

Representative Brad R. Wilson proposes the following substitute bill:

1 **SALES AND USE TAX EXEMPTION FOR SHORT-TERM**
2 **LODGING CONSUMABLES**

3 2013 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: J. Stuart Adams**

6 House Sponsor: Brad R. Wilson

7 Cosponsor: Curtis S. Bramble

8
9 **LONG TITLE**

10 **General Description:**

11 This bill provides a sales and use tax exemption for a short-term lodging consumable.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines terms;
- 15 ▶ provides a sales and use tax exemption for a short-term lodging consumable; and
- 16 ▶ makes technical and conforming changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 This bill takes effect on July 1, 2015.

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **59-12-102 (Effective 07/01/14)**, as last amended by Laws of Utah 2012, Chapters 255,
24 312, 405, 410, and 424



25 **59-12-104**, as last amended by Laws of Utah 2012, Chapters 255, 399, 405, and 410

26

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

28 Section 1. Section **59-12-102 (Effective 07/01/14)** is amended to read:

29 **59-12-102 (Effective 07/01/14). Definitions.**

30 As used in this chapter:

31 (1) "800 service" means a telecommunications service that:

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

33 (b) is typically marketed:

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

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

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

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

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

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

40 Federal Communications Commission.

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

42 (i) a subscriber purchases;

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

44 the subscriber's:

45 (A) prerecorded announcement; or

46 (B) live service; and

47 (iii) is typically marketed:

48 (A) under the name 900 service; or

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

50 Communications Commission.

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

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

53 subscriber; or

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

55 (A) a product; or

- 56 (B) a service.
- 57 (3) (a) "Admission or user fees" includes season passes.
- 58 (b) "Admission or user fees" does not include annual membership dues to private
- 59 organizations.
- 60 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 61 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 62 Agreement after November 12, 2002.
- 63 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 64 (a) listed under Subsection (6); and
- 65 (b) that are imposed within a local taxing jurisdiction.
- 66 (6) "Agreement sales and use tax" means a tax imposed under:
- 67 (a) Subsection 59-12-103(2)(a)(i)(A);
- 68 (b) Subsection 59-12-103(2)(b)(i);
- 69 (c) Subsection 59-12-103(2)(c)(i);
- 70 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 71 (e) Section 59-12-204;
- 72 (f) Section 59-12-401;
- 73 (g) Section 59-12-402;
- 74 (h) Section 59-12-703;
- 75 (i) Section 59-12-802;
- 76 (j) Section 59-12-804;
- 77 (k) Section 59-12-1102;
- 78 (l) Section 59-12-1302;
- 79 (m) Section 59-12-1402;
- 80 (n) Section 59-12-1802;
- 81 (o) Section 59-12-2003;
- 82 (p) Section 59-12-2103;
- 83 (q) Section 59-12-2213;
- 84 (r) Section 59-12-2214;
- 85 (s) Section 59-12-2215;
- 86 (t) Section 59-12-2216;

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

88 (v) Section 59-12-2218.

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

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

91 (a) except for:

92 (i) an airline as defined in Section 59-2-102; or

93 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"

94 includes a corporation that is qualified to do business but is not otherwise doing business in the

95 state, of an airline; and

96 (b) that has the workers, expertise, and facilities to perform the following, regardless of

97 whether the business entity performs the following in this state:

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

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

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

101 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft

102 engine;

103 (iii) perform at least the following maintenance on a fixed wing turbine powered

104 aircraft:

105 (A) an inspection;

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

107 (C) changing landing gear; and

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

109 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and

110 completely apply new paint to the fixed wing turbine powered aircraft; and

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

112 results in a change in the fixed wing turbine powered aircraft's certification requirements by the

113 authority that certifies the fixed wing turbine powered aircraft.

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

115 (a) is suitable for human consumption; and

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

117 (10) "Alternative energy" means:

- 118 (a) biomass energy;
- 119 (b) geothermal energy;
- 120 (c) hydroelectric energy;
- 121 (d) solar energy;
- 122 (e) wind energy; or
- 123 (f) energy that is derived from:
 - 124 (i) coal-to-liquids;
 - 125 (ii) nuclear fuel;
 - 126 (iii) oil-impregnated diatomaceous earth;
 - 127 (iv) oil sands;
 - 128 (v) oil shale; or
 - 129 (vi) petroleum coke.
- 130 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 131 facility" means a facility that:
 - 132 (i) uses alternative energy to produce electricity; and
 - 133 (ii) has a production capacity of 2 megawatts or greater.
- 134 (b) A facility is an alternative energy electricity production facility regardless of
- 135 whether the facility is:
 - 136 (i) connected to an electric grid; or
 - 137 (ii) located on the premises of an electricity consumer.
- 138 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 139 provision of telecommunications service.
 - 140 (b) "Ancillary service" includes:
 - 141 (i) a conference bridging service;
 - 142 (ii) a detailed communications billing service;
 - 143 (iii) directory assistance;
 - 144 (iv) a vertical service; or
 - 145 (v) a voice mail service.
- 146 (13) "Area agency on aging" is as defined in Section 62A-3-101.
- 147 (14) "Assisted amusement device" means an amusement device, skill device, or ride
- 148 device that is started and stopped by an individual:

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

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

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

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

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

160 (16) "Authorized carrier" means:

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

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

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

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

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

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

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

173 (B) animal waste;

174 (C) methane produced:

175 (I) at landfills; or

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

177 (D) aquatic plants; and

178 (E) agricultural products.

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

- 180 (i) black liquor;
- 181 (ii) treated woods; or
- 182 (iii) biomass from municipal solid waste other than methane produced:
- 183 (A) at landfills; or
- 184 (B) as a byproduct of the treatment of wastewater residuals.
- 185 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 186 property, products, or services if the tangible personal property, products, or services are:
- 187 (i) distinct and identifiable; and
- 188 (ii) sold for one nonitemized price.
- 189 (b) "Bundled transaction" does not include:
- 190 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 191 the basis of the selection by the purchaser of the items of tangible personal property included in
- 192 the transaction;
- 193 (ii) the sale of real property;
- 194 (iii) the sale of services to real property;
- 195 (iv) the retail sale of tangible personal property and a service if:
- 196 (A) the tangible personal property:
- 197 (I) is essential to the use of the service; and
- 198 (II) is provided exclusively in connection with the service; and
- 199 (B) the service is the true object of the transaction;
- 200 (v) the retail sale of two services if:
- 201 (A) one service is provided that is essential to the use or receipt of a second service;
- 202 (B) the first service is provided exclusively in connection with the second service; and
- 203 (C) the second service is the true object of the transaction;
- 204 (vi) a transaction that includes tangible personal property or a product subject to
- 205 taxation under this chapter and tangible personal property or a product that is not subject to
- 206 taxation under this chapter if the:
- 207 (A) seller's purchase price of the tangible personal property or product subject to
- 208 taxation under this chapter is de minimis; or
- 209 (B) seller's sales price of the tangible personal property or product subject to taxation
- 210 under this chapter is de minimis; and

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

213 (A) that retail sale includes:

214 (I) food and food ingredients;

215 (II) a drug;

216 (III) durable medical equipment;

217 (IV) mobility enhancing equipment;

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

219 (VI) a prosthetic device; or

220 (VII) a medical supply; and

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

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

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

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

228 (A) packaging that:

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

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

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

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

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

241 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price

242 does not include a price that is separately identified by tangible personal property, product, or
243 service on the following, regardless of whether the following is in paper format or electronic
244 format:

245 (A) a binding sales document; or

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

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

249 (A) a bill of sale;

250 (B) a contract;

251 (C) an invoice;

252 (D) a lease agreement;

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

254 (F) a price list;

255 (G) a rate card;

256 (H) a receipt; or

257 (I) a service agreement.

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

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

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

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

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

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

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

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

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

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

281 (i) on a transaction; and

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

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

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

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

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

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

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

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

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

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

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

299 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
300 fuels that does not constitute industrial use under Subsection (51) or residential use under
301 Subsection (101).

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

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

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

310 (25) "Component part" includes:

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

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

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

316 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

340 (i) by a seller of:

341 (A) tangible personal property;

342 (B) a product transferred electronically; or

343 (C) services; and

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

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

348 (i) transportation;

349 (ii) shipping;

350 (iii) postage;

351 (iv) handling;

352 (v) crating; or

353 (vi) packing.

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

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

357 (a) is intended to supplement the diet;

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

359 (i) a vitamin;

360 (ii) a mineral;

361 (iii) an herb or other botanical;

362 (iv) an amino acid;

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

365 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient

366 described in Subsections (34)(b)(i) through (v);

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

368 (A) tablet form;

369 (B) capsule form;

370 (C) powder form;

371 (D) softgel form;

372 (E) gelcap form; or

373 (F) liquid form; or

374 (ii) [~~notwithstanding Subsection (34)(c)(i);~~] if the product is not intended for ingestion
375 in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:

376 (A) as conventional food; and

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

378 (I) a meal; or

379 (II) the diet; and

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

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

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

383 (35) (a) "Direct mail" means printed material delivered or distributed by United States
384 mail or other delivery service:

385 (i) to:

386 (A) a mass audience; or

387 (B) addressees on a mailing list provided:

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

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

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

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

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

395 (36) "Directory assistance" means an ancillary service of providing:

396 (a) address information; or

397 (b) telephone number information.

398 (37) (a) "Disposable home medical equipment or supplies" means medical equipment
399 or supplies that:

400 (i) cannot withstand repeated use; and

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

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

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

404 (C) an office of a health care provider described in Subsection (37)(a)(ii)(B); or

405 (D) a person similar to a person described in Subsections (37)(a)(ii)(A) through (C).

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

407 (i) a drug;

408 (ii) durable medical equipment;

409 (iii) a hearing aid;

410 (iv) a hearing aid accessory;

411 (v) mobility enhancing equipment; or

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

413 (A) eyeglasses; or

414 (B) contact lenses.

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

417 (38) (a) "Drug" means a compound, substance, or preparation, or a component of a
418 compound, substance, or preparation that is:

419 (i) recognized in:

420 (A) the official United States Pharmacopoeia;

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

422 (C) the official National Formulary; or

423 (D) a supplement to a publication listed in Subsections (38)(a)(i)(A) through (C);

424 (ii) intended for use in the:

425 (A) diagnosis of disease;

426 (B) cure of disease;

427 (C) mitigation of disease;

- 428 (D) treatment of disease; or
- 429 (E) prevention of disease; or
- 430 (iii) intended to affect:
- 431 (A) the structure of the body; or
- 432 (B) any function of the body.
- 433 (b) "Drug" does not include:
- 434 (i) food and food ingredients;
- 435 (ii) a dietary supplement;
- 436 (iii) an alcoholic beverage; or
- 437 (iv) a prosthetic device.
- 438 (39) (a) Except as provided in Subsection (39)(c), "durable medical equipment" means
- 439 equipment that:
- 440 (i) can withstand repeated use;
- 441 (ii) is primarily and customarily used to serve a medical purpose;
- 442 (iii) generally is not useful to a person in the absence of illness or injury; and
- 443 (iv) is not worn in or on the body.
- 444 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 445 equipment described in Subsection (39)(a).
- 446 (c) [~~Notwithstanding Subsection (39)(a), "durable"~~] "Durable medical equipment" does
- 447 not include mobility enhancing equipment.
- 448 (40) "Electronic" means:
- 449 (a) relating to technology; and
- 450 (b) having:
- 451 (i) electrical capabilities;
- 452 (ii) digital capabilities;
- 453 (iii) magnetic capabilities;
- 454 (iv) wireless capabilities;
- 455 (v) optical capabilities;
- 456 (vi) electromagnetic capabilities; or
- 457 (vii) capabilities similar to Subsections (40)(b)(i) through (vi).
- 458 (41) "Employee" is as defined in Section 59-10-401.

