

Senator J. Stuart Adams proposes the following substitute bill:

ALTERNATIVE ENERGY DEVELOPMENT TAX INCENTIVES

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: Michael E. Noel

LONG TITLE

General Description:

This bill addresses provisions related to alternative energy development tax incentives.

Highlighted Provisions:

This bill:

- ▶ repeals the Alternative Energy Development Act and enacts the Alternative Energy Development Tax Credit Act related to alternative energy development tax credits;
- ▶ repeals provisions related to alternative energy development tax credits in economic development tax credit provisions;
- ▶ defines terms;
- ▶ enacts alternative energy development tax credits;
- ▶ modifies and expands alternative energy sales and use tax exemptions;
- ▶ extends the time period for claiming certain sales and use tax exemptions related to alternative energy;
- ▶ requires the Office of Energy Development to administer the alternative energy development tax credits; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 This bill provides effective dates.

28 This bill provides for retrospective operation.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **10-1-304**, as last amended by Laws of Utah 2009, Chapter 92

32 **59-7-614.2**, as last amended by Laws of Utah 2011, Chapter 384

33 **59-10-1107**, as last amended by Laws of Utah 2011, Chapter 384

34 **59-12-102**, as last amended by Laws of Utah 2011, Chapters 14, 285, and 314

35 **59-12-104**, as last amended by Laws of Utah 2011, Chapters 288, 314, 370, and 391

36 **63M-4-401**, as enacted by Laws of Utah 2011, Chapter 375

37 ENACTS:

38 **59-7-614.7**, Utah Code Annotated 1953

39 **59-10-1029**, Utah Code Annotated 1953

40 **63M-4-501**, Utah Code Annotated 1953

41 **63M-4-502**, Utah Code Annotated 1953

42 **63M-4-503**, Utah Code Annotated 1953

43 **63M-4-504**, Utah Code Annotated 1953

44 **63M-4-505**, Utah Code Annotated 1953

45 REPEALS:

46 **63M-1-2801**, as last amended by Laws of Utah 2010, Chapter 45

47 **63M-1-2802**, as last amended by Laws of Utah 2010, Chapter 45

48 **63M-1-2803**, as last amended by Laws of Utah 2010, Chapter 45

49 **63M-1-2804**, as last amended by Laws of Utah 2010, Chapter 45

50 **63M-1-2805**, as last amended by Laws of Utah 2010, Chapter 45

51 **63M-1-2806**, as last amended by Laws of Utah 2011, Chapter 384



52
53 *Be it enacted by the Legislature of the state of Utah:*

54 Section 1. Section **10-1-304** is amended to read:

55 **10-1-304. Municipality and military installation development authority may levy**

56 **tax -- Rate -- Imposition or repeal of tax -- Tax rate change -- Effective date -- Notice**

57 **requirements -- Exemptions.**

58 (1) (a) Except as provided in Subsections (4) and (5), a municipality may levy a
59 municipal energy sales and use tax on the sale or use of taxable energy within the municipality:

60 (i) by ordinance as provided in Section 10-1-305; and

61 (ii) of up to 6% of the delivered value of the taxable energy.

62 (b) Subject to Section 63H-1-203, the military installation development authority
63 created in Section 63H-1-201 may levy a municipal energy sales and use tax under this part
64 within a project area described in a project area plan adopted by the authority under Title 63H,
65 Chapter 1, Military Installation Development Authority Act, as though the authority were a
66 municipality.

67 (2) A municipal energy sales and use tax imposed under this part may be in addition to
68 any sales and use tax imposed by the municipality under Title 59, Chapter 12, Sales and Use
69 Tax Act.

70 (3) (a) For purposes of this Subsection (3):

71 (i) "Annexation" means an annexation to a municipality under [~~Title 10,~~] Chapter 2,
72 Part 4, Annexation.

73 (ii) "Annexing area" means an area that is annexed into a municipality.

74 (b) (i) If, on or after May 1, 2000, a city or town enacts or repeals a tax or changes the
75 rate of a tax under this part, the enactment, repeal, or change shall take effect:

76 (A) on the first day of a calendar quarter; and

77 (B) after a 90-day period beginning on the date the commission receives notice meeting
78 the requirements of Subsection (3)(b)(ii) from the municipality.

79 (ii) The notice described in Subsection (3)(b)(i)(B) shall state:

80 (A) that the city or town will enact or repeal a tax or change the rate of a tax under this
81 part;

82 (B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

83 (C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and

84 (D) if the city or town enacts the tax or changes the rate of the tax described in
85 Subsection (3)(b)(ii)(A), the new rate of the tax.

86 (c) (i) If, for an annexation that occurs on or after May 1, 2000, the annexation will
87 result in a change in the rate of a tax under this part for an annexing area, the change shall take

88 effect:

89 (A) on the first day of a calendar quarter; and

90 (B) after a 90-day period beginning on the date the commission receives notice meeting
91 the requirements of Subsection (3)(c)(ii) from the municipality that annexes the annexing area.

92 (ii) The notice described in Subsection (3)(c)(i)(B) shall state:

93 (A) that the annexation described in Subsection (3)(c)(i) will result in a change in the
94 rate of a tax under this part for the annexing area;

95 (B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);

96 (C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and

97 (D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

98 (4) (a) ~~[A]~~ Subject to Subsection (4)(b), a sale or use of electricity within a
99 municipality is exempt from the tax authorized by this section if the sale or use is~~[-(a)]~~ made
100 under a tariff adopted by the Public Service Commission of Utah only for purchase of
101 electricity produced from a new ~~[wind, geothermal, biomass, or solar power energy]~~ source of
102 alternative energy, as defined in Section 59-12-102, as designated in the tariff by the Public
103 Service Commission of Utah~~[-; and].~~

104 ~~[(b) for an amount of electricity that is:]~~

105 ~~[(i) unrelated to the amount of electricity used by the person purchasing the electricity~~
106 ~~under the tariff described in Subsection (4)(a); and]~~

107 ~~[(ii) equivalent to the number of kilowatthours specified in the tariff described in~~
108 ~~Subsection (4)(a) that may be purchased under the tariff described in Subsection (4)(a).]~~

109 (b) The exemption under Subsection (4)(a) applies to the portion of the tariff rate a
110 customer pays under the tariff described in Subsection (4)(a) that exceeds the tariff rate under
111 the tariff described in Subsection (4)(a) that the customer would have paid absent the tariff.

112 (5) (a) A municipality may not levy a municipal energy sales and use tax within any
113 portion of the municipality that is within a project area described in a project area plan adopted
114 by the military installation development authority under Title 63H, Chapter 1, Military
115 Installation Development Authority Act.

116 (b) Subsection (5)(a) does not apply to the military installation development authority's
117 levy of a municipal energy sales and use tax.

118 Section 2. Section **59-7-614.2** is amended to read:

119 **59-7-614.2. Refundable economic development tax credit.**

120 (1) As used in this section:

121 (a) "Business entity" means a taxpayer that meets the definition of "business entity" as
122 defined in Section 63M-1-2403 [~~or 63M-1-2803~~].

123 (b) "Community development and renewal agency" is as defined in Section 17C-1-102.

124 (c) "Local government entity" is as defined in Section 63M-1-2403.

125 (d) "Office" means the Governor's Office of Economic Development.

126 (2) Subject to the other provisions of this section, a business entity, local government
127 entity, or community development and renewal agency may claim a refundable tax credit for
128 economic development.

129 (3) The tax credit under this section is the amount listed as the tax credit amount on the
130 tax credit certificate that the office issues to the business entity, local government entity, or
131 community development and renewal agency for the taxable year.

132 (4) A community development and renewal agency may claim a tax credit under this
133 section only if a local government entity assigns the tax credit to the community development
134 and renewal agency in accordance with Section 63M-1-2404.

135 (5) (a) In accordance with any rules prescribed by the commission under Subsection
136 (5)(b), the commission shall make a refund to the following that claim a tax credit under this
137 section:

138 (i) a local government entity;

139 (ii) a community development and renewal agency; or

140 (iii) a business entity if the amount of the tax credit exceeds the business entity's tax
141 liability for a taxable year.

142 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
143 commission may make rules providing procedures for making a refund to a business entity,
144 local government entity, or community development and renewal agency as required by
145 Subsection (5)(a).

146 (6) (a) On or before October 1, 2013, and every five years after October 1, 2013, the
147 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
148 make recommendations to the Legislative Management Committee and the Workforce Services
149 and Community and Economic Development Interim Committee concerning whether the tax

150 credit should be continued, modified, or repealed.

151 (b) For purposes of the study required by this Subsection (6), the office shall provide
152 the following information to the Revenue and Taxation Interim Committee:

153 (i) the amount of tax credit that the office grants to each business entity, local
154 government entity, or community development and renewal agency for each calendar year;

155 (ii) the criteria that the office uses in granting a tax credit;

156 (iii) (A) for a business entity, the new state revenues generated by the business entity
157 for the calendar year; or

158 (B) for a local government entity, regardless of whether the local government entity
159 assigns the tax credit in accordance with Section 63M-1-2404, the new state revenues
160 generated as a result of a new commercial project within the local government entity for each
161 calendar year;

162 (iv) the information contained in the office's latest report to the Legislature under
163 Section 63M-1-2406 [~~or 63M-1-2806~~]; and

164 (v) any other information that the Revenue and Taxation Interim Committee requests.

165 (c) The Revenue and Taxation Interim Committee shall ensure that its
166 recommendations under Subsection (6)(a) include an evaluation of:

167 (i) the cost of the tax credit to the state;

168 (ii) the purpose and effectiveness of the tax credit; and

169 (iii) the extent to which the state benefits from the tax credit.

170 Section 3. Section ~~59-7-614.7~~ is enacted to read:

171 **59-7-614.7. Nonrefundable alternative energy development tax credit.**

172 (1) As used in this section:

173 (a) "Alternative energy entity" is as defined in Section 63M-4-502.

174 (b) "Alternative energy project" is as defined in Section 63M-4-502.

175 (c) "Office" is as defined in Section 63M-4-401.

176 (2) Subject to the other provisions of this section, an alternative energy entity may
177 claim a nonrefundable tax credit for alternative energy development as provided in this section.

178 (3) The tax credit under this section is the amount listed as the tax credit amount on a
179 tax credit certificate that the office issues under Title 63M, Chapter 4, Part 5, Alternative
180 Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

181 (4) An alternative energy entity may carry forward a tax credit under this section for a
182 period that does not exceed the next seven taxable years if:

183 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
184 taxable year; and

185 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
186 under this chapter for that taxable year.

187 (5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the
188 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
189 make recommendations to the Legislative Management Committee concerning whether the tax
190 credit should be continued, modified, or repealed.

191 (b) For purposes of the study required by this Subsection (5), the office shall provide
192 the following information to the Revenue and Taxation Interim Committee:

193 (i) the amount of tax credit that the office grants to each alternative energy entity for
194 each taxable year;

195 (ii) the new state revenues generated by each alternative energy project;

196 (iii) the information contained in the office's latest report to the Legislature under
197 Section 63M-4-505; and

198 (iv) any other information that the Revenue and Taxation Interim Committee requests.

199 (c) The Revenue and Taxation Interim Committee shall ensure that its
200 recommendations under Subsection (5)(a) include an evaluation of:

201 (i) the cost of the tax credit to the state;

202 (ii) the purpose and effectiveness of the tax credit; and

203 (iii) the extent to which the state benefits from the tax credit.

204 Section 4. Section **59-10-1029** is enacted to read:

205 **59-10-1029. Nonrefundable alternative energy development tax credit.**

206 (1) As used in this section:

207 (a) "Alternative energy entity" is as defined in Section 63M-4-502.

208 (b) "Alternative energy project" is as defined in Section 63M-4-502.

209 (c) "Office" is as defined in Section 63M-4-401.

210 (2) Subject to the other provisions of this section, an alternative energy entity may
211 claim a nonrefundable tax credit for alternative energy development as provided in this section.

212 (3) The tax credit under this section is the amount listed as the tax credit amount on a
213 tax credit certificate that the office issues under Title 63M, Chapter 4, Part 5, Alternative
214 Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

215 (4) An alternative energy entity may carry forward a tax credit under this section for a
216 period that does not exceed the next seven taxable years if:

217 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
218 taxable year; and

219 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
220 under this chapter for that taxable year.

221 (5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the
222 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
223 make recommendations to the Legislative Management Committee concerning whether the tax
224 credit should be continued, modified, or repealed.

225 (b) For purposes of the study required by this Subsection (5), the office shall provide
226 the following information to the Revenue and Taxation Interim Committee:

227 (i) the amount of tax credit that the office grants to each alternative energy entity for
228 each taxable year;

229 (ii) the new state revenues generated by each alternative energy project;

230 (iii) the information contained in the office's latest report to the Legislature under
231 Section 63M-4-505; and

232 (iv) any other information that the Revenue and Taxation Interim Committee requests.

233 (c) The Revenue and Taxation Interim Committee shall ensure that its
234 recommendations under Subsection (5)(a) include an evaluation of:

235 (i) the cost of the tax credit to the state;

236 (ii) the purpose and effectiveness of the tax credit; and

237 (iii) the extent to which the state benefits from the tax credit.

238 Section 5. Section **59-10-1107** is amended to read:

239 **59-10-1107. Refundable economic development tax credit.**

240 (1) As used in this section:

241 (a) "Business entity" means a claimant, estate, or trust that meets the definition of
242 "business entity" as defined in Section 63M-1-2403 [~~or 63M-1-2803~~].

243 (b) "Office" means the Governor's Office of Economic Development.

244 (2) Subject to the other provisions of this section, a business entity may claim a
245 refundable tax credit for economic development.

246 (3) The tax credit under this section is the amount listed as the tax credit amount on the
247 tax credit certificate that the office issues to the business entity for the taxable year.

248 (4) (a) In accordance with any rules prescribed by the commission under Subsection
249 (4)(b), the commission shall make a refund to a business entity that claims a tax credit under
250 this section if the amount of the tax credit exceeds the business entity's tax liability for a
251 taxable year.

252 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
253 commission may make rules providing procedures for making a refund to a business entity as
254 required by Subsection (4)(a).

255 (5) (a) On or before October 1, 2013, and every five years after October 1, 2013, the
256 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
257 make recommendations to the Legislative Management Committee and the Workforce Services
258 and Community and Economic Development Interim Committee concerning whether the tax
259 credit should be continued, modified, or repealed.

260 (b) For purposes of the study required by this Subsection (5), the office shall provide
261 the following information to the Revenue and Taxation Interim Committee:

262 (i) the amount of tax credit the office grants to each taxpayer for each calendar year;

263 (ii) the criteria the office uses in granting a tax credit;

264 (iii) the new state revenues generated by each taxpayer for each calendar year;

265 (iv) the information contained in the office's latest report to the Legislature under

266 Section 63M-1-2406 [~~or 63M-1-2806~~]; and

267 (v) any other information that the Revenue and Taxation Interim Committee requests.

268 (c) The Revenue and Taxation Interim Committee shall ensure that its

269 recommendations under Subsection (5)(a) include an evaluation of:

270 (i) the cost of the tax credit to the state;

271 (ii) the purpose and effectiveness of the tax credit; and

272 (iii) the extent to which the state benefits from the tax credit.

