

SALES AND USE TAXATION OF WATER

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott K. Jenkins

House Sponsor: _____

LONG TITLE

General Description:

This bill makes changes to the sales and use taxation of water.

Highlighted Provisions:

This bill:

- ▶ creates and amends definitions;
- ▶ modifies a sales and use tax exemption for water;
- ▶ adds potable delivered water to the state and local sales and use tax base;
- ▶ allocates state revenues collected from the sales and use tax on potable delivered water to the Water Resources Conservation and Development Fund;
- ▶ modifies the funding sources for the Water Resources Conservation and Development Fund to include the sales and use tax allocations; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:

AMENDS:

59-12-102 (Superseded 07/01/14), as last amended by Laws of Utah 2012, Chapters 255, 312, 405, and 410



28 **59-12-102 (Effective 07/01/14)**, as last amended by Laws of Utah 2012, Chapters 255,
29 312, 405, 410, and 424

30 **59-12-103 (Superseded 07/01/14)**, as last amended by Laws of Utah 2012, Chapters
31 207, 212, 254, and 255

32 **59-12-103 (Effective 07/01/14)**, as last amended by Laws of Utah 2012, Chapters 207,
33 212, 254, 255, and 424

34 **59-12-104**, as last amended by Laws of Utah 2012, Chapters 255, 399, 405, and 410

35 **59-12-1201**, as last amended by Laws of Utah 2012, Chapter 121

36 **73-10-25**, as last amended by Laws of Utah 1991, First Special Session, Chapter 4

37 **73-10-31**, as enacted by Laws of Utah 1996, Chapter 199

38

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

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 Section **59-12-102 (Superseded 07/01/14)** is amended to read:

41 **59-12-102 (Superseded 07/01/14). Definitions.**

42 As used in this chapter:

43 (1) "800 service" means a telecommunications service that:

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

45 (b) is typically marketed:

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

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

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

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

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

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

52 Federal Communications Commission.

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

54 (i) a subscriber purchases;

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

56 the subscriber's:

57 (A) prerecorded announcement; or

58 (B) live service; and

- 59 (iii) is typically marketed:
- 60 (A) under the name 900 service; or
- 61 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 62 Communications Commission.
- 63 (b) "900 service" does not include a charge for:
- 64 (i) a collection service a seller of a telecommunications service provides to a
- 65 subscriber; or
- 66 (ii) the following a subscriber sells to the subscriber's customer:
- 67 (A) a product; or
- 68 (B) a service.
- 69 (3) (a) "Admission or user fees" includes season passes.
- 70 (b) "Admission or user fees" does not include annual membership dues to private
- 71 organizations.
- 72 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 73 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 74 Agreement after November 12, 2002.
- 75 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 76 (a) listed under Subsection (6); and
- 77 (b) that are imposed within a local taxing jurisdiction.
- 78 (6) "Agreement sales and use tax" means a tax imposed under:
- 79 (a) Subsection 59-12-103(2)(a)(i)(A);
- 80 (b) Subsection 59-12-103(2)(b)(i);
- 81 (c) Subsection 59-12-103(2)(c)(i);
- 82 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 83 (e) Section 59-12-204;
- 84 (f) Section 59-12-401;
- 85 (g) Section 59-12-402;
- 86 (h) Section 59-12-703;
- 87 (i) Section 59-12-802;
- 88 (j) Section 59-12-804;
- 89 (k) Section 59-12-1102;

- 90 (l) Section 59-12-1302;
- 91 (m) Section 59-12-1402;
- 92 (n) Section 59-12-1802;
- 93 (o) Section 59-12-2003;
- 94 (p) Section 59-12-2103;
- 95 (q) Section 59-12-2213;
- 96 (r) Section 59-12-2214;
- 97 (s) Section 59-12-2215;
- 98 (t) Section 59-12-2216;
- 99 (u) Section 59-12-2217; or
- 100 (v) Section 59-12-2218.
- 101 (7) "Aircraft" is as defined in Section 72-10-102.
- 102 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 103 (a) except for:
- 104 (i) an airline as defined in Section 59-2-102; or
- 105 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 106 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 107 state, of an airline; and
- 108 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 109 whether the business entity performs the following in this state:
- 110 (i) check, diagnose, overhaul, and repair:
- 111 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 112 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 113 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 114 engine;
- 115 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 116 aircraft:
- 117 (A) an inspection;
- 118 (B) a repair, including a structural repair or modification;
- 119 (C) changing landing gear; and
- 120 (D) addressing issues related to an aging fixed wing turbine powered aircraft;

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

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

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

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

129 (10) "Alternative energy" means:

- 130 (a) biomass energy;
- 131 (b) geothermal energy;
- 132 (c) hydroelectric energy;
- 133 (d) solar energy;
- 134 (e) wind energy; or
- 135 (f) energy that is derived from:
 - 136 (i) coal-to-liquids;
 - 137 (ii) nuclear fuel;
 - 138 (iii) oil-impregnated diatomaceous earth;
 - 139 (iv) oil sands;
 - 140 (v) oil shale; or
 - 141 (vi) petroleum coke.

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

- 144 (i) uses alternative energy to produce electricity; and
 - 145 (ii) has a production capacity of [~~2~~] two megawatts or greater.
- 146 (b) A facility is an alternative energy electricity production facility regardless of
147 whether the facility is:
- 148 (i) connected to an electric grid; or
 - 149 (ii) located on the premises of an electricity consumer.

150 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
151 provision of telecommunications service.

152 (b) "Ancillary service" includes:

- 153 (i) a conference bridging service;
- 154 (ii) a detailed communications billing service;
- 155 (iii) directory assistance;
- 156 (iv) a vertical service; or
- 157 (v) a voice mail service.

158 (13) "Area agency on aging" is as defined in Section 62A-3-101.

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

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

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

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

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

170 (b) at the direction of the seller of the cleaning or washing of the tangible personal
171 property.

172 (16) "Authorized carrier" means:

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

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

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

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

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

- 183 (ii) other organic matter that is available on a renewable basis, including:
- 184 (A) slash and brush from forests and woodlands;
- 185 (B) animal waste;
- 186 (C) methane produced:
- 187 (I) at landfills; or
- 188 (II) as a byproduct of the treatment of wastewater residuals;
- 189 (D) aquatic plants; and
- 190 (E) agricultural products.
- 191 (b) "Biomass energy" does not include:
- 192 (i) black liquor;
- 193 (ii) treated woods; or
- 194 (iii) biomass from municipal solid waste other than methane produced:
- 195 (A) at landfills; or
- 196 (B) as a byproduct of the treatment of wastewater residuals.
- 197 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 198 property, products, or services if the tangible personal property, products, or services are:
- 199 (i) distinct and identifiable; and
- 200 (ii) sold for one nonitemized price.
- 201 (b) "Bundled transaction" does not include:
- 202 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 203 the basis of the selection by the purchaser of the items of tangible personal property included in
- 204 the transaction;
- 205 (ii) the sale of real property;
- 206 (iii) the sale of services to real property;
- 207 (iv) the retail sale of tangible personal property and a service if:
- 208 (A) the tangible personal property:
- 209 (I) is essential to the use of the service; and
- 210 (II) is provided exclusively in connection with the service; and
- 211 (B) the service is the true object of the transaction;
- 212 (v) the retail sale of two services if:
- 213 (A) one service is provided that is essential to the use or receipt of a second service;

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

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

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

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

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

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

225 (A) that retail sale includes:

226 (I) food and food ingredients;

227 (II) a drug;

228 (III) durable medical equipment;

229 (IV) mobility enhancing equipment;

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

231 (VI) a prosthetic device; or

232 (VII) a medical supply; and

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

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

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

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

240 (A) packaging that:

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

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

244 (B) tangible personal property, a product, or a service provided free of charge with the

245 purchase of another item of tangible personal property, a product, or a service; or

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

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

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

257 (A) a binding sales document; or

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

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

261 (A) a bill of sale;

262 (B) a contract;

263 (C) an invoice;

264 (D) a lease agreement;

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

266 (F) a price list;

267 (G) a rate card;

268 (H) a receipt; or

269 (I) a service agreement.

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

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

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

276 (ii) For purposes of Subsection (18)(b)(vi), a seller:
277 (A) shall use the seller's purchase price or the seller's sales price to determine if the
278 purchase price or sales price of the tangible personal property or product subject to taxation
279 under this chapter is de minimis; and
280 (B) may not use a combination of the seller's purchase price and the seller's sales price
281 to determine if the purchase price or sales price of the tangible personal property or product
282 subject to taxation under this chapter is de minimis.
283 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
284 contract to determine if the sales price of tangible personal property or a product is de minimis.
285 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
286 the seller's purchase price and the seller's sales price to determine if tangible personal property
287 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
288 price of that retail sale.
289 (19) "Certified automated system" means software certified by the governing board of
290 the agreement that:
291 (a) calculates the agreement sales and use tax imposed within a local taxing
292 jurisdiction:
293 (i) on a transaction; and
294 (ii) in the states that are members of the agreement;
295 (b) determines the amount of agreement sales and use tax to remit to a state that is a
296 member of the agreement; and
297 (c) maintains a record of the transaction described in Subsection (19)(a)(i).
298 (20) "Certified service provider" means an agent certified:
299 (a) by the governing board of the agreement; and
300 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
301 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
302 own purchases.
303 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
304 suitable for general use.
305 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
306 commission shall make rules:

- 307 (i) listing the items that constitute "clothing"; and
308 (ii) that are consistent with the list of items that constitute "clothing" under the
309 agreement.
- 310 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- 311 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
312 fuels that does not constitute industrial use under Subsection (51) or residential use under
313 Subsection (101).
- 314 (24) (a) "Common carrier" means a person engaged in or transacting the business of
315 transporting passengers, freight, merchandise, or other property for hire within this state.
- 316 (b) (i) "Common carrier" does not include a person who, at the time the person is
317 traveling to or from that person's place of employment, transports a passenger to or from the
318 passenger's place of employment.
- 319 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
320 Utah Administrative Rulemaking Act, the commission may make rules defining what
321 constitutes a person's place of employment.
- 322 (25) "Component part" includes:
- 323 (a) poultry, dairy, and other livestock feed, and their components;
324 (b) baling ties and twine used in the baling of hay and straw;
325 (c) fuel used for providing temperature control of orchards and commercial
326 greenhouses doing a majority of their business in wholesale sales, and for providing power for
327 off-highway type farm machinery; and
328 (d) feed, seeds, and seedlings.
- 329 (26) "Computer" means an electronic device that accepts information:
- 330 (a) (i) in digital form; or
331 (ii) in a form similar to digital form; and
332 (b) manipulates that information for a result based on a sequence of instructions.
- 333 (27) "Computer software" means a set of coded instructions designed to cause:
- 334 (a) a computer to perform a task; or
335 (b) automatic data processing equipment to perform a task.
- 336 (28) "Computer software maintenance contract" means a contract that obligates a seller
337 of computer software to provide a customer with:

- 338 (a) future updates or upgrades to computer software;
- 339 (b) support services with respect to computer software; or
- 340 (c) a combination of Subsections (28)(a) and (b).
- 341 (29) (a) "Conference bridging service" means an ancillary service that links two or
- 342 more participants of an audio conference call or video conference call.
- 343 (b) "Conference bridging service" may include providing a telephone number as part of
- 344 the ancillary service described in Subsection (29)(a).
- 345 (c) "Conference bridging service" does not include a telecommunications service used
- 346 to reach the ancillary service described in Subsection (29)(a).
- 347 (30) "Construction materials" means any tangible personal property that will be
- 348 converted into real property.
- 349 (31) "Delivered electronically" means delivered to a purchaser by means other than
- 350 tangible storage media.
- 351 (32) (a) "Delivery charge" means a charge:
- 352 (i) by a seller of:
- 353 (A) tangible personal property;
- 354 (B) a product transferred electronically; or
- 355 (C) services; and
- 356 (ii) for preparation and delivery of the tangible personal property, product transferred
- 357 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
- 358 purchaser.
- 359 (b) "Delivery charge" includes a charge for the following:
- 360 (i) transportation;
- 361 (ii) shipping;
- 362 (iii) postage;
- 363 (iv) handling;
- 364 (v) crating; or
- 365 (vi) packing.
- 366 (33) "Detailed telecommunications billing service" means an ancillary service of
- 367 separately stating information pertaining to individual calls on a customer's billing statement.
- 368 (34) "Dietary supplement" means a product, other than tobacco, that:

- 369 (a) is intended to supplement the diet;
- 370 (b) contains one or more of the following dietary ingredients:
 - 371 (i) a vitamin;
 - 372 (ii) a mineral;
 - 373 (iii) an herb or other botanical;
 - 374 (iv) an amino acid;
 - 375 (v) a dietary substance for use by humans to supplement the diet by increasing the total
 - 376 dietary intake; or
 - 377 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
 - 378 described in Subsections (34)(b)(i) through (v);
- 379 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
 - 380 (A) tablet form;
 - 381 (B) capsule form;
 - 382 (C) powder form;
 - 383 (D) softgel form;
 - 384 (E) gelcap form; or
 - 385 (F) liquid form; or
 - 386 (ii) notwithstanding Subsection (34)(c)(i), if the product is not intended for ingestion in
 - 387 a form described in Subsections (34)(c)(i)(A) through (F), is not represented:
 - 388 (A) as conventional food; and
 - 389 (B) for use as a sole item of:
 - 390 (I) a meal; or
 - 391 (II) the diet; and
 - 392 (d) is required to be labeled as a dietary supplement:
 - 393 (i) identifiable by the "Supplemental Facts" box found on the label; and
 - 394 (ii) as required by 21 C.F.R. Sec. 101.36.
- 395 (35) (a) "Direct mail" means printed material delivered or distributed by United States
- 396 mail or other delivery service:
 - 397 (i) to:
 - 398 (A) a mass audience; or
 - 399 (B) addressees on a mailing list provided;

- 400 (I) by a purchaser of the mailing list; or
- 401 (II) at the discretion of the purchaser of the mailing list; and
- 402 (ii) if the cost of the printed material is not billed directly to the recipients.
- 403 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 404 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 405 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 406 single address.
- 407 (36) "Directory assistance" means an ancillary service of providing:
- 408 (a) address information; or
- 409 (b) telephone number information.
- 410 (37) (a) "Disposable home medical equipment or supplies" means medical equipment
- 411 or supplies that:
- 412 (i) cannot withstand repeated use; and
- 413 (ii) are purchased by, for, or on behalf of a person other than:
- 414 (A) a health care facility as defined in Section 26-21-2;
- 415 (B) a health care provider as defined in Section 78B-3-403;
- 416 (C) an office of a health care provider described in Subsection (37)(a)(ii)(B); or
- 417 (D) a person similar to a person described in Subsections (37)(a)(ii)(A) through (C).
- 418 (b) "Disposable home medical equipment or supplies" does not include:
- 419 (i) a drug;
- 420 (ii) durable medical equipment;
- 421 (iii) a hearing aid;
- 422 (iv) a hearing aid accessory;
- 423 (v) mobility enhancing equipment; or
- 424 (vi) tangible personal property used to correct impaired vision, including:
- 425 (A) eyeglasses; or
- 426 (B) contact lenses.
- 427 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 428 commission may by rule define what constitutes medical equipment or supplies.
- 429 (38) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 430 compound, substance, or preparation that is:

- 431 (i) recognized in:
- 432 (A) the official United States Pharmacopoeia;
- 433 (B) the official Homeopathic Pharmacopoeia of the United States;
- 434 (C) the official National Formulary; or
- 435 (D) a supplement to a publication listed in Subsections (38)(a)(i)(A) through (C);
- 436 (ii) intended for use in the:
- 437 (A) diagnosis of disease;
- 438 (B) cure of disease;
- 439 (C) mitigation of disease;
- 440 (D) treatment of disease; or
- 441 (E) prevention of disease; or
- 442 (iii) intended to affect:
- 443 (A) the structure of the body; or
- 444 (B) any function of the body.
- 445 (b) "Drug" does not include:
- 446 (i) food and food ingredients;
- 447 (ii) a dietary supplement;
- 448 (iii) an alcoholic beverage; or
- 449 (iv) a prosthetic device.
- 450 (39) (a) Except as provided in Subsection (39)(c), "durable medical equipment" means
- 451 equipment that:
- 452 (i) can withstand repeated use;
- 453 (ii) is primarily and customarily used to serve a medical purpose;
- 454 (iii) generally is not useful to a person in the absence of illness or injury; and
- 455 (iv) is not worn in or on the body.
- 456 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 457 equipment described in Subsection (39)(a).
- 458 (c) Notwithstanding Subsection (39)(a), "durable medical equipment" does not include
- 459 mobility enhancing equipment.
- 460 (40) "Electronic" means:
- 461 (a) relating to technology; and

