on or in a human;
- 1787 (b) for which a prescription is issued; and
- 1788 (c) to a person that presents a prescription for the prosthetic device;
- 1789 (56) (a) except as provided in Subsection (56)(b), purchases, leases, or rentals of
- 1790 machinery or equipment by an establishment described in Subsection (56)(c) if the machinery
- 1791 or equipment is primarily used in the production or postproduction of the following media for
- 1792 commercial distribution:

- 1793 (i) a motion picture;
- 1794 (ii) a television program;
- 1795 (iii) a movie made for television;
- 1796 (iv) a music video;
- 1797 (v) a commercial;
- 1798 (vi) a documentary; or
- 1799 (vii) a medium similar to Subsections (56)(a)(i) through (vi) as determined by the
- 1800 commission by administrative rule made in accordance with Subsection (56)(d); or
- 1801 (b) notwithstanding Subsection (56)(a), purchases, leases, or rentals of machinery or
- 1802 equipment by an establishment described in Subsection (56)(c) that is used for the production
- 1803 or postproduction of the following are subject to the taxes imposed by this chapter:
- 1804 (i) a live musical performance;
- 1805 (ii) a live news program; or
- 1806 (iii) a live sporting event;
- 1807 (c) the following establishments listed in the 1997 North American Industry
- 1808 Classification System of the federal Executive Office of the President, Office of Management
- 1809 and Budget, apply to Subsections (56)(a) and (b):
- 1810 (i) NAICS Code 512110; or
- 1811 (ii) NAICS Code 51219; and
- 1812 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1813 commission may by rule:
- 1814 (i) prescribe what constitutes a medium similar to Subsections (56)(a)(i) through (vi);
- 1815 or
- 1816 (ii) define:
- 1817 (A) "commercial distribution";
- 1818 (B) "live musical performance";
- 1819 (C) "live news program"; or
- 1820 (D) "live sporting event";
- 1821 (57) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
- 1822 or before June 30, 2009, of machinery or equipment that:
- 1823 (i) is leased or purchased for or by a facility that:

1824 (A) is a renewable energy production facility;
1825 (B) is located in the state; and
1826 (C) (I) becomes operational on or after July 1, 2004; or
1827 (II) has its generation capacity increased by one or more megawatts on or after July 1,
1828 2004 as a result of the use of the machinery or equipment;

1829 (ii) has an economic life of five or more years; and
1830 (iii) is used to make the facility or the increase in capacity of the facility described in

1831 Subsection (57)(a)(i) operational up to the point of interconnection with an existing
1832 transmission grid including:

- 1833 (A) a wind turbine;
- 1834 (B) generating equipment;
- 1835 (C) a control and monitoring system;
- 1836 (D) a power line;
- 1837 (E) substation equipment;
- 1838 (F) lighting;
- 1839 (G) fencing;
- 1840 (H) pipes; or
- 1841 (I) other equipment used for locating a power line or pole; and

1842 (b) this Subsection (57) does not apply to:

- 1843 (i) machinery or equipment used in construction of:
 - 1844 (A) a new renewable energy production facility; or
 - 1845 (B) the increase in the capacity of a renewable energy production facility;
- 1846 (ii) contracted services required for construction and routine maintenance activities;

1847 and

1848 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
1849 of the facility described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or
1850 acquired after:

1851 (A) the renewable energy production facility described in Subsection (57)(a)(i) is
1852 operational as described in Subsection (57)(a)(iii); or

1853 (B) the increased capacity described in Subsection (57)(a)(i) is operational as described
1854 in Subsection (57)(a)(iii);