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

274 **59-12-102. Definitions.**

275 As used in this chapter:

276 (1) "800 service" means a telecommunications service that:

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

278 (b) is typically marketed:

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

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

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

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

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

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

285 Federal Communications Commission.

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

287 (i) a subscriber purchases;

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

290 (A) prerecorded announcement; or

291 (B) live service; and

292 (iii) is typically marketed:

293 (A) under the name 900 service; or

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

295 Communications Commission.

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

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

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

300 (A) a product; or

301 (B) a service.

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

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

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

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

309 (a) listed under Subsection (6); and

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

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

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

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

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

315 (d) Subsection 59-12-103(2)(d)(i)(A)(I);

316 (e) Section 59-12-204;

317 (f) Section 59-12-401;

318 (g) Section 59-12-402;

319 (h) Section 59-12-703;

320 (i) Section 59-12-802;

321 (j) Section 59-12-804;

322 (k) Section 59-12-1102;

323 (l) Section 59-12-1302;

324 (m) Section 59-12-1402;

325 (n) Section 59-12-1802;

326 (o) Section 59-12-2003;

327 (p) Section 59-12-2103;

328 (q) Section 59-12-2213;

329 (r) Section 59-12-2214;

330 (s) Section 59-12-2215;

331 (t) Section 59-12-2216;

332 (u) Section 59-12-2217; or

333 (v) Section 59-12-2218.

334 (7) "Aircraft" is as defined in Section 72-10-102.

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

336 (a) except for an airline as defined in Section 59-2-102 or an affiliated group as defined
337 in Subsection 59-12-107(1)(f) of an airline; and

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

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

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

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

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

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

347 (A) an inspection;

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

349 (C) changing landing gear; and

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

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

353 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
354 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
355 authority that certifies the fixed wing turbine powered aircraft.

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

357 (a) is suitable for human consumption; and

358 (b) contains .5% or more alcohol by volume.

359 (10) "Alternative energy" means:

360 (a) biomass energy;

361 (b) geothermal energy;

362 (c) hydroelectric energy;

363 (d) solar energy;

364 (e) wind energy; or

365 (f) energy that is derived from:

366 (i) coal-to-liquids;

367 (ii) nuclear fuel;
368 (iii) oil-impregnated diatomaceous earth;
369 (iv) oil sands;
370 (v) oil shale; or
371 (vi) petroleum coke.
372 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
373 facility" means a facility that:
374 (i) uses alternative energy to produce electricity; and
375 (ii) has a production capacity of 2 megawatts or greater.
376 (b) A facility is an alternative energy electricity production facility regardless of
377 whether the facility is:
378 (i) connected to an electric grid; or
379 (ii) located on the premises of an electricity consumer.
380 ~~[(10)]~~ (12) (a) "Ancillary service" means a service associated with, or incidental to, the
381 provision of telecommunications service.
382 (b) "Ancillary service" includes:
383 (i) a conference bridging service;
384 (ii) a detailed communications billing service;
385 (iii) directory assistance;
386 (iv) a vertical service; or
387 (v) a voice mail service.
388 ~~[(11)]~~ (13) "Area agency on aging" is as defined in Section 62A-3-101.
389 ~~[(12)]~~ (14) "Assisted amusement device" means an amusement device, skill device, or
390 ride device that is started and stopped by an individual:
391 (a) who is not the purchaser or renter of the right to use or operate the amusement
392 device, skill device, or ride device; and
393 (b) at the direction of the seller of the right to use the amusement device, skill device,
394 or ride device.
395 ~~[(13)]~~ (15) "Assisted cleaning or washing of tangible personal property" means
396 cleaning or washing of tangible personal property if the cleaning or washing labor is primarily
397 performed by an individual:

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

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

402 [~~(14)~~] (16) "Authorized carrier" means:

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

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

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

410 [~~(15)~~] (17) (a) Except as provided in Subsection [~~(15)~~] (17)(b), "biomass energy"
411 means any of the following that is used as the primary source of energy to produce fuel or
412 electricity:

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

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

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

416 (B) animal waste;

417 (C) methane produced:

418 (I) at landfills; or

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

420 (D) aquatic plants; and

421 (E) agricultural products.

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

423 (i) black liquor;

424 (ii) treated woods; or

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

426 (A) at landfills; or

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

428 [~~(16)~~] (18) (a) "Bundled transaction" means the sale of two or more items of tangible

429 personal property, products, or services if the tangible personal property, products, or services
430 are:

431 (i) distinct and identifiable; and

432 (ii) sold for one nonitemized price.

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

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

437 (ii) the sale of real property;

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

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

440 (A) the tangible personal property:

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

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

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

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

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

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

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

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

449 taxation under this chapter and tangible personal property or a product that is not subject to
450 taxation under this chapter if the:

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

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

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

457 (A) that retail sale includes:

458 (I) food and food ingredients;

459 (II) a drug;

- 460 (III) durable medical equipment;
- 461 (IV) mobility enhancing equipment;
- 462 (V) an over-the-counter drug;
- 463 (VI) a prosthetic device; or
- 464 (VII) a medical supply; and
- 465 (B) subject to Subsection [~~(16)~~] (18)(f):
- 466 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 467 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 468 (II) the seller's sales price of the tangible personal property subject to taxation under
- 469 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 470 (c) (i) For purposes of Subsection [~~(16)~~] (18)(a)(i), tangible personal property, a
- 471 product, or a service that is distinct and identifiable does not include:
- 472 (A) packaging that:
- 473 (I) accompanies the sale of the tangible personal property, product, or service; and
- 474 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
- 475 service;
- 476 (B) tangible personal property, a product, or a service provided free of charge with the
- 477 purchase of another item of tangible personal property, a product, or a service; or
- 478 (C) an item of tangible personal property, a product, or a service included in the
- 479 definition of "purchase price."
- 480 (ii) For purposes of Subsection [~~(16)~~] (18)(c)(i)(B), an item of tangible personal
- 481 property, a product, or a service is provided free of charge with the purchase of another item of
- 482 tangible personal property, a product, or a service if the sales price of the purchased item of
- 483 tangible personal property, product, or service does not vary depending on the inclusion of the
- 484 tangible personal property, product, or service provided free of charge.
- 485 (d) (i) For purposes of Subsection [~~(16)~~] (18)(a)(ii), property sold for one nonitemized
- 486 price does not include a price that is separately identified by tangible personal property,
- 487 product, or service on the following, regardless of whether the following is in paper format or
- 488 electronic format:
- 489 (A) a binding sales document; or
- 490 (B) another supporting sales-related document that is available to a purchaser.

491 (ii) For purposes of Subsection [~~(16)~~] (18)(d)(i), a binding sales document or another
492 supporting sales-related document that is available to a purchaser includes:

- 493 (A) a bill of sale;
- 494 (B) a contract;
- 495 (C) an invoice;
- 496 (D) a lease agreement;
- 497 (E) a periodic notice of rates and services;
- 498 (F) a price list;
- 499 (G) a rate card;
- 500 (H) a receipt; or
- 501 (I) a service agreement.

502 (e) (i) For purposes of Subsection [~~(16)~~] (18)(b)(vi), the sales price of tangible personal
503 property or a product subject to taxation under this chapter is de minimis if:

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

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

508 (ii) For purposes of Subsection [~~(16)~~] (18)(b)(vi), a seller:

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

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

515 (iii) For purposes of Subsection [~~(16)~~] (18)(b)(vi), a seller shall use the full term of a
516 service contract to determine if the sales price of tangible personal property or a product is de
517 minimis.

518 (f) For purposes of Subsection [~~(16)~~] (18)(b)(vii)(B), a seller may not use a
519 combination of the seller's purchase price and the seller's sales price to determine if tangible
520 personal property subject to taxation under this chapter is 50% or less of the seller's total
521 purchase price or sales price of that retail sale.

522 [~~(17)~~] (19) "Certified automated system" means software certified by the governing
523 board of the agreement that:

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

526 (i) on a transaction; and

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

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

530 (c) maintains a record of the transaction described in Subsection [~~(17)~~] (19)(a)(i).

531 [~~(18)~~] (20) "Certified service provider" means an agent certified:

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

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

536 [~~(19)~~] (21) (a) Subject to Subsection [~~(19)~~] (21)(b), "clothing" means all human
537 wearing apparel suitable for general use.

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

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

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

543 [~~(20)~~] (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic
544 fuel.

545 [~~(21)~~] (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or
546 other fuels that does not constitute industrial use under Subsection [~~(48)~~] (50) or residential use
547 under Subsection [~~(96)~~] (97).

548 [~~(22)~~] (24) (a) "Common carrier" means a person engaged in or transacting the
549 business of transporting passengers, freight, merchandise, or other property for hire within this
550 state.

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

553 passenger's place of employment.

554 (ii) For purposes of Subsection [~~(22)~~] (24)(b)(i), in accordance with Title 63G, Chapter
555 3, Utah Administrative Rulemaking Act, the commission may make rules defining what
556 constitutes a person's place of employment.

557 [~~(23)~~] (25) "Component part" includes:

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

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

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

563 (d) feed, seeds, and seedlings.

564 [~~(24)~~] (26) "Computer" means an electronic device that accepts information:

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

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

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

568 [~~(25)~~] (27) "Computer software" means a set of coded instructions designed to cause:

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

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

571 [~~(26)~~] (28) (a) "Conference bridging service" means an ancillary service that links two
572 or more participants of an audio conference call or video conference call.

573 (b) "Conference bridging service" may include providing a telephone number as part of
574 the ancillary service described in Subsection [~~(26)~~] (28)(a).

575 (c) "Conference bridging service" does not include a telecommunications service used
576 to reach the ancillary service described in Subsection [~~(26)~~] (28)(a).

577 [~~(27)~~] (29) "Construction materials" means any tangible personal property that will be
578 converted into real property.

579 [~~(28)~~] (30) "Delivered electronically" means delivered to a purchaser by means other
580 than tangible storage media.

581 [~~(29)~~] (31) (a) "Delivery charge" means a charge:

582 (i) by a seller of:

583 (A) tangible personal property;

584 (B) a product transferred electronically; or
585 (C) services; and
586 (ii) for preparation and delivery of the tangible personal property, product transferred
587 electronically, or services described in Subsection [~~(29)~~] (31)(a)(i) to a location designated by
588 the purchaser.

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

590 (i) transportation;

591 (ii) shipping;

592 (iii) postage;

593 (iv) handling;

594 (v) crating; or

595 (vi) packing.

596 [~~(30)~~] (32) "Detailed telecommunications billing service" means an ancillary service of
597 separately stating information pertaining to individual calls on a customer's billing statement.

598 [~~(31)~~] (33) "Dietary supplement" means a product, other than tobacco, that:

599 (a) is intended to supplement the diet;

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

601 (i) a vitamin;

602 (ii) a mineral;

603 (iii) an herb or other botanical;

604 (iv) an amino acid;

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

607 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
608 described in Subsections [~~(31)~~] (33)(b)(i) through (v);

609 (c) (i) except as provided in Subsection [~~(31)~~] (33)(c)(ii), is intended for ingestion in:

610 (A) tablet form;

611 (B) capsule form;

612 (C) powder form;

613 (D) softgel form;

614 (E) gelcap form; or

615 (F) liquid form; or
616 (ii) notwithstanding Subsection [~~(31)~~] (33)(c)(i), if the product is not intended for
617 ingestion in a form described in Subsections [~~(31)~~] (33)(c)(i)(A) through (F), is not
618 represented:

- 619 (A) as conventional food; and
- 620 (B) for use as a sole item of:
 - 621 (I) a meal; or
 - 622 (II) the diet; and
- 623 (d) is required to be labeled as a dietary supplement:

- 624 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 625 (ii) as required by 21 C.F.R. Sec. 101.36.

626 [~~(32)~~] (34) (a) "Direct mail" means printed material delivered or distributed by United
627 States mail or other delivery service:

- 628 (i) to:
 - 629 (A) a mass audience; or
 - 630 (B) addressees on a mailing list provided:
 - 631 (I) by a purchaser of the mailing list; or
 - 632 (II) at the discretion of the purchaser of the mailing list; and
 - 633 (ii) if the cost of the printed material is not billed directly to the recipients.
- 634 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
635 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 636 (c) "Direct mail" does not include multiple items of printed material delivered to a
637 single address.

638 [~~(33)~~] (35) "Directory assistance" means an ancillary service of providing:

- 639 (a) address information; or
- 640 (b) telephone number information.

641 [~~(34)~~] (36) (a) "Disposable home medical equipment or supplies" means medical
642 equipment or supplies that:

- 643 (i) cannot withstand repeated use; and
- 644 (ii) are purchased by, for, or on behalf of a person other than:
 - 645 (A) a health care facility as defined in Section 26-21-2;

- 646 (B) a health care provider as defined in Section 78B-3-403;
- 647 (C) an office of a health care provider described in Subsection [~~34~~] (36)(a)(ii)(B); or
- 648 (D) a person similar to a person described in Subsections [~~34~~] (36)(a)(ii)(A) through

649 (C).

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

- 651 (i) a drug;
- 652 (ii) durable medical equipment;
- 653 (iii) a hearing aid;
- 654 (iv) a hearing aid accessory;
- 655 (v) mobility enhancing equipment; or
- 656 (vi) tangible personal property used to correct impaired vision, including:
 - 657 (A) eyeglasses; or
 - 658 (B) contact lenses.

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

661 [~~35~~] (37) (a) "Drug" means a compound, substance, or preparation, or a component of
662 a compound, substance, or preparation that is:

- 663 (i) recognized in:
 - 664 (A) the official United States Pharmacopoeia;
 - 665 (B) the official Homeopathic Pharmacopoeia of the United States;
 - 666 (C) the official National Formulary; or
 - 667 (D) a supplement to a publication listed in Subsections [~~35~~] (37)(a)(i)(A) through

668 (C);

- 669 (ii) intended for use in the:
 - 670 (A) diagnosis of disease;
 - 671 (B) cure of disease;
 - 672 (C) mitigation of disease;
 - 673 (D) treatment of disease; or
 - 674 (E) prevention of disease; or
- 675 (iii) intended to affect:
 - 676 (A) the structure of the body; or

677 (B) any function of the body.

678 (b) "Drug" does not include:

679 (i) food and food ingredients;

680 (ii) a dietary supplement;

681 (iii) an alcoholic beverage; or

682 (iv) a prosthetic device.

683 [~~36~~] (38) (a) Except as provided in Subsection [~~36~~] (38)(c), "durable medical
684 equipment" means equipment that:

685 (i) can withstand repeated use;

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

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

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

689 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
690 equipment described in Subsection [~~36~~] (38)(a).

691 (c) Notwithstanding Subsection [~~36~~] (38)(a), "durable medical equipment" does not
692 include mobility enhancing equipment.

693 [~~37~~] (39) "Electronic" means:

694 (a) relating to technology; and

695 (b) having:

696 (i) electrical capabilities;

697 (ii) digital capabilities;

698 (iii) magnetic capabilities;

699 (iv) wireless capabilities;

700 (v) optical capabilities;

701 (vi) electromagnetic capabilities; or

702 (vii) capabilities similar to Subsections [~~37~~] (39)(b)(i) through (vi).