- 462 (b) having:
- 463 (i) electrical capabilities;
- 464 (ii) digital capabilities;
- 465 (iii) magnetic capabilities;
- 466 (iv) wireless capabilities;
- 467 (v) optical capabilities;
- 468 (vi) electromagnetic capabilities; or
- 469 (vii) capabilities similar to Subsections (40)(b)(i) through (vi).
- 470 (41) "Employee" is as defined in Section 59-10-401.
- 471 (42) "Fixed guideway" means a public transit facility that uses and occupies:
- 472 (a) rail for the use of public transit; or
- 473 (b) a separate right-of-way for the use of public transit.
- 474 (43) "Fixed wing turbine powered aircraft" means an aircraft that:
- 475 (a) is powered by turbine engines;
- 476 (b) operates on jet fuel; and
- 477 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 478 (44) "Fixed wireless service" means a telecommunications service that provides radio
- 479 communication between fixed points.
- 480 (45) (a) "Food and food ingredients" means substances:
- 481 (i) regardless of whether the substances are in:
- 482 (A) liquid form;
- 483 (B) concentrated form;
- 484 (C) solid form;
- 485 (D) frozen form;
- 486 (E) dried form; or
- 487 (F) dehydrated form; and
- 488 (ii) that are:
- 489 (A) sold for:
- 490 (I) ingestion by humans; or
- 491 (II) chewing by humans; and
- 492 (B) consumed for the substance's:

- 493 (I) taste; or
- 494 (II) nutritional value.
- 495 (b) "Food and food ingredients" includes an item described in Subsection [~~(86)~~
- 496 ~~(87)~~(b)(iii).
- 497 (c) "Food and food ingredients" does not include:
- 498 (i) an alcoholic beverage;
- 499 (ii) tobacco; or
- 500 (iii) prepared food.
- 501 (46) (a) "Fundraising sales" means sales:
- 502 (i) (A) made by a school; or
- 503 (B) made by a school student;
- 504 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 505 materials, or provide transportation; and
- 506 (iii) that are part of an officially sanctioned school activity.
- 507 (b) For purposes of Subsection (46)(a)(iii), "officially sanctioned school activity"
- 508 means a school activity:
- 509 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 510 district governing the authorization and supervision of fundraising activities;
- 511 (ii) that does not directly or indirectly compensate an individual teacher or other
- 512 educational personnel by direct payment, commissions, or payment in kind; and
- 513 (iii) the net or gross revenues from which are deposited in a dedicated account
- 514 controlled by the school or school district.
- 515 (47) "Geothermal energy" means energy contained in heat that continuously flows
- 516 outward from the earth that is used as the sole source of energy to produce electricity.
- 517 (48) "Governing board of the agreement" means the governing board of the agreement
- 518 that is:
- 519 (a) authorized to administer the agreement; and
- 520 (b) established in accordance with the agreement.
- 521 (49) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
- 522 (i) the executive branch of the state, including all departments, institutions, boards,
- 523 divisions, bureaus, offices, commissions, and committees;

524 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
525 Office of the Court Administrator, and similar administrative units in the judicial branch;
526 (iii) the legislative branch of the state, including the House of Representatives, the
527 Senate, the Legislative Printing Office, the Office of Legislative Research and General
528 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
529 Analyst;

530 (iv) the National Guard;

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

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

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

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

536 (ii) a school;

537 (iii) the State Board of Education;

538 (iv) the State Board of Regents; or

539 (v) an institution of higher education.

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

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

544 (a) in mining or extraction of minerals;

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

547 (i) commercial greenhouses;

548 (ii) irrigation pumps;

549 (iii) farm machinery;

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

552 (v) other farming activities;

553 (c) in manufacturing tangible personal property at an establishment described in SIC
554 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal

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

556 (d) by a scrap recycler if:

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

560 (A) iron;

561 (B) steel;

562 (C) nonferrous metal;

563 (D) paper;

564 (E) glass;

565 (F) plastic;

566 (G) textile; or

567 (H) rubber; and

568 (ii) the new products under Subsection (51)(d)(i) would otherwise be made with
569 nonrecycled materials; or

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

572 (52) (a) Except as provided in Subsection (52)(b), "installation charge" means a charge
573 for installing:

574 (i) tangible personal property; or

575 (ii) a product transferred electronically.

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

577 (i) repairs or renovations of:

578 (A) tangible personal property; or

579 (B) a product transferred electronically; or

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

581 (A) to other tangible personal property; and

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

583 (53) "Institution of higher education" means an institution of higher education listed in
584 Section 53B-2-101.

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

586 personal property or a product transferred electronically for:

- 587 (i) (A) a fixed term; or
- 588 (B) an indeterminate term; and
- 589 (ii) consideration.

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

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

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

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

600 (A) upon completion of required payments; and

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

602 (I) \$100; or

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

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

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

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

610 (ii) maintenance of tangible personal property; or

611 (iii) inspection of tangible personal property.

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

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

616 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

617 Manufacturing; or

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

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

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

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

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

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

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

628 (59) "Manufactured home" is as defined in Section 15A-1-302.

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

630 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard

631 Industrial Classification Manual of the federal Executive Office of the President, Office of
632 Management and Budget;

633 (b) a scrap recycler if:

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

637 (A) iron;

638 (B) steel;

639 (C) nonferrous metal;

640 (D) paper;

641 (E) glass;

642 (F) plastic;

643 (G) textile; or

644 (H) rubber; and

645 (ii) the new products under Subsection (60)(b)(i) would otherwise be made with
646 nonrecycled materials; or

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

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

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

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

652 (ii) a foster child or foster stepchild;

653 (b) grandchild or stepgrandchild;

654 (c) grandparent or stepgrandparent;

655 (d) nephew or stepnephew;

656 (e) niece or stepniece;

657 (f) parent or stepparent;

658 (g) sibling or stepsibling;

659 (h) spouse;

660 (i) person who is the spouse of a person described in Subsections (61)(a) through (g);

661 or

662 (j) person similar to a person described in Subsections (61)(a) through (i) as

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

664 Administrative Rulemaking Act.

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

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

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

668 (64) (a) "Mobile wireless service" means a telecommunications service, regardless of
669 the technology used, if:

670 (i) the origination point of the conveyance, routing, or transmission is not fixed;

671 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

672 (iii) the origination point described in Subsection (64)(a)(i) and the termination point
673 described in Subsection (64)(a)(ii) are not fixed.

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

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

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

679 means equipment that is:

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

682 (ii) appropriate for use in a:

683 (A) home; or

684 (B) motor vehicle; and

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

686 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
687 the equipment described in Subsection (65)(a).

688 (c) Notwithstanding Subsection (65)(a), "mobility enhancing equipment" does not
689 include:

690 (i) a motor vehicle;

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

693 (iii) durable medical equipment; or

694 (iv) a prosthetic device.

695 (66) "Model 1 seller" means a seller registered under the agreement that has selected a
696 certified service provider as the seller's agent to perform all of the seller's sales and use tax
697 functions for agreement sales and use taxes other than the seller's obligation under Section
698 59-12-124 to remit a tax on the seller's own purchases.

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

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

702 (b) notwithstanding Subsection (67)(a), retains responsibility for remitting all of the
703 sales tax:

704 (i) collected by the seller; and

705 (ii) to the appropriate local taxing jurisdiction.

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

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

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

- 710 (iii) a proprietary system that calculates the amount of tax:
- 711 (A) for an agreement sales and use tax; and
- 712 (B) due to each local taxing jurisdiction; and
- 713 (iv) entered into a performance agreement with the governing board of the agreement.
- 714 (b) For purposes of Subsection (68)(a), "model 3 seller" includes an affiliated group of
- 715 sellers using the same proprietary system.
- 716 (69) "Model 4 seller" means a seller that is registered under the agreement and is not a
- 717 model 1 seller, model 2 seller, or model 3 seller.
- 718 (70) "Modular home" means a modular unit as defined in Section 15A-1-302.
- 719 (71) "Motor vehicle" is as defined in Section 41-1a-102.
- 720 (72) "Oil sands" means impregnated bituminous sands that:
- 721 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 722 other hydrocarbons, or otherwise treated;
- 723 (b) yield mixtures of liquid hydrocarbon; and
- 724 (c) require further processing other than mechanical blending before becoming finished
- 725 petroleum products.
- 726 (73) "Oil shale" means a group of fine black to dark brown shales containing kerogen
- 727 material that yields petroleum upon heating and distillation.
- 728 (74) "Optional computer software maintenance contract" means a computer software
- 729 maintenance contract that a customer is not obligated to purchase as a condition to the retail
- 730 sale of computer software.
- 731 (75) (a) "Other fuels" means products that burn independently to produce heat or
- 732 energy.
- 733 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 734 personal property.
- 735 (76) (a) "Paging service" means a telecommunications service that provides
- 736 transmission of a coded radio signal for the purpose of activating a specific pager.
- 737 (b) For purposes of Subsection (76)(a), the transmission of a coded radio signal
- 738 includes a transmission by message or sound.
- 739 (77) "Pawnbroker" is as defined in Section 13-32a-102.
- 740 (78) "Pawn transaction" is as defined in Section 13-32a-102.

741 (79) (a) "Permanently attached to real property" means that for tangible personal
742 property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

759 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
760 Subsection (79)(c)(iii) or (iv).

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

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

764 (A) convenience;

765 (B) stability; or

766 (C) for an obvious temporary purpose;

767 (ii) the detachment of tangible personal property from real property except for the
768 detachment described in Subsection (79)(b)(ii);

769 (iii) an attachment of the following tangible personal property to real property if the
770 attachment to real property is only through a line that supplies water, electricity, gas,
771 telecommunications, cable, or supplies a similar item as determined by the commission by rule

772 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
773 (A) a computer;
774 (B) a telephone;
775 (C) a television; or
776 (D) tangible personal property similar to Subsections (79)(c)(iii)(A) through (C) as
777 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
778 Administrative Rulemaking Act; or
779 (iv) an item listed in Subsection [~~(117)~~] (119)(c).

780 (80) "Person" includes any individual, firm, partnership, joint venture, association,
781 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
782 municipality, district, or other local governmental entity of the state, or any group or
783 combination acting as a unit.

784 (81) "Place of primary use":

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

- 788 (i) the residential street address of the customer; or
- 789 (ii) the primary business street address of the customer; or

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

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

794 (i) through the use of a:

- 795 (A) bank card;
- 796 (B) credit card;
- 797 (C) debit card; or
- 798 (D) travel card; or

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

801 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
802 service, that would be a prepaid wireless calling service if the service were exclusively a

803 telecommunications service.

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

806 (84) "Potable delivered water" means water that is:

807 (a) suitable for human consumption; and

808 (b) delivered through a pipe or similar conduit to the place of retail sale.

809 [~~84~~] (85) "Prepaid calling service" means a telecommunications service:

810 (a) that allows a purchaser access to telecommunications service that is exclusively
811 telecommunications service;

812 (b) that:

813 (i) is paid for in advance; and

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

815 (A) access number; or

816 (B) authorization code;

817 (c) that is dialed:

818 (i) manually; or

819 (ii) electronically; and

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

821 (i) by a known amount; and

822 (ii) with use.

823 [~~85~~] (86) "Prepaid wireless calling service" means a telecommunications service:

824 (a) that provides the right to utilize:

825 (i) mobile wireless service; and

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

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

828 (B) a content service; or

829 (C) an ancillary service;

830 (b) that:

831 (i) is paid for in advance; and

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

833 (A) access number; or

- 834 (B) authorization code;
- 835 (c) that is dialed:
- 836 (i) manually; or
- 837 (ii) electronically; and
- 838 (d) sold in predetermined units or dollars that decline:
- 839 (i) by a known amount; and
- 840 (ii) with use.
- 841 [~~86~~] (87) (a) "Prepared food" means:
- 842 (i) food:
- 843 (A) sold in a heated state; or
- 844 (B) heated by a seller;
- 845 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 846 item; or
- 847 (iii) except as provided in Subsection [~~86~~] (87)(c), food sold with an eating utensil
- 848 provided by the seller, including a:
- 849 (A) plate;
- 850 (B) knife;
- 851 (C) fork;
- 852 (D) spoon;
- 853 (E) glass;
- 854 (F) cup;
- 855 (G) napkin; or
- 856 (H) straw.
- 857 (b) "Prepared food" does not include:
- 858 (i) food that a seller only:
- 859 (A) cuts;
- 860 (B) repackages; or
- 861 (C) pasteurizes; or
- 862 (ii) (A) the following:
- 863 (I) raw egg;
- 864 (II) raw fish;

- 865 (III) raw meat;
- 866 (IV) raw poultry; or
- 867 (V) a food containing an item described in Subsections [~~(86)~~] (87)(b)(ii)(A)(I) through
- 868 (IV); and
- 869 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 870 Food and Drug Administration's Food Code that a consumer cook the items described in
- 871 Subsection [~~(86)~~] (87)(b)(ii)(A) to prevent food borne illness; or
- 872 (iii) the following if sold without eating utensils provided by the seller:
- 873 (A) food and food ingredients sold by a seller if the seller's proper primary
- 874 classification under the 2002 North American Industry Classification System of the federal
- 875 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 876 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 877 Manufacturing;
- 878 (B) food and food ingredients sold in an unheated state:
- 879 (I) by weight or volume; and
- 880 (II) as a single item; or
- 881 (C) a bakery item, including:
- 882 (I) a bagel;
- 883 (II) a bar;
- 884 (III) a biscuit;
- 885 (IV) bread;
- 886 (V) a bun;
- 887 (VI) a cake;
- 888 (VII) a cookie;
- 889 (VIII) a croissant;
- 890 (IX) a danish;
- 891 (X) a donut;
- 892 (XI) a muffin;
- 893 (XII) a pastry;
- 894 (XIII) a pie;
- 895 (XIV) a roll;

896 (XV) a tart;

897 (XVI) a torte; or

898 (XVII) a tortilla.

899 (c) Notwithstanding Subsection [~~(86)~~] (87)(a)(iii), an eating utensil provided by the
900 seller does not include the following used to transport the food:

901 (i) a container; or

902 (ii) packaging.

903 [~~(87)~~] (88) "Prescription" means an order, formula, or recipe that is issued:

904 (a) (i) orally;

905 (ii) in writing;

906 (iii) electronically; or

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

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

909 [~~(88)~~] (89) (a) Except as provided in Subsection [~~(88)~~] (89)(b)(ii) or (iii), "prewritten
910 computer software" means computer software that is not designed and developed:

911 (i) by the author or other creator of the computer software; and

912 (ii) to the specifications of a specific purchaser.

913 (b) "Prewritten computer software" includes:

914 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
915 software is not designed and developed:

916 (A) by the author or other creator of the computer software; and

917 (B) to the specifications of a specific purchaser;

918 (ii) notwithstanding Subsection [~~(88)~~] (89)(a), computer software designed and
919 developed by the author or other creator of the computer software to the specifications of a
920 specific purchaser if the computer software is sold to a person other than the purchaser; or

921 (iii) notwithstanding Subsection [~~(88)~~] (89)(a) and except as provided in Subsection
922 [~~(88)~~] (89)(c), prewritten computer software or a prewritten portion of prewritten computer
923 software:

924 (A) that is modified or enhanced to any degree; and

925 (B) if the modification or enhancement described in Subsection [~~(88)~~] (89)(b)(iii)(A) is
926 designed and developed to the specifications of a specific purchaser.

927 (c) Notwithstanding Subsection ~~[(88)]~~ (89)(b)(iii), "prewritten computer software"
928 does not include a modification or enhancement described in Subsection ~~[(88)]~~ (89)(b)(iii) if
929 the charges for the modification or enhancement are:

930 (i) reasonable; and

931 (ii) separately stated on the invoice or other statement of price provided to the
932 purchaser.

933 ~~[(89)]~~ (90) (a) "Private communication service" means a telecommunications service:

934 (i) that entitles a customer to exclusive or priority use of one or more communications
935 channels between or among termination points; and

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

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

940 (i) an extension line;

941 (ii) a station;

942 (iii) switching capacity; or

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

945 ~~[(90)]~~ (91) (a) Except as provided in Subsection ~~[(90)]~~ (91)(b), "product transferred
946 electronically" means a product transferred electronically that would be subject to a tax under
947 this chapter if that product was transferred in a manner other than electronically.

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

949 (i) an ancillary service;

950 (ii) computer software; or

951 (iii) a telecommunications service.

952 ~~[(91)]~~ (92) (a) "Prosthetic device" means a device that is worn on or in the body to:

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

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

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

956 (b) "Prosthetic device" includes:

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

958 (ii) replacement parts for a prosthetic device;

959 (iii) a dental prosthesis; or

960 (iv) a hearing aid.

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

962 (i) corrective eyeglasses; or

963 (ii) contact lenses.