- 459 (42) "Fixed guideway" means a public transit facility that uses and occupies:
460 (a) rail for the use of public transit; or
461 (b) a separate right-of-way for the use of public transit.
- 462 (43) "Fixed wing turbine powered aircraft" means an aircraft that:
463 (a) is powered by turbine engines;
464 (b) operates on jet fuel; and
465 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 466 (44) "Fixed wireless service" means a telecommunications service that provides radio
467 communication between fixed points.
- 468 (45) (a) "Food and food ingredients" means substances:
469 (i) regardless of whether the substances are in:
470 (A) liquid form;
471 (B) concentrated form;
472 (C) solid form;
473 (D) frozen form;
474 (E) dried form; or
475 (F) dehydrated form; and
476 (ii) that are:
477 (A) sold for:
478 (I) ingestion by humans; or
479 (II) chewing by humans; and
480 (B) consumed for the substance's:
481 (I) taste; or
482 (II) nutritional value.
- 483 (b) "Food and food ingredients" includes an item described in Subsection (86)(b)(iii).
484 (c) "Food and food ingredients" does not include:
485 (i) an alcoholic beverage;
486 (ii) tobacco; or
487 (iii) prepared food.
- 488 (46) (a) "Fundraising sales" means sales:
489 (i) (A) made by a school; or

- 490 (B) made by a school student;
- 491 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 492 materials, or provide transportation; and
- 493 (iii) that are part of an officially sanctioned school activity.
- 494 (b) For purposes of Subsection (46)(a)(iii), "officially sanctioned school activity"
- 495 means a school activity:
 - 496 (i) that is conducted in accordance with a formal policy adopted by the school or school
 - 497 district governing the authorization and supervision of fundraising activities;
 - 498 (ii) that does not directly or indirectly compensate an individual teacher or other
 - 499 educational personnel by direct payment, commissions, or payment in kind; and
 - 500 (iii) the net or gross revenues from which are deposited in a dedicated account
 - 501 controlled by the school or school district.
- 502 (47) "Geothermal energy" means energy contained in heat that continuously flows
- 503 outward from the earth that is used as the sole source of energy to produce electricity.
- 504 (48) "Governing board of the agreement" means the governing board of the agreement
- 505 that is:
 - 506 (a) authorized to administer the agreement; and
 - 507 (b) established in accordance with the agreement.
- 508 (49) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
 - 509 (i) the executive branch of the state, including all departments, institutions, boards,
 - 510 divisions, bureaus, offices, commissions, and committees;
 - 511 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
 - 512 Office of the Court Administrator, and similar administrative units in the judicial branch;
 - 513 (iii) the legislative branch of the state, including the House of Representatives, the
 - 514 Senate, the Legislative Printing Office, the Office of Legislative Research and General
 - 515 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
 - 516 Analyst;
 - 517 (iv) the National Guard;
 - 518 (v) an independent entity as defined in Section 63E-1-102; or
 - 519 (vi) a political subdivision as defined in Section 17B-1-102.
- 520 (b) "Governmental entity" does not include the state systems of public and higher

521 education, including:

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

523 (ii) a school;

524 (iii) the State Board of Education;

525 (iv) the State Board of Regents; or

526 (v) an institution of higher education.

527 (50) "Hydroelectric energy" means water used as the sole source of energy to produce
528 electricity.

529 (51) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
530 other fuels:

531 (a) in mining or extraction of minerals;

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

534 (i) commercial greenhouses;

535 (ii) irrigation pumps;

536 (iii) farm machinery;

537 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
538 registered under Title 41, Chapter 1a, Part 2, Registration; and

539 (v) other farming activities;

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

543 (d) by a scrap recycler if:

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

547 (A) iron;

548 (B) steel;

549 (C) nonferrous metal;

550 (D) paper;

551 (E) glass;

552 (F) plastic;

553 (G) textile; or

554 (H) rubber; and

555 (ii) the new products under Subsection (51)(d)(i) would otherwise be made with

556 nonrecycled materials; or

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

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

559 (52) (a) Except as provided in Subsection (52)(b), "installation charge" means a charge

560 for installing:

561 (i) tangible personal property; or

562 (ii) a product transferred electronically.

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

564 (i) repairs or renovations of:

565 (A) tangible personal property; or

566 (B) a product transferred electronically; or

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

568 (A) to other tangible personal property; and

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

570 (53) "Institution of higher education" means an institution of higher education listed in

571 Section 53B-2-101.

572 (54) (a) "Lease" or "rental" means a transfer of possession or control of tangible

573 personal property or a product transferred electronically for:

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

575 (B) an indeterminate term; and

576 (ii) consideration.

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

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

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

580 Code.

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

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

583 deferred payment plan that requires the transfer of title upon completion of the required
584 payments;

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

587 (A) upon completion of required payments; and

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

589 (I) \$100; or

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

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

594 (d) For purposes of Subsection (54)(c)(iii), an operator is necessary for equipment to
595 perform as designed if the operator's duties exceed the:

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

597 (ii) maintenance of tangible personal property; or

598 (iii) inspection of tangible personal property.

599 (55) "Life science establishment" means an establishment in this state that is classified
600 under the following NAICS codes of the 2007 North American Industry Classification System
601 of the federal Executive Office of the President, Office of Management and Budget:

602 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

603 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
604 Manufacturing; or

605 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

606 (56) "Life science research and development facility" means a facility owned, leased,
607 or rented by a life science establishment if research and development is performed in 51% or
608 more of the total area of the facility.

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

611 (58) "Local taxing jurisdiction" means a:

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

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

- 614 (c) town that is authorized to impose an agreement sales and use tax.
- 615 (59) "Manufactured home" is as defined in Section 15A-1-302.
- 616 (60) For purposes of Section 59-12-104, "manufacturing facility" means:
- 617 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
- 618 Industrial Classification Manual of the federal Executive Office of the President, Office of
- 619 Management and Budget;
- 620 (b) a scrap recycler if:
- 621 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 622 one or more of the following items into prepared grades of processed materials for use in new
- 623 products:
- 624 (A) iron;
- 625 (B) steel;
- 626 (C) nonferrous metal;
- 627 (D) paper;
- 628 (E) glass;
- 629 (F) plastic;
- 630 (G) textile; or
- 631 (H) rubber; and
- 632 (ii) the new products under Subsection (60)(b)(i) would otherwise be made with
- 633 nonrecycled materials; or
- 634 (c) a cogeneration facility as defined in Section 54-2-1.
- 635 (61) "Member of the immediate family of the producer" means a person who is related
- 636 to a producer described in Subsection 59-12-104(20)(a) as a:
- 637 (a) child or stepchild, regardless of whether the child or stepchild is:
- 638 (i) an adopted child or adopted stepchild; or
- 639 (ii) a foster child or foster stepchild;
- 640 (b) grandchild or stepgrandchild;
- 641 (c) grandparent or stepgrandparent;
- 642 (d) nephew or stepnephew;
- 643 (e) niece or stepniece;
- 644 (f) parent or stepparent;

- 645 (g) sibling or stepsibling;
- 646 (h) spouse;
- 647 (i) person who is the spouse of a person described in Subsections (61)(a) through (g);

648 or

- 649 (j) person similar to a person described in Subsections (61)(a) through (i) as
- 650 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 651 Administrative Rulemaking Act.

652 (62) "Mobile home" is as defined in Section 15A-1-302.

653 (63) "Mobile telecommunications service" is as defined in the Mobile

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

655 (64) (a) "Mobile wireless service" means a telecommunications service, regardless of

656 the technology used, if:

- 657 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 658 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 659 (iii) the origination point described in Subsection (64)(a)(i) and the termination point
- 660 described in Subsection (64)(a)(ii) are not fixed.

661 (b) "Mobile wireless service" includes a telecommunications service that is provided

662 by a commercial mobile radio service provider.

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

664 commission may by rule define "commercial mobile radio service provider."

665 (65) (a) Except as provided in Subsection (65)(c), "mobility enhancing equipment"

666 means equipment that is:

- 667 (i) primarily and customarily used to provide or increase the ability to move from one
- 668 place to another;
- 669 (ii) appropriate for use in a:
 - 670 (A) home; or
 - 671 (B) motor vehicle; and
 - 672 (iii) not generally used by persons with normal mobility.

673 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of

674 the equipment described in Subsection (65)(a).

675 (c) [~~Notwithstanding Subsection (65)(a), "mobility]~~ "Mobility enhancing equipment"

676 does not include:

677 (i) a motor vehicle;

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

680 (iii) durable medical equipment; or

681 (iv) a prosthetic device.

682 (66) "Model 1 seller" means a seller registered under the agreement that has selected a
683 certified service provider as the seller's agent to perform all of the seller's sales and use tax
684 functions for agreement sales and use taxes other than the seller's obligation under Section
685 59-12-124 to remit a tax on the seller's own purchases.

686 (67) "Model 2 seller" means a seller registered under the agreement that:

687 (a) except as provided in Subsection (67)(b), has selected a certified automated system
688 to perform the seller's sales tax functions for agreement sales and use taxes; and

689 (b) [~~notwithstanding Subsection (67)(a),~~] retains responsibility for remitting all of the
690 sales tax:

691 (i) collected by the seller; and

692 (ii) to the appropriate local taxing jurisdiction.

693 (68) (a) Subject to Subsection (68)(b), "model 3 seller" means a seller registered under
694 the agreement that has:

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

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

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

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

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

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

701 (b) For purposes of Subsection (68)(a), "model 3 seller" includes an affiliated group of
702 sellers using the same proprietary system.

703 (69) "Model 4 seller" means a seller that is registered under the agreement and is not a
704 model 1 seller, model 2 seller, or model 3 seller.

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

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

- 707 (72) "Oil sands" means impregnated bituminous sands that:
- 708 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 709 other hydrocarbons, or otherwise treated;
- 710 (b) yield mixtures of liquid hydrocarbon; and
- 711 (c) require further processing other than mechanical blending before becoming finished
- 712 petroleum products.
- 713 (73) "Oil shale" means a group of fine black to dark brown shales containing kerogen
- 714 material that yields petroleum upon heating and distillation.
- 715 (74) "Optional computer software maintenance contract" means a computer software
- 716 maintenance contract that a customer is not obligated to purchase as a condition to the retail
- 717 sale of computer software.
- 718 (75) (a) "Other fuels" means products that burn independently to produce heat or
- 719 energy.
- 720 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 721 personal property.
- 722 (76) (a) "Paging service" means a telecommunications service that provides
- 723 transmission of a coded radio signal for the purpose of activating a specific pager.
- 724 (b) For purposes of Subsection (76)(a), the transmission of a coded radio signal
- 725 includes a transmission by message or sound.
- 726 (77) "Pawnbroker" is as defined in Section 13-32a-102.
- 727 (78) "Pawn transaction" is as defined in Section 13-32a-102.
- 728 (79) (a) "Permanently attached to real property" means that for tangible personal
- 729 property attached to real property:
- 730 (i) the attachment of the tangible personal property to the real property:
- 731 (A) is essential to the use of the tangible personal property; and
- 732 (B) suggests that the tangible personal property will remain attached to the real
- 733 property in the same place over the useful life of the tangible personal property; or
- 734 (ii) if the tangible personal property is detached from the real property, the detachment
- 735 would:
- 736 (A) cause substantial damage to the tangible personal property; or
- 737 (B) require substantial alteration or repair of the real property to which the tangible

738 personal property is attached.