1855 (58) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
1856 or before June 30, 2009, of machinery or equipment that:
1857 (i) is leased or purchased for or by a facility that:
1858 (A) is a waste energy production facility;
1859 (B) is located in the state; and
1860 (C) (I) becomes operational on or after July 1, 2004; or
1861 (II) has its generation capacity increased by one or more megawatts on or after July 1,
1862 2004 as a result of the use of the machinery or equipment;
1863 (ii) has an economic life of five or more years; and
1864 (iii) is used to make the facility or the increase in capacity of the facility described in
1865 Subsection (58)(a)(i) operational up to the point of interconnection with an existing
1866 transmission grid including:
1867 (A) generating equipment;
1868 (B) a control and monitoring system;
1869 (C) a power line;
1870 (D) substation equipment;
1871 (E) lighting;
1872 (F) fencing;
1873 (G) pipes; or
1874 (H) other equipment used for locating a power line or pole; and
1875 (b) this Subsection (58) does not apply to:
1876 (i) machinery or equipment used in construction of:
1877 (A) a new waste energy facility; or
1878 (B) the increase in the capacity of a waste energy facility;
1879 (ii) contracted services required for construction and routine maintenance activities;
1880 and
1881 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
1882 described in Subsection (58)(a)(i)(C)(II), machinery or equipment used or acquired after:
1883 (A) the waste energy facility described in Subsection (58)(a)(i) is operational as
1884 described in Subsection (58)(a)(iii); or
1885 (B) the increased capacity described in Subsection (58)(a)(i) is operational as described

1886 in Subsection (58)(a)(iii);
1887 (59) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
1888 or before June 30, 2009, of machinery or equipment that:
1889 (i) is leased or purchased for or by a facility that:
1890 (A) is located in the state;
1891 (B) produces fuel from biomass energy including:
1892 (I) methanol; or
1893 (II) ethanol; and
1894 (C) (I) becomes operational on or after July 1, 2004; or
1895 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
1896 a result of the installation of the machinery or equipment;
1897 (ii) has an economic life of five or more years; and
1898 (iii) is installed on the facility described in Subsection (59)(a)(i);
1899 (b) this Subsection (59) does not apply to:
1900 (i) machinery or equipment used in construction of:
1901 (A) a new facility described in Subsection (59)(a)(i); or
1902 (B) the increase in capacity of the facility described in Subsection (59)(a)(i); or
1903 (ii) contracted services required for construction and routine maintenance activities;
1904 and
1905 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
1906 described in Subsection (59)(a)(i)(C)(II), machinery or equipment used or acquired after:
1907 (A) the facility described in Subsection (59)(a)(i) is operational; or
1908 (B) the increased capacity described in Subsection (59)(a)(i) is operational;
1909 (60) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle
1910 for purchasing the new vehicle;
1911 (61) (a) subject to Subsection (61)(b), sales of tangible personal property to persons
1912 within this state that is subsequently shipped outside the state and incorporated pursuant to
1913 contract into and becomes a part of real property located outside of this state, except to the
1914 extent that the other state or political entity imposes a sales, use, gross receipts, or other similar
1915 transaction excise tax on it against which the other state or political entity allows a credit for
1916 taxes imposed by this chapter; and

- 1917 (b) the exemption provided for in Subsection (61)(a):
- 1918 (i) is allowed only if the exemption is applied:
- 1919 (A) in calculating the purchase price of the tangible personal property; and
- 1920 (B) to a written contract that is in effect on July 1, 2004; and
- 1921 (ii) (A) does not apply beginning on the day on which the contract described in
- 1922 Subsection (61)(b)(i):
- 1923 (I) is substantially modified; or
- 1924 (II) terminates; and
- 1925 (B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 1926 the commission may by rule prescribe the circumstances under which a contract is substantially
- 1927 modified;
- 1928 (62) purchases:
- 1929 (a) of one or more of the following items in printed or electronic format:
- 1930 (i) a list containing information that includes one or more:
- 1931 (A) names; or
- 1932 (B) addresses; or
- 1933 (ii) a database containing information that includes one or more:
- 1934 (A) names; or
- 1935 (B) addresses; and
- 1936 (b) used to send direct mail;
- 1937 (63) redemptions or repurchases of property by a person if that property was:
- 1938 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 1939 (b) redeemed or repurchased within the time period established in a written agreement
- 1940 between the person and the pawnbroker for redeeming or repurchasing the property;
- 1941 (64) (a) purchases or leases of an item described in Subsection (64)(b) if the item:
- 1942 (i) is purchased or leased by, or on behalf of, a telephone service provider; and
- 1943 (ii) has a useful economic life of one or more years; and
- 1944 (b) the following apply to Subsection (64)(a):
- 1945 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 1946 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 1947 (iii) telecommunications maintenance or repair equipment, machinery, or software;