964 [~~92~~] 93 (a) "Protective equipment" means an item:

965 (i) for human wear; and

966 (ii) that is:

967 (A) designed as protection:

968 (I) to the wearer against injury or disease; or

969 (II) against damage or injury of other persons or property; and

970 (B) not suitable for general use.

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

972 commission shall make rules:

973 (i) listing the items that constitute "protective equipment"; and

974 (ii) that are consistent with the list of items that constitute "protective equipment"

975 under the agreement.

976 [~~93~~] 94 (a) For purposes of Subsection 59-12-104(41), "publication" means any

977 written or printed matter, other than a photocopy:

978 (i) regardless of:

979 (A) characteristics;

980 (B) copyright;

981 (C) form;

982 (D) format;

983 (E) method of reproduction; or

984 (F) source; and

985 (ii) made available in printed or electronic format.

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

987 commission may by rule define the term "photocopy."

988 [~~94~~] 95 (a) "Purchase price" and "sales price" mean the total amount of

989 consideration:

990 (i) valued in money; and

991 (ii) for which tangible personal property, a product transferred electronically, or

992 services are:

993 (A) sold;

994 (B) leased; or

995 (C) rented.

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

997 (i) the seller's cost of the tangible personal property, a product transferred

998 electronically, or services sold;

999 (ii) expenses of the seller, including:

1000 (A) the cost of materials used;

1001 (B) a labor cost;

1002 (C) a service cost;

1003 (D) interest;

1004 (E) a loss;

1005 (F) the cost of transportation to the seller; or

1006 (G) a tax imposed on the seller;

1007 (iii) a charge by the seller for any service necessary to complete the sale; or

1008 (iv) consideration a seller receives from a person other than the purchaser if:

1009 (A) (I) the seller actually receives consideration from a person other than the purchaser;

1010 and

1011 (II) the consideration described in Subsection [~~(94)~~ (95)(b)(iv)(A)(I) is directly related

1012 to a price reduction or discount on the sale;

1013 (B) the seller has an obligation to pass the price reduction or discount through to the

1014 purchaser;

1015 (C) the amount of the consideration attributable to the sale is fixed and determinable by

1016 the seller at the time of the sale to the purchaser; and

1017 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the

1018 seller to claim a price reduction or discount; and

1019 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,

1020 coupon, or other documentation with the understanding that the person other than the seller
1021 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1022 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1023 organization allowed a price reduction or discount, except that a preferred customer card that is
1024 available to any patron of a seller does not constitute membership in a group or organization
1025 allowed a price reduction or discount; or

1026 (III) the price reduction or discount is identified as a third party price reduction or
1027 discount on the:

1028 (Aa) invoice the purchaser receives; or

1029 (Bb) certificate, coupon, or other documentation the purchaser presents.

1030 (c) "Purchase price" and "sales price" do not include:

1031 (i) a discount:

1032 (A) in a form including:

1033 (I) cash;

1034 (II) term; or

1035 (III) coupon;

1036 (B) that is allowed by a seller;

1037 (C) taken by a purchaser on a sale; and

1038 (D) that is not reimbursed by a third party; or

1039 (ii) the following if separately stated on an invoice, bill of sale, or similar document
1040 provided to the purchaser:

1041 (A) the following from credit extended on the sale of tangible personal property or
1042 services:

1043 (I) a carrying charge;

1044 (II) a financing charge; or

1045 (III) an interest charge;

1046 (B) a delivery charge;

1047 (C) an installation charge;

1048 (D) a manufacturer rebate on a motor vehicle; or

1049 (E) a tax or fee legally imposed directly on the consumer.

1050 [~~95~~] (96) "Purchaser" means a person to whom:

1051 (a) a sale of tangible personal property is made;

1052 (b) a product is transferred electronically; or

1053 (c) a service is furnished.

1054 [~~96~~] (97) "Regularly rented" means:

1055 (a) rented to a guest for value three or more times during a calendar year; or

1056 (b) advertised or held out to the public as a place that is regularly rented to guests for
1057 value.

1058 [~~97~~] (98) "Rental" is as defined in Subsection (54).

1059 [~~98~~] (99) (a) Except as provided in Subsection [~~98~~] (99)(b), "repairs or renovations
1060 of tangible personal property" means:

1061 (i) a repair or renovation of tangible personal property that is not permanently attached
1062 to real property; or

1063 (ii) attaching tangible personal property or a product transferred electronically to other
1064 tangible personal property or detaching tangible personal property or a product transferred
1065 electronically from other tangible personal property if:

1066 (A) the other tangible personal property to which the tangible personal property or
1067 product transferred electronically is attached or from which the tangible personal property or
1068 product transferred electronically is detached is not permanently attached to real property; and

1069 (B) the attachment of tangible personal property or a product transferred electronically
1070 to other tangible personal property or detachment of tangible personal property or a product
1071 transferred electronically from other tangible personal property is made in conjunction with a
1072 repair or replacement of tangible personal property or a product transferred electronically.

1073 (b) "Repairs or renovations of tangible personal property" does not include:

1074 (i) attaching prewritten computer software to other tangible personal property if the
1075 other tangible personal property to which the prewritten computer software is attached is not
1076 permanently attached to real property; or

1077 (ii) detaching prewritten computer software from other tangible personal property if the
1078 other tangible personal property from which the prewritten computer software is detached is
1079 not permanently attached to real property.

1080 [~~99~~] (100) "Research and development" means the process of inquiry or
1081 experimentation aimed at the discovery of facts, devices, technologies, or applications and the

1082 process of preparing those devices, technologies, or applications for marketing.

1083 ~~[(100)]~~ (101) (a) "Residential telecommunications services" means a
1084 telecommunications service or an ancillary service that is provided to an individual for personal
1085 use:

- 1086 (i) at a residential address; or
- 1087 (ii) at an institution, including a nursing home or a school, if the telecommunications
1088 service or ancillary service is provided to and paid for by the individual residing at the
1089 institution rather than the institution.

1090 (b) For purposes of Subsection ~~[(100)]~~ (101)(a)(i), a residential address includes an:

- 1091 (i) apartment; or
- 1092 (ii) other individual dwelling unit.

1093 ~~[(101)]~~ (102) "Residential use" means the use in or around a home, apartment building,
1094 sleeping quarters, and similar facilities or accommodations.

1095 ~~[(102)]~~ (103) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
1096 other than:

- 1097 (a) resale;
- 1098 (b) sublease; or
- 1099 (c) subrent.

1100 ~~[(103)]~~ (104) (a) "Retailer" means any person engaged in a regularly organized
1101 business in tangible personal property or any other taxable transaction under Subsection
1102 59-12-103(1), and who is selling to the user or consumer and not for resale.

1103 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1104 engaged in the business of selling to users or consumers within the state.

1105 ~~[(104)]~~ (105) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1106 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1107 Subsection 59-12-103(1), for consideration.

- 1108 (b) "Sale" includes:
 - 1109 (i) installment and credit sales;
 - 1110 (ii) any closed transaction constituting a sale;
 - 1111 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1112 chapter;

1113 (iv) any transaction if the possession of property is transferred but the seller retains the
1114 title as security for the payment of the price; and

1115 (v) any transaction under which right to possession, operation, or use of any article of
1116 tangible personal property is granted under a lease or contract and the transfer of possession
1117 would be taxable if an outright sale were made.

1118 [~~(105)~~] (106) "Sale at retail" is as defined in Subsection [~~(102)~~] (103).

1119 [~~(106)~~] (107) "Sale-leaseback transaction" means a transaction by which title to
1120 tangible personal property or a product transferred electronically that is subject to a tax under
1121 this chapter is transferred:

1122 (a) by a purchaser-lessee;

1123 (b) to a lessor;

1124 (c) for consideration; and

1125 (d) if:

1126 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1127 of the tangible personal property or product transferred electronically;

1128 (ii) the sale of the tangible personal property or product transferred electronically to the
1129 lessor is intended as a form of financing:

1130 (A) for the tangible personal property or product transferred electronically; and

1131 (B) to the purchaser-lessee; and

1132 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1133 is required to:

1134 (A) capitalize the tangible personal property or product transferred electronically for
1135 financial reporting purposes; and

1136 (B) account for the lease payments as payments made under a financing arrangement.

1137 [~~(107)~~] (108) "Sales price" is as defined in Subsection [~~(94)~~] (95).

1138 [~~(108)~~] (109) (a) "Sales relating to schools" means the following sales by, amounts
1139 paid to, or amounts charged by a school:

1140 (i) sales that are directly related to the school's educational functions or activities
1141 including:

1142 (A) the sale of:

1143 (I) textbooks;

- 1144 (II) textbook fees;
- 1145 (III) laboratory fees;
- 1146 (IV) laboratory supplies; or
- 1147 (V) safety equipment;
- 1148 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 1149 that:
- 1150 (I) a student is specifically required to wear as a condition of participation in a
- 1151 school-related event or school-related activity; and
- 1152 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 1153 place of ordinary clothing;
- 1154 (C) sales of the following if the net or gross revenues generated by the sales are
- 1155 deposited into a school district fund or school fund dedicated to school meals:
- 1156 (I) food and food ingredients; or
- 1157 (II) prepared food; or
- 1158 (D) transportation charges for official school activities; or
- 1159 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1160 event or school-related activity.
- 1161 (b) "Sales relating to schools" does not include:
- 1162 (i) bookstore sales of items that are not educational materials or supplies;
- 1163 (ii) except as provided in Subsection [~~(108)~~] (109)(a)(i)(B):
- 1164 (A) clothing;
- 1165 (B) clothing accessories or equipment;
- 1166 (C) protective equipment; or
- 1167 (D) sports or recreational equipment; or
- 1168 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1169 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1170 (A) other than a:
- 1171 (I) school;
- 1172 (II) nonprofit organization authorized by a school board or a governing body of a
- 1173 private school to organize and direct a competitive secondary school activity; or
- 1174 (III) nonprofit association authorized by a school board or a governing body of a

1175 private school to organize and direct a competitive secondary school activity; and
1176 (B) that is required to collect sales and use taxes under this chapter.
1177 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1178 commission may make rules defining the term "passed through."
1179 [~~(109)~~] (110) For purposes of this section and Section 59-12-104, "school":
1180 (a) means:
1181 (i) an elementary school or a secondary school that:
1182 (A) is a:
1183 (I) public school; or
1184 (II) private school; and
1185 (B) provides instruction for one or more grades kindergarten through 12; or
1186 (ii) a public school district; and
1187 (b) includes the Electronic High School as defined in Section 53A-15-1002.
1188 [~~(110)~~] (111) "Seller" means a person that makes a sale, lease, or rental of:
1189 (a) tangible personal property;
1190 (b) a product transferred electronically; or
1191 (c) a service.
1192 [~~(111)~~] (112) (a) "Semiconductor fabricating, processing, research, or development
1193 materials" means tangible personal property or a product transferred electronically if the
1194 tangible personal property or product transferred electronically is:
1195 (i) used primarily in the process of:
1196 (A) (I) manufacturing a semiconductor;
1197 (II) fabricating a semiconductor; or
1198 (III) research or development of a:
1199 (Aa) semiconductor; or
1200 (Bb) semiconductor manufacturing process; or
1201 (B) maintaining an environment suitable for a semiconductor; or
1202 (ii) consumed primarily in the process of:
1203 (A) (I) manufacturing a semiconductor;
1204 (II) fabricating a semiconductor; or
1205 (III) research or development of a:

- 1206 (Aa) semiconductor; or
- 1207 (Bb) semiconductor manufacturing process; or
- 1208 (B) maintaining an environment suitable for a semiconductor.
- 1209 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1210 includes:
- 1211 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1212 transferred electronically described in Subsection [~~(111)~~] (112)(a); or
- 1213 (ii) a chemical, catalyst, or other material used to:
- 1214 (A) produce or induce in a semiconductor a:
- 1215 (I) chemical change; or
- 1216 (II) physical change;
- 1217 (B) remove impurities from a semiconductor; or
- 1218 (C) improve the marketable condition of a semiconductor.
- 1219 [~~(112)~~] (113) "Senior citizen center" means a facility having the primary purpose of
- 1220 providing services to the aged as defined in Section 62A-3-101.
- 1221 [~~(113)~~] (114) "Simplified electronic return" means the electronic return:
- 1222 (a) described in Section 318(C) of the agreement; and
- 1223 (b) approved by the governing board of the agreement.
- 1224 [~~(114)~~] (115) "Solar energy" means the sun used as the sole source of energy for
- 1225 producing electricity.
- 1226 [~~(115)~~] (116) (a) "Sports or recreational equipment" means an item:
- 1227 (i) designed for human use; and
- 1228 (ii) that is:
- 1229 (A) worn in conjunction with:
- 1230 (I) an athletic activity; or
- 1231 (II) a recreational activity; and
- 1232 (B) not suitable for general use.
- 1233 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1234 commission shall make rules:
- 1235 (i) listing the items that constitute "sports or recreational equipment"; and
- 1236 (ii) that are consistent with the list of items that constitute "sports or recreational

1237 equipment" under the agreement.

1238 [~~(116)~~] (117) "State" means the state of Utah, its departments, and agencies.

1239 [~~(117)~~] (118) "Storage" means any keeping or retention of tangible personal property or

1240 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose

1241 except sale in the regular course of business.

1242 [~~(118)~~] (119) (a) Except as provided in Subsection [~~(118)~~] (119)(d) or (e), "tangible

1243 personal property" means personal property that:

1244 (i) may be:

1245 (A) seen;

1246 (B) weighed;

1247 (C) measured;

1248 (D) felt; or

1249 (E) touched; or

1250 (ii) is in any manner perceptible to the senses.

1251 (b) "Tangible personal property" includes:

1252 (i) electricity;

1253 (ii) water;

1254 (iii) gas;

1255 (iv) steam; or

1256 (v) prewritten computer software, regardless of the manner in which the prewritten

1257 computer software is transferred.

1258 (c) "Tangible personal property" includes the following regardless of whether the item

1259 is attached to real property:

1260 (i) a dishwasher;

1261 (ii) a dryer;

1262 (iii) a freezer;

1263 (iv) a microwave;

1264 (v) a refrigerator;

1265 (vi) a stove;

1266 (vii) a washer; or

1267 (viii) an item similar to Subsections [~~(118)~~] (119)(c)(i) through (vii) as determined by

1268 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1269 Rulemaking Act.

1270 (d) "Tangible personal property" does not include a product that is transferred
1271 electronically.

1272 (e) "Tangible personal property" does not include the following if attached to real
1273 property, regardless of whether the attachment to real property is only through a line that
1274 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1275 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1276 Rulemaking Act:

- 1277 (i) a hot water heater;
- 1278 (ii) a water filtration system; or
- 1279 (iii) a water softener system.

1280 [~~(119)~~] (120) (a) "Telecommunications enabling or facilitating equipment, machinery,
1281 or software" means an item listed in Subsection [~~(119)~~] (120)(b) if that item is purchased or
1282 leased primarily to enable or facilitate one or more of the following to function:

- 1283 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1284 (ii) telecommunications transmission equipment, machinery, or software.

1285 (b) The following apply to Subsection [~~(119)~~] (120)(a):

- 1286 (i) a pole;
- 1287 (ii) software;
- 1288 (iii) a supplementary power supply;
- 1289 (iv) temperature or environmental equipment or machinery;
- 1290 (v) test equipment;
- 1291 (vi) a tower; or

1292 (vii) equipment, machinery, or software that functions similarly to an item listed in
1293 Subsections [~~(119)~~] (120)(b)(i) through (vi) as determined by the commission by rule made in
1294 accordance with Subsection [~~(119)~~] (120)(c).

1295 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1296 commission may by rule define what constitutes equipment, machinery, or software that
1297 functions similarly to an item listed in Subsections [~~(119)~~] (120)(b)(i) through (vi).

1298 [~~(120)~~] (121) "Telecommunications equipment, machinery, or software required for

1299 911 service" means equipment, machinery, or software that is required to comply with 47
1300 C.F.R. Sec. 20.18.

1301 ~~[(121)]~~ (122) "Telecommunications maintenance or repair equipment, machinery, or
1302 software" means equipment, machinery, or software purchased or leased primarily to maintain
1303 or repair one or more of the following, regardless of whether the equipment, machinery, or
1304 software is purchased or leased as a spare part or as an upgrade or modification to one or more
1305 of the following:

1306 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1307 (b) telecommunications switching or routing equipment, machinery, or software; or

1308 (c) telecommunications transmission equipment, machinery, or software.

1309 ~~[(122)]~~ (123) (a) "Telecommunications service" means the electronic conveyance,
1310 routing, or transmission of audio, data, video, voice, or any other information or signal to a
1311 point, or among or between points.