703 [~~38~~] (40) "Employee" is as defined in Section 59-10-401.

704 [~~39~~] (41) "Fixed guideway" means a public transit facility that uses and occupies:

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

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

707 [~~40~~] (42) "Fixed wing turbine powered aircraft" means an aircraft that:

- 708 (a) is powered by turbine engines;
- 709 (b) operates on jet fuel; and
- 710 (c) has wings that are permanently attached to the fuselage of the aircraft.

711 [~~(41)~~] (43) "Fixed wireless service" means a telecommunications service that provides
712 radio communication between fixed points.

713 [~~(42)~~] (44) (a) "Food and food ingredients" means substances:

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

715 (A) liquid form;

716 (B) concentrated form;

717 (C) solid form;

718 (D) frozen form;

719 (E) dried form; or

720 (F) dehydrated form; and

721 (ii) that are:

722 (A) sold for:

723 (I) ingestion by humans; or

724 (II) chewing by humans; and

725 (B) consumed for the substance's:

726 (I) taste; or

727 (II) nutritional value.

728 (b) "Food and food ingredients" includes an item described in Subsection [~~(79)~~]
729 (82)(b)(iii).

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

731 (i) an alcoholic beverage;

732 (ii) tobacco; or

733 (iii) prepared food.

734 [~~(43)~~] (45) (a) "Fundraising sales" means sales:

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

736 (B) made by a school student;

737 (ii) that are for the purpose of raising funds for the school to purchase equipment,
738 materials, or provide transportation; and

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

740 (b) For purposes of Subsection [~~(43)~~] (45)(a)(iii), "officially sanctioned school activity"
741 means a school activity:

742 (i) that is conducted in accordance with a formal policy adopted by the school or school
743 district governing the authorization and supervision of fundraising activities;

744 (ii) that does not directly or indirectly compensate an individual teacher or other
745 educational personnel by direct payment, commissions, or payment in kind; and

746 (iii) the net or gross revenues from which are deposited in a dedicated account
747 controlled by the school or school district.

748 [~~(44)~~] (46) "Geothermal energy" means energy contained in heat that continuously
749 flows outward from the earth that is used as the sole source of energy to produce electricity.

750 [~~(45)~~] (47) "Governing board of the agreement" means the governing board of the
751 agreement that is:

752 (a) authorized to administer the agreement; and

753 (b) established in accordance with the agreement.

754 [~~(46)~~] (48) (a) For purposes of Subsection 59-12-104(41), "governmental entity"
755 means:

756 (i) the executive branch of the state, including all departments, institutions, boards,
757 divisions, bureaus, offices, commissions, and committees;

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

760 (iii) the legislative branch of the state, including the House of Representatives, the
761 Senate, the Legislative Printing Office, the Office of Legislative Research and General
762 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
763 Analyst;

764 (iv) the National Guard;

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

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

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

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

- 770 (ii) a school;
- 771 (iii) the State Board of Education;
- 772 (iv) the State Board of Regents; or
- 773 (v) an institution of higher education.
- 774 [~~47~~] (49) "Hydroelectric energy" means water used as the sole source of energy to
- 775 produce electricity.
- 776 [~~48~~] (50) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
- 777 or other fuels:
- 778 (a) in mining or extraction of minerals;
- 779 (b) in agricultural operations to produce an agricultural product up to the time of
- 780 harvest or placing the agricultural product into a storage facility, including:
- 781 (i) commercial greenhouses;
- 782 (ii) irrigation pumps;
- 783 (iii) farm machinery;
- 784 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 785 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 786 (v) other farming activities;
- 787 (c) in manufacturing tangible personal property at an establishment described in SIC
- 788 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 789 Executive Office of the President, Office of Management and Budget;
- 790 (d) by a scrap recycler if:
- 791 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 792 one or more of the following items into prepared grades of processed materials for use in new
- 793 products:
- 794 (A) iron;
- 795 (B) steel;
- 796 (C) nonferrous metal;
- 797 (D) paper;
- 798 (E) glass;
- 799 (F) plastic;
- 800 (G) textile; or

801 (H) rubber; and
802 (ii) the new products under Subsection [~~(48)~~] (50)(d)(i) would otherwise be made with
803 nonrecycled materials; or

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

806 [~~(49)~~] (51) (a) Except as provided in Subsection [~~(49)~~] (51)(b), "installation charge"
807 means a charge for installing:

808 (i) tangible personal property; or

809 (ii) a product transferred electronically.

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

811 (i) repairs or renovations of:

812 (A) tangible personal property; or

813 (B) a product transferred electronically; or

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

815 (A) to other tangible personal property; and

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

817 [~~(50)~~] (52) "Institution of higher education" means an institution of higher education
818 listed in Section 53B-2-101.

819 [~~(51)~~] (53) (a) "Lease" or "rental" means a transfer of possession or control of tangible
820 personal property or a product transferred electronically for:

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

822 (B) an indeterminate term; and

823 (ii) consideration.

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

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

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

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

834 (A) upon completion of required payments; and

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

836 (I) \$100; or

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

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

841 (d) For purposes of Subsection [~~51~~] (53)(c)(iii), an operator is necessary for
842 equipment to perform as designed if the operator's duties exceed the:

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

844 (ii) maintenance of tangible personal property; or

845 (iii) inspection of tangible personal property.

846 [~~52~~] (54) "Load and leave" means delivery to a purchaser by use of a tangible storage
847 media if the tangible storage media is not physically transferred to the purchaser.

848 [~~53~~] (55) "Local taxing jurisdiction" means a:

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

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

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

852 [~~54~~] (56) "Manufactured home" is as defined in Section 15A-1-302.

853 [~~55~~] (57) For purposes of Section 59-12-104, "manufacturing facility" means:

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

857 (b) a scrap recycler if:

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

861 (A) iron;

862 (B) steel;

- 863 (C) nonferrous metal;
- 864 (D) paper;
- 865 (E) glass;
- 866 (F) plastic;
- 867 (G) textile; or
- 868 (H) rubber; and

869 (ii) the new products under Subsection [~~55~~] 57(b)(i) would otherwise be made with
870 nonrecycled materials; or

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

872 [~~56~~] 58 "Member of the immediate family of the producer" means a person who is
873 related to a producer described in Subsection 59-12-104(20)(a) as a:

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

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

876 (ii) a foster child or foster stepchild;

877 (b) grandchild or stepgrandchild;

878 (c) grandparent or stepgrandparent;

879 (d) nephew or stepnephew;

880 (e) niece or stepniece;

881 (f) parent or stepparent;

882 (g) sibling or stepsibling;

883 (h) spouse;

884 (i) person who is the spouse of a person described in Subsections [~~56~~] 58(a) through
885 (g); or

886 (j) person similar to a person described in Subsections [~~56~~] 58(a) through (i) as
887 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
888 Administrative Rulemaking Act.

889 [~~57~~] 59 "Mobile home" is as defined in Section 15A-1-302.

890 [~~58~~] 60 "Mobile telecommunications service" is as defined in the Mobile
891 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

892 [~~59~~] 61 (a) "Mobile wireless service" means a telecommunications service,
893 regardless of the technology used, if:

894 (i) the origination point of the conveyance, routing, or transmission is not fixed;
895 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
896 (iii) the origination point described in Subsection [~~59~~] (61)(a)(i) and the termination
897 point described in Subsection [~~59~~] (61)(a)(ii) are not fixed.

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

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

902 [~~60~~] (62) (a) Except as provided in Subsection [~~60~~] (62)(c), "mobility enhancing
903 equipment" means equipment that is:

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

906 (ii) appropriate for use in a:

907 (A) home; or

908 (B) motor vehicle; and

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

910 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
911 the equipment described in Subsection [~~60~~] (62)(a).

912 (c) Notwithstanding Subsection [~~60~~] (62)(a), "mobility enhancing equipment" does
913 not include:

914 (i) a motor vehicle;

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

917 (iii) durable medical equipment; or

918 (iv) a prosthetic device.

919 [~~61~~] (63) "Model 1 seller" means a seller registered under the agreement that has
920 selected a certified service provider as the seller's agent to perform all of the seller's sales and
921 use tax functions for agreement sales and use taxes other than the seller's obligation under
922 Section 59-12-124 to remit a tax on the seller's own purchases.

923 [~~62~~] (64) "Model 2 seller" means a seller registered under the agreement that:

924 (a) except as provided in Subsection [~~62~~] (64)(b), has selected a certified automated

925 system to perform the seller's sales tax functions for agreement sales and use taxes; and

926 (b) notwithstanding Subsection [~~(62)~~] (64)(a), retains responsibility for remitting all of
927 the sales tax:

928 (i) collected by the seller; and

929 (ii) to the appropriate local taxing jurisdiction.

930 [~~(63)~~] (65) (a) Subject to Subsection [~~(63)~~] (65)(b), "model 3 seller" means a seller
931 registered under the agreement that has:

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

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

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

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

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

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

938 (b) For purposes of Subsection [~~(63)~~] (65)(a), "model 3 seller" includes an affiliated
939 group of sellers using the same proprietary system.

940 [~~(64)~~] (66) "Model 4 seller" means a seller that is registered under the agreement and is
941 not a model 1 seller, model 2 seller, or model 3 seller.

942 [~~(65)~~] (67) "Modular home" means a modular unit as defined in Section 15A-1-302.

943 [~~(66)~~] (68) "Motor vehicle" is as defined in Section 41-1a-102.

944 (69) "Oil sands" means impregnated bituminous sands that:

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

947 (b) yield mixtures of liquid hydrocarbon; and

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

950 [~~(67)~~] (70) "Oil shale" means a group of fine black to dark brown shales containing
951 [~~bituminous~~] kerogen material that yields petroleum upon heating and distillation.

952 [~~(68)~~] (71) (a) "Other fuels" means products that burn independently to produce heat or
953 energy.

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

956 [~~(69)~~] (72) (a) "Paging service" means a telecommunications service that provides
957 transmission of a coded radio signal for the purpose of activating a specific pager.

958 (b) For purposes of Subsection [~~(69)~~] (72)(a), the transmission of a coded radio signal
959 includes a transmission by message or sound.

960 [~~(70)~~] (73) "Pawnbroker" is as defined in Section 13-32a-102.

961 [~~(71)~~] (74) "Pawn transaction" is as defined in Section 13-32a-102.

962 [~~(72)~~] (75) (a) "Permanently attached to real property" means that for tangible personal
963 property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

980 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
981 Subsection [~~(72)~~] (75)(c)(iii) or (iv).

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

983 (i) the attachment of portable or movable tangible personal property to real property if
984 that portable or movable tangible personal property is attached to real property only for:

985 (A) convenience;

986 (B) stability; or

- 987 (C) for an obvious temporary purpose;
- 988 (ii) the detachment of tangible personal property from real property except for the
- 989 detachment described in Subsection [~~(72)~~] (75)(b)(ii);
- 990 (iii) an attachment of the following tangible personal property to real property if the
- 991 attachment to real property is only through a line that supplies water, electricity, gas,
- 992 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 993 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 994 (A) a computer;
- 995 (B) a telephone;
- 996 (C) a television; or
- 997 (D) tangible personal property similar to Subsections [~~(72)~~] (75)(c)(iii)(A) through (C)
- 998 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 999 Administrative Rulemaking Act; or
- 1000 (iv) an item listed in Subsection [~~(113)~~] (114)(c).
- 1001 [~~(73)~~] (76) "Person" includes any individual, firm, partnership, joint venture,
- 1002 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
- 1003 city, municipality, district, or other local governmental entity of the state, or any group or
- 1004 combination acting as a unit.
- 1005 [~~(74)~~] (77) "Place of primary use":
- 1006 (a) for telecommunications service other than mobile telecommunications service,
- 1007 means the street address representative of where the customer's use of the telecommunications
- 1008 service primarily occurs, which shall be:
- 1009 (i) the residential street address of the customer; or
- 1010 (ii) the primary business street address of the customer; or
- 1011 (b) for mobile telecommunications service, is as defined in the Mobile
- 1012 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 1013 [~~(75)~~] (78) (a) "Postpaid calling service" means a telecommunications service a person
- 1014 obtains by making a payment on a call-by-call basis:
- 1015 (i) through the use of a:
- 1016 (A) bank card;
- 1017 (B) credit card;

1018 (C) debit card; or
1019 (D) travel card; or
1020 (ii) by a charge made to a telephone number that is not associated with the origination
1021 or termination of the telecommunications service.

1022 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
1023 service, that would be a prepaid wireless calling service if the service were exclusively a
1024 telecommunications service.

1025 [~~76~~] (79) "Postproduction" means an activity related to the finishing or duplication of
1026 a medium described in Subsection 59-12-104(54)(a).

1027 [~~77~~] (80) "Prepaid calling service" means a telecommunications service:

1028 (a) that allows a purchaser access to telecommunications service that is exclusively
1029 telecommunications service;

1030 (b) that:

1031 (i) is paid for in advance; and

1032 (ii) enables the origination of a call using an:

1033 (A) access number; or

1034 (B) authorization code;

1035 (c) that is dialed:

1036 (i) manually; or

1037 (ii) electronically; and

1038 (d) sold in predetermined units or dollars that decline:

1039 (i) by a known amount; and

1040 (ii) with use.