1948 (iv) telecommunications switching or routing equipment, machinery, or software; or
1949 (v) telecommunications transmission equipment, machinery, or software;
1950 (65) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of tangible
1951 personal property used in the research and development of coal-to-liquids, oil shale, or tar
1952 sands technology; and
1953 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1954 commission may, for purposes of Subsection (65)(a), make rules defining what constitutes
1955 tangible personal property used in the research and development of coal-to-liquids, oil shale,
1956 and tar sands technology;
1957 (66) (a) purchases of property if:
1958 (i) the property is:
1959 (A) purchased outside of this state;
1960 (B) brought into this state at any time after the purchase described in Subsection
1961 (66)(a)(i)(A); and
1962 (C) used in conducting business in this state; and
1963 (ii) for:
1964 (A) property other than the property described in Subsection (66)(a)(ii)(B), the first use
1965 of the property for a purpose for which the property is designed occurs outside of this state; or
1966 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
1967 outside of this state;
1968 (b) the exemption provided for in Subsection (66)(a) does not apply to:
1969 (i) a lease or rental of property; or
1970 (ii) a sale of a vehicle exempt under Subsection (33); and
1971 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for
1972 purposes of Subsection (66)(a), the commission may by rule define what constitutes the
1973 following:
1974 (i) conducting business in this state if that phrase has the same meaning in this
1975 Subsection (66) as in Subsection (24);
1976 (ii) the first use of property if that phrase has the same meaning in this Subsection (66)
1977 as in Subsection (24); or
1978 (iii) a purpose for which property is designed if that phrase has the same meaning in

1979 this Subsection (66) as in Subsection (24);
1980 (67) sales of disposable home medical equipment or supplies if:
1981 (a) a person presents a prescription for the disposable home medical equipment or
1982 supplies;
1983 (b) the disposable home medical equipment or supplies are used exclusively by the
1984 person to whom the prescription described in Subsection (67)(a) is issued; and
1985 (c) the disposable home medical equipment and supplies are listed as eligible for
1986 payment under:
1987 (i) Title XVIII, federal Social Security Act; or
1988 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
1989 [and]
1990 (68) sales to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
1991 District Act, or to a subcontractor of a public transit district, including sales of construction
1992 materials that are to be installed or converted to real property owned by the public transit
1993 district[-]; and
1994 (69) amounts paid by a privately owned golf course for the following if the following
1995 are predominantly used in operating the privately owned golf course:
1996 (a) equipment;
1997 (b) machinery;
1998 (c) a supply; or
1999 (d) a repair or replacement part.
2000 Section 5. **Effective date.**
2001 This bill takes effect on July 1, 2008.

Fiscal Note**H.B. 455 2nd Sub. (Gray) - 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 may not be able to purchase special group license plates with enactment of this bill. Due to this provision, restricted revenue may decrease by \$25,000. 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.

	<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)
Restricted Funds	\$0	\$0	(\$25,000)	\$0	\$0	(\$25,000)
Total	\$0	\$0	(\$25,000)	\$0	(\$260,000)	(\$293,000)

Individual, Business and/or Local Impact

Privately owned golf courses will benefit by having certain purchases not subject to the state and 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. Also, individuals with certain special group license plates will be required to replace these plates.