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

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

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

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

743 (ii) a temporary detachment of tangible personal property from real property for a

744 repair or renovation if the repair or renovation is performed where the tangible personal

745 property and real property are located; or

746 (iii) property attached to oil, gas, or water pipelines, except for the property listed in

747 Subsection (79)(c)(iii) or (iv).

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

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

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

751 (A) convenience;

752 (B) stability; or

753 (C) for an obvious temporary purpose;

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

755 detachment described in Subsection (79)(b)(ii);

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

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

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

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

760 (A) a computer;

761 (B) a telephone;

762 (C) a television; or

763 (D) tangible personal property similar to Subsections (79)(c)(iii)(A) through (C) as

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

765 Administrative Rulemaking Act; or

766 (iv) an item listed in Subsection [~~(117)~~] (119)(c).

767 (80) "Person" includes any individual, firm, partnership, joint venture, association,

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

769 municipality, district, or other local governmental entity of the state, or any group or
770 combination acting as a unit.

771 (81) "Place of primary use":

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

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

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

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

779 (82) (a) "Postpaid calling service" means a telecommunications service a person
780 obtains by making a payment on a call-by-call basis:

781 (i) through the use of a:

782 (A) bank card;

783 (B) credit card;

784 (C) debit card; or

785 (D) travel card; or

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

788 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
789 service, that would be a prepaid wireless calling service if the service were exclusively a
790 telecommunications service.

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

793 (84) "Prepaid calling service" means a telecommunications service:

794 (a) that allows a purchaser access to telecommunications service that is exclusively
795 telecommunications service;

796 (b) that:

797 (i) is paid for in advance; and

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

799 (A) access number; or

- 800 (B) authorization code;
- 801 (c) that is dialed:
- 802 (i) manually; or
- 803 (ii) electronically; and
- 804 (d) sold in predetermined units or dollars that decline:
- 805 (i) by a known amount; and
- 806 (ii) with use.
- 807 (85) "Prepaid wireless calling service" means a telecommunications service:
- 808 (a) that provides the right to utilize:
- 809 (i) mobile wireless service; and
- 810 (ii) other service that is not a telecommunications service, including:
- 811 (A) the download of a product transferred electronically;
- 812 (B) a content service; or
- 813 (C) an ancillary service;
- 814 (b) that:
- 815 (i) is paid for in advance; and
- 816 (ii) enables the origination of a call using an:
- 817 (A) access number; or
- 818 (B) authorization code;
- 819 (c) that is dialed:
- 820 (i) manually; or
- 821 (ii) electronically; and
- 822 (d) sold in predetermined units or dollars that decline:
- 823 (i) by a known amount; and
- 824 (ii) with use.
- 825 (86) (a) "Prepared food" means:
- 826 (i) food:
- 827 (A) sold in a heated state; or
- 828 (B) heated by a seller;
- 829 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 830 item; or

831 (iii) except as provided in Subsection (86)(c), food sold with an eating utensil provided
832 by the seller, including a:

- 833 (A) plate;
- 834 (B) knife;
- 835 (C) fork;
- 836 (D) spoon;
- 837 (E) glass;
- 838 (F) cup;
- 839 (G) napkin; or
- 840 (H) straw.

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

842 (i) food that a seller only:

- 843 (A) cuts;
- 844 (B) repackages; or
- 845 (C) pasteurizes; or

846 (ii) (A) the following:

- 847 (I) raw egg;
- 848 (II) raw fish;
- 849 (III) raw meat;
- 850 (IV) raw poultry; or
- 851 (V) a food containing an item described in Subsections (86)(b)(ii)(A)(I) through (IV);

852 and

853 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
854 Food and Drug Administration's Food Code that a consumer cook the items described in
855 Subsection (86)(b)(ii)(A) to prevent food borne illness; or

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

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

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

863 (I) by weight or volume; and

864 (II) as a single item; or

865 (C) a bakery item, including:

866 (I) a bagel;

867 (II) a bar;

868 (III) a biscuit;

869 (IV) bread;

870 (V) a bun;

871 (VI) a cake;

872 (VII) a cookie;

873 (VIII) a croissant;

874 (IX) a danish;

875 (X) a donut;

876 (XI) a muffin;

877 (XII) a pastry;

878 (XIII) a pie;

879 (XIV) a roll;

880 (XV) a tart;

881 (XVI) a torte; or

882 (XVII) a tortilla.

883 (c) [~~Notwithstanding Subsection (86)(a)(iii), an~~] An eating utensil provided by the
884 seller does not include the following used to transport the food:

885 (i) a container; or

886 (ii) packaging.

887 (87) "Prescription" means an order, formula, or recipe that is issued:

888 (a) (i) orally;

889 (ii) in writing;

890 (iii) electronically; or

891 (iv) by any other manner of transmission; and

892 (b) by a licensed practitioner authorized by the laws of a state.

893 (88) (a) Except as provided in Subsection (88)(b)(ii) or (iii), "prewritten computer
894 software" means computer software that is not designed and developed:
895 (i) by the author or other creator of the computer software; and
896 (ii) to the specifications of a specific purchaser.
897 (b) "Prewritten computer software" includes:
898 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
899 software is not designed and developed:
900 (A) by the author or other creator of the computer software; and
901 (B) to the specifications of a specific purchaser;
902 (ii) [~~notwithstanding Subsection (88)(a);~~] computer software designed and developed
903 by the author or other creator of the computer software to the specifications of a specific
904 purchaser if the computer software is sold to a person other than the purchaser; or
905 (iii) [~~notwithstanding Subsection (88)(a) and~~] except as provided in Subsection (88)(c),
906 prewritten computer software or a prewritten portion of prewritten computer software:
907 (A) that is modified or enhanced to any degree; and
908 (B) if the modification or enhancement described in Subsection (88)(b)(iii)(A) is
909 designed and developed to the specifications of a specific purchaser.
910 (c) [~~Notwithstanding Subsection (88)(b)(iii), "prewritten~~] "Prewritten computer
911 software" does not include a modification or enhancement described in Subsection (88)(b)(iii)
912 if the charges for the modification or enhancement are:
913 (i) reasonable; and
914 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
915 invoice or other statement of price provided to the purchaser at the time of sale or later, as
916 demonstrated by:
917 (A) the books and records the seller keeps at the time of the transaction in the regular
918 course of business, including books and records the seller keeps at the time of the transaction in
919 the regular course of business for nontax purposes;
920 (B) a preponderance of the facts and circumstances at the time of the transaction; and
921 (C) the understanding of all of the parties to the transaction.
922 (89) (a) "Private communication service" means a telecommunications service:
923 (i) that entitles a customer to exclusive or priority use of one or more communications

924 channels between or among termination points; and

925 (ii) regardless of the manner in which the one or more communications channels are
926 connected.

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

929 (i) an extension line;

930 (ii) a station;

931 (iii) switching capacity; or

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

934 (90) (a) Except as provided in Subsection (90)(b), "product transferred electronically"
935 means a product transferred electronically that would be subject to a tax under this chapter if
936 that product was transferred in a manner other than electronically.

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

938 (i) an ancillary service;

939 (ii) computer software; or

940 (iii) a telecommunications service.

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

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

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

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

945 (b) "Prosthetic device" includes:

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

947 (ii) replacement parts for a prosthetic device;

948 (iii) a dental prosthesis; or

949 (iv) a hearing aid.

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

951 (i) corrective eyeglasses; or

952 (ii) contact lenses.

953 (92) (a) "Protective equipment" means an item:

954 (i) for human wear; and

- 955 (ii) that is:
- 956 (A) designed as protection:
- 957 (I) to the wearer against injury or disease; or
- 958 (II) against damage or injury of other persons or property; and
- 959 (B) not suitable for general use.
- 960 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 961 commission shall make rules:
- 962 (i) listing the items that constitute "protective equipment"; and
- 963 (ii) that are consistent with the list of items that constitute "protective equipment"
- 964 under the agreement.
- 965 (93) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 966 printed matter, other than a photocopy:
- 967 (i) regardless of:
- 968 (A) characteristics;
- 969 (B) copyright;
- 970 (C) form;
- 971 (D) format;
- 972 (E) method of reproduction; or
- 973 (F) source; and
- 974 (ii) made available in printed or electronic format.
- 975 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 976 commission may by rule define the term "photocopy."
- 977 (94) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 978 (i) valued in money; and
- 979 (ii) for which tangible personal property, a product transferred electronically, or
- 980 services are:
- 981 (A) sold;
- 982 (B) leased; or
- 983 (C) rented.
- 984 (b) "Purchase price" and "sales price" include:
- 985 (i) the seller's cost of the tangible personal property, a product transferred

986 electronically, or services sold;

987 (ii) expenses of the seller, including:

988 (A) the cost of materials used;

989 (B) a labor cost;

990 (C) a service cost;

991 (D) interest;

992 (E) a loss;

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

994 (G) a tax imposed on the seller;

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

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

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

998 and

999 (II) the consideration described in Subsection (94)(b)(iv)(A)(I) is directly related to a
1000 price reduction or discount on the sale;

1001 (B) the seller has an obligation to pass the price reduction or discount through to the
1002 purchaser;

1003 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1004 the seller at the time of the sale to the purchaser; and

1005 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1006 seller to claim a price reduction or discount; and

1007 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1008 coupon, or other documentation with the understanding that the person other than the seller
1009 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1010 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1011 organization allowed a price reduction or discount, except that a preferred customer card that is
1012 available to any patron of a seller does not constitute membership in a group or organization
1013 allowed a price reduction or discount; or

1014 (III) the price reduction or discount is identified as a third party price reduction or
1015 discount on the:

1016 (Aa) invoice the purchaser receives; or

- 1017 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1018 (c) "Purchase price" and "sales price" do not include:
- 1019 (i) a discount:
- 1020 (A) in a form including:
- 1021 (I) cash;
- 1022 (II) term; or
- 1023 (III) coupon;
- 1024 (B) that is allowed by a seller;
- 1025 (C) taken by a purchaser on a sale; and
- 1026 (D) that is not reimbursed by a third party; or
- 1027 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
- 1028 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
- 1029 sale or later, as demonstrated by the books and records the seller keeps at the time of the
- 1030 transaction in the regular course of business, including books and records the seller keeps at the
- 1031 time of the transaction in the regular course of business for nontax purposes, by a
- 1032 preponderance of the facts and circumstances at the time of the transaction, and by the
- 1033 understanding of all of the parties to the transaction:
- 1034 (A) the following from credit extended on the sale of tangible personal property or
- 1035 services:
- 1036 (I) a carrying charge;
- 1037 (II) a financing charge; or
- 1038 (III) an interest charge;
- 1039 (B) a delivery charge;
- 1040 (C) an installation charge;
- 1041 (D) a manufacturer rebate on a motor vehicle; or
- 1042 (E) a tax or fee legally imposed directly on the consumer.
- 1043 (95) "Purchaser" means a person to whom:
- 1044 (a) a sale of tangible personal property is made;
- 1045 (b) a product is transferred electronically; or
- 1046 (c) a service is furnished.
- 1047 (96) "Regularly rented" means:

- 1048 (a) rented to a guest for value three or more times during a calendar year; or
1049 (b) advertised or held out to the public as a place that is regularly rented to guests for
1050 value.
- 1051 (97) "Rental" is as defined in Subsection (54).
- 1052 (98) (a) Except as provided in Subsection (98)(b), "repairs or renovations of tangible
1053 personal property" means:
- 1054 (i) a repair or renovation of tangible personal property that is not permanently attached
1055 to real property; or
- 1056 (ii) attaching tangible personal property or a product transferred electronically to other
1057 tangible personal property or detaching tangible personal property or a product transferred
1058 electronically from other tangible personal property if:
- 1059 (A) the other tangible personal property to which the tangible personal property or
1060 product transferred electronically is attached or from which the tangible personal property or
1061 product transferred electronically is detached is not permanently attached to real property; and
- 1062 (B) the attachment of tangible personal property or a product transferred electronically
1063 to other tangible personal property or detachment of tangible personal property or a product
1064 transferred electronically from other tangible personal property is made in conjunction with a
1065 repair or replacement of tangible personal property or a product transferred electronically.
- 1066 (b) "Repairs or renovations of tangible personal property" does not include:
- 1067 (i) attaching prewritten computer software to other tangible personal property if the
1068 other tangible personal property to which the prewritten computer software is attached is not
1069 permanently attached to real property; or
- 1070 (ii) detaching prewritten computer software from other tangible personal property if the
1071 other tangible personal property from which the prewritten computer software is detached is
1072 not permanently attached to real property.
- 1073 (99) "Research and development" means the process of inquiry or experimentation
1074 aimed at the discovery of facts, devices, technologies, or applications and the process of
1075 preparing those devices, technologies, or applications for marketing.
- 1076 (100) (a) "Residential telecommunications services" means a telecommunications
1077 service or an ancillary service that is provided to an individual for personal use:
- 1078 (i) at a residential address; or

1079 (ii) at an institution, including a nursing home or a school, if the telecommunications
1080 service or ancillary service is provided to and paid for by the individual residing at the
1081 institution rather than the institution.

1082 (b) For purposes of Subsection (100)(a)(i), a residential address includes an:

1083 (i) apartment; or

1084 (ii) other individual dwelling unit.

1085 (101) "Residential use" means the use in or around a home, apartment building,
1086 sleeping quarters, and similar facilities or accommodations.

1087 (102) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1088 than:

1089 (a) resale;

1090 (b) sublease; or

1091 (c) subrent.

1092 (103) (a) "Retailer" means any person engaged in a regularly organized business in
1093 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1094 who is selling to the user or consumer and not for resale.

1095 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1096 engaged in the business of selling to users or consumers within the state.

1097 (104) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1098 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1099 Subsection 59-12-103(1), for consideration.

1100 (b) "Sale" includes:

1101 (i) installment and credit sales;

1102 (ii) any closed transaction constituting a sale;

1103 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1104 chapter;

1105 (iv) any transaction if the possession of property is transferred but the seller retains the
1106 title as security for the payment of the price; and

1107 (v) any transaction under which right to possession, operation, or use of any article of
1108 tangible personal property is granted under a lease or contract and the transfer of possession
1109 would be taxable if an outright sale were made.

- 1110 (105) "Sale at retail" is as defined in Subsection (102).
- 1111 (106) "Sale-leaseback transaction" means a transaction by which title to tangible
1112 personal property or a product transferred electronically that is subject to a tax under this
1113 chapter is transferred:
- 1114 (a) by a purchaser-lessee;
 - 1115 (b) to a lessor;
 - 1116 (c) for consideration; and
 - 1117 (d) if:
 - 1118 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1119 of the tangible personal property or product transferred electronically;
 - 1120 (ii) the sale of the tangible personal property or product transferred electronically to the
1121 lessor is intended as a form of financing:
 - 1122 (A) for the tangible personal property or product transferred electronically; and
 - 1123 (B) to the purchaser-lessee; and
 - 1124 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1125 is required to:
 - 1126 (A) capitalize the tangible personal property or product transferred electronically for
1127 financial reporting purposes; and
 - 1128 (B) account for the lease payments as payments made under a financing arrangement.
- 1129 (107) "Sales price" is as defined in Subsection (94).
- 1130 (108) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
1131 amounts charged by a school:
- 1132 (i) sales that are directly related to the school's educational functions or activities
1133 including:
 - 1134 (A) the sale of:
 - 1135 (I) textbooks;
 - 1136 (II) textbook fees;
 - 1137 (III) laboratory fees;
 - 1138 (IV) laboratory supplies; or
 - 1139 (V) safety equipment;
 - 1140 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1141 that:

1142 (I) a student is specifically required to wear as a condition of participation in a
1143 school-related event or school-related activity; and

1144 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1145 place of ordinary clothing;

1146 (C) sales of the following if the net or gross revenues generated by the sales are
1147 deposited into a school district fund or school fund dedicated to school meals:

1148 (I) food and food ingredients; or

1149 (II) prepared food; or

1150 (D) transportation charges for official school activities; or

1151 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1152 event or school-related activity.

1153 (b) "Sales relating to schools" does not include:

1154 (i) bookstore sales of items that are not educational materials or supplies;

1155 (ii) except as provided in Subsection (108)(a)(i)(B):

1156 (A) clothing;

1157 (B) clothing accessories or equipment;

1158 (C) protective equipment; or

1159 (D) sports or recreational equipment; or

1160 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1161 event or school-related activity if the amounts paid or charged are passed through to a person:

1162 (A) other than a:

1163 (I) school;

1164 (II) nonprofit organization authorized by a school board or a governing body of a
1165 private school to organize and direct a competitive secondary school activity; or

1166 (III) nonprofit association authorized by a school board or a governing body of a
1167 private school to organize and direct a competitive secondary school activity; and

1168 (B) that is required to collect sales and use taxes under this chapter.

1169 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1170 commission may make rules defining the term "passed through."

1171 (109) For purposes of this section and Section 59-12-104, "school":

- 1172 (a) means:
- 1173 (i) an elementary school or a secondary school that:
- 1174 (A) is a:
- 1175 (I) public school; or
- 1176 (II) private school; and
- 1177 (B) provides instruction for one or more grades kindergarten through 12; or
- 1178 (ii) a public school district; and
- 1179 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1180 (110) "Seller" means a person that makes a sale, lease, or rental of:
- 1181 (a) tangible personal property;
- 1182 (b) a product transferred electronically; or
- 1183 (c) a service.
- 1184 (111) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1185 means tangible personal property or a product transferred electronically if the tangible personal
- 1186 property or product transferred electronically is:
- 1187 (i) used primarily in the process of:
- 1188 (A) (I) manufacturing a semiconductor;
- 1189 (II) fabricating a semiconductor; or
- 1190 (III) research or development of a:
- 1191 (Aa) semiconductor; or
- 1192 (Bb) semiconductor manufacturing process; or
- 1193 (B) maintaining an environment suitable for a semiconductor; or
- 1194 (ii) consumed primarily in the process of:
- 1195 (A) (I) manufacturing a semiconductor;
- 1196 (II) fabricating a semiconductor; or
- 1197 (III) research or development of a:
- 1198 (Aa) semiconductor; or
- 1199 (Bb) semiconductor manufacturing process; or
- 1200 (B) maintaining an environment suitable for a semiconductor.
- 1201 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1202 includes:

1203 (i) parts used in the repairs or renovations of tangible personal property or a product
1204 transferred electronically described in Subsection (111)(a); or

1205 (ii) a chemical, catalyst, or other material used to:

1206 (A) produce or induce in a semiconductor a:

1207 (I) chemical change; or

1208 (II) physical change;

1209 (B) remove impurities from a semiconductor; or

1210 (C) improve the marketable condition of a semiconductor.

1211 (112) "Senior citizen center" means a facility having the primary purpose of providing
1212 services to the aged as defined in Section 62A-3-101.

1213 (113) (a) Subject to Subsections (113)(b) and (c), "short-term lodging consumable"
1214 means tangible personal property that:

1215 (i) a business that provides accommodations and services described in Subsection
1216 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
1217 to a purchaser;

1218 (ii) is intended to be consumed by the purchaser; and

1219 (iii) is:

1220 (A) included in the purchase price of the accommodations and services; and

1221 (B) not separately stated on an invoice, bill of sale, or other similar document provided
1222 to the purchaser.

1223 (b) "Short-term lodging consumable" includes the following if the requirements of
1224 Subsection (113)(a) are met:

1225 (i) a beverage;

1226 (ii) a brush or comb;

1227 (iii) a cosmetic;

1228 (iv) a hair care product;

1229 (v) lotion;

1230 (vi) a magazine;

1231 (vii) makeup;

1232 (viii) a meal;

1233 (ix) mouthwash;

- 1234 (x) nail polish remover;
- 1235 (xi) a newspaper;
- 1236 (xii) a notepad;
- 1237 (xiii) a pen;
- 1238 (xiv) a pencil;
- 1239 (xv) a razor;
- 1240 (xvi) saline solution;
- 1241 (xvii) a sewing kit;
- 1242 (xviii) shaving cream;
- 1243 (xix) a shoe shine kit;
- 1244 (xx) a shower cap;
- 1245 (xxi) a snack item;
- 1246 (xxii) soap;
- 1247 (xxiii) toilet paper;
- 1248 (xxiv) a toothbrush;
- 1249 (xxv) toothpaste; or
- 1250 (xxvi) an item similar to Subsections (113)(b)(i) through (xxv) as the commission may
- 1251 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1252 Rulemaking Act.
- 1253 (c) "Short-term lodging consumable" does not include:
- 1254 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1255 property to be reused; or
- 1256 (ii) a product transferred electronically.
- 1257 [~~(113)~~] (114) "Simplified electronic return" means the electronic return:
- 1258 (a) described in Section 318(C) of the agreement; and
- 1259 (b) approved by the governing board of the agreement.
- 1260 [~~(114)~~] (115) "Solar energy" means the sun used as the sole source of energy for
- 1261 producing electricity.
- 1262 [~~(115)~~] (116) (a) "Sports or recreational equipment" means an item:
- 1263 (i) designed for human use; and
- 1264 (ii) that is:

- 1265 (A) worn in conjunction with:
- 1266 (I) an athletic activity; or
- 1267 (II) a recreational activity; and
- 1268 (B) not suitable for general use.
- 1269 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1270 commission shall make rules:
- 1271 (i) listing the items that constitute "sports or recreational equipment"; and
- 1272 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1273 equipment" under the agreement.
- 1274 [~~(116)~~] (117) "State" means the state of Utah, its departments, and agencies.
- 1275 [~~(117)~~] (118) "Storage" means any keeping or retention of tangible personal property or
- 1276 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 1277 except sale in the regular course of business.
- 1278 [~~(118)~~] (119) (a) Except as provided in Subsection [~~(118)~~] (119)(d) or (e), "tangible
- 1279 personal property" means personal property that:
- 1280 (i) may be:
- 1281 (A) seen;
- 1282 (B) weighed;
- 1283 (C) measured;
- 1284 (D) felt; or
- 1285 (E) touched; or
- 1286 (ii) is in any manner perceptible to the senses.
- 1287 (b) "Tangible personal property" includes:
- 1288 (i) electricity;
- 1289 (ii) water;
- 1290 (iii) gas;
- 1291 (iv) steam; or
- 1292 (v) prewritten computer software, regardless of the manner in which the prewritten
- 1293 computer software is transferred.
- 1294 (c) "Tangible personal property" includes the following regardless of whether the item
- 1295 is attached to real property:

- 1296 (i) a dishwasher;
- 1297 (ii) a dryer;
- 1298 (iii) a freezer;
- 1299 (iv) a microwave;
- 1300 (v) a refrigerator;
- 1301 (vi) a stove;
- 1302 (vii) a washer; or
- 1303 (viii) an item similar to Subsections [~~118~~] (119)(c)(i) through (vii) as determined by

1304 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1305 Rulemaking Act.