1041 [~~78~~] (81) "Prepaid wireless calling service" means a telecommunications service:

1042 (a) that provides the right to utilize:

1043 (i) mobile wireless service; and

1044 (ii) other service that is not a telecommunications service, including:

1045 (A) the download of a product transferred electronically;

1046 (B) a content service; or

1047 (C) an ancillary service;

1048 (b) that:

- 1049 (i) is paid for in advance; and
- 1050 (ii) enables the origination of a call using an:
 - 1051 (A) access number; or
 - 1052 (B) authorization code;
- 1053 (c) that is dialed:
 - 1054 (i) manually; or
 - 1055 (ii) electronically; and
- 1056 (d) sold in predetermined units or dollars that decline:
 - 1057 (i) by a known amount; and
 - 1058 (ii) with use.
- 1059 ~~[(79)]~~ (82) (a) "Prepared food" means:
 - 1060 (i) food:
 - 1061 (A) sold in a heated state; or
 - 1062 (B) heated by a seller;
 - 1063 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
 - 1064 item; or
 - 1065 (iii) except as provided in Subsection ~~[(79)]~~ (82)(c), food sold with an eating utensil
 - 1066 provided by the seller, including a:
 - 1067 (A) plate;
 - 1068 (B) knife;
 - 1069 (C) fork;
 - 1070 (D) spoon;
 - 1071 (E) glass;
 - 1072 (F) cup;
 - 1073 (G) napkin; or
 - 1074 (H) straw.
 - 1075 (b) "Prepared food" does not include:
 - 1076 (i) food that a seller only:
 - 1077 (A) cuts;
 - 1078 (B) repackages; or
 - 1079 (C) pasteurizes; or

- 1080 (ii) (A) the following:
- 1081 (I) raw egg;
- 1082 (II) raw fish;
- 1083 (III) raw meat;
- 1084 (IV) raw poultry; or
- 1085 (V) a food containing an item described in Subsections [~~(79)~~] (82)(b)(ii)(A)(I) through
- 1086 (IV); and
- 1087 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1088 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1089 Subsection [~~(79)~~] (82)(b)(ii)(A) to prevent food borne illness; or
- 1090 (iii) the following if sold without eating utensils provided by the seller:
- 1091 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1092 classification under the 2002 North American Industry Classification System of the federal
- 1093 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1094 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1095 Manufacturing;
- 1096 (B) food and food ingredients sold in an unheated state:
- 1097 (I) by weight or volume; and
- 1098 (II) as a single item; or
- 1099 (C) a bakery item, including:
- 1100 (I) a bagel;
- 1101 (II) a bar;
- 1102 (III) a biscuit;
- 1103 (IV) bread;
- 1104 (V) a bun;
- 1105 (VI) a cake;
- 1106 (VII) a cookie;
- 1107 (VIII) a croissant;
- 1108 (IX) a danish;
- 1109 (X) a donut;
- 1110 (XI) a muffin;

- 1111 (XII) a pastry;
- 1112 (XIII) a pie;
- 1113 (XIV) a roll;
- 1114 (XV) a tart;
- 1115 (XVI) a torte; or
- 1116 (XVII) a tortilla.
- 1117 (c) Notwithstanding Subsection [~~(79)~~] (82)(a)(iii), an eating utensil provided by the
- 1118 seller does not include the following used to transport the food:
 - 1119 (i) a container; or
 - 1120 (ii) packaging.
- 1121 [~~(80)~~] (83) "Prescription" means an order, formula, or recipe that is issued:
 - 1122 (a) (i) orally;
 - 1123 (ii) in writing;
 - 1124 (iii) electronically; or
 - 1125 (iv) by any other manner of transmission; and
 - 1126 (b) by a licensed practitioner authorized by the laws of a state.
- 1127 [~~(81)~~] (84) (a) Except as provided in Subsection [~~(81)~~] (84)(b)(ii) or (iii), "prewritten
- 1128 computer software" means computer software that is not designed and developed:
 - 1129 (i) by the author or other creator of the computer software; and
 - 1130 (ii) to the specifications of a specific purchaser.
- 1131 (b) "Prewritten computer software" includes:
 - 1132 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
 - 1133 software is not designed and developed:
 - 1134 (A) by the author or other creator of the computer software; and
 - 1135 (B) to the specifications of a specific purchaser;
 - 1136 (ii) notwithstanding Subsection [~~(81)~~] (84)(a), computer software designed and
 - 1137 developed by the author or other creator of the computer software to the specifications of a
 - 1138 specific purchaser if the computer software is sold to a person other than the purchaser; or
 - 1139 (iii) notwithstanding Subsection [~~(81)~~] (84)(a) and except as provided in Subsection
 - 1140 [~~(81)~~](84)(c), prewritten computer software or a prewritten portion of prewritten computer
 - 1141 software:

- 1142 (A) that is modified or enhanced to any degree; and
- 1143 (B) if the modification or enhancement described in Subsection [~~(81)~~] (84)(b)(iii)(A) is
- 1144 designed and developed to the specifications of a specific purchaser.
- 1145 (c) Notwithstanding Subsection [~~(81)~~] (84)(b)(iii), "prewritten computer software"
- 1146 does not include a modification or enhancement described in Subsection [~~(81)~~] (84)(b)(iii) if
- 1147 the charges for the modification or enhancement are:
- 1148 (i) reasonable; and
- 1149 (ii) separately stated on the invoice or other statement of price provided to the
- 1150 purchaser.
- 1151 [~~(82)~~] (85) (a) "Private communication service" means a telecommunications service:
- 1152 (i) that entitles a customer to exclusive or priority use of one or more communications
- 1153 channels between or among termination points; and
- 1154 (ii) regardless of the manner in which the one or more communications channels are
- 1155 connected.
- 1156 (b) "Private communications service" includes the following provided in connection
- 1157 with the use of one or more communications channels:
- 1158 (i) an extension line;
- 1159 (ii) a station;
- 1160 (iii) switching capacity; or
- 1161 (iv) another associated service that is provided in connection with the use of one or
- 1162 more communications channels as defined in Section 59-12-215.
- 1163 [~~(83)~~] (86) (a) Except as provided in Subsection [~~(83)~~] (86)(b), "product transferred
- 1164 electronically" means a product transferred electronically that would be subject to a tax under
- 1165 this chapter if that product was transferred in a manner other than electronically.
- 1166 (b) "Product transferred electronically" does not include:
- 1167 (i) an ancillary service;
- 1168 (ii) computer software; or
- 1169 (iii) a telecommunications service.
- 1170 [~~(84)~~] (87) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 1171 (i) artificially replace a missing portion of the body;
- 1172 (ii) prevent or correct a physical deformity or physical malfunction; or

- 1173 (iii) support a weak or deformed portion of the body.
- 1174 (b) "Prosthetic device" includes:
- 1175 (i) parts used in the repairs or renovation of a prosthetic device;
- 1176 (ii) replacement parts for a prosthetic device;
- 1177 (iii) a dental prosthesis; or
- 1178 (iv) a hearing aid.
- 1179 (c) "Prosthetic device" does not include:
- 1180 (i) corrective eyeglasses; or
- 1181 (ii) contact lenses.
- 1182 ~~[(85)]~~ (88) (a) "Protective equipment" means an item:
- 1183 (i) for human wear; and
- 1184 (ii) that is:
- 1185 (A) designed as protection:
- 1186 (I) to the wearer against injury or disease; or
- 1187 (II) against damage or injury of other persons or property; and
- 1188 (B) not suitable for general use.
- 1189 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1190 commission shall make rules:
- 1191 (i) listing the items that constitute "protective equipment"; and
- 1192 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1193 under the agreement.
- 1194 ~~[(86)]~~ (89) (a) For purposes of Subsection 59-12-104(41), "publication" means any
- 1195 written or printed matter, other than a photocopy:
- 1196 (i) regardless of:
- 1197 (A) characteristics;
- 1198 (B) copyright;
- 1199 (C) form;
- 1200 (D) format;
- 1201 (E) method of reproduction; or
- 1202 (F) source; and
- 1203 (ii) made available in printed or electronic format.

1204 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1205 commission may by rule define the term "photocopy."

1206 [~~87~~] (90) (a) "Purchase price" and "sales price" mean the total amount of
1207 consideration:

1208 (i) valued in money; and

1209 (ii) for which tangible personal property, a product transferred electronically, or
1210 services are:

1211 (A) sold;

1212 (B) leased; or

1213 (C) rented.

1214 (b) "Purchase price" and "sales price" include:

1215 (i) the seller's cost of the tangible personal property, a product transferred
1216 electronically, or services sold;

1217 (ii) expenses of the seller, including:

1218 (A) the cost of materials used;

1219 (B) a labor cost;

1220 (C) a service cost;

1221 (D) interest;

1222 (E) a loss;

1223 (F) the cost of transportation to the seller; or

1224 (G) a tax imposed on the seller;

1225 (iii) a charge by the seller for any service necessary to complete the sale; or

1226 (iv) consideration a seller receives from a person other than the purchaser if:

1227 (A) (I) the seller actually receives consideration from a person other than the purchaser;

1228 and

1229 (II) the consideration described in Subsection [~~87~~] (90)(b)(iv)(A)(I) is directly related
1230 to a price reduction or discount on the sale;

1231 (B) the seller has an obligation to pass the price reduction or discount through to the
1232 purchaser;

1233 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1234 the seller at the time of the sale to the purchaser; and

1235 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1236 seller to claim a price reduction or discount; and

1237 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1238 coupon, or other documentation with the understanding that the person other than the seller
1239 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1240 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1241 organization allowed a price reduction or discount, except that a preferred customer card that is
1242 available to any patron of a seller does not constitute membership in a group or organization
1243 allowed a price reduction or discount; or

1244 (III) the price reduction or discount is identified as a third party price reduction or
1245 discount on the:

1246 (Aa) invoice the purchaser receives; or

1247 (Bb) certificate, coupon, or other documentation the purchaser presents.

1248 (c) "Purchase price" and "sales price" do not include:

1249 (i) a discount:

1250 (A) in a form including:

1251 (I) cash;

1252 (II) term; or

1253 (III) coupon;

1254 (B) that is allowed by a seller;

1255 (C) taken by a purchaser on a sale; and

1256 (D) that is not reimbursed by a third party; or

1257 (ii) the following if separately stated on an invoice, bill of sale, or similar document
1258 provided to the purchaser:

1259 (A) the following from credit extended on the sale of tangible personal property or
1260 services:

1261 (I) a carrying charge;

1262 (II) a financing charge; or

1263 (III) an interest charge;

1264 (B) a delivery charge;

1265 (C) an installation charge;

1266 (D) a manufacturer rebate on a motor vehicle; or
1267 (E) a tax or fee legally imposed directly on the consumer.
1268 ~~[(88)]~~ (91) "Purchaser" means a person to whom:
1269 (a) a sale of tangible personal property is made;
1270 (b) a product is transferred electronically; or
1271 (c) a service is furnished.
1272 ~~[(89)]~~ (92) "Regularly rented" means:
1273 (a) rented to a guest for value three or more times during a calendar year; or
1274 (b) advertised or held out to the public as a place that is regularly rented to guests for
1275 value.
1276 ~~[(90) "Renewable energy" means:]~~
1277 ~~[(a) biomass energy;]~~
1278 ~~[(b) hydroelectric energy;]~~
1279 ~~[(c) geothermal energy;]~~
1280 ~~[(d) solar energy; or]~~
1281 ~~[(e) wind energy.]~~
1282 ~~[(91) (a) "Renewable energy production facility" means a facility that:]~~
1283 ~~[(i) uses renewable energy to produce electricity; and]~~
1284 ~~[(ii) has a production capacity of 20 kilowatts or greater.]~~
1285 ~~[(b) A facility is a renewable energy production facility regardless of whether the~~
1286 ~~facility is:]~~
1287 ~~[(i) connected to an electric grid; or]~~
1288 ~~[(ii) located on the premises of an electricity consumer.]~~
1289 ~~[(92)]~~ (93) "Rental" is as defined in Subsection ~~[(51)]~~ (53).
1290 ~~[(93)]~~ (94) (a) Except as provided in Subsection ~~[(93)]~~ (94)(b), "repairs or renovations
1291 of tangible personal property" means:
1292 (i) a repair or renovation of tangible personal property that is not permanently attached
1293 to real property; or
1294 (ii) attaching tangible personal property or a product transferred electronically to other
1295 tangible personal property if:
1296 (A) the other tangible personal property to which the tangible personal property or

1297 product transferred electronically is attached is not permanently attached to real property; and

1298 (B) the attachment of tangible personal property or a product transferred electronically
1299 to other tangible personal property is made in conjunction with a repair or replacement of
1300 tangible personal property or a product transferred electronically.

1301 (b) "Repairs or renovations of tangible personal property" does not include attaching
1302 prewritten computer software to other tangible personal property if the other tangible personal
1303 property to which the prewritten computer software is attached is not permanently attached to
1304 real property.

1305 [~~94~~] (95) "Research and development" means the process of inquiry or
1306 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
1307 process of preparing those devices, technologies, or applications for marketing.

1308 [~~95~~] (96) (a) "Residential telecommunications services" means a telecommunications
1309 service or an ancillary service that is provided to an individual for personal use:

1310 (i) at a residential address; or

1311 (ii) at an institution, including a nursing home or a school, if the telecommunications
1312 service or ancillary service is provided to and paid for by the individual residing at the
1313 institution rather than the institution.

1314 (b) For purposes of Subsection [~~95~~] (96)(a)(i), a residential address includes an:

1315 (i) apartment; or

1316 (ii) other individual dwelling unit.

1317 [~~96~~] (97) "Residential use" means the use in or around a home, apartment building,
1318 sleeping quarters, and similar facilities or accommodations.

1319 [~~97~~] (98) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
1320 other than:

1321 (a) resale;

1322 (b) sublease; or

1323 (c) subrent.

1324 [~~98~~] (99) (a) "Retailer" means any person engaged in a regularly organized business
1325 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1),
1326 and who is selling to the user or consumer and not for resale.

1327 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly

1328 engaged in the business of selling to users or consumers within the state.

1329 ~~[(99)]~~ (100) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1330 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1331 Subsection 59-12-103(1), for consideration.

1332 (b) "Sale" includes:

1333 (i) installment and credit sales;

1334 (ii) any closed transaction constituting a sale;

1335 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this

1336 chapter;

1337 (iv) any transaction if the possession of property is transferred but the seller retains the
1338 title as security for the payment of the price; and

1339 (v) any transaction under which right to possession, operation, or use of any article of
1340 tangible personal property is granted under a lease or contract and the transfer of possession
1341 would be taxable if an outright sale were made.

1342 ~~[(100)]~~ (101) "Sale at retail" is as defined in Subsection ~~[(97)]~~ (98).