1312 (b) "Telecommunications service" includes:

1313 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1314 processing application is used to act:

1315 (A) on the code, form, or protocol of the content;

1316 (B) for the purpose of electronic conveyance, routing, or transmission; and

1317 (C) regardless of whether the service:

1318 (I) is referred to as voice over Internet protocol service; or

1319 (II) is classified by the Federal Communications Commission as enhanced or value
1320 added;

1321 (ii) an 800 service;

1322 (iii) a 900 service;

1323 (iv) a fixed wireless service;

1324 (v) a mobile wireless service;

1325 (vi) a postpaid calling service;

1326 (vii) a prepaid calling service;

1327 (viii) a prepaid wireless calling service; or

1328 (ix) a private communications service.

1329 (c) "Telecommunications service" does not include:

- 1330 (i) advertising, including directory advertising;
- 1331 (ii) an ancillary service;
- 1332 (iii) a billing and collection service provided to a third party;
- 1333 (iv) a data processing and information service if:
 - 1334 (A) the data processing and information service allows data to be:
 - 1335 (I) (Aa) acquired;
 - 1336 (Bb) generated;
 - 1337 (Cc) processed;
 - 1338 (Dd) retrieved; or
 - 1339 (Ee) stored; and
 - 1340 (II) delivered by an electronic transmission to a purchaser; and
 - 1341 (B) the purchaser's primary purpose for the underlying transaction is the processed data
 - 1342 or information;
- 1343 (v) installation or maintenance of the following on a customer's premises:
 - 1344 (A) equipment; or
 - 1345 (B) wiring;
 - 1346 (vi) Internet access service;
 - 1347 (vii) a paging service;
 - 1348 (viii) a product transferred electronically, including:
 - 1349 (A) music;
 - 1350 (B) reading material;
 - 1351 (C) a ring tone;
 - 1352 (D) software; or
 - 1353 (E) video;
 - 1354 (ix) a radio and television audio and video programming service:
 - 1355 (A) regardless of the medium; and
 - 1356 (B) including:
 - 1357 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 1358 programming service by a programming service provider;
 - 1359 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 1360 (III) audio and video programming services delivered by a commercial mobile radio

- 1361 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1362 (x) a value-added nonvoice data service; or
- 1363 (xi) tangible personal property.
- 1364 [~~(123)~~] (124) (a) "Telecommunications service provider" means a person that:
- 1365 (i) owns, controls, operates, or manages a telecommunications service; and
- 1366 (ii) engages in an activity described in Subsection [~~(123)~~] (124)(a)(i) for the shared use
- 1367 with or resale to any person of the telecommunications service.
- 1368 (b) A person described in Subsection [~~(123)~~] (124)(a) is a telecommunications service
- 1369 provider whether or not the Public Service Commission of Utah regulates:
- 1370 (i) that person; or
- 1371 (ii) the telecommunications service that the person owns, controls, operates, or
- 1372 manages.
- 1373 [~~(124)~~] (125) (a) "Telecommunications switching or routing equipment, machinery, or
- 1374 software" means an item listed in Subsection [~~(124)~~] (125)(b) if that item is purchased or
- 1375 leased primarily for switching or routing:
- 1376 (i) an ancillary service;
- 1377 (ii) data communications;
- 1378 (iii) voice communications; or
- 1379 (iv) telecommunications service.
- 1380 (b) The following apply to Subsection [~~(124)~~] (125)(a):
- 1381 (i) a bridge;
- 1382 (ii) a computer;
- 1383 (iii) a cross connect;
- 1384 (iv) a modem;
- 1385 (v) a multiplexer;
- 1386 (vi) plug in circuitry;
- 1387 (vii) a router;
- 1388 (viii) software;
- 1389 (ix) a switch; or
- 1390 (x) equipment, machinery, or software that functions similarly to an item listed in
- 1391 Subsections [~~(124)~~] (125)(b)(i) through (ix) as determined by the commission by rule made in

1392 accordance with Subsection [~~(124)~~] (125)(c).

1393 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1394 commission may by rule define what constitutes equipment, machinery, or software that
1395 functions similarly to an item listed in Subsections [~~(124)~~] (125)(b)(i) through (ix).

1396 [~~(125)~~] (126) (a) "Telecommunications transmission equipment, machinery, or
1397 software" means an item listed in Subsection [~~(125)~~] (126)(b) if that item is purchased or
1398 leased primarily for sending, receiving, or transporting:

1399 (i) an ancillary service;

1400 (ii) data communications;

1401 (iii) voice communications; or

1402 (iv) telecommunications service.

1403 (b) The following apply to Subsection [~~(125)~~] (126)(a):

1404 (i) an amplifier;

1405 (ii) a cable;

1406 (iii) a closure;

1407 (iv) a conduit;

1408 (v) a controller;

1409 (vi) a duplexer;

1410 (vii) a filter;

1411 (viii) an input device;

1412 (ix) an input/output device;

1413 (x) an insulator;

1414 (xi) microwave machinery or equipment;

1415 (xii) an oscillator;

1416 (xiii) an output device;

1417 (xiv) a pedestal;

1418 (xv) a power converter;

1419 (xvi) a power supply;

1420 (xvii) a radio channel;

1421 (xviii) a radio receiver;

1422 (xix) a radio transmitter;

- 1423 (xx) a repeater;
- 1424 (xxi) software;
- 1425 (xxii) a terminal;
- 1426 (xxiii) a timing unit;
- 1427 (xxiv) a transformer;
- 1428 (xxv) a wire; or
- 1429 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1430 Subsections [~~(125)~~] (126)(b)(i) through (xxv) as determined by the commission by rule made in
- 1431 accordance with Subsection [~~(125)~~] (126)(c).
- 1432 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1433 commission may by rule define what constitutes equipment, machinery, or software that
- 1434 functions similarly to an item listed in Subsections [~~(125)~~] (126)(b)(i) through (xxv).
- 1435 [~~(126)~~] (127) (a) "Textbook for a higher education course" means a textbook or other
- 1436 printed material that is required for a course:
- 1437 (i) offered by an institution of higher education; and
- 1438 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1439 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 1440 [~~(127)~~] (128) "Tobacco" means:
- 1441 (a) a cigarette;
- 1442 (b) a cigar;
- 1443 (c) chewing tobacco;
- 1444 (d) pipe tobacco; or
- 1445 (e) any other item that contains tobacco.
- 1446 [~~(128)~~] (129) "Unassisted amusement device" means an amusement device, skill
- 1447 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
- 1448 operate the amusement device, skill device, or ride device.
- 1449 [~~(129)~~] (130) (a) "Use" means the exercise of any right or power over tangible personal
- 1450 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
- 1451 incident to the ownership or the leasing of that tangible personal property, product transferred
- 1452 electronically, or service.
- 1453 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal

1454 property, a product transferred electronically, or a service in the regular course of business and
1455 held for resale.

1456 ~~[(130)]~~ (131) "Value-added nonvoice data service" means a service:

1457 (a) that otherwise meets the definition of a telecommunications service except that a
1458 computer processing application is used to act primarily for a purpose other than conveyance,
1459 routing, or transmission; and

1460 (b) with respect to which a computer processing application is used to act on data or
1461 information:

- 1462 (i) code;
- 1463 (ii) content;
- 1464 (iii) form; or
- 1465 (iv) protocol.

1466 ~~[(131)]~~ (132) (a) Subject to Subsection ~~[(131)]~~ (132)(b), "vehicle" means the following
1467 that are required to be titled, registered, or titled and registered:

- 1468 (i) an aircraft as defined in Section 72-10-102;
- 1469 (ii) a vehicle as defined in Section 41-1a-102;
- 1470 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1471 (iv) a vessel as defined in Section 41-1a-102.

1472 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1473 (i) a vehicle described in Subsection ~~[(131)]~~ (132)(a); or
- 1474 (ii) (A) a locomotive;
- 1475 (B) a freight car;
- 1476 (C) railroad work equipment; or
- 1477 (D) other railroad rolling stock.

1478 ~~[(132)]~~ (133) "Vehicle dealer" means a person engaged in the business of buying,
1479 selling, or exchanging a vehicle as defined in Subsection ~~[(131)]~~ (132).

1480 ~~[(133)]~~ (134) (a) "Vertical service" means an ancillary service that:

- 1481 (i) is offered in connection with one or more telecommunications services; and
- 1482 (ii) offers an advanced calling feature that allows a customer to:
 - 1483 (A) identify a caller; and
 - 1484 (B) manage multiple calls and call connections.

1485 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1486 conference bridging service.

1487 ~~[(134)]~~ (135) (a) "Voice mail service" means an ancillary service that enables a
1488 customer to receive, send, or store a recorded message.

1489 (b) "Voice mail service" does not include a vertical service that a customer is required
1490 to have in order to utilize a voice mail service.

1491 ~~[(135)]~~ (136) (a) Except as provided in Subsection ~~[(135)]~~ (136)(b), "waste energy
1492 facility" means a facility that generates electricity:

1493 (i) using as the primary source of energy waste materials that would be placed in a
1494 landfill or refuse pit if it were not used to generate electricity, including:

1495 (A) tires;

1496 (B) waste coal;

1497 (C) oil shale; or

1498 (D) municipal solid waste; and

1499 (ii) in amounts greater than actually required for the operation of the facility.

1500 (b) "Waste energy facility" does not include a facility that incinerates:

1501 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1502 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1503 ~~[(136)]~~ (137) "Watercraft" means a vessel as defined in Section 73-18-2.

1504 ~~[(137)]~~ (138) "Wind energy" means wind used as the sole source of energy to produce
1505 electricity.

1506 ~~[(138)]~~ (139) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
1507 geographic location by the United States Postal Service.

1508 Section 2. Section **59-12-102 (Effective 07/01/14)** is amended to read:

1509 **59-12-102 (Effective 07/01/14). Definitions.**

1510 As used in this chapter:

1511 (1) "800 service" means a telecommunications service that:

1512 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

1513 (b) is typically marketed:

1514 (i) under the name 800 toll-free calling;

1515 (ii) under the name 855 toll-free calling;

- 1516 (iii) under the name 866 toll-free calling;
- 1517 (iv) under the name 877 toll-free calling;
- 1518 (v) under the name 888 toll-free calling; or
- 1519 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
- 1520 Federal Communications Commission.
- 1521 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 1522 (i) a subscriber purchases;
- 1523 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 1524 the subscriber's:
- 1525 (A) prerecorded announcement; or
- 1526 (B) live service; and
- 1527 (iii) is typically marketed:
- 1528 (A) under the name 900 service; or
- 1529 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 1530 Communications Commission.
- 1531 (b) "900 service" does not include a charge for:
- 1532 (i) a collection service a seller of a telecommunications service provides to a
- 1533 subscriber; or
- 1534 (ii) the following a subscriber sells to the subscriber's customer:
- 1535 (A) a product; or
- 1536 (B) a service.
- 1537 (3) (a) "Admission or user fees" includes season passes.
- 1538 (b) "Admission or user fees" does not include annual membership dues to private
- 1539 organizations.
- 1540 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 1541 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 1542 Agreement after November 12, 2002.
- 1543 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 1544 (a) listed under Subsection (6); and
- 1545 (b) that are imposed within a local taxing jurisdiction.
- 1546 (6) "Agreement sales and use tax" means a tax imposed under:

- 1547 (a) Subsection 59-12-103(2)(a)(i)(A);
- 1548 (b) Subsection 59-12-103(2)(b)(i);
- 1549 (c) Subsection 59-12-103(2)(c)(i);
- 1550 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 1551 (e) Section 59-12-204;
- 1552 (f) Section 59-12-401;
- 1553 (g) Section 59-12-402;
- 1554 (h) Section 59-12-703;
- 1555 (i) Section 59-12-802;
- 1556 (j) Section 59-12-804;
- 1557 (k) Section 59-12-1102;
- 1558 (l) Section 59-12-1302;
- 1559 (m) Section 59-12-1402;
- 1560 (n) Section 59-12-1802;
- 1561 (o) Section 59-12-2003;
- 1562 (p) Section 59-12-2103;
- 1563 (q) Section 59-12-2213;
- 1564 (r) Section 59-12-2214;
- 1565 (s) Section 59-12-2215;
- 1566 (t) Section 59-12-2216;
- 1567 (u) Section 59-12-2217; or
- 1568 (v) Section 59-12-2218.
- 1569 (7) "Aircraft" is as defined in Section 72-10-102.
- 1570 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 1571 (a) except for:
- 1572 (i) an airline as defined in Section 59-2-102; or
- 1573 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 1574 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 1575 state, of an airline; and
- 1576 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 1577 whether the business entity performs the following in this state:

- 1578 (i) check, diagnose, overhaul, and repair:
- 1579 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 1580 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 1581 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 1582 engine;
- 1583 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 1584 aircraft:
- 1585 (A) an inspection;
- 1586 (B) a repair, including a structural repair or modification;
- 1587 (C) changing landing gear; and
- 1588 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 1589 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 1590 completely apply new paint to the fixed wing turbine powered aircraft; and
- 1591 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 1592 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 1593 authority that certifies the fixed wing turbine powered aircraft.
- 1594 (9) "Alcoholic beverage" means a beverage that:
- 1595 (a) is suitable for human consumption; and
- 1596 (b) contains .5% or more alcohol by volume.
- 1597 (10) "Alternative energy" means:
- 1598 (a) biomass energy;
- 1599 (b) geothermal energy;
- 1600 (c) hydroelectric energy;
- 1601 (d) solar energy;
- 1602 (e) wind energy; or
- 1603 (f) energy that is derived from:
- 1604 (i) coal-to-liquids;
- 1605 (ii) nuclear fuel;
- 1606 (iii) oil-impregnated diatomaceous earth;
- 1607 (iv) oil sands;
- 1608 (v) oil shale; or

1609 (vi) petroleum coke.

1610 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
1611 facility" means a facility that:

1612 (i) uses alternative energy to produce electricity; and

1613 (ii) has a production capacity of [~~2~~] two megawatts or greater.

1614 (b) A facility is an alternative energy electricity production facility regardless of
1615 whether the facility is:

1616 (i) connected to an electric grid; or

1617 (ii) located on the premises of an electricity consumer.

1618 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
1619 provision of telecommunications service.

1620 (b) "Ancillary service" includes:

1621 (i) a conference bridging service;

1622 (ii) a detailed communications billing service;

1623 (iii) directory assistance;

1624 (iv) a vertical service; or

1625 (v) a voice mail service.

1626 (13) "Area agency on aging" is as defined in Section 62A-3-101.

1627 (14) "Assisted amusement device" means an amusement device, skill device, or ride
1628 device that is started and stopped by an individual:

1629 (a) who is not the purchaser or renter of the right to use or operate the amusement
1630 device, skill device, or ride device; and

1631 (b) at the direction of the seller of the right to use the amusement device, skill device,
1632 or ride device.

1633 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
1634 washing of tangible personal property if the cleaning or washing labor is primarily performed
1635 by an individual:

1636 (a) who is not the purchaser of the cleaning or washing of the tangible personal
1637 property; and

1638 (b) at the direction of the seller of the cleaning or washing of the tangible personal
1639 property.

- 1640 (16) "Authorized carrier" means:
- 1641 (a) in the case of vehicles operated over public highways, the holder of credentials
- 1642 indicating that the vehicle is or will be operated pursuant to both the International Registration
- 1643 Plan and the International Fuel Tax Agreement;
- 1644 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
- 1645 certificate or air carrier's operating certificate; or
- 1646 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
- 1647 stock, the holder of a certificate issued by the United States Surface Transportation Board.
- 1648 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
- 1649 following that is used as the primary source of energy to produce fuel or electricity:
- 1650 (i) material from a plant or tree; or
- 1651 (ii) other organic matter that is available on a renewable basis, including:
- 1652 (A) slash and brush from forests and woodlands;
- 1653 (B) animal waste;
- 1654 (C) methane produced:
- 1655 (I) at landfills; or
- 1656 (II) as a byproduct of the treatment of wastewater residuals;
- 1657 (D) aquatic plants; and
- 1658 (E) agricultural products.
- 1659 (b) "Biomass energy" does not include:
- 1660 (i) black liquor;
- 1661 (ii) treated woods; or
- 1662 (iii) biomass from municipal solid waste other than methane produced:
- 1663 (A) at landfills; or
- 1664 (B) as a byproduct of the treatment of wastewater residuals.
- 1665 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 1666 property, products, or services if the tangible personal property, products, or services are:
- 1667 (i) distinct and identifiable; and
- 1668 (ii) sold for one nonitemized price.
- 1669 (b) "Bundled transaction" does not include:
- 1670 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on

1671 the basis of the selection by the purchaser of the items of tangible personal property included in
1672 the transaction;

1673 (ii) the sale of real property;

1674 (iii) the sale of services to real property;

1675 (iv) the retail sale of tangible personal property and a service if:

1676 (A) the tangible personal property:

1677 (I) is essential to the use of the service; and

1678 (II) is provided exclusively in connection with the service; and

1679 (B) the service is the true object of the transaction;

1680 (v) the retail sale of two services if:

1681 (A) one service is provided that is essential to the use or receipt of a second service;

1682 (B) the first service is provided exclusively in connection with the second service; and

1683 (C) the second service is the true object of the transaction;

1684 (vi) a transaction that includes tangible personal property or a product subject to

1685 taxation under this chapter and tangible personal property or a product that is not subject to

1686 taxation under this chapter if the:

1687 (A) seller's purchase price of the tangible personal property or product subject to

1688 taxation under this chapter is de minimis; or

1689 (B) seller's sales price of the tangible personal property or product subject to taxation

1690 under this chapter is de minimis; and

1691 (vii) the retail sale of tangible personal property that is not subject to taxation under

1692 this chapter and tangible personal property that is subject to taxation under this chapter if:

1693 (A) that retail sale includes:

1694 (I) food and food ingredients;

1695 (II) a drug;

1696 (III) durable medical equipment;

1697 (IV) mobility enhancing equipment;

1698 (V) an over-the-counter drug;

1699 (VI) a prosthetic device; or

1700 (VII) a medical supply; and

1701 (B) subject to Subsection (18)(f):

1702 (I) the seller's purchase price of the tangible personal property subject to taxation under
1703 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

1704 (II) the seller's sales price of the tangible personal property subject to taxation under
1705 this chapter is 50% or less of the seller's total sales price of that retail sale.