1306 (d) "Tangible personal property" does not include a product that is transferred
1307 electronically.

1308 (e) "Tangible personal property" does not include the following if attached to real
1309 property, regardless of whether the attachment to real property is only through a line that
1310 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1311 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1312 Rulemaking Act:

- 1313 (i) a hot water heater;
- 1314 (ii) a water filtration system; or
- 1315 (iii) a water softener system.

1316 [~~119~~] (120) (a) "Telecommunications enabling or facilitating equipment, machinery,
1317 or software" means an item listed in Subsection [~~119~~] (120)(b) if that item is purchased or
1318 leased primarily to enable or facilitate one or more of the following to function:

- 1319 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1320 (ii) telecommunications transmission equipment, machinery, or software.

1321 (b) The following apply to Subsection [~~119~~] (120)(a):

- 1322 (i) a pole;
- 1323 (ii) software;
- 1324 (iii) a supplementary power supply;
- 1325 (iv) temperature or environmental equipment or machinery;
- 1326 (v) test equipment;

1327 (vi) a tower; or
1328 (vii) equipment, machinery, or software that functions similarly to an item listed in
1329 Subsections [~~(119)~~] (120)(b)(i) through (vi) as determined by the commission by rule made in
1330 accordance with Subsection [~~(119)~~] (120)(c).

1331 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1332 commission may by rule define what constitutes equipment, machinery, or software that
1333 functions similarly to an item listed in Subsections [~~(119)~~] (120)(b)(i) through (vi).

1334 [~~(120)~~] (121) "Telecommunications equipment, machinery, or software required for
1335 911 service" means equipment, machinery, or software that is required to comply with 47
1336 C.F.R. Sec. 20.18.

1337 [~~(121)~~] (122) "Telecommunications maintenance or repair equipment, machinery, or
1338 software" means equipment, machinery, or software purchased or leased primarily to maintain
1339 or repair one or more of the following, regardless of whether the equipment, machinery, or
1340 software is purchased or leased as a spare part or as an upgrade or modification to one or more
1341 of the following:

- 1342 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1343 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1344 (c) telecommunications transmission equipment, machinery, or software.

1345 [~~(122)~~] (123) (a) "Telecommunications service" means the electronic conveyance,
1346 routing, or transmission of audio, data, video, voice, or any other information or signal to a
1347 point, or among or between points.

1348 (b) "Telecommunications service" includes:

- 1349 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1350 processing application is used to act:
 - 1351 (A) on the code, form, or protocol of the content;
 - 1352 (B) for the purpose of electronic conveyance, routing, or transmission; and
 - 1353 (C) regardless of whether the service:
 - 1354 (I) is referred to as voice over Internet protocol service; or
 - 1355 (II) is classified by the Federal Communications Commission as enhanced or value
1356 added;
- 1357 (ii) an 800 service;

- 1358 (iii) a 900 service;
- 1359 (iv) a fixed wireless service;
- 1360 (v) a mobile wireless service;
- 1361 (vi) a postpaid calling service;
- 1362 (vii) a prepaid calling service;
- 1363 (viii) a prepaid wireless calling service; or
- 1364 (ix) a private communications service.
- 1365 (c) "Telecommunications service" does not include:
- 1366 (i) advertising, including directory advertising;
- 1367 (ii) an ancillary service;
- 1368 (iii) a billing and collection service provided to a third party;
- 1369 (iv) a data processing and information service if:
- 1370 (A) the data processing and information service allows data to be:
- 1371 (I) (Aa) acquired;
- 1372 (Bb) generated;
- 1373 (Cc) processed;
- 1374 (Dd) retrieved; or
- 1375 (Ee) stored; and
- 1376 (II) delivered by an electronic transmission to a purchaser; and
- 1377 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1378 or information;
- 1379 (v) installation or maintenance of the following on a customer's premises:
- 1380 (A) equipment; or
- 1381 (B) wiring;
- 1382 (vi) Internet access service;
- 1383 (vii) a paging service;
- 1384 (viii) a product transferred electronically, including:
- 1385 (A) music;
- 1386 (B) reading material;
- 1387 (C) a ring tone;
- 1388 (D) software; or

- 1389 (E) video;
- 1390 (ix) a radio and television audio and video programming service:
- 1391 (A) regardless of the medium; and
- 1392 (B) including:
- 1393 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1394 programming service by a programming service provider;
- 1395 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1396 (III) audio and video programming services delivered by a commercial mobile radio
- 1397 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1398 (x) a value-added nonvoice data service; or
- 1399 (xi) tangible personal property.
- 1400 [~~(123)~~] (124) (a) "Telecommunications service provider" means a person that:
- 1401 (i) owns, controls, operates, or manages a telecommunications service; and
- 1402 (ii) engages in an activity described in Subsection [~~(123)~~] (124)(a)(i) for the shared use
- 1403 with or resale to any person of the telecommunications service.
- 1404 (b) A person described in Subsection [~~(123)~~] (124)(a) is a telecommunications service
- 1405 provider whether or not the Public Service Commission of Utah regulates:
- 1406 (i) that person; or
- 1407 (ii) the telecommunications service that the person owns, controls, operates, or
- 1408 manages.
- 1409 [~~(124)~~] (125) (a) "Telecommunications switching or routing equipment, machinery, or
- 1410 software" means an item listed in Subsection [~~(124)~~] (125)(b) if that item is purchased or
- 1411 leased primarily for switching or routing:
- 1412 (i) an ancillary service;
- 1413 (ii) data communications;
- 1414 (iii) voice communications; or
- 1415 (iv) telecommunications service.
- 1416 (b) The following apply to Subsection [~~(124)~~] (125)(a):
- 1417 (i) a bridge;
- 1418 (ii) a computer;
- 1419 (iii) a cross connect;

- 1420 (iv) a modem;
- 1421 (v) a multiplexer;
- 1422 (vi) plug in circuitry;
- 1423 (vii) a router;
- 1424 (viii) software;
- 1425 (ix) a switch; or
- 1426 (x) equipment, machinery, or software that functions similarly to an item listed in
- 1427 Subsections [~~(124)~~] (125)(b)(i) through (ix) as determined by the commission by rule made in
- 1428 accordance with Subsection [~~(124)~~] (125)(c).

1429 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1430 commission may by rule define what constitutes equipment, machinery, or software that

1431 functions similarly to an item listed in Subsections [~~(124)~~] (125)(b)(i) through (ix).

1432 [~~(125)~~] (126) (a) "Telecommunications transmission equipment, machinery, or

1433 software" means an item listed in Subsection [~~(125)~~] (126)(b) if that item is purchased or

1434 leased primarily for sending, receiving, or transporting:

- 1435 (i) an ancillary service;
- 1436 (ii) data communications;
- 1437 (iii) voice communications; or
- 1438 (iv) telecommunications service.

1439 (b) The following apply to Subsection [~~(125)~~] (126)(a):

- 1440 (i) an amplifier;
- 1441 (ii) a cable;
- 1442 (iii) a closure;
- 1443 (iv) a conduit;
- 1444 (v) a controller;
- 1445 (vi) a duplexer;
- 1446 (vii) a filter;
- 1447 (viii) an input device;
- 1448 (ix) an input/output device;
- 1449 (x) an insulator;
- 1450 (xi) microwave machinery or equipment;

- 1451 (xii) an oscillator;
- 1452 (xiii) an output device;
- 1453 (xiv) a pedestal;
- 1454 (xv) a power converter;
- 1455 (xvi) a power supply;
- 1456 (xvii) a radio channel;
- 1457 (xviii) a radio receiver;
- 1458 (xix) a radio transmitter;
- 1459 (xx) a repeater;
- 1460 (xxi) software;
- 1461 (xxii) a terminal;
- 1462 (xxiii) a timing unit;
- 1463 (xxiv) a transformer;
- 1464 (xxv) a wire; or
- 1465 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1466 Subsections [~~(125)~~] (126)(b)(i) through (xxv) as determined by the commission by rule made in
- 1467 accordance with Subsection [~~(125)~~] (126)(c).
- 1468 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1469 commission may by rule define what constitutes equipment, machinery, or software that
- 1470 functions similarly to an item listed in Subsections [~~(125)~~] (126)(b)(i) through (xxv).
- 1471 [~~(126)~~] (127) (a) "Textbook for a higher education course" means a textbook or other
- 1472 printed material that is required for a course:
- 1473 (i) offered by an institution of higher education; and
- 1474 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1475 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 1476 [~~(127)~~] (128) "Tobacco" means:
- 1477 (a) a cigarette;
- 1478 (b) a cigar;
- 1479 (c) chewing tobacco;
- 1480 (d) pipe tobacco; or
- 1481 (e) any other item that contains tobacco.

1482 ~~[(128)]~~ (129) "Unassisted amusement device" means an amusement device, skill
1483 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
1484 operate the amusement device, skill device, or ride device.

1485 ~~[(129)]~~ (130) (a) "Use" means the exercise of any right or power over tangible personal
1486 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1487 incident to the ownership or the leasing of that tangible personal property, product transferred
1488 electronically, or service.

1489 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1490 property, a product transferred electronically, or a service in the regular course of business and
1491 held for resale.

1492 ~~[(130)]~~ (131) "Value-added nonvoice data service" means a service:

1493 (a) that otherwise meets the definition of a telecommunications service except that a
1494 computer processing application is used to act primarily for a purpose other than conveyance,
1495 routing, or transmission; and

1496 (b) with respect to which a computer processing application is used to act on data or
1497 information:

- 1498 (i) code;
- 1499 (ii) content;
- 1500 (iii) form; or
- 1501 (iv) protocol.

1502 ~~[(131)]~~ (132) (a) Subject to Subsection ~~[(131)]~~ (132)(b), "vehicle" means the following
1503 that are required to be titled, registered, or titled and registered:

- 1504 (i) an aircraft as defined in Section 72-10-102;
- 1505 (ii) a vehicle as defined in Section 41-1a-102;
- 1506 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1507 (iv) a vessel as defined in Section 41-1a-102.