1343 ~~[(101)]~~ (102) "Sale-leaseback transaction" means a transaction by which title to
1344 tangible personal property or a product transferred electronically that is subject to a tax under
1345 this chapter is transferred:

1346 (a) by a purchaser-lessee;

1347 (b) to a lessor;

1348 (c) for consideration; and

1349 (d) if:

1350 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1351 of the tangible personal property or product transferred electronically;

1352 (ii) the sale of the tangible personal property or product transferred electronically to the
1353 lessor is intended as a form of financing:

1354 (A) for the tangible personal property or product transferred electronically; and

1355 (B) to the purchaser-lessee; and

1356 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1357 is required to:

1358 (A) capitalize the tangible personal property or product transferred electronically for

1359 financial reporting purposes; and
1360 (B) account for the lease payments as payments made under a financing arrangement.
1361 [~~(102)~~] (103) "Sales price" is as defined in Subsection [~~(87)~~] (90).
1362 [~~(103)~~] (104) (a) "Sales relating to schools" means the following sales by, amounts
1363 paid to, or amounts charged by a school:
1364 (i) sales that are directly related to the school's educational functions or activities
1365 including:
1366 (A) the sale of:
1367 (I) textbooks;
1368 (II) textbook fees;
1369 (III) laboratory fees;
1370 (IV) laboratory supplies; or
1371 (V) safety equipment;
1372 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
1373 that:
1374 (I) a student is specifically required to wear as a condition of participation in a
1375 school-related event or school-related activity; and
1376 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1377 place of ordinary clothing;
1378 (C) sales of the following if the net or gross revenues generated by the sales are
1379 deposited into a school district fund or school fund dedicated to school meals:
1380 (I) food and food ingredients; or
1381 (II) prepared food; or
1382 (D) transportation charges for official school activities; or
1383 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1384 event or school-related activity.
1385 (b) "Sales relating to schools" does not include:
1386 (i) bookstore sales of items that are not educational materials or supplies;
1387 (ii) except as provided in Subsection [~~(103)~~] (104)(a)(i)(B):
1388 (A) clothing;
1389 (B) clothing accessories or equipment;

- 1390 (C) protective equipment; or
- 1391 (D) sports or recreational equipment; or
- 1392 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1393 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1394 (A) other than a:
- 1395 (I) school;
- 1396 (II) nonprofit organization authorized by a school board or a governing body of a
- 1397 private school to organize and direct a competitive secondary school activity; or
- 1398 (III) nonprofit association authorized by a school board or a governing body of a
- 1399 private school to organize and direct a competitive secondary school activity; and
- 1400 (B) that is required to collect sales and use taxes under this chapter.
- 1401 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1402 commission may make rules defining the term "passed through."
- 1403 [~~(104)~~] (105) For purposes of this section and Section 59-12-104, "school":
- 1404 (a) means:
- 1405 (i) an elementary school or a secondary school that:
- 1406 (A) is a:
- 1407 (I) public school; or
- 1408 (II) private school; and
- 1409 (B) provides instruction for one or more grades kindergarten through 12; or
- 1410 (ii) a public school district; and
- 1411 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1412 [~~(105)~~] (106) "Seller" means a person that makes a sale, lease, or rental of:
- 1413 (a) tangible personal property;
- 1414 (b) a product transferred electronically; or
- 1415 (c) a service.
- 1416 [~~(106)~~] (107) (a) "Semiconductor fabricating, processing, research, or development
- 1417 materials" means tangible personal property or a product transferred electronically if the
- 1418 tangible personal property or product transferred electronically is:
- 1419 (i) used primarily in the process of:
- 1420 (A) (I) manufacturing a semiconductor;

- 1421 (II) fabricating a semiconductor; or
- 1422 (III) research or development of a:
- 1423 (Aa) semiconductor; or
- 1424 (Bb) semiconductor manufacturing process; or
- 1425 (B) maintaining an environment suitable for a semiconductor; or
- 1426 (ii) consumed primarily in the process of:
- 1427 (A) (I) manufacturing a semiconductor;
- 1428 (II) fabricating a semiconductor; or
- 1429 (III) research or development of a:
- 1430 (Aa) semiconductor; or
- 1431 (Bb) semiconductor manufacturing process; or
- 1432 (B) maintaining an environment suitable for a semiconductor.
- 1433 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1434 includes:
- 1435 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1436 transferred electronically described in Subsection [~~(106)~~] (107)(a); or
- 1437 (ii) a chemical, catalyst, or other material used to:
- 1438 (A) produce or induce in a semiconductor a:
- 1439 (I) chemical change; or
- 1440 (II) physical change;
- 1441 (B) remove impurities from a semiconductor; or
- 1442 (C) improve the marketable condition of a semiconductor.
- 1443 [~~(107)~~] (108) "Senior citizen center" means a facility having the primary purpose of
- 1444 providing services to the aged as defined in Section 62A-3-101.
- 1445 [~~(108)~~] (109) "Simplified electronic return" means the electronic return:
- 1446 (a) described in Section 318(C) of the agreement; and
- 1447 (b) approved by the governing board of the agreement.
- 1448 [~~(109)~~] (110) "Solar energy" means the sun used as the sole source of energy for
- 1449 producing electricity.
- 1450 [~~(110)~~] (111) (a) "Sports or recreational equipment" means an item:
- 1451 (i) designed for human use; and

- 1452 (ii) that is:
- 1453 (A) worn in conjunction with:
- 1454 (I) an athletic activity; or
- 1455 (II) a recreational activity; and
- 1456 (B) not suitable for general use.
- 1457 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1458 commission shall make rules:
- 1459 (i) listing the items that constitute "sports or recreational equipment"; and
- 1460 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1461 equipment" under the agreement.
- 1462 [~~(111)~~] (112) "State" means the state of Utah, its departments, and agencies.
- 1463 [~~(112)~~] (113) "Storage" means any keeping or retention of tangible personal property or
- 1464 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 1465 except sale in the regular course of business.
- 1466 [~~(113)~~] (114) (a) Except as provided in Subsection [~~(113)~~] (114)(d) or (e), "tangible
- 1467 personal property" means personal property that:
- 1468 (i) may be:
- 1469 (A) seen;
- 1470 (B) weighed;
- 1471 (C) measured;
- 1472 (D) felt; or
- 1473 (E) touched; or
- 1474 (ii) is in any manner perceptible to the senses.
- 1475 (b) "Tangible personal property" includes:
- 1476 (i) electricity;
- 1477 (ii) water;
- 1478 (iii) gas;
- 1479 (iv) steam; or
- 1480 (v) prewritten computer software, regardless of the manner in which the prewritten
- 1481 computer software is transferred.
- 1482 (c) "Tangible personal property" includes the following regardless of whether the item

1483 is attached to real property:

1484 (i) a dishwasher;

1485 (ii) a dryer;

1486 (iii) a freezer;

1487 (iv) a microwave;

1488 (v) a refrigerator;

1489 (vi) a stove;

1490 (vii) a washer; or

1491 (viii) an item similar to Subsections ~~[(113)]~~ (114)(c)(i) through (vii) as determined by
1492 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1493 Rulemaking Act.

1494 (d) "Tangible personal property" does not include a product that is transferred
1495 electronically.

1496 (e) "Tangible personal property" does not include the following if attached to real
1497 property, regardless of whether the attachment to real property is only through a line that
1498 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1499 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1500 Rulemaking Act:

1501 (i) a hot water heater;

1502 (ii) a water filtration system; or

1503 (iii) a water softener system.

1504 ~~[(114) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
1505 and require further processing other than mechanical blending before becoming finished
1506 petroleum products.]~~

1507 (115) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1508 software" means an item listed in Subsection (115)(b) if that item is purchased or leased
1509 primarily to enable or facilitate one or more of the following to function:

1510 (i) telecommunications switching or routing equipment, machinery, or software; or

1511 (ii) telecommunications transmission equipment, machinery, or software.

1512 (b) The following apply to Subsection (115)(a):

1513 (i) a pole;

- 1514 (ii) software;
- 1515 (iii) a supplementary power supply;
- 1516 (iv) temperature or environmental equipment or machinery;
- 1517 (v) test equipment;
- 1518 (vi) a tower; or
- 1519 (vii) equipment, machinery, or software that functions similarly to an item listed in
- 1520 Subsections (115)(b)(i) through (vi) as determined by the commission by rule made in
- 1521 accordance with Subsection (115)(c).

1522 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1523 commission may by rule define what constitutes equipment, machinery, or software that

1524 functions similarly to an item listed in Subsections (115)(b)(i) through (vi).

1525 (116) "Telecommunications equipment, machinery, or software required for 911

1526 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.

1527 Sec. 20.18.

1528 (117) "Telecommunications maintenance or repair equipment, machinery, or software"

1529 means equipment, machinery, or software purchased or leased primarily to maintain or repair

1530 one or more of the following, regardless of whether the equipment, machinery, or software is

1531 purchased or leased as a spare part or as an upgrade or modification to one or more of the

1532 following:

- 1533 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1534 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1535 (c) telecommunications transmission equipment, machinery, or software.

1536 (118) (a) "Telecommunications service" means the electronic conveyance, routing, or

1537 transmission of audio, data, video, voice, or any other information or signal to a point, or

1538 among or between points.

1539 (b) "Telecommunications service" includes:

1540 (i) an electronic conveyance, routing, or transmission with respect to which a computer

1541 processing application is used to act:

- 1542 (A) on the code, form, or protocol of the content;
- 1543 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 1544 (C) regardless of whether the service:

- 1545 (I) is referred to as voice over Internet protocol service; or
- 1546 (II) is classified by the Federal Communications Commission as enhanced or value
- 1547 added;
- 1548 (ii) an 800 service;
- 1549 (iii) a 900 service;
- 1550 (iv) a fixed wireless service;
- 1551 (v) a mobile wireless service;
- 1552 (vi) a postpaid calling service;
- 1553 (vii) a prepaid calling service;
- 1554 (viii) a prepaid wireless calling service; or
- 1555 (ix) a private communications service.
- 1556 (c) "Telecommunications service" does not include:
- 1557 (i) advertising, including directory advertising;
- 1558 (ii) an ancillary service;
- 1559 (iii) a billing and collection service provided to a third party;
- 1560 (iv) a data processing and information service if:
- 1561 (A) the data processing and information service allows data to be:
- 1562 (I) (Aa) acquired;
- 1563 (Bb) generated;
- 1564 (Cc) processed;
- 1565 (Dd) retrieved; or
- 1566 (Ee) stored; and
- 1567 (II) delivered by an electronic transmission to a purchaser; and
- 1568 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1569 or information;
- 1570 (v) installation or maintenance of the following on a customer's premises:
- 1571 (A) equipment; or
- 1572 (B) wiring;
- 1573 (vi) Internet access service;
- 1574 (vii) a paging service;
- 1575 (viii) a product transferred electronically, including:

- 1576 (A) music;
- 1577 (B) reading material;
- 1578 (C) a ring tone;
- 1579 (D) software; or
- 1580 (E) video;
- 1581 (ix) a radio and television audio and video programming service:
- 1582 (A) regardless of the medium; and
- 1583 (B) including:
- 1584 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1585 programming service by a programming service provider;
- 1586 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1587 (III) audio and video programming services delivered by a commercial mobile radio
- 1588 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1589 (x) a value-added nonvoice data service; or
- 1590 (xi) tangible personal property.
- 1591 (119) (a) "Telecommunications service provider" means a person that:
- 1592 (i) owns, controls, operates, or manages a telecommunications service; and
- 1593 (ii) engages in an activity described in Subsection (119)(a)(i) for the shared use with or
- 1594 resale to any person of the telecommunications service.
- 1595 (b) A person described in Subsection (119)(a) is a telecommunications service provider
- 1596 whether or not the Public Service Commission of Utah regulates:
- 1597 (i) that person; or
- 1598 (ii) the telecommunications service that the person owns, controls, operates, or
- 1599 manages.
- 1600 (120) (a) "Telecommunications switching or routing equipment, machinery, or
- 1601 software" means an item listed in Subsection (120)(b) if that item is purchased or leased
- 1602 primarily for switching or routing:
- 1603 (i) an ancillary service;
- 1604 (ii) data communications;
- 1605 (iii) voice communications; or
- 1606 (iv) telecommunications service.

1607 (b) The following apply to Subsection (120)(a):
1608 (i) a bridge;
1609 (ii) a computer;
1610 (iii) a cross connect;
1611 (iv) a modem;
1612 (v) a multiplexer;
1613 (vi) plug in circuitry;
1614 (vii) a router;
1615 (viii) software;
1616 (ix) a switch; or
1617 (x) equipment, machinery, or software that functions similarly to an item listed in
1618 Subsections (120)(b)(i) through (ix) as determined by the commission by rule made in
1619 accordance with Subsection (120)(c).

1620 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1621 commission may by rule define what constitutes equipment, machinery, or software that
1622 functions similarly to an item listed in Subsections (120)(b)(i) through (ix).

1623 (121) (a) "Telecommunications transmission equipment, machinery, or software"
1624 means an item listed in Subsection (121)(b) if that item is purchased or leased primarily for
1625 sending, receiving, or transporting:

1626 (i) an ancillary service;
1627 (ii) data communications;
1628 (iii) voice communications; or
1629 (iv) telecommunications service.

1630 (b) The following apply to Subsection (121)(a):
1631 (i) an amplifier;
1632 (ii) a cable;
1633 (iii) a closure;
1634 (iv) a conduit;
1635 (v) a controller;
1636 (vi) a duplexer;
1637 (vii) a filter;

- 1638 (viii) an input device;
- 1639 (ix) an input/output device;
- 1640 (x) an insulator;
- 1641 (xi) microwave machinery or equipment;
- 1642 (xii) an oscillator;
- 1643 (xiii) an output device;
- 1644 (xiv) a pedestal;
- 1645 (xv) a power converter;
- 1646 (xvi) a power supply;
- 1647 (xvii) a radio channel;
- 1648 (xviii) a radio receiver;
- 1649 (xix) a radio transmitter;
- 1650 (xx) a repeater;
- 1651 (xxi) software;
- 1652 (xxii) a terminal;
- 1653 (xxiii) a timing unit;
- 1654 (xxiv) a transformer;
- 1655 (xxv) a wire; or

1656 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
1657 Subsections (121)(b)(i) through (xxv) as determined by the commission by rule made in
1658 accordance with Subsection (121)(c).

1659 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1660 commission may by rule define what constitutes equipment, machinery, or software that
1661 functions similarly to an item listed in Subsections (121)(b)(i) through (xxv).

1662 (122) (a) "Textbook for a higher education course" means a textbook or other printed
1663 material that is required for a course:

- 1664 (i) offered by an institution of higher education; and
- 1665 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1666 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1667 (123) "Tobacco" means:

- 1668 (a) a cigarette;

- 1669 (b) a cigar;
- 1670 (c) chewing tobacco;
- 1671 (d) pipe tobacco; or
- 1672 (e) any other item that contains tobacco.

1673 (124) "Unassisted amusement device" means an amusement device, skill device, or
1674 ride device that is started and stopped by the purchaser or renter of the right to use or operate
1675 the amusement device, skill device, or ride device.

1676 (125) (a) "Use" means the exercise of any right or power over tangible personal
1677 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1678 incident to the ownership or the leasing of that tangible personal property, product transferred
1679 electronically, or service.

1680 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1681 property, a product transferred electronically, or a service in the regular course of business and
1682 held for resale.

1683 (126) "Value-added nonvoice data service" means a service:

1684 (a) that otherwise meets the definition of a telecommunications service except that a
1685 computer processing application is used to act primarily for a purpose other than conveyance,
1686 routing, or transmission; and

1687 (b) with respect to which a computer processing application is used to act on data or
1688 information:

- 1689 (i) code;
- 1690 (ii) content;
- 1691 (iii) form; or
- 1692 (iv) protocol.

1693 (127) (a) Subject to Subsection (127)(b), "vehicle" means the following that are
1694 required to be titled, registered, or titled and registered:

- 1695 (i) an aircraft as defined in Section 72-10-102;
- 1696 (ii) a vehicle as defined in Section 41-1a-102;
- 1697 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1698 (iv) a vessel as defined in Section 41-1a-102.