1706 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
1707 service that is distinct and identifiable does not include:

1708 (A) packaging that:

1709 (I) accompanies the sale of the tangible personal property, product, or service; and

1710 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
1711 service;

1712 (B) tangible personal property, a product, or a service provided free of charge with the
1713 purchase of another item of tangible personal property, a product, or a service; or

1714 (C) an item of tangible personal property, a product, or a service included in the
1715 definition of "purchase price."

1716 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
1717 product, or a service is provided free of charge with the purchase of another item of tangible
1718 personal property, a product, or a service if the sales price of the purchased item of tangible
1719 personal property, product, or service does not vary depending on the inclusion of the tangible
1720 personal property, product, or service provided free of charge.

1721 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
1722 does not include a price that is separately identified by tangible personal property, product, or
1723 service on the following, regardless of whether the following is in paper format or electronic
1724 format:

1725 (A) a binding sales document; or

1726 (B) another supporting sales-related document that is available to a purchaser.

1727 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
1728 supporting sales-related document that is available to a purchaser includes:

1729 (A) a bill of sale;

1730 (B) a contract;

1731 (C) an invoice;

1732 (D) a lease agreement;

1733 (E) a periodic notice of rates and services;

1734 (F) a price list;

1735 (G) a rate card;

1736 (H) a receipt; or

1737 (I) a service agreement.

1738 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
1739 property or a product subject to taxation under this chapter is de minimis if:

1740 (A) the seller's purchase price of the tangible personal property or product is 10% or
1741 less of the seller's total purchase price of the bundled transaction; or

1742 (B) the seller's sales price of the tangible personal property or product is 10% or less of
1743 the seller's total sales price of the bundled transaction.

1744 (ii) For purposes of Subsection (18)(b)(vi), a seller:

1745 (A) shall use the seller's purchase price or the seller's sales price to determine if the
1746 purchase price or sales price of the tangible personal property or product subject to taxation
1747 under this chapter is de minimis; and

1748 (B) may not use a combination of the seller's purchase price and the seller's sales price
1749 to determine if the purchase price or sales price of the tangible personal property or product
1750 subject to taxation under this chapter is de minimis.

1751 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
1752 contract to determine if the sales price of tangible personal property or a product is de minimis.

1753 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
1754 the seller's purchase price and the seller's sales price to determine if tangible personal property
1755 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
1756 price of that retail sale.

1757 (19) "Certified automated system" means software certified by the governing board of
1758 the agreement that:

1759 (a) calculates the agreement sales and use tax imposed within a local taxing
1760 jurisdiction:

1761 (i) on a transaction; and

1762 (ii) in the states that are members of the agreement;

1763 (b) determines the amount of agreement sales and use tax to remit to a state that is a

1764 member of the agreement; and

1765 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

1766 (20) "Certified service provider" means an agent certified:

1767 (a) by the governing board of the agreement; and

1768 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
1769 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
1770 own purchases.

1771 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
1772 suitable for general use.

1773 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1774 commission shall make rules:

1775 (i) listing the items that constitute "clothing"; and

1776 (ii) that are consistent with the list of items that constitute "clothing" under the
1777 agreement.

1778 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

1779 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
1780 fuels that does not constitute industrial use under Subsection (51) or residential use under
1781 Subsection (101).

1782 (24) (a) "Common carrier" means a person engaged in or transacting the business of
1783 transporting passengers, freight, merchandise, or other property for hire within this state.

1784 (b) (i) "Common carrier" does not include a person who, at the time the person is
1785 traveling to or from that person's place of employment, transports a passenger to or from the
1786 passenger's place of employment.

1787 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
1788 Utah Administrative Rulemaking Act, the commission may make rules defining what
1789 constitutes a person's place of employment.

1790 (25) "Component part" includes:

1791 (a) poultry, dairy, and other livestock feed, and their components;

1792 (b) baling ties and twine used in the baling of hay and straw;

1793 (c) fuel used for providing temperature control of orchards and commercial
1794 greenhouses doing a majority of their business in wholesale sales, and for providing power for

1795 off-highway type farm machinery; and
1796 (d) feed, seeds, and seedlings.
1797 (26) "Computer" means an electronic device that accepts information:
1798 (a) (i) in digital form; or
1799 (ii) in a form similar to digital form; and
1800 (b) manipulates that information for a result based on a sequence of instructions.
1801 (27) "Computer software" means a set of coded instructions designed to cause:
1802 (a) a computer to perform a task; or
1803 (b) automatic data processing equipment to perform a task.
1804 (28) "Computer software maintenance contract" means a contract that obligates a seller
1805 of computer software to provide a customer with:
1806 (a) future updates or upgrades to computer software;
1807 (b) support services with respect to computer software; or
1808 (c) a combination of Subsections (28)(a) and (b).
1809 (29) (a) "Conference bridging service" means an ancillary service that links two or
1810 more participants of an audio conference call or video conference call.
1811 (b) "Conference bridging service" may include providing a telephone number as part of
1812 the ancillary service described in Subsection (29)(a).
1813 (c) "Conference bridging service" does not include a telecommunications service used
1814 to reach the ancillary service described in Subsection (29)(a).
1815 (30) "Construction materials" means any tangible personal property that will be
1816 converted into real property.
1817 (31) "Delivered electronically" means delivered to a purchaser by means other than
1818 tangible storage media.
1819 (32) (a) "Delivery charge" means a charge:
1820 (i) by a seller of:
1821 (A) tangible personal property;
1822 (B) a product transferred electronically; or
1823 (C) services; and
1824 (ii) for preparation and delivery of the tangible personal property, product transferred
1825 electronically, or services described in Subsection (32)(a)(i) to a location designated by the

- 1826 purchaser.
- 1827 (b) "Delivery charge" includes a charge for the following:
- 1828 (i) transportation;
- 1829 (ii) shipping;
- 1830 (iii) postage;
- 1831 (iv) handling;
- 1832 (v) crating; or
- 1833 (vi) packing.
- 1834 (33) "Detailed telecommunications billing service" means an ancillary service of
- 1835 separately stating information pertaining to individual calls on a customer's billing statement.
- 1836 (34) "Dietary supplement" means a product, other than tobacco, that:
- 1837 (a) is intended to supplement the diet;
- 1838 (b) contains one or more of the following dietary ingredients:
- 1839 (i) a vitamin;
- 1840 (ii) a mineral;
- 1841 (iii) an herb or other botanical;
- 1842 (iv) an amino acid;
- 1843 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 1844 dietary intake; or
- 1845 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 1846 described in Subsections (34)(b)(i) through (v);
- 1847 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 1848 (A) tablet form;
- 1849 (B) capsule form;
- 1850 (C) powder form;
- 1851 (D) softgel form;
- 1852 (E) gelcap form; or
- 1853 (F) liquid form; or
- 1854 (ii) notwithstanding Subsection (34)(c)(i), if the product is not intended for ingestion in
- 1855 a form described in Subsections (34)(c)(i)(A) through (F), is not represented:
- 1856 (A) as conventional food; and

- 1857 (B) for use as a sole item of:
- 1858 (I) a meal; or
- 1859 (II) the diet; and
- 1860 (d) is required to be labeled as a dietary supplement:
- 1861 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 1862 (ii) as required by 21 C.F.R. Sec. 101.36.
- 1863 (35) (a) "Direct mail" means printed material delivered or distributed by United States
- 1864 mail or other delivery service:
- 1865 (i) to:
- 1866 (A) a mass audience; or
- 1867 (B) addressees on a mailing list provided:
- 1868 (I) by a purchaser of the mailing list; or
- 1869 (II) at the discretion of the purchaser of the mailing list; and
- 1870 (ii) if the cost of the printed material is not billed directly to the recipients.
- 1871 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 1872 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 1873 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 1874 single address.
- 1875 (36) "Directory assistance" means an ancillary service of providing:
- 1876 (a) address information; or
- 1877 (b) telephone number information.
- 1878 (37) (a) "Disposable home medical equipment or supplies" means medical equipment
- 1879 or supplies that:
- 1880 (i) cannot withstand repeated use; and
- 1881 (ii) are purchased by, for, or on behalf of a person other than:
- 1882 (A) a health care facility as defined in Section 26-21-2;
- 1883 (B) a health care provider as defined in Section 78B-3-403;
- 1884 (C) an office of a health care provider described in Subsection (37)(a)(ii)(B); or
- 1885 (D) a person similar to a person described in Subsections (37)(a)(ii)(A) through (C).
- 1886 (b) "Disposable home medical equipment or supplies" does not include:
- 1887 (i) a drug;

- 1888 (ii) durable medical equipment;
- 1889 (iii) a hearing aid;
- 1890 (iv) a hearing aid accessory;
- 1891 (v) mobility enhancing equipment; or
- 1892 (vi) tangible personal property used to correct impaired vision, including:
- 1893 (A) eyeglasses; or
- 1894 (B) contact lenses.
- 1895 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1896 commission may by rule define what constitutes medical equipment or supplies.
- 1897 (38) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 1898 compound, substance, or preparation that is:
- 1899 (i) recognized in:
- 1900 (A) the official United States Pharmacopoeia;
- 1901 (B) the official Homeopathic Pharmacopoeia of the United States;
- 1902 (C) the official National Formulary; or
- 1903 (D) a supplement to a publication listed in Subsections (38)(a)(i)(A) through (C);
- 1904 (ii) intended for use in the:
- 1905 (A) diagnosis of disease;
- 1906 (B) cure of disease;
- 1907 (C) mitigation of disease;
- 1908 (D) treatment of disease; or
- 1909 (E) prevention of disease; or
- 1910 (iii) intended to affect:
- 1911 (A) the structure of the body; or
- 1912 (B) any function of the body.
- 1913 (b) "Drug" does not include:
- 1914 (i) food and food ingredients;
- 1915 (ii) a dietary supplement;
- 1916 (iii) an alcoholic beverage; or
- 1917 (iv) a prosthetic device.
- 1918 (39) (a) Except as provided in Subsection (39)(c), "durable medical equipment" means

- 1919 equipment that:
- 1920 (i) can withstand repeated use;
- 1921 (ii) is primarily and customarily used to serve a medical purpose;
- 1922 (iii) generally is not useful to a person in the absence of illness or injury; and
- 1923 (iv) is not worn in or on the body.
- 1924 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 1925 equipment described in Subsection (39)(a).
- 1926 (c) Notwithstanding Subsection (39)(a), "durable medical equipment" does not include
- 1927 mobility enhancing equipment.
- 1928 (40) "Electronic" means:
- 1929 (a) relating to technology; and
- 1930 (b) having:
- 1931 (i) electrical capabilities;
- 1932 (ii) digital capabilities;
- 1933 (iii) magnetic capabilities;
- 1934 (iv) wireless capabilities;
- 1935 (v) optical capabilities;
- 1936 (vi) electromagnetic capabilities; or
- 1937 (vii) capabilities similar to Subsections (40)(b)(i) through (vi).
- 1938 (41) "Employee" is as defined in Section 59-10-401.
- 1939 (42) "Fixed guideway" means a public transit facility that uses and occupies:
- 1940 (a) rail for the use of public transit; or
- 1941 (b) a separate right-of-way for the use of public transit.
- 1942 (43) "Fixed wing turbine powered aircraft" means an aircraft that:
- 1943 (a) is powered by turbine engines;
- 1944 (b) operates on jet fuel; and
- 1945 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 1946 (44) "Fixed wireless service" means a telecommunications service that provides radio
- 1947 communication between fixed points.
- 1948 (45) (a) "Food and food ingredients" means substances:
- 1949 (i) regardless of whether the substances are in:

- 1950 (A) liquid form;
- 1951 (B) concentrated form;
- 1952 (C) solid form;
- 1953 (D) frozen form;
- 1954 (E) dried form; or
- 1955 (F) dehydrated form; and
- 1956 (ii) that are:
- 1957 (A) sold for:
- 1958 (I) ingestion by humans; or
- 1959 (II) chewing by humans; and
- 1960 (B) consumed for the substance's:
- 1961 (I) taste; or
- 1962 (II) nutritional value.
- 1963 (b) "Food and food ingredients" includes an item described in Subsection [~~(86)~~]
- 1964 (87)(b)(iii).
- 1965 (c) "Food and food ingredients" does not include:
- 1966 (i) an alcoholic beverage;
- 1967 (ii) tobacco; or
- 1968 (iii) prepared food.
- 1969 (46) (a) "Fundraising sales" means sales:
- 1970 (i) (A) made by a school; or
- 1971 (B) made by a school student;
- 1972 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 1973 materials, or provide transportation; and
- 1974 (iii) that are part of an officially sanctioned school activity.
- 1975 (b) For purposes of Subsection (46)(a)(iii), "officially sanctioned school activity"
- 1976 means a school activity:
- 1977 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 1978 district governing the authorization and supervision of fundraising activities;
- 1979 (ii) that does not directly or indirectly compensate an individual teacher or other
- 1980 educational personnel by direct payment, commissions, or payment in kind; and

1981 (iii) the net or gross revenues from which are deposited in a dedicated account
1982 controlled by the school or school district.

1983 (47) "Geothermal energy" means energy contained in heat that continuously flows
1984 outward from the earth that is used as the sole source of energy to produce electricity.

1985 (48) "Governing board of the agreement" means the governing board of the agreement
1986 that is:

1987 (a) authorized to administer the agreement; and
1988 (b) established in accordance with the agreement.

1989 (49) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
1990 (i) the executive branch of the state, including all departments, institutions, boards,
1991 divisions, bureaus, offices, commissions, and committees;
1992 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
1993 Office of the Court Administrator, and similar administrative units in the judicial branch;
1994 (iii) the legislative branch of the state, including the House of Representatives, the
1995 Senate, the Legislative Printing Office, the Office of Legislative Research and General
1996 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
1997 Analyst;

1998 (iv) the National Guard;
1999 (v) an independent entity as defined in Section 63E-1-102; or
2000 (vi) a political subdivision as defined in Section 17B-1-102.

2001 (b) "Governmental entity" does not include the state systems of public and higher
2002 education, including:

2003 (i) a college campus of the Utah College of Applied Technology;
2004 (ii) a school;
2005 (iii) the State Board of Education;
2006 (iv) the State Board of Regents; or
2007 (v) an institution of higher education.

2008 (50) "Hydroelectric energy" means water used as the sole source of energy to produce
2009 electricity.