1508 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1509 (i) a vehicle described in Subsection ~~[(131)]~~ (132)(a); or
- 1510 (ii) (A) a locomotive;
- 1511 (B) a freight car;
- 1512 (C) railroad work equipment; or

- 1513 (D) other railroad rolling stock.
- 1514 [~~(132)~~] (133) "Vehicle dealer" means a person engaged in the business of buying,
1515 selling, or exchanging a vehicle as defined in Subsection [~~(131)~~] (132).
- 1516 [~~(133)~~] (134) (a) "Vertical service" means an ancillary service that:
- 1517 (i) is offered in connection with one or more telecommunications services; and
- 1518 (ii) offers an advanced calling feature that allows a customer to:
- 1519 (A) identify a caller; and
- 1520 (B) manage multiple calls and call connections.
- 1521 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1522 conference bridging service.
- 1523 [~~(134)~~] (135) (a) "Voice mail service" means an ancillary service that enables a
1524 customer to receive, send, or store a recorded message.
- 1525 (b) "Voice mail service" does not include a vertical service that a customer is required
1526 to have in order to utilize a voice mail service.
- 1527 [~~(135)~~] (136) (a) Except as provided in Subsection [~~(135)~~] (136)(b), "waste energy
1528 facility" means a facility that generates electricity:
- 1529 (i) using as the primary source of energy waste materials that would be placed in a
1530 landfill or refuse pit if it were not used to generate electricity, including:
- 1531 (A) tires;
- 1532 (B) waste coal;
- 1533 (C) oil shale; or
- 1534 (D) municipal solid waste; and
- 1535 (ii) in amounts greater than actually required for the operation of the facility.
- 1536 (b) "Waste energy facility" does not include a facility that incinerates:
- 1537 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1538 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1539 [~~(136)~~] (137) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1540 [~~(137)~~] (138) "Wind energy" means wind used as the sole source of energy to produce
1541 electricity.
- 1542 [~~(138)~~] (139) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
1543 geographic location by the United States Postal Service.

1544 Section 2. Section **59-12-104** is amended to read:

1545 **59-12-104. Exemptions.**

1546 The following sales and uses are exempt from the taxes imposed by this chapter:

1547 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
1548 under Chapter 13, Motor and Special Fuel Tax Act;

1549 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
1550 subdivisions; however, this exemption does not apply to sales of:

1551 (a) construction materials except:

1552 (i) construction materials purchased by or on behalf of institutions of the public
1553 education system as defined in Utah Constitution Article X, Section 2, provided the
1554 construction materials are clearly identified and segregated and installed or converted to real
1555 property which is owned by institutions of the public education system; and

1556 (ii) construction materials purchased by the state, its institutions, or its political
1557 subdivisions which are installed or converted to real property by employees of the state, its
1558 institutions, or its political subdivisions; or

1559 (b) tangible personal property in connection with the construction, operation,
1560 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
1561 providing additional project capacity, as defined in Section 11-13-103;

1562 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

1563 (i) the proceeds of each sale do not exceed \$1; and

1564 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
1565 the cost of the item described in Subsection (3)(b) as goods consumed; and

1566 (b) Subsection (3)(a) applies to:

1567 (i) food and food ingredients; or

1568 (ii) prepared food;

1569 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

1570 (i) alcoholic beverages;

1571 (ii) food and food ingredients; or

1572 (iii) prepared food;

1573 (b) sales of tangible personal property or a product transferred electronically:

1574 (i) to a passenger;

1575 (ii) by a commercial airline carrier; and
1576 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
1577 (c) services related to Subsection (4)(a) or (b);
1578 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
1579 and equipment:
1580 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
1581 North American Industry Classification System of the federal Executive Office of the
1582 President, Office of Management and Budget; and
1583 (II) for:
1584 (Aa) installation in an aircraft, including services relating to the installation of parts or
1585 equipment in the aircraft;
1586 (Bb) renovation of an aircraft; or
1587 (Cc) repair of an aircraft; or
1588 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
1589 commerce; or
1590 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
1591 aircraft operated by a common carrier in interstate or foreign commerce; and
1592 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
1593 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
1594 refund:
1595 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
1596 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
1597 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
1598 the sale prior to filing for the refund;
1599 (iv) for sales and use taxes paid under this chapter on the sale;
1600 (v) in accordance with Section 59-1-1410; and
1601 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
1602 the person files for the refund on or before September 30, 2011;
1603 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
1604 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
1605 exhibitor, distributor, or commercial television or radio broadcaster;

1606 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
1607 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
1608 washing of tangible personal property;

1609 (b) if a seller that sells at the same business location assisted cleaning or washing of
1610 tangible personal property and cleaning or washing of tangible personal property that is not
1611 assisted cleaning or washing of tangible personal property, the exemption described in
1612 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
1613 or washing of the tangible personal property; and

1614 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
1615 Utah Administrative Rulemaking Act, the commission may make rules:

1616 (i) governing the circumstances under which sales are at the same business location;
1617 and

1618 (ii) establishing the procedures and requirements for a seller to separately account for
1619 sales of assisted cleaning or washing of tangible personal property;

1620 (8) sales made to or by religious or charitable institutions in the conduct of their regular
1621 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
1622 fulfilled;

1623 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
1624 this state if the vehicle is:

1625 (a) not registered in this state; and

1626 (b) (i) not used in this state; or

1627 (ii) used in this state:

1628 (A) if the vehicle is not used to conduct business, for a time period that does not
1629 exceed the longer of:

1630 (I) 30 days in any calendar year; or

1631 (II) the time period necessary to transport the vehicle to the borders of this state; or

1632 (B) if the vehicle is used to conduct business, for the time period necessary to transport
1633 the vehicle to the borders of this state;

1634 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

1635 (i) the item is intended for human use; and

1636 (ii) (A) a prescription was issued for the item; or

- 1637 (B) the item was purchased by a hospital or other medical facility; and
- 1638 (b) (i) Subsection (10)(a) applies to:
- 1639 (A) a drug;
- 1640 (B) a syringe; or
- 1641 (C) a stoma supply; and
- 1642 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1643 commission may by rule define the terms:
- 1644 (A) "syringe"; or
- 1645 (B) "stoma supply";
- 1646 (11) sales or use of property, materials, or services used in the construction of or
- 1647 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
- 1648 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 1649 (i) the following if the item described in Subsection (12)(c) is not available to the
- 1650 general public:
- 1651 (A) a church; or
- 1652 (B) a charitable institution;
- 1653 (ii) an institution of higher education if:
- 1654 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 1655 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 1656 offered by the institution of higher education; or
- 1657 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 1658 (i) a medical facility; or
- 1659 (ii) a nursing facility; and
- 1660 (c) Subsections (12)(a) and (b) apply to:
- 1661 (i) food and food ingredients;
- 1662 (ii) prepared food; or
- 1663 (iii) alcoholic beverages;
- 1664 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 1665 or a product transferred electronically by a person:
- 1666 (i) regardless of the number of transactions involving the sale of that tangible personal
- 1667 property or product transferred electronically by that person; and

1668 (ii) not regularly engaged in the business of selling that type of tangible personal
1669 property or product transferred electronically;

1670 (b) this Subsection (13) does not apply if:

1671 (i) the sale is one of a series of sales of a character to indicate that the person is
1672 regularly engaged in the business of selling that type of tangible personal property or product
1673 transferred electronically;

1674 (ii) the person holds that person out as regularly engaged in the business of selling that
1675 type of tangible personal property or product transferred electronically;

1676 (iii) the person sells an item of tangible personal property or product transferred
1677 electronically that the person purchased as a sale that is exempt under Subsection (25); or

1678 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
1679 this state in which case the tax is based upon:

1680 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
1681 sold; or

1682 (B) in the absence of a bill of sale or other written evidence of value, the fair market
1683 value of the vehicle or vessel being sold at the time of the sale as determined by the
1684 commission; and

1685 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1686 commission shall make rules establishing the circumstances under which:

1687 (i) a person is regularly engaged in the business of selling a type of tangible personal
1688 property or product transferred electronically;

1689 (ii) a sale of tangible personal property or a product transferred electronically is one of
1690 a series of sales of a character to indicate that a person is regularly engaged in the business of
1691 selling that type of tangible personal property or product transferred electronically; or

1692 (iii) a person holds that person out as regularly engaged in the business of selling a type
1693 of tangible personal property or product transferred electronically;

1694 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
1695 July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration
1696 facility, of the following:

1697 (i) machinery and equipment that:

1698 (A) are used:

1699 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
1700 recycler described in Subsection 59-12-102(60)(b):
1701 (Aa) in the manufacturing process;
1702 (Bb) to manufacture an item sold as tangible personal property; and
1703 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
1704 (14)(a)(i)(A)(I) in the state; or
1705 (II) for a manufacturing facility that is a scrap recycler described in Subsection
1706 59-12-102(60)(b):
1707 (Aa) to process an item sold as tangible personal property; and
1708 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
1709 (14)(a)(i)(A)(II) in the state; and
1710 (B) have an economic life of three or more years; and
1711 (ii) normal operating repair or replacement parts that:
1712 (A) have an economic life of three or more years; and
1713 (B) are used:
1714 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
1715 recycler described in Subsection 59-12-102(60)(b):
1716 (Aa) in the manufacturing process; and
1717 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
1718 state; or
1719 (II) for a manufacturing facility that is a scrap recycler described in Subsection
1720 59-12-102(60)(b):
1721 (Aa) to process an item sold as tangible personal property; and
1722 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
1723 state;
1724 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
1725 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
1726 of the following:
1727 (i) machinery and equipment that:
1728 (A) are used:
1729 (I) in the manufacturing process;

1730 (II) to manufacture an item sold as tangible personal property; and
1731 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
1732 (14)(b) in the state; and
1733 (B) have an economic life of three or more years; and
1734 (ii) normal operating repair or replacement parts that:
1735 (A) are used:
1736 (I) in the manufacturing process; and
1737 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and
1738 (B) have an economic life of three or more years;
1739 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
1740 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
1741 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
1742 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
1743 of the 2002 North American Industry Classification System of the federal Executive Office of
1744 the President, Office of Management and Budget, of the following:
1745 (i) machinery and equipment that:
1746 (A) are used:
1747 (I) (Aa) in the production process, other than the production of real property; or
1748 (Bb) in research and development; and
1749 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)
1750 in the state; and
1751 (B) have an economic life of three or more years; and
1752 (ii) normal operating repair or replacement parts that:
1753 (A) have an economic life of three or more years; and
1754 (B) are used in:
1755 (I) (Aa) the production process, except for the production of real property; and
1756 (Bb) an establishment described in this Subsection (14)(c) in the state; or
1757 (II) (Aa) research and development; and
1758 (Bb) in an establishment described in this Subsection (14)(c) in the state;
1759 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,
1760 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web