1699 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1700 (i) a vehicle described in Subsection (127)(a); or
1701 (ii) (A) a locomotive;
1702 (B) a freight car;
1703 (C) railroad work equipment; or
1704 (D) other railroad rolling stock.
- 1705 (128) "Vehicle dealer" means a person engaged in the business of buying, selling, or
1706 exchanging a vehicle as defined in Subsection (127).
- 1707 (129) (a) "Vertical service" means an ancillary service that:
1708 (i) is offered in connection with one or more telecommunications services; and
1709 (ii) offers an advanced calling feature that allows a customer to:
1710 (A) identify a caller; and
1711 (B) manage multiple calls and call connections.
- 1712 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1713 conference bridging service.
- 1714 (130) (a) "Voice mail service" means an ancillary service that enables a customer to
1715 receive, send, or store a recorded message.
- 1716 (b) "Voice mail service" does not include a vertical service that a customer is required
1717 to have in order to utilize a voice mail service.
- 1718 (131) (a) Except as provided in Subsection (131)(b), "waste energy facility" means a
1719 facility that generates electricity:
1720 (i) using as the primary source of energy waste materials that would be placed in a
1721 landfill or refuse pit if it were not used to generate electricity, including:
1722 (A) tires;
1723 (B) waste coal; [~~or~~]
1724 (C) oil shale; [~~and~~] or
1725 (D) municipal solid waste; and
1726 (ii) in amounts greater than actually required for the operation of the facility.
- 1727 (b) "Waste energy facility" does not include a facility that incinerates:
1728 [~~(i) municipal solid waste;~~]
1729 [~~(ii)~~] (i) hospital waste as defined in 40 C.F.R. 60.51c; or
1730 [~~(iii)~~] (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

- 1731 (132) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1732 (133) "Wind energy" means wind used as the sole source of energy to produce
1733 electricity.
- 1734 (134) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
1735 location by the United States Postal Service.
- 1736 Section 7. Section **59-12-104** is amended to read:
- 1737 **59-12-104. Exemptions.**
- 1738 The following sales and uses are exempt from the taxes imposed by this chapter:
- 1739 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
1740 under Chapter 13, Motor and Special Fuel Tax Act;
- 1741 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
1742 subdivisions; however, this exemption does not apply to sales of:
- 1743 (a) construction materials except:
- 1744 (i) construction materials purchased by or on behalf of institutions of the public
1745 education system as defined in Utah Constitution Article X, Section 2, provided the
1746 construction materials are clearly identified and segregated and installed or converted to real
1747 property which is owned by institutions of the public education system; and
- 1748 (ii) construction materials purchased by the state, its institutions, or its political
1749 subdivisions which are installed or converted to real property by employees of the state, its
1750 institutions, or its political subdivisions; or
- 1751 (b) tangible personal property in connection with the construction, operation,
1752 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
1753 providing additional project capacity, as defined in Section 11-13-103;
- 1754 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
- 1755 (i) the proceeds of each sale do not exceed \$1; and
- 1756 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
1757 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 1758 (b) Subsection (3)(a) applies to:
- 1759 (i) food and food ingredients; or
- 1760 (ii) prepared food;
- 1761 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

- 1762 (i) alcoholic beverages;
- 1763 (ii) food and food ingredients; or
- 1764 (iii) prepared food;
- 1765 (b) sales of tangible personal property or a product transferred electronically:
- 1766 (i) to a passenger;
- 1767 (ii) by a commercial airline carrier; and
- 1768 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 1769 (c) services related to Subsection (4)(a) or (b);
- 1770 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
- 1771 and equipment:
- 1772 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
- 1773 North American Industry Classification System of the federal Executive Office of the
- 1774 President, Office of Management and Budget; and
- 1775 (II) for:
- 1776 (Aa) installation in an aircraft, including services relating to the installation of parts or
- 1777 equipment in the aircraft;
- 1778 (Bb) renovation of an aircraft; or
- 1779 (Cc) repair of an aircraft; or
- 1780 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
- 1781 commerce; or
- 1782 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
- 1783 aircraft operated by a common carrier in interstate or foreign commerce; and
- 1784 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
- 1785 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
- 1786 refund:
- 1787 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
- 1788 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
- 1789 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
- 1790 the sale prior to filing for the refund;
- 1791 (iv) for sales and use taxes paid under this chapter on the sale;
- 1792 (v) in accordance with Section 59-1-1410; and

1793 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
1794 the person files for the refund on or before September 30, 2011;

1795 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
1796 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
1797 exhibitor, distributor, or commercial television or radio broadcaster;

1798 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
1799 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
1800 washing of tangible personal property;

1801 (b) if a seller that sells at the same business location assisted cleaning or washing of
1802 tangible personal property and cleaning or washing of tangible personal property that is not
1803 assisted cleaning or washing of tangible personal property, the exemption described in
1804 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
1805 or washing of the tangible personal property; and

1806 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
1807 Utah Administrative Rulemaking Act, the commission may make rules:

1808 (i) governing the circumstances under which sales are at the same business location;
1809 and

1810 (ii) establishing the procedures and requirements for a seller to separately account for
1811 sales of assisted cleaning or washing of tangible personal property;

1812 (8) sales made to or by religious or charitable institutions in the conduct of their regular
1813 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
1814 fulfilled;

1815 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
1816 this state if the vehicle is:

1817 (a) not registered in this state; and

1818 (b) (i) not used in this state; or

1819 (ii) used in this state:

1820 (A) if the vehicle is not used to conduct business, for a time period that does not
1821 exceed the longer of:

1822 (I) 30 days in any calendar year; or

1823 (II) the time period necessary to transport the vehicle to the borders of this state; or

- 1824 (B) if the vehicle is used to conduct business, for the time period necessary to transport
1825 the vehicle to the borders of this state;
- 1826 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
1827 (i) the item is intended for human use; and
1828 (ii) (A) a prescription was issued for the item; or
1829 (B) the item was purchased by a hospital or other medical facility; and
1830 (b) (i) Subsection (10)(a) applies to:
1831 (A) a drug;
1832 (B) a syringe; or
1833 (C) a stoma supply; and
1834 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1835 commission may by rule define the terms:
1836 (A) "syringe"; or
1837 (B) "stoma supply";
- 1838 (11) sales or use of property, materials, or services used in the construction of or
1839 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
- 1840 (12) (a) sales of an item described in Subsection (12)(c) served by:
1841 (i) the following if the item described in Subsection (12)(c) is not available to the
1842 general public:
1843 (A) a church; or
1844 (B) a charitable institution;
1845 (ii) an institution of higher education if:
1846 (A) the item described in Subsection (12)(c) is not available to the general public; or
1847 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
1848 offered by the institution of higher education; or
1849 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
1850 (i) a medical facility; or
1851 (ii) a nursing facility; and
1852 (c) Subsections (12)(a) and (b) apply to:
1853 (i) food and food ingredients;
1854 (ii) prepared food; or

1855 (iii) alcoholic beverages;

1856 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property

1857 or a product transferred electronically by a person:

1858 (i) regardless of the number of transactions involving the sale of that tangible personal

1859 property or product transferred electronically by that person; and

1860 (ii) not regularly engaged in the business of selling that type of tangible personal

1861 property or product transferred electronically;

1862 (b) this Subsection (13) does not apply if:

1863 (i) the sale is one of a series of sales of a character to indicate that the person is

1864 regularly engaged in the business of selling that type of tangible personal property or product

1865 transferred electronically;

1866 (ii) the person holds that person out as regularly engaged in the business of selling that

1867 type of tangible personal property or product transferred electronically;

1868 (iii) the person sells an item of tangible personal property or product transferred

1869 electronically that the person purchased as a sale that is exempt under Subsection (25); or

1870 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of

1871 this state in which case the tax is based upon:

1872 (A) the bill of sale or other written evidence of value of the vehicle or vessel being

1873 sold; or

1874 (B) in the absence of a bill of sale or other written evidence of value, the fair market

1875 value of the vehicle or vessel being sold at the time of the sale as determined by the

1876 commission; and

1877 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1878 commission shall make rules establishing the circumstances under which:

1879 (i) a person is regularly engaged in the business of selling a type of tangible personal

1880 property or product transferred electronically;

1881 (ii) a sale of tangible personal property or a product transferred electronically is one of

1882 a series of sales of a character to indicate that a person is regularly engaged in the business of

1883 selling that type of tangible personal property or product transferred electronically; or

1884 (iii) a person holds that person out as regularly engaged in the business of selling a type

1885 of tangible personal property or product transferred electronically;

1886 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
1887 July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration
1888 facility, of the following:

1889 (i) machinery and equipment that:

1890 (A) are used:

1891 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
1892 recycler described in Subsection 59-12-102[~~(55)~~](57)(b):

1893 (Aa) in the manufacturing process;

1894 (Bb) to manufacture an item sold as tangible personal property; and

1895 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
1896 (14)(a)(i)(A)(I) in the state; or

1897 (II) for a manufacturing facility that is a scrap recycler described in Subsection
1898 59-12-102[~~(55)~~](57)(b):

1899 (Aa) to process an item sold as tangible personal property; and

1900 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
1901 (14)(a)(i)(A)(II) in the state; and

1902 (B) have an economic life of three or more years; and

1903 (ii) normal operating repair or replacement parts that:

1904 (A) have an economic life of three or more years; and

1905 (B) are used:

1906 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
1907 recycler described in Subsection 59-12-102[~~(55)~~](57)(b):

1908 (Aa) in the manufacturing process; and

1909 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
1910 state; or

1911 (II) for a manufacturing facility that is a scrap recycler described in Subsection
1912 59-12-102[~~(55)~~](57)(b):

1913 (Aa) to process an item sold as tangible personal property; and

1914 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
1915 state;

1916 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a

1917 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
1918 of the following:

1919 (i) machinery and equipment that:

1920 (A) are used:

1921 (I) in the manufacturing process;

1922 (II) to manufacture an item sold as tangible personal property; and

1923 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
1924 (14)(b) in the state; and

1925 (B) have an economic life of three or more years; and

1926 (ii) normal operating repair or replacement parts that:

1927 (A) are used:

1928 (I) in the manufacturing process; and

1929 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and

1930 (B) have an economic life of three or more years;

1931 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,

1932 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or

1933 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for

1934 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,

1935 of the 2002 North American Industry Classification System of the federal Executive Office of

1936 the President, Office of Management and Budget, of the following:

1937 (i) machinery and equipment that:

1938 (A) are used:

1939 (I) (Aa) in the production process, other than the production of real property; or

1940 (Bb) in research and development; and

1941 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)
1942 in the state; and

1943 (B) have an economic life of three or more years; and

1944 (ii) normal operating repair or replacement parts that:

1945 (A) have an economic life of three or more years; and

1946 (B) are used in:

1947 (I) (Aa) the production process, except for the production of real property; and

1948 (Bb) an establishment described in this Subsection (14)(c) in the state; or
1949 (II) (Aa) research and development; and
1950 (Bb) in an establishment described in this Subsection (14)(c) in the state;
1951 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,
1952 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web
1953 Search Portals, of the 2002 North American Industry Classification System of the federal
1954 Executive Office of the President, Office of Management and Budget, of the following:
1955 (A) machinery and equipment that:
1956 (I) are used in the operation of the web search portal;
1957 (II) have an economic life of three or more years; and
1958 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
1959 in the state; and
1960 (B) normal operating repair or replacement parts that:
1961 (I) are used in the operation of the web search portal;
1962 (II) have an economic life of three or more years; and
1963 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
1964 in the state; or
1965 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by
1966 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North
1967 American Industry Classification System of the federal Executive Office of the President,
1968 Office of Management and Budget, of the following:
1969 (A) machinery and equipment that:
1970 (I) are used in the operation of the web search portal; and
1971 (II) have an economic life of three or more years; and
1972 (B) normal operating repair or replacement parts that:
1973 (I) are used in the operation of the web search portal; and
1974 (II) have an economic life of three or more years;
1975 (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
1976 Utah Administrative Rulemaking Act, the commission:
1977 (i) shall by rule define the term "establishment"; and
1978 (ii) may by rule define what constitutes:

- 1979 (A) processing an item sold as tangible personal property;
- 1980 (B) the production process, except for the production of real property;
- 1981 (C) research and development; or
- 1982 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and
- 1983 (f) on or before October 1, 2011, and every five years after October 1, 2011, the
- 1984 commission shall:
 - 1985 (i) review the exemptions described in this Subsection (14) and make
 - 1986 recommendations to the Revenue and Taxation Interim Committee concerning whether the
 - 1987 exemptions should be continued, modified, or repealed; and
 - 1988 (ii) include in its report:
 - 1989 (A) an estimate of the cost of the exemptions;
 - 1990 (B) the purpose and effectiveness of the exemptions; and
 - 1991 (C) the benefits of the exemptions to the state;
 - 1992 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
 - 1993 (i) tooling;
 - 1994 (ii) special tooling;
 - 1995 (iii) support equipment;
 - 1996 (iv) special test equipment; or
 - 1997 (v) parts used in the repairs or renovations of tooling or equipment described in
 - 1998 Subsections (15)(a)(i) through (iv); and
 - 1999 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
 - 2000 (i) the tooling, equipment, or parts are used or consumed exclusively in the
 - 2001 performance of any aerospace or electronics industry contract with the United States
 - 2002 government or any subcontract under that contract; and
 - 2003 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
 - 2004 title to the tooling, equipment, or parts is vested in the United States government as evidenced
 - 2005 by:
 - 2006 (A) a government identification tag placed on the tooling, equipment, or parts; or
 - 2007 (B) listing on a government-approved property record if placing a government
 - 2008 identification tag on the tooling, equipment, or parts is impractical;
 - 2009 (16) sales of newspapers or newspaper subscriptions;

2010 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
2011 product transferred electronically traded in as full or part payment of the purchase price, except
2012 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
2013 trade-ins are limited to other vehicles only, and the tax is based upon:

2014 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
2015 vehicle being traded in; or

2016 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
2017 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
2018 commission; and

2019 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
2020 following items of tangible personal property or products transferred electronically traded in as
2021 full or part payment of the purchase price:

2022 (i) money;

2023 (ii) electricity;

2024 (iii) water;

2025 (iv) gas; or

2026 (v) steam;

2027 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
2028 or a product transferred electronically used or consumed primarily and directly in farming
2029 operations, regardless of whether the tangible personal property or product transferred
2030 electronically:

2031 (A) becomes part of real estate; or

2032 (B) is installed by a:

2033 (I) farmer;

2034 (II) contractor; or

2035 (III) subcontractor; or

2036 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
2037 product transferred electronically if the tangible personal property or product transferred
2038 electronically is exempt under Subsection (18)(a)(i); and

2039 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are
2040 subject to the taxes imposed by this chapter:

2041 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
2042 incidental to farming:
2043 (I) machinery;
2044 (II) equipment;
2045 (III) materials; or
2046 (IV) supplies; and
2047 (B) tangible personal property that is considered to be used in a manner that is
2048 incidental to farming includes:
2049 (I) hand tools; or
2050 (II) maintenance and janitorial equipment and supplies;
2051 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
2052 transferred electronically if the tangible personal property or product transferred electronically
2053 is used in an activity other than farming; and
2054 (B) tangible personal property or a product transferred electronically that is considered
2055 to be used in an activity other than farming includes:
2056 (I) office equipment and supplies; or
2057 (II) equipment and supplies used in:
2058 (Aa) the sale or distribution of farm products;
2059 (Bb) research; or
2060 (Cc) transportation; or
2061 (iii) a vehicle required to be registered by the laws of this state during the period
2062 ending two years after the date of the vehicle's purchase;
2063 (19) sales of hay;
2064 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
2065 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
2066 garden, farm, or other agricultural produce is sold by:
2067 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
2068 agricultural produce;
2069 (b) an employee of the producer described in Subsection (20)(a); or
2070 (c) a member of the immediate family of the producer described in Subsection (20)(a);
2071 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued

2072 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

2073 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
2074 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
2075 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
2076 manufacturer, processor, wholesaler, or retailer;

2077 (23) a product stored in the state for resale;

2078 (24) (a) purchases of a product if:

2079 (i) the product is:

2080 (A) purchased outside of this state;

2081 (B) brought into this state:

2082 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
2083 (II) by a nonresident person who is not living or working in this state at the time of the
2084 purchase;

2085 (C) used for the personal use or enjoyment of the nonresident person described in
2086 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

2087 (D) not used in conducting business in this state; and

2088 (ii) for:

2089 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
2090 the product for a purpose for which the product is designed occurs outside of this state;

2091 (B) a boat, the boat is registered outside of this state; or

2092 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
2093 outside of this state;

2094 (b) the exemption provided for in Subsection (24)(a) does not apply to:

2095 (i) a lease or rental of a product; or

2096 (ii) a sale of a vehicle exempt under Subsection (33); and

2097 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2098 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
2099 following:

2100 (i) conducting business in this state if that phrase has the same meaning in this
2101 Subsection (24) as in Subsection (63);

2102 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)

2103 as in Subsection (63); or

2104 (iii) a purpose for which a product is designed if that phrase has the same meaning in
2105 this Subsection (24) as in Subsection (63);

2106 (25) a product purchased for resale in this state, in the regular course of business, either
2107 in its original form or as an ingredient or component part of a manufactured or compounded
2108 product;

2109 (26) a product upon which a sales or use tax was paid to some other state, or one of its
2110 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
2111 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
2112 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
2113 Act;

2114 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
2115 person for use in compounding a service taxable under the subsections;

2116 (28) purchases made in accordance with the special supplemental nutrition program for
2117 women, infants, and children established in 42 U.S.C. Sec. 1786;

2118 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
2119 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
2120 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
2121 Manual of the federal Executive Office of the President, Office of Management and Budget;

2122 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
2123 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

2124 (a) not registered in this state; and

2125 (b) (i) not used in this state; or

2126 (ii) used in this state:

2127 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
2128 time period that does not exceed the longer of:

2129 (I) 30 days in any calendar year; or

2130 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
2131 the borders of this state; or

2132 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
2133 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this

- 2134 state;
- 2135 (31) sales of aircraft manufactured in Utah;
- 2136 (32) amounts paid for the purchase of telecommunications service for purposes of
- 2137 providing telecommunications service;
- 2138 (33) sales, leases, or uses of the following:
- 2139 (a) a vehicle by an authorized carrier; or
- 2140 (b) tangible personal property that is installed on a vehicle:
- 2141 (i) sold or leased to or used by an authorized carrier; and
- 2142 (ii) before the vehicle is placed in service for the first time;
- 2143 (34) (a) 45% of the sales price of any new manufactured home; and
- 2144 (b) 100% of the sales price of any used manufactured home;
- 2145 (35) sales relating to schools and fundraising sales;
- 2146 (36) sales or rentals of durable medical equipment if:
- 2147 (a) a person presents a prescription for the durable medical equipment; and
- 2148 (b) the durable medical equipment is used for home use only;
- 2149 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 2150 Section 72-11-102; and
- 2151 (b) the commission shall by rule determine the method for calculating sales exempt
- 2152 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 2153 (38) sales to a ski resort of:
- 2154 (a) snowmaking equipment;
- 2155 (b) ski slope grooming equipment;
- 2156 (c) passenger ropeways as defined in Section 72-11-102; or
- 2157 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 2158 described in Subsections (38)(a) through (c);
- 2159 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 2160 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 2161 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 2162 59-12-102;
- 2163 (b) if a seller that sells or rents at the same business location the right to use or operate
- 2164 for amusement, entertainment, or recreation one or more unassisted amusement devices and

2165 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
2166 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
2167 amusement, entertainment, or recreation for the assisted amusement devices; and

2168 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
2169 Utah Administrative Rulemaking Act, the commission may make rules:

2170 (i) governing the circumstances under which sales are at the same business location;
2171 and

2172 (ii) establishing the procedures and requirements for a seller to separately account for
2173 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
2174 assisted amusement devices;

2175 (41) (a) sales of photocopies by:

2176 (i) a governmental entity; or

2177 (ii) an entity within the state system of public education, including:

2178 (A) a school; or

2179 (B) the State Board of Education; or

2180 (b) sales of publications by a governmental entity;

2181 (42) amounts paid for admission to an athletic event at an institution of higher
2182 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
2183 20 U.S.C. Sec. 1681 et seq.;

2184 (43) (a) sales made to or by:

2185 (i) an area agency on aging; or

2186 (ii) a senior citizen center owned by a county, city, or town; or

2187 (b) sales made by a senior citizen center that contracts with an area agency on aging;

2188 (44) sales or leases of semiconductor fabricating, processing, research, or development
2189 materials regardless of whether the semiconductor fabricating, processing, research, or
2190 development materials:

2191 (a) actually come into contact with a semiconductor; or

2192 (b) ultimately become incorporated into real property;

2193 (45) an amount paid by or charged to a purchaser for accommodations and services
2194 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
2195 59-12-104.2;

2196 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
2197 sports event registration certificate in accordance with Section 41-3-306 for the event period
2198 specified on the temporary sports event registration certificate;

2199 (47) (a) sales or uses of electricity, if the sales or uses are~~[-(a)]~~ made under a tariff
2200 adopted by the Public Service Commission of Utah only for purchase of electricity produced
2201 from a new ~~[wind, geothermal, biomass, or solar power]~~ alternative energy source, as
2202 designated in the tariff by the Public Service Commission of Utah; and

2203 ~~[(b) for an amount of electricity that is:]~~

2204 ~~[(i) unrelated to the amount of electricity used by the person purchasing the electricity~~
2205 ~~under the tariff described in Subsection (47)(a); and]~~

2206 ~~[(ii) equivalent to the number of kilowatthours specified in the tariff described in~~
2207 ~~Subsection (47)(a) that may be purchased under the tariff described in Subsection (47)(a);]~~

2208 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a
2209 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under
2210 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

2211 (48) sales or rentals of mobility enhancing equipment if a person presents a
2212 prescription for the mobility enhancing equipment;

2213 (49) sales of water in a:

2214 (a) pipe;

2215 (b) conduit;

2216 (c) ditch; or

2217 (d) reservoir;

2218 (50) sales of currency or coinage that constitute legal tender of the United States or of a
2219 foreign nation;

2220 (51) (a) sales of an item described in Subsection (51)(b) if the item:

2221 (i) does not constitute legal tender of any nation; and

2222 (ii) has a gold, silver, or platinum content of 80% or more; and

2223 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

2224 (i) ingot;

2225 (ii) bar;

2226 (iii) medallion; or

2227 (iv) decorative coin;

2228 (52) amounts paid on a sale-leaseback transaction;

2229 (53) sales of a prosthetic device:

2230 (a) for use on or in a human; and

2231 (b) (i) for which a prescription is required; or

2232 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

2233 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of

2234 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery

2235 or equipment is primarily used in the production or postproduction of the following media for

2236 commercial distribution:

2237 (i) a motion picture;

2238 (ii) a television program;

2239 (iii) a movie made for television;

2240 (iv) a music video;

2241 (v) a commercial;

2242 (vi) a documentary; or

2243 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the

2244 commission by administrative rule made in accordance with Subsection (54)(d); or

2245 (b) notwithstanding Subsection (54)(a), purchases, leases, or rentals of machinery or

2246 equipment by an establishment described in Subsection (54)(c) that is used for the production

2247 or postproduction of the following are subject to the taxes imposed by this chapter:

2248 (i) a live musical performance;

2249 (ii) a live news program; or

2250 (iii) a live sporting event;

2251 (c) the following establishments listed in the 1997 North American Industry

2252 Classification System of the federal Executive Office of the President, Office of Management

2253 and Budget, apply to Subsections (54)(a) and (b):

2254 (i) NAICS Code 512110; or

2255 (ii) NAICS Code 51219; and

2256 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2257 commission may by rule:

2258 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

2259 or

2260 (ii) define:

2261 (A) "commercial distribution";

2262 (B) "live musical performance";

2263 (C) "live news program"; or

2264 (D) "live sporting event";

2265 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but

2266 on or before June 30, ~~[2019]~~ 2027, of ~~[machinery or equipment]~~ tangible personal property

2267 that:

2268 (i) is leased or purchased for or by a facility that:

2269 (A) is ~~[a renewable]~~ an alternative energy electricity production facility;

2270 (B) is located in the state; and

2271 (C) (I) becomes operational on or after July 1, 2004; or

2272 (II) has its generation capacity increased by one or more megawatts on or after July 1,

2273 2004, as a result of the use of the ~~[machinery or equipment]~~ tangible personal property;

2274 (ii) has an economic life of five or more years; and

2275 (iii) is used to make the facility or the increase in capacity of the facility described in

2276 Subsection (55)(a)(i) operational up to the point of interconnection with an existing

2277 transmission grid including:

2278 (A) a wind turbine;

2279 (B) generating equipment;

2280 (C) a control and monitoring system;

2281 (D) a power line;

2282 (E) substation equipment;

2283 (F) lighting;

2284 (G) fencing;

2285 (H) pipes; or

2286 (I) other equipment used for locating a power line or pole; and

2287 (b) this Subsection (55) does not apply to:

2288 (i) ~~[machinery or equipment]~~ tangible personal property used in construction of:

- 2289 (A) a new [~~renewable~~] alternative energy electricity production facility; or
- 2290 (B) the increase in the capacity of [~~a renewable~~] an alternative energy electricity
- 2291 production facility;
- 2292 (ii) contracted services required for construction and routine maintenance activities;
- 2293 and
- 2294 (iii) unless the [~~machinery or equipment~~] tangible personal property is used or acquired
- 2295 for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), [~~machinery~~
- 2296 ~~or equipment~~] tangible personal property used or acquired after:
- 2297 (A) the [~~renewable~~] alternative energy electricity production facility described in
- 2298 Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
- 2299 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
- 2300 in Subsection (55)(a)(iii);
- 2301 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 2302 on or before June 30, [~~2019~~] 2027, of [~~machinery or equipment~~] tangible personal property
- 2303 that:
- 2304 (i) is leased or purchased for or by a facility that:
- 2305 (A) is a waste energy production facility;
- 2306 (B) is located in the state; and
- 2307 (C) (I) becomes operational on or after July 1, 2004; or
- 2308 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 2309 2004, as a result of the use of the [~~machinery or equipment~~] tangible personal property;
- 2310 (ii) has an economic life of five or more years; and
- 2311 (iii) is used to make the facility or the increase in capacity of the facility described in
- 2312 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
- 2313 transmission grid including:
- 2314 (A) generating equipment;
- 2315 (B) a control and monitoring system;
- 2316 (C) a power line;
- 2317 (D) substation equipment;
- 2318 (E) lighting;
- 2319 (F) fencing;

- 2320 (G) pipes; or
- 2321 (H) other equipment used for locating a power line or pole; and
- 2322 (b) this Subsection (56) does not apply to:
- 2323 (i) ~~[machinery or equipment]~~ tangible personal property used in construction of:
- 2324 (A) a new waste energy facility; or
- 2325 (B) the increase in the capacity of a waste energy facility;
- 2326 (ii) contracted services required for construction and routine maintenance activities;
- 2327 and
- 2328 (iii) unless the ~~[machinery or equipment]~~ tangible personal property is used or acquired
- 2329 for an increase in capacity described in Subsection (56)(a)(i)(C)(II), ~~[machinery or equipment]~~
- 2330 tangible personal property used or acquired after:
- 2331 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
- 2332 described in Subsection (56)(a)(iii); or
- 2333 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
- 2334 in Subsection (56)(a)(iii);
- 2335 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
- 2336 or before June 30, ~~[2019]~~ 2027, of ~~[machinery or equipment]~~ tangible personal property that:
- 2337 (i) is leased or purchased for or by a facility that:
- 2338 (A) is located in the state;
- 2339 (B) produces fuel from ~~[biomass energy including:]~~ alternative energy, including:
- 2340 (I) methanol; or
- 2341 (II) ethanol; and
- 2342 (C) (I) becomes operational on or after July 1, 2004; or
- 2343 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
- 2344 a result of the installation of the ~~[machinery or equipment]~~ tangible personal property;
- 2345 (ii) has an economic life of five or more years; and
- 2346 (iii) is installed on the facility described in Subsection (57)(a)(i);
- 2347 (b) this Subsection (57) does not apply to:
- 2348 (i) ~~[machinery or equipment]~~ tangible personal property used in construction of:
- 2349 (A) a new facility described in Subsection (57)(a)(i); or
- 2350 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

2351 (ii) contracted services required for construction and routine maintenance activities;
2352 and
2353 (iii) unless the [~~machinery or equipment~~] tangible personal property is used or acquired
2354 for an increase in capacity described in Subsection (57)(a)(i)(C)(II), [~~machinery or equipment~~]
2355 tangible personal property used or acquired after:
2356 (A) the facility described in Subsection (57)(a)(i) is operational; or
2357 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
2358 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
2359 product transferred electronically to a person within this state if that tangible personal property
2360 or product transferred electronically is subsequently shipped outside the state and incorporated
2361 pursuant to contract into and becomes a part of real property located outside of this state;
2362 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
2363 state or political entity to which the tangible personal property is shipped imposes a sales, use,
2364 gross receipts, or other similar transaction excise tax on the transaction against which the other
2365 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
2366 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
2367 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
2368 refund:
2369 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
2370 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
2371 which the sale is made;
2372 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
2373 sale prior to filing for the refund;
2374 (iv) for sales and use taxes paid under this chapter on the sale;
2375 (v) in accordance with Section 59-1-1410; and
2376 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
2377 the person files for the refund on or before June 30, 2011;
2378 (59) purchases:
2379 (a) of one or more of the following items in printed or electronic format:
2380 (i) a list containing information that includes one or more:
2381 (A) names; or

- 2382 (B) addresses; or
- 2383 (ii) a database containing information that includes one or more:
- 2384 (A) names; or
- 2385 (B) addresses; and
- 2386 (b) used to send direct mail;
- 2387 (60) redemptions or repurchases of a product by a person if that product was:
- 2388 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 2389 (b) redeemed or repurchased within the time period established in a written agreement
- 2390 between the person and the pawnbroker for redeeming or repurchasing the product;
- 2391 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 2392 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 2393 and
- 2394 (ii) has a useful economic life of one or more years; and
- 2395 (b) the following apply to Subsection (61)(a):
- 2396 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 2397 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 2398 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 2399 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 2400 (v) telecommunications transmission equipment, machinery, or software;
- 2401 (62) (a) beginning on July 1, 2006, and ending on June 30, ~~[2016]~~ 2027, purchases of
- 2402 tangible personal property or a product transferred electronically that are used in the research
- 2403 and development of ~~[coal-to-liquids, oil shale, or tar sands]~~ alternative energy technology; and
- 2404 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2405 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
- 2406 purchases of tangible personal property or a product transferred electronically that are used in
- 2407 the research and development of ~~[coal-to-liquids, oil shale, and tar sands]~~ alternative energy
- 2408 technology;
- 2409 (63) (a) purchases of tangible personal property or a product transferred electronically
- 2410 if:
- 2411 (i) the tangible personal property or product transferred electronically is:
- 2412 (A) purchased outside of this state;

2413 (B) brought into this state at any time after the purchase described in Subsection
2414 (63)(a)(i)(A); and

2415 (C) used in conducting business in this state; and
2416 (ii) for:

2417 (A) tangible personal property or a product transferred electronically other than the
2418 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
2419 for a purpose for which the property is designed occurs outside of this state; or

2420 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
2421 outside of this state;

2422 (b) the exemption provided for in Subsection (63)(a) does not apply to:

2423 (i) a lease or rental of tangible personal property or a product transferred electronically;
2424 or

2425 (ii) a sale of a vehicle exempt under Subsection (33); and

2426 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2427 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
2428 following:

2429 (i) conducting business in this state if that phrase has the same meaning in this
2430 Subsection (63) as in Subsection (24);

2431 (ii) the first use of tangible personal property or a product transferred electronically if
2432 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

2433 (iii) a purpose for which tangible personal property or a product transferred
2434 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
2435 Subsection (24);

2436 (64) sales of disposable home medical equipment or supplies if:

2437 (a) a person presents a prescription for the disposable home medical equipment or
2438 supplies;

2439 (b) the disposable home medical equipment or supplies are used exclusively by the
2440 person to whom the prescription described in Subsection (64)(a) is issued; and

2441 (c) the disposable home medical equipment and supplies are listed as eligible for
2442 payment under:

2443 (i) Title XVIII, federal Social Security Act; or

- 2444 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 2445 (65) sales:
- 2446 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
- 2447 District Act; or
- 2448 (b) of tangible personal property to a subcontractor of a public transit district, if the
- 2449 tangible personal property is:
- 2450 (i) clearly identified; and
- 2451 (ii) installed or converted to real property owned by the public transit district;
- 2452 (66) sales of construction materials:
- 2453 (a) purchased on or after July 1, 2010;
- 2454 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 2455 (i) located within a county of the first class; and
- 2456 (ii) that has a United States customs office on its premises; and
- 2457 (c) if the construction materials are:
- 2458 (i) clearly identified;
- 2459 (ii) segregated; and
- 2460 (iii) installed or converted to real property:
- 2461 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 2462 (B) located at the international airport described in Subsection (66)(b);
- 2463 (67) sales of construction materials:
- 2464 (a) purchased on or after July 1, 2008;
- 2465 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 2466 (i) located within a county of the second class; and
- 2467 (ii) that is owned or operated by a city in which an airline as defined in Section
- 2468 59-2-102 is headquartered; and
- 2469 (c) if the construction materials are:
- 2470 (i) clearly identified;
- 2471 (ii) segregated; and
- 2472 (iii) installed or converted to real property:
- 2473 (A) owned or operated by the new airport described in Subsection (67)(b);
- 2474 (B) located at the new airport described in Subsection (67)(b); and

2475 (C) as part of the construction of the new airport described in Subsection (67)(b);
2476 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
2477 (69) purchases and sales described in Section 63H-4-111;
2478 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
2479 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
2480 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
2481 lists a state or country other than this state as the location of registry of the fixed wing turbine
2482 powered aircraft; or
2483 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
2484 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
2485 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
2486 lists a state or country other than this state as the location of registry of the fixed wing turbine
2487 powered aircraft;
2488 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
2489 (a) to a person admitted to an institution of higher education; and
2490 (b) by a seller, other than a bookstore owned by an institution of higher education, if
2491 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
2492 textbook for a higher education course; and
2493 (72) a license fee or tax a municipality imposes in accordance with Subsection
2494 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
2495 level of municipal services.
2496 Section 8. Section **63M-4-401** is amended to read:
2497 **63M-4-401. Creation of Office of Energy Development -- Director -- Purpose --**
2498 **Rulemaking regarding confidential information.**
2499 (1) As used in this section, "office" means the Office of Energy Development created
2500 in Subsection (2).
2501 (2) There is created an Office of Energy Development.
2502 (3) (a) The governor's energy advisor shall appoint a director of the office.
2503 (b) The director shall report to the governor's energy advisor and may appoint staff as
2504 funding within existing budgets allows.
2505 (c) The office may consolidate energy staff and functions existing in the State Energy

2506 Program.

2507 (4) The purpose of the office is to implement:

2508 (a) the state energy policy under Section 63M-4-301; and

2509 (b) the governor's energy goals and objectives.

2510 (5) By following the procedures and requirements of Title 63J, Chapter 5, Federal

2511 Funds Procedures Act, the office may:

2512 (a) seek federal grants or loans;

2513 (b) seek to participate in federal programs; and

2514 (c) in accordance with applicable federal program guidelines, administer federally
2515 funded state energy programs.

2516 (6) The office shall perform the duties required by Sections 59-7-614.7 and 59-10-1029
2517 and Part 5, Alternative Energy Development Tax Credit Act.

2518 [~~(6)~~] (7) (a) For purposes of administering this section, the office may make rules, by
2519 following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative
2520 Rulemaking Act, to maintain as confidential, and not as a public record, information that the
2521 office receives from any source.

2522 (b) The office shall maintain information the office receives from any source at the
2523 level of confidentiality assigned by the source.

2524 Section 9. Section **63M-4-501** is enacted to read:

Part 5. Alternative Energy Development Tax Credit Act

63M-4-501. Title.

This part is known as the "Alternative Energy Development Tax Credit Act."

Section 10. Section **63M-4-502** is enacted to read:

63M-4-502. Definitions.

As used in this part:

(1) "Alternative energy" is as defined in Section 59-12-102.

(2) (a) "Alternative energy entity" means a person that:

(i) conducts business within the state; and

(ii) enters into an agreement with the office that qualifies the person to receive a tax
2535 credit.

(b) "Alternative energy entity" includes a pass-through entity taxpayer, as defined in

2537 Section 59-10-1402, of a person described in Subsection (2)(a).

2538 (3) "Alternative energy project" means a project produced by an alternative energy
2539 entity if that project involves:

2540 (a) a new or expanding operation in the state; and

2541 (b) (i) utility-scale alternative energy generation; or

2542 (ii) the extraction of alternative fuels.

2543 (4) "New incremental job within the state" means, with respect to an alternative energy
2544 entity, an employment position that:

2545 (a) did not exist within the state before:

2546 (i) the alternative energy entity entered into an agreement with the office in accordance
2547 with Section 63M-4-503; and

2548 (ii) the alternative energy project began;

2549 (b) is not shifted from one location in the state to another location in the state; and

2550 (c) is established to the satisfaction of the office, including by amounts paid or
2551 withheld by the alternative energy entity under Title 59, Chapter 10, Individual Income Tax
2552 Act.

2553 (5) "New state revenues" means an increased amount of tax revenues generated as a
2554 result of an alternative energy project by an alternative energy entity or a new incremental job
2555 within the state under the following:

2556 (a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

2557 (b) Title 59, Chapter 10, Individual Income Tax Act; and

2558 (c) Title 59, Chapter 12, Sales and Use Tax Act.

2559 (6) "Office" is as defined in Section 63M-4-401.

2560 (7) "Tax credit" means a tax credit under Section 59-7-614.7 or 59-10-1029.

2561 (8) "Tax credit applicant" means an alternative energy entity that applies to the office
2562 to receive a tax credit certificate under this part.

2563 (9) "Tax credit certificate" means a certificate issued by the office that:

2564 (a) lists the name of the tax credit certificate recipient;

2565 (b) lists the tax credit certificate recipient's taxpayer identification number;

2566 (c) lists the amount of the tax credit certificate recipient's tax credits authorized under
2567 this part for a taxable year; and

2568 (d) includes other information as determined by the office.

2569 (10) "Tax credit certificate recipient" means an alternative energy entity that receives a
2570 tax credit certificate for a tax credit in accordance with this part.

2571 Section 11. Section **63M-4-503** is enacted to read:

2572 **63M-4-503. Tax credits.**

2573 (1) (a) By following the procedures and requirements of Title 63G, Chapter 4,
2574 Administrative Procedures Act, the office shall set standards an alternative energy entity shall
2575 meet to qualify for a tax credit.

2576 (b) Before the office enters into an agreement described in Subsection (2) with an
2577 alternative energy entity, the office, in consultation with other state agencies as necessary, shall
2578 certify:

2579 (i) that the alternative energy entity plans to produce in the state at least:

2580 (A) two megawatts of electricity; or

2581 (B) 1,000 barrels per day if the alternative energy project is a crude oil equivalent
2582 production;

2583 (ii) that the alternative energy project will generate new state revenues;

2584 (iii) the economic life of the alternative energy project produced by the alternative
2585 energy entity;

2586 (iv) that the alternative energy entity meets the requirements of Section 63M-4-504;
2587 and

2588 (v) that the alternative energy entity has received a Certificate of Good Standing from
2589 the Division of Corporations and Commercial Code.

2590 (2) If an alternative energy entity meets the requirements of this part to receive a tax
2591 credit, the office shall enter into an agreement with the alternative energy entity to authorize the
2592 tax credit in accordance with Subsection (3).

2593 (3) (a) Subject to Subsection (3)(c), if the office expects that the time from the
2594 commencement of construction until the end of the economic life of the alternative energy
2595 project is less than 50 years:

2596 (i) the office shall grant a tax credit for the lesser of:

2597 (A) the economic life of the alternative energy project; or

2598 (B) 20 years; and

2599 (ii) the tax credit is equal to 75% of new state revenues generated by the alternative
2600 energy project.

2601 (b) Subject to Subsection (3)(c), if the office expects that the time from the
2602 commencement of construction until the end of the economic life of the alternative energy
2603 project is 50 years or more:

2604 (i) the office shall grant a tax credit for the lesser of:

2605 (A) the economic life of the alternative energy project; or

2606 (B) 30 years; and

2607 (ii) the tax credit is equal to 75% of new state revenues generated by the alternative
2608 energy project.

2609 (c) For a taxable year, a tax credit under this section may not exceed the new state
2610 revenues generated by an alternative energy entity during that taxable year.

2611 (4) An alternative energy entity that seeks to receive a tax credit or has entered into an
2612 agreement described in Subsection (2) with the office shall:

2613 (a) annually file a report with the office showing the new state revenues generated by
2614 the alternative energy project during the taxable year for which the alternative energy entity
2615 seeks to receive a tax credit under Section 59-7-614.6 or 59-10-1029;

2616 (b) subject to Subsection (5), annually file a report with the office prepared by an
2617 independent certified public accountant verifying the new state revenue described in
2618 Subsection (4)(a);

2619 (c) subject to Subsection (5), file a report with the office at least every four years
2620 prepared by an independent auditor auditing the new state revenue described in Subsection
2621 (4)(a);

2622 (d) provide the office with information required by the office to certify the economic
2623 life of the alternative energy project produced by the alternative energy entity, which may
2624 include a power purchase agreement, a lease, or a permit; and

2625 (e) retain records supporting a claim for a tax credit for at least four years after the
2626 alternative energy entity claims a tax credit under Section 59-7-614.7 or 59-10-1029.

2627 (5) An alternative energy entity for which a report is prepared under Subsection (4)(b)
2628 or (c) shall pay the costs of preparing the report.

2629 (6) The office shall annually certify the new state revenues generated by an alternative

2630 energy entity that has entered into an agreement described in Subsection (2) with the office.

2631 Section 12. Section **63M-4-504** is enacted to read:

2632 **63M-4-504. Qualifications for tax credit -- Procedure.**

2633 (1) The office shall certify an alternative energy entity's eligibility for a tax credit as
2634 provided in this section.

2635 (2) A tax credit applicant shall provide the office with:

2636 (a) an application for a tax credit certificate;

2637 (b) documentation that the tax credit applicant meets the standards and requirements
2638 described in Section 63M-4-503 to the satisfaction of the office for the taxable year for which
2639 the tax credit applicant seeks to claim a tax credit; and

2640 (c) documentation that expressly directs and authorizes the State Tax Commission to
2641 disclose to the office the tax credit applicant's returns and other information concerning the tax
2642 credit applicant that would otherwise be subject to confidentiality under Section 59-1-403 or
2643 Section 6103, Internal Revenue Code.

2644 (3) (a) The office shall submit the documentation described in Subsection (2)(c) to the
2645 State Tax Commission.

2646 (b) Upon receipt of the documentation described in Subsection (2)(c), the State Tax
2647 Commission shall provide the office with the documentation described in Subsection (2)(c)
2648 requested by the office that the tax credit applicant directed and authorized the State Tax
2649 Commission to provide to the office.

2650 (4) If, after the office reviews the documentation described in Subsections (2) and (3),
2651 the office determines that the documentation supporting the tax credit applicant's claim for a
2652 tax credit is not substantially accurate, the office shall:

2653 (a) deny the tax credit; or

2654 (b) inform the tax credit applicant that the documentation supporting the tax credit
2655 applicant's claim for a tax credit was inadequate and ask the tax credit applicant to submit new
2656 documentation.

2657 (5) If, after the office reviews the documentation described in Subsections (2) and (3),
2658 the office determines that the documentation supporting the tax credit applicant's claim for a
2659 tax credit is substantially accurate, the office shall, on the basis of that documentation:

2660 (a) enter into the agreement described in Section 63M-4-503;

2661 (b) issue a tax credit certificate to the tax credit applicant; and
2662 (c) provide a duplicate copy of the tax credit certificate described in Subsection (5)(b)
2663 to the State Tax Commission.

2664 (6) An alternative energy entity may not claim a tax credit under this part unless the
2665 alternative energy entity is a tax credit certificate recipient.

2666 (7) A tax credit certificate recipient that claims a tax credit shall retain the tax credit
2667 certificate in accordance with Subsection 63M-4-503(5)(b).

2668 Section 13. Section **63M-4-505** is enacted to read:

2669 **63M-4-505. Report to the Legislature.**

2670 The office shall report annually to the Public Utilities and Technology Interim
2671 Committee and the Revenue and Taxation Interim Committee describing:

2672 (1) its success in attracting alternative energy projects to the state and the resulting
2673 increase in new state revenues under this part;

2674 (2) the amount of tax credits the office has granted or will grant and the period of time
2675 during which the tax credits have been or will be granted; and

2676 (3) the economic impact on the state by comparing new state revenues to tax credits
2677 that have been or will be granted under this part.

2678 Section 14. **Repealer.**

2679 This bill repeals:

2680 Section **63M-1-2801, Title.**

2681 Section **63M-1-2802, Findings.**

2682 Section **63M-1-2803, Definitions.**

2683 Section **63M-1-2804, Creation of alternative energy development zones -- Tax**
2684 **credits.**

2685 Section **63M-1-2805, Qualifications for tax credit -- Procedure.**

2686 Section **63M-1-2806, Report to the Legislature.**

2687 Section 15. **Effective date -- Retrospective operation.**

2688 (1) Except as provided in Subsection (2) or (3), this bill takes effect on May 8, 2012.

2689 (2) The amendments to or enactments of the following sections have retrospective
2690 operation for a taxable year beginning on or after January 1, 2012:

2691 (a) Section 59-7-614.2;

- 2692 (b) Section 59-7-614.7;
- 2693 (c) Section 59-10-1029; and
- 2694 (d) Section 59-10-1107.
- 2695 (3) The amendments to the following sections take effect on July 1, 2012:
- 2696 (a) Section 10-1-304;
- 2697 (b) Section 59-12-102; and
- 2698 (c) Section 59-12-104.