2010 (51) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
2011 other fuels:

- 2012 (a) in mining or extraction of minerals;
- 2013 (b) in agricultural operations to produce an agricultural product up to the time of
- 2014 harvest or placing the agricultural product into a storage facility, including:
- 2015 (i) commercial greenhouses;
- 2016 (ii) irrigation pumps;
- 2017 (iii) farm machinery;
- 2018 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 2019 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 2020 (v) other farming activities;
- 2021 (c) in manufacturing tangible personal property at an establishment described in SIC
- 2022 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 2023 Executive Office of the President, Office of Management and Budget;
- 2024 (d) by a scrap recycler if:
- 2025 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 2026 one or more of the following items into prepared grades of processed materials for use in new
- 2027 products:
- 2028 (A) iron;
- 2029 (B) steel;
- 2030 (C) nonferrous metal;
- 2031 (D) paper;
- 2032 (E) glass;
- 2033 (F) plastic;
- 2034 (G) textile; or
- 2035 (H) rubber; and
- 2036 (ii) the new products under Subsection (51)(d)(i) would otherwise be made with
- 2037 nonrecycled materials; or
- 2038 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
- 2039 cogeneration facility as defined in Section 54-2-1.
- 2040 (52) (a) Except as provided in Subsection (52)(b), "installation charge" means a charge
- 2041 for installing:
- 2042 (i) tangible personal property; or

- 2043 (ii) a product transferred electronically.
- 2044 (b) "Installation charge" does not include a charge for:
- 2045 (i) repairs or renovations of:
- 2046 (A) tangible personal property; or
- 2047 (B) a product transferred electronically; or
- 2048 (ii) attaching tangible personal property or a product transferred electronically:
- 2049 (A) to other tangible personal property; and
- 2050 (B) as part of a manufacturing or fabrication process.
- 2051 (53) "Institution of higher education" means an institution of higher education listed in
- 2052 Section 53B-2-101.
- 2053 (54) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 2054 personal property or a product transferred electronically for:
- 2055 (i) (A) a fixed term; or
- 2056 (B) an indeterminate term; and
- 2057 (ii) consideration.
- 2058 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 2059 amount of consideration may be increased or decreased by reference to the amount realized
- 2060 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 2061 Code.
- 2062 (c) "Lease" or "rental" does not include:
- 2063 (i) a transfer of possession or control of property under a security agreement or
- 2064 deferred payment plan that requires the transfer of title upon completion of the required
- 2065 payments;
- 2066 (ii) a transfer of possession or control of property under an agreement that requires the
- 2067 transfer of title:
- 2068 (A) upon completion of required payments; and
- 2069 (B) if the payment of an option price does not exceed the greater of:
- 2070 (I) \$100; or
- 2071 (II) 1% of the total required payments; or
- 2072 (iii) providing tangible personal property along with an operator for a fixed period of
- 2073 time or an indeterminate period of time if the operator is necessary for equipment to perform as

2074 designed.

2075 (d) For purposes of Subsection (54)(c)(iii), an operator is necessary for equipment to
2076 perform as designed if the operator's duties exceed the:

- 2077 (i) set-up of tangible personal property;
- 2078 (ii) maintenance of tangible personal property; or
- 2079 (iii) inspection of tangible personal property.

2080 (55) "Life science establishment" means an establishment in this state that is classified
2081 under the following NAICS codes of the 2007 North American Industry Classification System
2082 of the federal Executive Office of the President, Office of Management and Budget:

- 2083 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 2084 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
2085 Manufacturing; or
- 2086 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

2087 (56) "Life science research and development facility" means a facility owned, leased,
2088 or rented by a life science establishment if research and development is performed in 51% or
2089 more of the total area of the facility.

2090 (57) "Load and leave" means delivery to a purchaser by use of a tangible storage media
2091 if the tangible storage media is not physically transferred to the purchaser.

2092 (58) "Local taxing jurisdiction" means a:

- 2093 (a) county that is authorized to impose an agreement sales and use tax;
- 2094 (b) city that is authorized to impose an agreement sales and use tax; or
- 2095 (c) town that is authorized to impose an agreement sales and use tax.

2096 (59) "Manufactured home" is as defined in Section 15A-1-302.

2097 (60) For purposes of Section 59-12-104, "manufacturing facility" means:

2098 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
2099 Industrial Classification Manual of the federal Executive Office of the President, Office of
2100 Management and Budget;

2101 (b) a scrap recycler if:

2102 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2103 one or more of the following items into prepared grades of processed materials for use in new
2104 products:

- 2105 (A) iron;
- 2106 (B) steel;
- 2107 (C) nonferrous metal;
- 2108 (D) paper;
- 2109 (E) glass;
- 2110 (F) plastic;
- 2111 (G) textile; or
- 2112 (H) rubber; and
- 2113 (ii) the new products under Subsection (60)(b)(i) would otherwise be made with
- 2114 nonrecycled materials; or
- 2115 (c) a cogeneration facility as defined in Section 54-2-1.
- 2116 (61) "Member of the immediate family of the producer" means a person who is related
- 2117 to a producer described in Subsection 59-12-104(20)(a) as a:
- 2118 (a) child or stepchild, regardless of whether the child or stepchild is:
- 2119 (i) an adopted child or adopted stepchild; or
- 2120 (ii) a foster child or foster stepchild;
- 2121 (b) grandchild or stepgrandchild;
- 2122 (c) grandparent or stepgrandparent;
- 2123 (d) nephew or stepnephew;
- 2124 (e) niece or stepniece;
- 2125 (f) parent or stepparent;
- 2126 (g) sibling or stepsibling;
- 2127 (h) spouse;
- 2128 (i) person who is the spouse of a person described in Subsections (61)(a) through (g);
- 2129 or
- 2130 (j) person similar to a person described in Subsections (61)(a) through (i) as
- 2131 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 2132 Administrative Rulemaking Act.
- 2133 (62) "Mobile home" is as defined in Section 15A-1-302.
- 2134 (63) "Mobile telecommunications service" is as defined in the Mobile
- 2135 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2136 (64) (a) "Mobile wireless service" means a telecommunications service, regardless of
2137 the technology used, if:

- 2138 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 2139 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 2140 (iii) the origination point described in Subsection (64)(a)(i) and the termination point
2141 described in Subsection (64)(a)(ii) are not fixed.

2142 (b) "Mobile wireless service" includes a telecommunications service that is provided
2143 by a commercial mobile radio service provider.

2144 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2145 commission may by rule define "commercial mobile radio service provider."

2146 (65) (a) Except as provided in Subsection (65)(c), "mobility enhancing equipment"
2147 means equipment that is:

- 2148 (i) primarily and customarily used to provide or increase the ability to move from one
2149 place to another;
- 2150 (ii) appropriate for use in a:
 - 2151 (A) home; or
 - 2152 (B) motor vehicle; and
- 2153 (iii) not generally used by persons with normal mobility.

2154 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
2155 the equipment described in Subsection (65)(a).

2156 (c) Notwithstanding Subsection (65)(a), "mobility enhancing equipment" does not
2157 include:

- 2158 (i) a motor vehicle;
- 2159 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
2160 vehicle manufacturer;
- 2161 (iii) durable medical equipment; or
- 2162 (iv) a prosthetic device.

2163 (66) "Model 1 seller" means a seller registered under the agreement that has selected a
2164 certified service provider as the seller's agent to perform all of the seller's sales and use tax
2165 functions for agreement sales and use taxes other than the seller's obligation under Section
2166 59-12-124 to remit a tax on the seller's own purchases.

- 2167 (67) "Model 2 seller" means a seller registered under the agreement that:
- 2168 (a) except as provided in Subsection (67)(b), has selected a certified automated system
- 2169 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 2170 (b) notwithstanding Subsection (67)(a), retains responsibility for remitting all of the
- 2171 sales tax:
- 2172 (i) collected by the seller; and
- 2173 (ii) to the appropriate local taxing jurisdiction.
- 2174 (68) (a) Subject to Subsection (68)(b), "model 3 seller" means a seller registered under
- 2175 the agreement that has:
- 2176 (i) sales in at least five states that are members of the agreement;
- 2177 (ii) total annual sales revenues of at least \$500,000,000;
- 2178 (iii) a proprietary system that calculates the amount of tax:
- 2179 (A) for an agreement sales and use tax; and
- 2180 (B) due to each local taxing jurisdiction; and
- 2181 (iv) entered into a performance agreement with the governing board of the agreement.
- 2182 (b) For purposes of Subsection (68)(a), "model 3 seller" includes an affiliated group of
- 2183 sellers using the same proprietary system.
- 2184 (69) "Model 4 seller" means a seller that is registered under the agreement and is not a
- 2185 model 1 seller, model 2 seller, or model 3 seller.
- 2186 (70) "Modular home" means a modular unit as defined in Section 15A-1-302.
- 2187 (71) "Motor vehicle" is as defined in Section 41-1a-102.
- 2188 (72) "Oil sands" means impregnated bituminous sands that:
- 2189 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 2190 other hydrocarbons, or otherwise treated;
- 2191 (b) yield mixtures of liquid hydrocarbon; and
- 2192 (c) require further processing other than mechanical blending before becoming finished
- 2193 petroleum products.
- 2194 (73) "Oil shale" means a group of fine black to dark brown shales containing kerogen
- 2195 material that yields petroleum upon heating and distillation.
- 2196 (74) "Optional computer software maintenance contract" means a computer software
- 2197 maintenance contract that a customer is not obligated to purchase as a condition to the retail

2198 sale of computer software.

2199 (75) (a) "Other fuels" means products that burn independently to produce heat or
2200 energy.

2201 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
2202 personal property.

2203 (76) (a) "Paging service" means a telecommunications service that provides
2204 transmission of a coded radio signal for the purpose of activating a specific pager.

2205 (b) For purposes of Subsection (76)(a), the transmission of a coded radio signal
2206 includes a transmission by message or sound.

2207 (77) "Pawnbroker" is as defined in Section 13-32a-102.

2208 (78) "Pawn transaction" is as defined in Section 13-32a-102.

2209 (79) (a) "Permanently attached to real property" means that for tangible personal
2210 property attached to real property:

2211 (i) the attachment of the tangible personal property to the real property:

2212 (A) is essential to the use of the tangible personal property; and

2213 (B) suggests that the tangible personal property will remain attached to the real
2214 property in the same place over the useful life of the tangible personal property; or

2215 (ii) if the tangible personal property is detached from the real property, the detachment
2216 would:

2217 (A) cause substantial damage to the tangible personal property; or

2218 (B) require substantial alteration or repair of the real property to which the tangible
2219 personal property is attached.

2220 (b) "Permanently attached to real property" includes:

2221 (i) the attachment of an accessory to the tangible personal property if the accessory is:

2222 (A) essential to the operation of the tangible personal property; and

2223 (B) attached only to facilitate the operation of the tangible personal property;

2224 (ii) a temporary detachment of tangible personal property from real property for a
2225 repair or renovation if the repair or renovation is performed where the tangible personal

2226 property and real property are located; or

2227 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
2228 Subsection (79)(c)(iii) or (iv).

- 2229 (c) "Permanently attached to real property" does not include:
- 2230 (i) the attachment of portable or movable tangible personal property to real property if
- 2231 that portable or movable tangible personal property is attached to real property only for:
- 2232 (A) convenience;
- 2233 (B) stability; or
- 2234 (C) for an obvious temporary purpose;
- 2235 (ii) the detachment of tangible personal property from real property except for the
- 2236 detachment described in Subsection (79)(b)(ii);
- 2237 (iii) an attachment of the following tangible personal property to real property if the
- 2238 attachment to real property is only through a line that supplies water, electricity, gas,
- 2239 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 2240 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 2241 (A) a computer;
- 2242 (B) a telephone;
- 2243 (C) a television; or
- 2244 (D) tangible personal property similar to Subsections (79)(c)(iii)(A) through (C) as
- 2245 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 2246 Administrative Rulemaking Act; or
- 2247 (iv) an item listed in Subsection [~~(117)~~] (119)(c).
- 2248 (80) "Person" includes any individual, firm, partnership, joint venture, association,
- 2249 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
- 2250 municipality, district, or other local governmental entity of the state, or any group or
- 2251 combination acting as a unit.
- 2252 (81) "Place of primary use":
- 2253 (a) for telecommunications service other than mobile telecommunications service,
- 2254 means the street address representative of where the customer's use of the telecommunications
- 2255 service primarily occurs, which shall be:
- 2256 (i) the residential street address of the customer; or
- 2257 (ii) the primary business street address of the customer; or
- 2258 (b) for mobile telecommunications service, is as defined in the Mobile
- 2259 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

- 2260 (82) (a) "Postpaid calling service" means a telecommunications service a person
2261 obtains by making a payment on a call-by-call basis:
- 2262 (i) through the use of a:
- 2263 (A) bank card;
- 2264 (B) credit card;
- 2265 (C) debit card; or
- 2266 (D) travel card; or
- 2267 (ii) by a charge made to a telephone number that is not associated with the origination
2268 or termination of the telecommunications service.
- 2269 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
2270 service, that would be a prepaid wireless calling service if the service were exclusively a
2271 telecommunications service.
- 2272 (83) "Postproduction" means an activity related to the finishing or duplication of a
2273 medium described in Subsection 59-12-104(54)(a).
- 2274 (84) "Potable delivered water" means water that is:
- 2275 (a) suitable for human consumption; and
- 2276 (b) delivered through a pipe or similar conduit to the place of retail sale.
- 2277 [~~84~~] (85) "Prepaid calling service" means a telecommunications service:
- 2278 (a) that allows a purchaser access to telecommunications service that is exclusively
2279 telecommunications service;
- 2280 (b) that:
- 2281 (i) is paid for in advance; and
- 2282 (ii) enables the origination of a call using an:
- 2283 (A) access number; or
- 2284 (B) authorization code;
- 2285 (c) that is dialed:
- 2286 (i) manually; or
- 2287 (ii) electronically; and
- 2288 (d) sold in predetermined units or dollars that decline:
- 2289 (i) by a known amount; and
- 2290 (ii) with use.

- 2291 [~~(85)~~] (86) "Prepaid wireless calling service" means a telecommunications service:
- 2292 (a) that provides the right to utilize:
- 2293 (i) mobile wireless service; and
- 2294 (ii) other service that is not a telecommunications service, including:
- 2295 (A) the download of a product transferred electronically;
- 2296 (B) a content service; or
- 2297 (C) an ancillary service;
- 2298 (b) that:
- 2299 (i) is paid for in advance; and
- 2300 (ii) enables the origination of a call using an:
- 2301 (A) access number; or
- 2302 (B) authorization code;
- 2303 (c) that is dialed:
- 2304 (i) manually; or
- 2305 (ii) electronically; and
- 2306 (d) sold in predetermined units or dollars that decline:
- 2307 (i) by a known amount; and
- 2308 (ii) with use.
- 2309 [~~(86)~~] (87) (a) "Prepared food" means:
- 2310 (i) food:
- 2311 (A) sold in a heated state; or
- 2312 (B) heated by a seller;
- 2313 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 2314 item; or
- 2315 (iii) except as provided in Subsection [~~(86)~~] (87)(c), food sold with an eating utensil
- 2316 provided by the seller, including a:
- 2317 (A) plate;
- 2318 (B) knife;
- 2319 (C) fork;
- 2320 (D) spoon;
- 2321 (E) glass;

- 2322 (F) cup;
- 2323 (G) napkin; or
- 2324 (H) straw.
- 2325 (b) "Prepared food" does not include:
- 2326 (i) food that a seller only:
- 2327 (A) cuts;
- 2328 (B) repackages; or
- 2329 (C) pasteurizes; or
- 2330 (ii) (A) the following:
- 2331 (I) raw egg;
- 2332 (II) raw fish;
- 2333 (III) raw meat;
- 2334 (IV) raw poultry; or
- 2335 (V) a food containing an item described in Subsections [~~86~~] (87)(b)(ii)(A)(I) through
- 2336 (IV); and
- 2337 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 2338 Food and Drug Administration's Food Code that a consumer cook the items described in
- 2339 Subsection [~~86~~] (87)(b)(ii)(A) to prevent food borne illness; or
- 2340 (iii) the following if sold without eating utensils provided by the seller:
- 2341 (A) food and food ingredients sold by a seller if the seller's proper primary
- 2342 classification under the 2002 North American Industry Classification System of the federal
- 2343 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 2344 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 2345 Manufacturing;
- 2346 (B) food and food ingredients sold in an unheated state:
- 2347 (I) by weight or volume; and
- 2348 (II) as a single item; or
- 2349 (C) a bakery item, including:
- 2350 (I) a bagel;
- 2351 (II) a bar;
- 2352 (III) a biscuit;

- 2353 (IV) bread;
- 2354 (V) a bun;
- 2355 (VI) a cake;
- 2356 (VII) a cookie;
- 2357 (VIII) a croissant;
- 2358 (IX) a danish;
- 2359 (X) a donut;
- 2360 (XI) a muffin;
- 2361 (XII) a pastry;
- 2362 (XIII) a pie;
- 2363 (XIV) a roll;
- 2364 (XV) a tart;
- 2365 (XVI) a torte; or
- 2366 (XVII) a tortilla.
- 2367 (c) Notwithstanding Subsection [~~(86)~~] (87)(a)(iii), an eating utensil provided by the
- 2368 seller does not include the following used to transport the food:
 - 2369 (i) a container; or
 - 2370 (ii) packaging.
- 2371 [~~(87)~~] (88) "Prescription" means an order, formula, or recipe that is issued:
 - 2372 (a) (i) orally;
 - 2373 (ii) in writing;
 - 2374 (iii) electronically; or
 - 2375 (iv) by any other manner of transmission; and
 - 2376 (b) by a licensed practitioner authorized by the laws of a state.
- 2377 [~~(88)~~] (89) (a) Except as provided in Subsection [~~(88)~~] (89)(b)(ii) or (iii), "prewritten
- 2378 computer software" means computer software that is not designed and developed:
 - 2379 (i) by the author or other creator of the computer software; and
 - 2380 (ii) to the specifications of a specific purchaser.
 - 2381 (b) "Prewritten computer software" includes:
 - 2382 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
 - 2383 software is not designed and developed:

- 2384 (A) by the author or other creator of the computer software; and
- 2385 (B) to the specifications of a specific purchaser;
- 2386 (ii) notwithstanding Subsection [~~(88)~~] (89)(a), computer software designed and
- 2387 developed by the author or other creator of the computer software to the specifications of a
- 2388 specific purchaser if the computer software is sold to a person other than the purchaser; or
- 2389 (iii) notwithstanding Subsection [~~(88)~~] (89)(a) and except as provided in Subsection
- 2390 [~~(88)~~] (89)(c), prewritten computer software or a prewritten portion of prewritten computer
- 2391 software:
- 2392 (A) that is modified or enhanced to any degree; and
- 2393 (B) if the modification or enhancement described in Subsection [~~(88)~~] (89)(b)(iii)(A) is
- 2394 designed and developed to the specifications of a specific purchaser.
- 2395 (c) Notwithstanding Subsection [~~(88)~~] (89)(b)(iii), "prewritten computer software"
- 2396 does not include a modification or enhancement described in Subsection [~~(88)~~] (89)(b)(iii) if
- 2397 the charges for the modification or enhancement are:
- 2398 (i) reasonable; and
- 2399 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
- 2400 invoice or other statement of price provided to the purchaser at the time of sale or later, as
- 2401 demonstrated by:
- 2402 (A) the books and records the seller keeps at the time of the transaction in the regular
- 2403 course of business, including books and records the seller keeps at the time of the transaction in
- 2404 the regular course of business for nontax purposes;
- 2405 (B) a preponderance of the facts and circumstances at the time of the transaction; and
- 2406 (C) the understanding of all of the parties to the transaction.
- 2407 [~~(89)~~] (90) (a) "Private communication service" means a telecommunications service:
- 2408 (i) that entitles a customer to exclusive or priority use of one or more communications
- 2409 channels between or among termination points; and
- 2410 (ii) regardless of the manner in which the one or more communications channels are
- 2411 connected.
- 2412 (b) "Private communications service" includes the following provided in connection
- 2413 with the use of one or more communications channels:
- 2414 (i) an extension line;

- 2415 (ii) a station;
- 2416 (iii) switching capacity; or
- 2417 (iv) another associated service that is provided in connection with the use of one or
- 2418 more communications channels as defined in Section 59-12-215.
- 2419 ~~[(90)]~~ (91) (a) Except as provided in Subsection ~~[(90)]~~ (91)(b), "product transferred
- 2420 electronically" means a product transferred electronically that would be subject to a tax under
- 2421 this chapter if that product was transferred in a manner other than electronically.
- 2422 (b) "Product transferred electronically" does not include:
- 2423 (i) an ancillary service;
- 2424 (ii) computer software; or
- 2425 (iii) a telecommunications service.
- 2426 ~~[(91)]~~ (92) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 2427 (i) artificially replace a missing portion of the body;
- 2428 (ii) prevent or correct a physical deformity or physical malfunction; or
- 2429 (iii) support a weak or deformed portion of the body.
- 2430 (b) "Prosthetic device" includes:
- 2431 (i) parts used in the repairs or renovation of a prosthetic device;
- 2432 (ii) replacement parts for a prosthetic device;
- 2433 (iii) a dental prosthesis; or
- 2434 (iv) a hearing aid.
- 2435 (c) "Prosthetic device" does not include:
- 2436 (i) corrective eyeglasses; or
- 2437 (ii) contact lenses.
- 2438 ~~[(92)]~~ (93) (a) "Protective equipment" means an item:
- 2439 (i) for human wear; and
- 2440 (ii) that is:
- 2441 (A) designed as protection:
- 2442 (I) to the wearer against injury or disease; or
- 2443 (II) against damage or injury of other persons or property; and
- 2444 (B) not suitable for general use.
- 2445 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2446 commission shall make rules:

2447 (i) listing the items that constitute "protective equipment"; and

2448 (ii) that are consistent with the list of items that constitute "protective equipment"

2449 under the agreement.

2450 [~~93~~] 94 (a) For purposes of Subsection 59-12-104(41), "publication" means any
2451 written or printed matter, other than a photocopy:

2452 (i) regardless of:

2453 (A) characteristics;

2454 (B) copyright;

2455 (C) form;

2456 (D) format;

2457 (E) method of reproduction; or

2458 (F) source; and

2459 (ii) made available in printed or electronic format.

2460 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2461 commission may by rule define the term "photocopy."

2462 [~~94~~] 95 (a) "Purchase price" and "sales price" mean the total amount of
2463 consideration:

2464 (i) valued in money; and

2465 (ii) for which tangible personal property, a product transferred electronically, or
2466 services are:

2467 (A) sold;

2468 (B) leased; or

2469 (C) rented.

2470 (b) "Purchase price" and "sales price" include:

2471 (i) the seller's cost of the tangible personal property, a product transferred
2472 electronically, or services sold;

2473 (ii) expenses of the seller, including:

2474 (A) the cost of materials used;

2475 (B) a labor cost;

2476 (C) a service cost;

- 2477 (D) interest;
- 2478 (E) a loss;
- 2479 (F) the cost of transportation to the seller; or
- 2480 (G) a tax imposed on the seller;
- 2481 (iii) a charge by the seller for any service necessary to complete the sale; or
- 2482 (iv) consideration a seller receives from a person other than the purchaser if:
- 2483 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 2484 and
- 2485 (II) the consideration described in Subsection [~~(94)~~ (95)(b)(iv)(A)(I) is directly related
- 2486 to a price reduction or discount on the sale;
- 2487 (B) the seller has an obligation to pass the price reduction or discount through to the
- 2488 purchaser;
- 2489 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 2490 the seller at the time of the sale to the purchaser; and
- 2491 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 2492 seller to claim a price reduction or discount; and
- 2493 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 2494 coupon, or other documentation with the understanding that the person other than the seller
- 2495 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 2496 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 2497 organization allowed a price reduction or discount, except that a preferred customer card that is
- 2498 available to any patron of a seller does not constitute membership in a group or organization
- 2499 allowed a price reduction or discount; or
- 2500 (III) the price reduction or discount is identified as a third party price reduction or
- 2501 discount on the:
- 2502 (Aa) invoice the purchaser receives; or
- 2503 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 2504 (c) "Purchase price" and "sales price" do not include:
- 2505 (i) a discount:
- 2506 (A) in a form including:
- 2507 (I) cash;

2508 (II) term; or
2509 (III) coupon;
2510 (B) that is allowed by a seller;
2511 (C) taken by a purchaser on a sale; and
2512 (D) that is not reimbursed by a third party; or
2513 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
2514 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
2515 sale or later, as demonstrated by the books and records the seller keeps at the time of the
2516 transaction in the regular course of business, including books and records the seller keeps at the
2517 time of the transaction in the regular course of business for nontax purposes, by a
2518 preponderance of the facts and circumstances at the time of the transaction, and by the
2519 understanding of all of the parties to the transaction:
2520 (A) the following from credit extended on the sale of tangible personal property or
2521 services:
2522 (I) a carrying charge;
2523 (II) a financing charge; or
2524 (III) an interest charge;
2525 (B) a delivery charge;
2526 (C) an installation charge;
2527 (D) a manufacturer rebate on a motor vehicle; or
2528 (E) a tax or fee legally imposed directly on the consumer.
2529 ~~[(95)]~~ (96) "Purchaser" means a person to whom:
2530 (a) a sale of tangible personal property is made;
2531 (b) a product is transferred electronically; or
2532 (c) a service is furnished.
2533 ~~[(96)]~~ (97) "Regularly rented" means:
2534 (a) rented to a guest for value three or more times during a calendar year; or
2535 (b) advertised or held out to the public as a place that is regularly rented to guests for
2536 value.
2537 ~~[(97)]~~ (98) "Rental" is as defined in Subsection (54).
2538 ~~[(98)]~~ (99) (a) Except as provided in Subsection ~~[(98)]~~ (99)(b), "repairs or renovations

2539 of tangible personal property" means:

2540 (i) a repair or renovation of tangible personal property that is not permanently attached
2541 to real property; or

2542 (ii) attaching tangible personal property or a product transferred electronically to other
2543 tangible personal property or detaching tangible personal property or a product transferred
2544 electronically from other tangible personal property if:

2545 (A) the other tangible personal property to which the tangible personal property or
2546 product transferred electronically is attached or from which the tangible personal property or
2547 product transferred electronically is detached is not permanently attached to real property; and

2548 (B) the attachment of tangible personal property or a product transferred electronically
2549 to other tangible personal property or detachment of tangible personal property or a product
2550 transferred electronically from other tangible personal property is made in conjunction with a
2551 repair or replacement of tangible personal property or a product transferred electronically.

2552 (b) "Repairs or renovations of tangible personal property" does not include:

2553 (i) attaching prewritten computer software to other tangible personal property if the
2554 other tangible personal property to which the prewritten computer software is attached is not
2555 permanently attached to real property; or

2556 (ii) detaching prewritten computer software from other tangible personal property if the
2557 other tangible personal property from which the prewritten computer software is detached is
2558 not permanently attached to real property.

2559 ~~[(99)]~~ (100) "Research and development" means the process of inquiry or
2560 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
2561 process of preparing those devices, technologies, or applications for marketing.

2562 ~~[(100)]~~ (101) (a) "Residential telecommunications services" means a
2563 telecommunications service or an ancillary service that is provided to an individual for personal
2564 use:

2565 (i) at a residential address; or

2566 (ii) at an institution, including a nursing home or a school, if the telecommunications
2567 service or ancillary service is provided to and paid for by the individual residing at the
2568 institution rather than the institution.

2569 (b) For purposes of Subsection ~~[(100)]~~ (101)(a)(i), a residential address includes an:

2570 (i) apartment; or
2571 (ii) other individual dwelling unit.
2572 [~~(101)~~] (102) "Residential use" means the use in or around a home, apartment building,
2573 sleeping quarters, and similar facilities or accommodations.
2574 [~~(102)~~] (103) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
2575 other than:
2576 (a) resale;
2577 (b) sublease; or
2578 (c) subrent.
2579 [~~(103)~~] (104) (a) "Retailer" means any person engaged in a regularly organized
2580 business in tangible personal property or any other taxable transaction under Subsection
2581 59-12-103(1), and who is selling to the user or consumer and not for resale.
2582 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
2583 engaged in the business of selling to users or consumers within the state.
2584 [~~(104)~~] (105) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
2585 otherwise, in any manner, of tangible personal property or any other taxable transaction under
2586 Subsection 59-12-103(1), for consideration.
2587 (b) "Sale" includes:
2588 (i) installment and credit sales;
2589 (ii) any closed transaction constituting a sale;
2590 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
2591 chapter;
2592 (iv) any transaction if the possession of property is transferred but the seller retains the
2593 title as security for the payment of the price; and
2594 (v) any transaction under which right to possession, operation, or use of any article of
2595 tangible personal property is granted under a lease or contract and the transfer of possession
2596 would be taxable if an outright sale were made.
2597 [~~(105)~~] (106) "Sale at retail" is as defined in Subsection [~~(102)~~] (103).
2598 [~~(106)~~] (107) "Sale-leaseback transaction" means a transaction by which title to
2599 tangible personal property or a product transferred electronically that is subject to a tax under
2600 this chapter is transferred:

- 2601 (a) by a purchaser-lessee;
- 2602 (b) to a lessor;
- 2603 (c) for consideration; and
- 2604 (d) if:
 - 2605 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
 - 2606 of the tangible personal property or product transferred electronically;
 - 2607 (ii) the sale of the tangible personal property or product transferred electronically to the
 - 2608 lessor is intended as a form of financing:
 - 2609 (A) for the tangible personal property or product transferred electronically; and
 - 2610 (B) to the purchaser-lessee; and
 - 2611 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
 - 2612 is required to:
 - 2613 (A) capitalize the tangible personal property or product transferred electronically for
 - 2614 financial reporting purposes; and
 - 2615 (B) account for the lease payments as payments made under a financing arrangement.
- 2616 [~~(107)~~] (108) "Sales price" is as defined in Subsection [~~(94)~~] (95).
- 2617 [~~(108)~~] (109) (a) "Sales relating to schools" means the following sales by, amounts
- 2618 paid to, or amounts charged by a school:
 - 2619 (i) sales that are directly related to the school's educational functions or activities
 - 2620 including:
 - 2621 (A) the sale of:
 - 2622 (I) textbooks;
 - 2623 (II) textbook fees;
 - 2624 (III) laboratory fees;
 - 2625 (IV) laboratory supplies; or
 - 2626 (V) safety equipment;
 - 2627 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
 - 2628 that:
 - 2629 (I) a student is specifically required to wear as a condition of participation in a
 - 2630 school-related event or school-related activity; and
 - 2631 (II) is not readily adaptable to general or continued usage to the extent that it takes the

2632 place of ordinary clothing;

2633 (C) sales of the following if the net or gross revenues generated by the sales are

2634 deposited into a school district fund or school fund dedicated to school meals:

2635 (I) food and food ingredients; or

2636 (II) prepared food; or

2637 (D) transportation charges for official school activities; or

2638 (ii) amounts paid to or amounts charged by a school for admission to a school-related

2639 event or school-related activity.

2640 (b) "Sales relating to schools" does not include:

2641 (i) bookstore sales of items that are not educational materials or supplies;

2642 (ii) except as provided in Subsection [~~(108)~~] (109)(a)(i)(B):

2643 (A) clothing;

2644 (B) clothing accessories or equipment;

2645 (C) protective equipment; or

2646 (D) sports or recreational equipment; or

2647 (iii) amounts paid to or amounts charged by a school for admission to a school-related

2648 event or school-related activity if the amounts paid or charged are passed through to a person:

2649 (A) other than a:

2650 (I) school;

2651 (II) nonprofit organization authorized by a school board or a governing body of a

2652 private school to organize and direct a competitive secondary school activity; or

2653 (III) nonprofit association authorized by a school board or a governing body of a

2654 private school to organize and direct a competitive secondary school activity; and

2655 (B) that is required to collect sales and use taxes under this chapter.

2656 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2657 commission may make rules defining the term "passed through."

2658 [~~(109)~~] (110) For purposes of this section and Section 59-12-104, "school":

2659 (a) means:

2660 (i) an elementary school or a secondary school that:

2661 (A) is a:

2662 (I) public school; or

- 2663 (II) private school; and
- 2664 (B) provides instruction for one or more grades kindergarten through 12; or
- 2665 (ii) a public school district; and
- 2666 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 2667 [~~(H)~~] (111) "Seller" means a person that makes a sale, lease, or rental of:
- 2668 (a) tangible personal property;
- 2669 (b) a product transferred electronically; or
- 2670 (c) a service.
- 2671 [~~(H)~~] (112) (a) "Semiconductor fabricating, processing, research, or development
- 2672 materials" means tangible personal property or a product transferred electronically if the
- 2673 tangible personal property or product transferred electronically is:
- 2674 (i) used primarily in the process of:
- 2675 (A) (I) manufacturing a semiconductor;
- 2676 (II) fabricating a semiconductor; or
- 2677 (III) research or development of a:
- 2678 (Aa) semiconductor; or
- 2679 (Bb) semiconductor manufacturing process; or
- 2680 (B) maintaining an environment suitable for a semiconductor; or
- 2681 (ii) consumed primarily in the process of:
- 2682 (A) (I) manufacturing a semiconductor;
- 2683 (II) fabricating a semiconductor; or
- 2684 (III) research or development of a:
- 2685 (Aa) semiconductor; or
- 2686 (Bb) semiconductor manufacturing process; or
- 2687 (B) maintaining an environment suitable for a semiconductor.
- 2688 (b) "Semiconductor fabricating, processing, research, or development materials"
- 2689 includes:
- 2690 (i) parts used in the repairs or renovations of tangible personal property or a product
- 2691 transferred electronically described in Subsection [~~(H)~~] (112)(a); or
- 2692 (ii) a chemical, catalyst, or other material used to:
- 2693 (A) produce or induce in a semiconductor a:

- 2694 (I) chemical change; or
- 2695 (II) physical change;
- 2696 (B) remove impurities from a semiconductor; or
- 2697 (C) improve the marketable condition of a semiconductor.
- 2698 [~~(112)~~] (113) "Senior citizen center" means a facility having the primary purpose of
- 2699 providing services to the aged as defined in Section 62A-3-101.
- 2700 [~~(113)~~] (114) "Simplified electronic return" means the electronic return:
- 2701 (a) described in Section 318(C) of the agreement; and
- 2702 (b) approved by the governing board of the agreement.
- 2703 [~~(114)~~] (115) "Solar energy" means the sun used as the sole source of energy for
- 2704 producing electricity.
- 2705 [~~(115)~~] (116) (a) "Sports or recreational equipment" means an item:
- 2706 (i) designed for human use; and
- 2707 (ii) that is:
- 2708 (A) worn in conjunction with:
- 2709 (I) an athletic activity; or
- 2710 (II) a recreational activity; and
- 2711 (B) not suitable for general use.
- 2712 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2713 commission shall make rules:
- 2714 (i) listing the items that constitute "sports or recreational equipment"; and
- 2715 (ii) that are consistent with the list of items that constitute "sports or recreational
- 2716 equipment" under the agreement.
- 2717 [~~(116)~~] (117) "State" means the state of Utah, its departments, and agencies.
- 2718 [~~(117)~~] (118) "Storage" means any keeping or retention of tangible personal property or
- 2719 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 2720 except sale in the regular course of business.
- 2721 [~~(118)~~] (119) (a) Except as provided in Subsection [~~(118)~~] (119)(d) or (e), "tangible
- 2722 personal property" means personal property that:
- 2723 (i) may be:
- 2724 (A) seen;

- 2725 (B) weighed;
- 2726 (C) measured;
- 2727 (D) felt; or
- 2728 (E) touched; or
- 2729 (ii) is in any manner perceptible to the senses.
- 2730 (b) "Tangible personal property" includes:
- 2731 (i) electricity;
- 2732 (ii) water;
- 2733 (iii) gas;
- 2734 (iv) steam; or
- 2735 (v) prewritten computer software, regardless of the manner in which the prewritten
- 2736 computer software is transferred.
- 2737 (c) "Tangible personal property" includes the following regardless of whether the item
- 2738 is attached to real property:
- 2739 (i) a dishwasher;
- 2740 (ii) a dryer;
- 2741 (iii) a freezer;
- 2742 (iv) a microwave;
- 2743 (v) a refrigerator;
- 2744 (vi) a stove;
- 2745 (vii) a washer; or
- 2746 (viii) an item similar to Subsections [~~(118)~~] (119)(c)(i) through (vii) as determined by
- 2747 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 2748 Rulemaking Act.
- 2749 (d) "Tangible personal property" does not include a product that is transferred
- 2750 electronically.
- 2751 (e) "Tangible personal property" does not include the following if attached to real
- 2752 property, regardless of whether the attachment to real property is only through a line that
- 2753 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 2754 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 2755 Rulemaking Act:

2756 (i) a hot water heater;
2757 (ii) a water filtration system; or
2758 (iii) a water softener system.