1761 Search Portals, of the 2002 North American Industry Classification System of the federal
1762 Executive Office of the President, Office of Management and Budget, of the following:
1763 (A) machinery and equipment that:
1764 (I) are used in the operation of the web search portal;
1765 (II) have an economic life of three or more years; and
1766 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
1767 in the state; and
1768 (B) normal operating repair or replacement parts that:
1769 (I) are used in the operation of the web search portal;
1770 (II) have an economic life of three or more years; and
1771 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
1772 in the state; or
1773 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by
1774 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North
1775 American Industry Classification System of the federal Executive Office of the President,
1776 Office of Management and Budget, of the following:
1777 (A) machinery and equipment that:
1778 (I) are used in the operation of the web search portal; and
1779 (II) have an economic life of three or more years; and
1780 (B) normal operating repair or replacement parts that:
1781 (I) are used in the operation of the web search portal; and
1782 (II) have an economic life of three or more years;
1783 (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
1784 Utah Administrative Rulemaking Act, the commission:
1785 (i) shall by rule define the term "establishment"; and
1786 (ii) may by rule define what constitutes:
1787 (A) processing an item sold as tangible personal property;
1788 (B) the production process, except for the production of real property;
1789 (C) research and development; or
1790 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and
1791 (f) on or before October 1, 2011, and every five years after October 1, 2011, the

1792 commission shall:

1793 (i) review the exemptions described in this Subsection (14) and make
1794 recommendations to the Revenue and Taxation Interim Committee concerning whether the
1795 exemptions should be continued, modified, or repealed; and

1796 (ii) include in its report:

1797 (A) an estimate of the cost of the exemptions;

1798 (B) the purpose and effectiveness of the exemptions; and

1799 (C) the benefits of the exemptions to the state;

1800 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

1801 (i) tooling;

1802 (ii) special tooling;

1803 (iii) support equipment;

1804 (iv) special test equipment; or

1805 (v) parts used in the repairs or renovations of tooling or equipment described in

1806 Subsections (15)(a)(i) through (iv); and

1807 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

1808 (i) the tooling, equipment, or parts are used or consumed exclusively in the
1809 performance of any aerospace or electronics industry contract with the United States

1810 government or any subcontract under that contract; and

1811 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),

1812 title to the tooling, equipment, or parts is vested in the United States government as evidenced
1813 by:

1814 (A) a government identification tag placed on the tooling, equipment, or parts; or

1815 (B) listing on a government-approved property record if placing a government
1816 identification tag on the tooling, equipment, or parts is impractical;

1817 (16) sales of newspapers or newspaper subscriptions;

1818 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a

1819 product transferred electronically traded in as full or part payment of the purchase price, except

1820 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,

1821 trade-ins are limited to other vehicles only, and the tax is based upon:

1822 (i) the bill of sale or other written evidence of value of the vehicle being sold and the

1823 vehicle being traded in; or
1824 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
1825 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
1826 commission; and
1827 (b) [~~notwithstanding Subsection (17)(a),~~] Subsection (17)(a) does not apply to the
1828 following items of tangible personal property or products transferred electronically traded in as
1829 full or part payment of the purchase price:
1830 (i) money;
1831 (ii) electricity;
1832 (iii) water;
1833 (iv) gas; or
1834 (v) steam;
1835 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
1836 or a product transferred electronically used or consumed primarily and directly in farming
1837 operations, regardless of whether the tangible personal property or product transferred
1838 electronically:
1839 (A) becomes part of real estate; or
1840 (B) is installed by a:
1841 (I) farmer;
1842 (II) contractor; or
1843 (III) subcontractor; or
1844 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
1845 product transferred electronically if the tangible personal property or product transferred
1846 electronically is exempt under Subsection (18)(a)(i); and
1847 (b) [~~notwithstanding Subsection (18)(a),~~] amounts paid or charged for the following
1848 are subject to the taxes imposed by this chapter:
1849 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
1850 incidental to farming:
1851 (I) machinery;
1852 (II) equipment;
1853 (III) materials; or

1854 (IV) supplies; and
1855 (B) tangible personal property that is considered to be used in a manner that is
1856 incidental to farming includes:
1857 (I) hand tools; or
1858 (II) maintenance and janitorial equipment and supplies;
1859 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
1860 transferred electronically if the tangible personal property or product transferred electronically
1861 is used in an activity other than farming; and
1862 (B) tangible personal property or a product transferred electronically that is considered
1863 to be used in an activity other than farming includes:
1864 (I) office equipment and supplies; or
1865 (II) equipment and supplies used in:
1866 (Aa) the sale or distribution of farm products;
1867 (Bb) research; or
1868 (Cc) transportation; or
1869 (iii) a vehicle required to be registered by the laws of this state during the period
1870 ending two years after the date of the vehicle's purchase;
1871 (19) sales of hay;
1872 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
1873 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
1874 garden, farm, or other agricultural produce is sold by:
1875 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
1876 agricultural produce;
1877 (b) an employee of the producer described in Subsection (20)(a); or
1878 (c) a member of the immediate family of the producer described in Subsection (20)(a);
1879 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
1880 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
1881 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
1882 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
1883 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
1884 manufacturer, processor, wholesaler, or retailer;

1885 (23) a product stored in the state for resale;

1886 (24) (a) purchases of a product if:

1887 (i) the product is:

1888 (A) purchased outside of this state;

1889 (B) brought into this state:

1890 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

1891 (II) by a nonresident person who is not living or working in this state at the time of the

1892 purchase;

1893 (C) used for the personal use or enjoyment of the nonresident person described in

1894 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

1895 (D) not used in conducting business in this state; and

1896 (ii) for:

1897 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of

1898 the product for a purpose for which the product is designed occurs outside of this state;

1899 (B) a boat, the boat is registered outside of this state; or

1900 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

1901 outside of this state;

1902 (b) the exemption provided for in Subsection (24)(a) does not apply to:

1903 (i) a lease or rental of a product; or

1904 (ii) a sale of a vehicle exempt under Subsection (33); and

1905 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

1906 purposes of Subsection (24)(a), the commission may by rule define what constitutes the

1907 following:

1908 (i) conducting business in this state if that phrase has the same meaning in this

1909 Subsection (24) as in Subsection (63);

1910 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)

1911 as in Subsection (63); or

1912 (iii) a purpose for which a product is designed if that phrase has the same meaning in

1913 this Subsection (24) as in Subsection (63);

1914 (25) a product purchased for resale in this state, in the regular course of business, either

1915 in its original form or as an ingredient or component part of a manufactured or compounded

1916 product;

1917 (26) a product upon which a sales or use tax was paid to some other state, or one of its
1918 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
1919 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
1920 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
1921 Act;

1922 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
1923 person for use in compounding a service taxable under the subsections;

1924 (28) purchases made in accordance with the special supplemental nutrition program for
1925 women, infants, and children established in 42 U.S.C. Sec. 1786;

1926 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
1927 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
1928 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
1929 Manual of the federal Executive Office of the President, Office of Management and Budget;

1930 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
1931 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

1932 (a) not registered in this state; and

1933 (b) (i) not used in this state; or

1934 (ii) used in this state:

1935 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
1936 time period that does not exceed the longer of:

1937 (I) 30 days in any calendar year; or

1938 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
1939 the borders of this state; or

1940 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
1941 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
1942 state;

1943 (31) sales of aircraft manufactured in Utah;

1944 (32) amounts paid for the purchase of telecommunications service for purposes of
1945 providing telecommunications service;

1946 (33) sales, leases, or uses of the following:

- 1947 (a) a vehicle by an authorized carrier; or
- 1948 (b) tangible personal property that is installed on a vehicle:
- 1949 (i) sold or leased to or used by an authorized carrier; and
- 1950 (ii) before the vehicle is placed in service for the first time;
- 1951 (34) (a) 45% of the sales price of any new manufactured home; and
- 1952 (b) 100% of the sales price of any used manufactured home;
- 1953 (35) sales relating to schools and fundraising sales;
- 1954 (36) sales or rentals of durable medical equipment if:
- 1955 (a) a person presents a prescription for the durable medical equipment; and
- 1956 (b) the durable medical equipment is used for home use only;
- 1957 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 1958 Section 72-11-102; and
- 1959 (b) the commission shall by rule determine the method for calculating sales exempt
- 1960 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 1961 (38) sales to a ski resort of:
- 1962 (a) snowmaking equipment;
- 1963 (b) ski slope grooming equipment;
- 1964 (c) passenger ropeways as defined in Section 72-11-102; or
- 1965 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 1966 described in Subsections (38)(a) through (c);
- 1967 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 1968 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 1969 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 1970 59-12-102;
- 1971 (b) if a seller that sells or rents at the same business location the right to use or operate
- 1972 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 1973 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 1974 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 1975 amusement, entertainment, or recreation for the assisted amusement devices; and
- 1976 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
- 1977 Utah Administrative Rulemaking Act, the commission may make rules:

1978 (i) governing the circumstances under which sales are at the same business location;
1979 and
1980 (ii) establishing the procedures and requirements for a seller to separately account for
1981 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
1982 assisted amusement devices;

1983 (41) (a) sales of photocopies by:
1984 (i) a governmental entity; or
1985 (ii) an entity within the state system of public education, including:
1986 (A) a school; or
1987 (B) the State Board of Education; or
1988 (b) sales of publications by a governmental entity;

1989 (42) amounts paid for admission to an athletic event at an institution of higher
1990 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
1991 20 U.S.C. Sec. 1681 et seq.;

1992 (43) (a) sales made to or by:
1993 (i) an area agency on aging; or
1994 (ii) a senior citizen center owned by a county, city, or town; or
1995 (b) sales made by a senior citizen center that contracts with an area agency on aging;

1996 (44) sales or leases of semiconductor fabricating, processing, research, or development
1997 materials regardless of whether the semiconductor fabricating, processing, research, or
1998 development materials:
1999 (a) actually come into contact with a semiconductor; or
2000 (b) ultimately become incorporated into real property;

2001 (45) an amount paid by or charged to a purchaser for accommodations and services
2002 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
2003 59-12-104.2;

2004 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
2005 sports event registration certificate in accordance with Section 41-3-306 for the event period
2006 specified on the temporary sports event registration certificate;

2007 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted
2008 by the Public Service Commission of Utah only for purchase of electricity produced from a

2009 new alternative energy source, as designated in the tariff by the Public Service Commission of
2010 Utah; and

2011 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a
2012 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under
2013 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

2014 (48) sales or rentals of mobility enhancing equipment if a person presents a
2015 prescription for the mobility enhancing equipment;

2016 (49) sales of water in a:

2017 (a) pipe;

2018 (b) conduit;

2019 (c) ditch; or

2020 (d) reservoir;

2021 (50) sales of currency or coins that constitute legal tender of a state, the United States,
2022 or a foreign nation;

2023 (51) (a) sales of an item described in Subsection (51)(b) if the item:

2024 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

2025 (ii) has a gold, silver, or platinum content of 50% or more; and

2026 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

2027 (i) ingot;

2028 (ii) bar;

2029 (iii) medallion; or

2030 (iv) decorative coin;

2031 (52) amounts paid on a sale-leaseback transaction;

2032 (53) sales of a prosthetic device:

2033 (a) for use on or in a human; and

2034 (b) (i) for which a prescription is required; or

2035 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

2036 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of

2037 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery

2038 or equipment is primarily used in the production or postproduction of the following media for

2039 commercial distribution:

- 2040 (i) a motion picture;
- 2041 (ii) a television program;
- 2042 (iii) a movie made for television;
- 2043 (iv) a music video;
- 2044 (v) a commercial;
- 2045 (vi) a documentary; or
- 2046 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
- 2047 commission by administrative rule made in accordance with Subsection (54)(d); or
- 2048 (b) [~~notwithstanding Subsection (54)(a);~~] purchases, leases, or rentals of machinery or
- 2049 equipment by an establishment described in Subsection (54)(c) that is used for the production
- 2050 or postproduction of the following are subject to the taxes imposed by this chapter:
- 2051 (i) a live musical performance;
- 2052 (ii) a live news program; or
- 2053 (iii) a live sporting event;
- 2054 (c) the following establishments listed in the 1997 North American Industry
- 2055 Classification System of the federal Executive Office of the President, Office of Management
- 2056 and Budget, apply to Subsections (54)(a) and (b):
- 2057 (i) NAICS Code 512110; or
- 2058 (ii) NAICS Code 51219; and
- 2059 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2060 commission may by rule:
- 2061 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
- 2062 or
- 2063 (ii) define:
- 2064 (A) "commercial distribution";
- 2065 (B) "live musical performance";
- 2066 (C) "live news program"; or
- 2067 (D) "live sporting event";
- 2068 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 2069 on or before June 30, 2027, of tangible personal property that:
- 2070 (i) is leased or purchased for or by a facility that:

2071 (A) is an alternative energy electricity production facility;
2072 (B) is located in the state; and
2073 (C) (I) becomes operational on or after July 1, 2004; or
2074 (II) has its generation capacity increased by one or more megawatts on or after July 1,
2075 2004, as a result of the use of the tangible personal property;
2076 (ii) has an economic life of five or more years; and
2077 (iii) is used to make the facility or the increase in capacity of the facility described in
2078 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
2079 transmission grid including:
2080 (A) a wind turbine;
2081 (B) generating equipment;
2082 (C) a control and monitoring system;
2083 (D) a power line;
2084 (E) substation equipment;
2085 (F) lighting;
2086 (G) fencing;
2087 (H) pipes; or
2088 (I) other equipment used for locating a power line or pole; and
2089 (b) this Subsection (55) does not apply to:
2090 (i) tangible personal property used in construction of:
2091 (A) a new alternative energy electricity production facility; or
2092 (B) the increase in the capacity of an alternative energy electricity production facility;
2093 (ii) contracted services required for construction and routine maintenance activities;
2094 and
2095 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2096 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
2097 acquired after:
2098 (A) the alternative energy electricity production facility described in Subsection
2099 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
2100 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
2101 in Subsection (55)(a)(iii);

2102 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
2103 on or before June 30, 2027, of tangible personal property that:

2104 (i) is leased or purchased for or by a facility that:

2105 (A) is a waste energy production facility;

2106 (B) is located in the state; and

2107 (C) (I) becomes operational on or after July 1, 2004; or

2108 (II) has its generation capacity increased by one or more megawatts on or after July 1,
2109 2004, as a result of the use of the tangible personal property;

2110 (ii) has an economic life of five or more years; and

2111 (iii) is used to make the facility or the increase in capacity of the facility described in

2112 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
2113 transmission grid including:

2114 (A) generating equipment;

2115 (B) a control and monitoring system;

2116 (C) a power line;

2117 (D) substation equipment;

2118 (E) lighting;

2119 (F) fencing;

2120 (G) pipes; or

2121 (H) other equipment used for locating a power line or pole; and

2122 (b) this Subsection (56) does not apply to:

2123 (i) tangible personal property used in construction of:

2124 (A) a new waste energy facility; or

2125 (B) the increase in the capacity of a waste energy facility;

2126 (ii) contracted services required for construction and routine maintenance activities;

2127 and

2128 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2129 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

2130 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
2131 described in Subsection (56)(a)(iii); or

2132 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described

2133 in Subsection (56)(a)(iii);
2134 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
2135 or before June 30, 2027, of tangible personal property that:
2136 (i) is leased or purchased for or by a facility that:
2137 (A) is located in the state;
2138 (B) produces fuel from alternative energy, including:
2139 (I) methanol; or
2140 (II) ethanol; and
2141 (C) (I) becomes operational on or after July 1, 2004; or
2142 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
2143 a result of the installation of the tangible personal property;
2144 (ii) has an economic life of five or more years; and
2145 (iii) is installed on the facility described in Subsection (57)(a)(i);
2146 (b) this Subsection (57) does not apply to:
2147 (i) tangible personal property used in construction of:
2148 (A) a new facility described in Subsection (57)(a)(i); or
2149 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
2150 (ii) contracted services required for construction and routine maintenance activities;
2151 and
2152 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2153 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
2154 (A) the facility described in Subsection (57)(a)(i) is operational; or
2155 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
2156 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
2157 product transferred electronically to a person within this state if that tangible personal property
2158 or product transferred electronically is subsequently shipped outside the state and incorporated
2159 pursuant to contract into and becomes a part of real property located outside of this state;
2160 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
2161 state or political entity to which the tangible personal property is shipped imposes a sales, use,
2162 gross receipts, or other similar transaction excise tax on the transaction against which the other
2163 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

2164 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
2165 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
2166 refund:

- 2167 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
- 2168 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
2169 which the sale is made;
- 2170 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
2171 sale prior to filing for the refund;
- 2172 (iv) for sales and use taxes paid under this chapter on the sale;
- 2173 (v) in accordance with Section 59-1-1410; and
- 2174 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
2175 the person files for the refund on or before June 30, 2011;

2176 (59) purchases:

2177 (a) of one or more of the following items in printed or electronic format:

2178 (i) a list containing information that includes one or more:

2179 (A) names; or

2180 (B) addresses; or

2181 (ii) a database containing information that includes one or more:

2182 (A) names; or

2183 (B) addresses; and

2184 (b) used to send direct mail;

2185 (60) redemptions or repurchases of a product by a person if that product was:

2186 (a) delivered to a pawnbroker as part of a pawn transaction; and

2187 (b) redeemed or repurchased within the time period established in a written agreement
2188 between the person and the pawnbroker for redeeming or repurchasing the product;

2189 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

2190 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

2191 and

2192 (ii) has a useful economic life of one or more years; and

2193 (b) the following apply to Subsection (61)(a):

2194 (i) telecommunications enabling or facilitating equipment, machinery, or software;

2195 (ii) telecommunications equipment, machinery, or software required for 911 service;
2196 (iii) telecommunications maintenance or repair equipment, machinery, or software;
2197 (iv) telecommunications switching or routing equipment, machinery, or software; or
2198 (v) telecommunications transmission equipment, machinery, or software;
2199 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
2200 personal property or a product transferred electronically that are used in the research and
2201 development of alternative energy technology; and
2202 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2203 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
2204 purchases of tangible personal property or a product transferred electronically that are used in
2205 the research and development of alternative energy technology;
2206 (63) (a) purchases of tangible personal property or a product transferred electronically
2207 if:
2208 (i) the tangible personal property or product transferred electronically is:
2209 (A) purchased outside of this state;
2210 (B) brought into this state at any time after the purchase described in Subsection
2211 (63)(a)(i)(A); and
2212 (C) used in conducting business in this state; and
2213 (ii) for:
2214 (A) tangible personal property or a product transferred electronically other than the
2215 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
2216 for a purpose for which the property is designed occurs outside of this state; or
2217 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
2218 outside of this state;
2219 (b) the exemption provided for in Subsection (63)(a) does not apply to:
2220 (i) a lease or rental of tangible personal property or a product transferred electronically;
2221 or
2222 (ii) a sale of a vehicle exempt under Subsection (33); and
2223 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2224 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
2225 following:

- 2226 (i) conducting business in this state if that phrase has the same meaning in this
- 2227 Subsection (63) as in Subsection (24);
- 2228 (ii) the first use of tangible personal property or a product transferred electronically if
- 2229 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
- 2230 (iii) a purpose for which tangible personal property or a product transferred
- 2231 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
- 2232 Subsection (24);
- 2233 (64) sales of disposable home medical equipment or supplies if:
- 2234 (a) a person presents a prescription for the disposable home medical equipment or
- 2235 supplies;
- 2236 (b) the disposable home medical equipment or supplies are used exclusively by the
- 2237 person to whom the prescription described in Subsection (64)(a) is issued; and
- 2238 (c) the disposable home medical equipment and supplies are listed as eligible for
- 2239 payment under:
- 2240 (i) Title XVIII, federal Social Security Act; or
- 2241 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 2242 (65) sales:
- 2243 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
- 2244 District Act; or
- 2245 (b) of tangible personal property to a subcontractor of a public transit district, if the
- 2246 tangible personal property is:
- 2247 (i) clearly identified; and
- 2248 (ii) installed or converted to real property owned by the public transit district;
- 2249 (66) sales of construction materials:
- 2250 (a) purchased on or after July 1, 2010;
- 2251 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 2252 (i) located within a county of the first class; and
- 2253 (ii) that has a United States customs office on its premises; and
- 2254 (c) if the construction materials are:
- 2255 (i) clearly identified;
- 2256 (ii) segregated; and

- 2257 (iii) installed or converted to real property:
- 2258 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 2259 (B) located at the international airport described in Subsection (66)(b);
- 2260 (67) sales of construction materials:
- 2261 (a) purchased on or after July 1, 2008;
- 2262 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 2263 (i) located within a county of the second class; and
- 2264 (ii) that is owned or operated by a city in which an airline as defined in Section
- 2265 59-2-102 is headquartered; and
- 2266 (c) if the construction materials are:
- 2267 (i) clearly identified;
- 2268 (ii) segregated; and
- 2269 (iii) installed or converted to real property:
- 2270 (A) owned or operated by the new airport described in Subsection (67)(b);
- 2271 (B) located at the new airport described in Subsection (67)(b); and
- 2272 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 2273 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 2274 (69) purchases and sales described in Section 63H-4-111;
- 2275 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 2276 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 2277 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2278 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2279 powered aircraft; or
- 2280 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 2281 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 2282 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2283 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2284 powered aircraft;
- 2285 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
- 2286 (a) to a person admitted to an institution of higher education; and
- 2287 (b) by a seller, other than a bookstore owned by an institution of higher education, if

2288 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
2289 textbook for a higher education course;

2290 (72) a license fee or tax a municipality imposes in accordance with Subsection
2291 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
2292 level of municipal services;

2293 (73) amounts paid or charged for construction materials used in the construction of a
2294 new or expanding life science research and development facility in the state, if the construction
2295 materials are:

2296 (a) clearly identified;

2297 (b) segregated; and

2298 (c) installed or converted to real property; [~~and~~]

2299 (74) amounts paid or charged for:

2300 (a) a purchase or lease of machinery and equipment that:

2301 (i) are used in performing qualified research:

2302 (A) as defined in Section 59-7-612;

2303 (B) in the state; and

2304 (C) with respect to which the purchaser pays or incurs a qualified research expense as
2305 defined in Section 59-7-612; and

2306 (ii) have an economic life of three or more years; and

2307 (b) normal operating repair or replacement parts:

2308 (i) for the machinery and equipment described in Subsection (74)(a); and

2309 (ii) that have an economic life of three or more years[-]; and

2310 (75) purchases of a short-term lodging consumable by a business that provides
2311 accommodations and services described in Subsection 59-12-103(1)(i).

2312 Section 3. **Effective dates.**

2313 This bill takes effect on July 1, 2015.