2759 [~~(119)~~] (120) (a) "Telecommunications enabling or facilitating equipment, machinery,
2760 or software" means an item listed in Subsection [~~(119)~~] (120)(b) if that item is purchased or
2761 leased primarily to enable or facilitate one or more of the following to function:

2762 (i) telecommunications switching or routing equipment, machinery, or software; or
2763 (ii) telecommunications transmission equipment, machinery, or software.

2764 (b) The following apply to Subsection [~~(119)~~] (120)(a):

2765 (i) a pole;
2766 (ii) software;
2767 (iii) a supplementary power supply;
2768 (iv) temperature or environmental equipment or machinery;
2769 (v) test equipment;
2770 (vi) a tower; or
2771 (vii) equipment, machinery, or software that functions similarly to an item listed in
2772 Subsections [~~(119)~~] (120)(b)(i) through (vi) as determined by the commission by rule made in
2773 accordance with Subsection [~~(119)~~] (120)(c).

2774 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2775 commission may by rule define what constitutes equipment, machinery, or software that
2776 functions similarly to an item listed in Subsections [~~(119)~~] (120)(b)(i) through (vi).

2777 [~~(120)~~] (121) "Telecommunications equipment, machinery, or software required for
2778 911 service" means equipment, machinery, or software that is required to comply with 47
2779 C.F.R. Sec. 20.18.

2780 [~~(121)~~] (122) "Telecommunications maintenance or repair equipment, machinery, or
2781 software" means equipment, machinery, or software purchased or leased primarily to maintain
2782 or repair one or more of the following, regardless of whether the equipment, machinery, or
2783 software is purchased or leased as a spare part or as an upgrade or modification to one or more
2784 of the following:

2785 (a) telecommunications enabling or facilitating equipment, machinery, or software;
2786 (b) telecommunications switching or routing equipment, machinery, or software; or

- 2787 (c) telecommunications transmission equipment, machinery, or software.
- 2788 [~~(122)~~] (123) (a) "Telecommunications service" means the electronic conveyance,
- 2789 routing, or transmission of audio, data, video, voice, or any other information or signal to a
- 2790 point, or among or between points.
- 2791 (b) "Telecommunications service" includes:
- 2792 (i) an electronic conveyance, routing, or transmission with respect to which a computer
- 2793 processing application is used to act:
- 2794 (A) on the code, form, or protocol of the content;
- 2795 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 2796 (C) regardless of whether the service:
- 2797 (I) is referred to as voice over Internet protocol service; or
- 2798 (II) is classified by the Federal Communications Commission as enhanced or value
- 2799 added;
- 2800 (ii) an 800 service;
- 2801 (iii) a 900 service;
- 2802 (iv) a fixed wireless service;
- 2803 (v) a mobile wireless service;
- 2804 (vi) a postpaid calling service;
- 2805 (vii) a prepaid calling service;
- 2806 (viii) a prepaid wireless calling service; or
- 2807 (ix) a private communications service.
- 2808 (c) "Telecommunications service" does not include:
- 2809 (i) advertising, including directory advertising;
- 2810 (ii) an ancillary service;
- 2811 (iii) a billing and collection service provided to a third party;
- 2812 (iv) a data processing and information service if:
- 2813 (A) the data processing and information service allows data to be:
- 2814 (I) (Aa) acquired;
- 2815 (Bb) generated;
- 2816 (Cc) processed;
- 2817 (Dd) retrieved; or

2818 (Ee) stored; and
2819 (II) delivered by an electronic transmission to a purchaser; and
2820 (B) the purchaser's primary purpose for the underlying transaction is the processed data
2821 or information;
2822 (v) installation or maintenance of the following on a customer's premises:
2823 (A) equipment; or
2824 (B) wiring;
2825 (vi) Internet access service;
2826 (vii) a paging service;
2827 (viii) a product transferred electronically, including:
2828 (A) music;
2829 (B) reading material;
2830 (C) a ring tone;
2831 (D) software; or
2832 (E) video;
2833 (ix) a radio and television audio and video programming service:
2834 (A) regardless of the medium; and
2835 (B) including:
2836 (I) furnishing conveyance, routing, or transmission of a television audio and video
2837 programming service by a programming service provider;
2838 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
2839 (III) audio and video programming services delivered by a commercial mobile radio
2840 service provider as defined in 47 C.F.R. Sec. 20.3;
2841 (x) a value-added nonvoice data service; or
2842 (xi) tangible personal property.
2843 [~~(123)~~] (124) (a) "Telecommunications service provider" means a person that:
2844 (i) owns, controls, operates, or manages a telecommunications service; and
2845 (ii) engages in an activity described in Subsection [~~(123)~~] (124)(a)(i) for the shared use
2846 with or resale to any person of the telecommunications service.
2847 (b) A person described in Subsection [~~(123)~~] (124)(a) is a telecommunications service
2848 provider whether or not the Public Service Commission of Utah regulates:

2849 (i) that person; or
2850 (ii) the telecommunications service that the person owns, controls, operates, or
2851 manages.

2852 ~~[(124)]~~ (125) (a) "Telecommunications switching or routing equipment, machinery, or
2853 software" means an item listed in Subsection ~~[(124)]~~ (125)(b) if that item is purchased or
2854 leased primarily for switching or routing:

- 2855 (i) an ancillary service;
- 2856 (ii) data communications;
- 2857 (iii) voice communications; or
- 2858 (iv) telecommunications service.

2859 (b) The following apply to Subsection ~~[(124)]~~ (125)(a):

- 2860 (i) a bridge;
- 2861 (ii) a computer;
- 2862 (iii) a cross connect;
- 2863 (iv) a modem;
- 2864 (v) a multiplexer;
- 2865 (vi) plug in circuitry;
- 2866 (vii) a router;
- 2867 (viii) software;
- 2868 (ix) a switch; or
- 2869 (x) equipment, machinery, or software that functions similarly to an item listed in
2870 Subsections ~~[(124)]~~ (125)(b)(i) through (ix) as determined by the commission by rule made in
2871 accordance with Subsection ~~[(124)]~~ (125)(c).

2872 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2873 commission may by rule define what constitutes equipment, machinery, or software that
2874 functions similarly to an item listed in Subsections ~~[(124)]~~ (125)(b)(i) through (ix).

2875 ~~[(125)]~~ (126) (a) "Telecommunications transmission equipment, machinery, or
2876 software" means an item listed in Subsection ~~[(125)]~~ (126)(b) if that item is purchased or
2877 leased primarily for sending, receiving, or transporting:

- 2878 (i) an ancillary service;
- 2879 (ii) data communications;

- 2880 (iii) voice communications; or
- 2881 (iv) telecommunications service.
- 2882 (b) The following apply to Subsection [~~(125)~~] (126)(a):
- 2883 (i) an amplifier;
- 2884 (ii) a cable;
- 2885 (iii) a closure;
- 2886 (iv) a conduit;
- 2887 (v) a controller;
- 2888 (vi) a duplexer;
- 2889 (vii) a filter;
- 2890 (viii) an input device;
- 2891 (ix) an input/output device;
- 2892 (x) an insulator;
- 2893 (xi) microwave machinery or equipment;
- 2894 (xii) an oscillator;
- 2895 (xiii) an output device;
- 2896 (xiv) a pedestal;
- 2897 (xv) a power converter;
- 2898 (xvi) a power supply;
- 2899 (xvii) a radio channel;
- 2900 (xviii) a radio receiver;
- 2901 (xix) a radio transmitter;
- 2902 (xx) a repeater;
- 2903 (xxi) software;
- 2904 (xxii) a terminal;
- 2905 (xxiii) a timing unit;
- 2906 (xxiv) a transformer;
- 2907 (xxv) a wire; or
- 2908 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 2909 Subsections [~~(125)~~] (126)(b)(i) through (xxv) as determined by the commission by rule made in
- 2910 accordance with Subsection [~~(125)~~] (126)(c).

2911 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2912 commission may by rule define what constitutes equipment, machinery, or software that
2913 functions similarly to an item listed in Subsections [~~(125)~~] (126)(b)(i) through (xxv).

2914 [~~(126)~~] (127) (a) "Textbook for a higher education course" means a textbook or other
2915 printed material that is required for a course:

2916 (i) offered by an institution of higher education; and

2917 (ii) that the purchaser of the textbook or other printed material attends or will attend.

2918 (b) "Textbook for a higher education course" includes a textbook in electronic format.

2919 [~~(127)~~] (128) "Tobacco" means:

2920 (a) a cigarette;

2921 (b) a cigar;

2922 (c) chewing tobacco;

2923 (d) pipe tobacco; or

2924 (e) any other item that contains tobacco.

2925 [~~(128)~~] (129) "Unassisted amusement device" means an amusement device, skill
2926 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
2927 operate the amusement device, skill device, or ride device.

2928 [~~(129)~~] (130) (a) "Use" means the exercise of any right or power over tangible personal
2929 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
2930 incident to the ownership or the leasing of that tangible personal property, product transferred
2931 electronically, or service.

2932 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
2933 property, a product transferred electronically, or a service in the regular course of business and
2934 held for resale.

2935 [~~(130)~~] (131) "Value-added nonvoice data service" means a service:

2936 (a) that otherwise meets the definition of a telecommunications service except that a
2937 computer processing application is used to act primarily for a purpose other than conveyance,
2938 routing, or transmission; and

2939 (b) with respect to which a computer processing application is used to act on data or
2940 information:

2941 (i) code;

- 2942 (ii) content;
- 2943 (iii) form; or
- 2944 (iv) protocol.

2945 ~~[(131)]~~ (132) (a) Subject to Subsection ~~[(131)]~~ (132)(b), "vehicle" means the following
2946 that are required to be titled, registered, or titled and registered:

- 2947 (i) an aircraft as defined in Section 72-10-102;
- 2948 (ii) a vehicle as defined in Section 41-1a-102;
- 2949 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 2950 (iv) a vessel as defined in Section 41-1a-102.

2951 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 2952 (i) a vehicle described in Subsection ~~[(131)]~~ (132)(a); or
- 2953 (ii) (A) a locomotive;
- 2954 (B) a freight car;
- 2955 (C) railroad work equipment; or
- 2956 (D) other railroad rolling stock.

2957 ~~[(132)]~~ (133) "Vehicle dealer" means a person engaged in the business of buying,
2958 selling, or exchanging a vehicle as defined in Subsection ~~[(131)]~~ (132).

2959 ~~[(133)]~~ (134) (a) "Vertical service" means an ancillary service that:

- 2960 (i) is offered in connection with one or more telecommunications services; and
- 2961 (ii) offers an advanced calling feature that allows a customer to:
 - 2962 (A) identify a caller; and
 - 2963 (B) manage multiple calls and call connections.

2964 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
2965 conference bridging service.

2966 ~~[(134)]~~ (135) (a) "Voice mail service" means an ancillary service that enables a
2967 customer to receive, send, or store a recorded message.

2968 (b) "Voice mail service" does not include a vertical service that a customer is required
2969 to have in order to utilize a voice mail service.

2970 ~~[(135)]~~ (136) (a) Except as provided in Subsection ~~[(135)]~~ (136)(b), "waste energy
2971 facility" means a facility that generates electricity:

- 2972 (i) using as the primary source of energy waste materials that would be placed in a

2973 landfill or refuse pit if it were not used to generate electricity, including:

2974 (A) tires;

2975 (B) waste coal;

2976 (C) oil shale; or

2977 (D) municipal solid waste; and

2978 (ii) in amounts greater than actually required for the operation of the facility.

2979 (b) "Waste energy facility" does not include a facility that incinerates:

2980 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

2981 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

2982 [~~(136)~~] (137) "Watercraft" means a vessel as defined in Section 73-18-2.

2983 [~~(137)~~] (138) "Wind energy" means wind used as the sole source of energy to produce
2984 electricity.

2985 [~~(138)~~] (139) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
2986 geographic location by the United States Postal Service.

2987 Section 3. Section **59-12-103 (Superseded 07/01/14)** is amended to read:

2988 **59-12-103 (Superseded 07/01/14). Sales and use tax base -- Rates -- Effective dates**

2989 **-- Use of sales and use tax revenues.**

2990 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
2991 charged for the following transactions:

2992 (a) retail sales of tangible personal property made within the state;

2993 (b) amounts paid for:

2994 (i) telecommunications service, other than mobile telecommunications service, that
2995 originates and terminates within the boundaries of this state;

2996 (ii) mobile telecommunications service that originates and terminates within the
2997 boundaries of one state only to the extent permitted by the Mobile Telecommunications
2998 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

2999 (iii) an ancillary service associated with a:

3000 (A) telecommunications service described in Subsection (1)(b)(i); or

3001 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

3002 (c) sales of the following for commercial use:

3003 (i) gas;

- 3004 (ii) electricity;
- 3005 (iii) heat;
- 3006 (iv) coal;
- 3007 (v) fuel oil; or
- 3008 (vi) other fuels;
- 3009 (d) sales of the following for residential use:
- 3010 (i) gas;
- 3011 (ii) electricity;
- 3012 (iii) heat;
- 3013 (iv) coal;
- 3014 (v) fuel oil; or
- 3015 (vi) other fuels;
- 3016 (e) sales of prepared food;
- 3017 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 3018 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 3019 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 3020 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 3021 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 3022 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 3023 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 3024 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 3025 exhibition, cultural, or athletic activity;
- 3026 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 3027 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 3028 (i) the tangible personal property; and
- 3029 (ii) parts used in the repairs or renovations of the tangible personal property described
- 3030 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
- 3031 of that tangible personal property;
- 3032 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 3033 assisted cleaning or washing of tangible personal property;
- 3034 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court

3035 accommodations and services that are regularly rented for less than 30 consecutive days;

3036 (j) amounts paid or charged for laundry or dry cleaning services;

3037 (k) amounts paid or charged for leases or rentals of tangible personal property if within

3038 this state the tangible personal property is:

3039 (i) stored;

3040 (ii) used; or

3041 (iii) otherwise consumed;

3042 (l) amounts paid or charged for tangible personal property if within this state the

3043 tangible personal property is:

3044 (i) stored;

3045 (ii) used; or

3046 (iii) consumed; [~~and~~]

3047 (m) amounts paid or charged for a sale:

3048 (i) (A) of a product transferred electronically; or

3049 (B) of a repair or renovation of a product transferred electronically; and

3050 (ii) regardless of whether the sale provides:

3051 (A) a right of permanent use of the product; or

3052 (B) a right to use the product that is less than a permanent use, including a right:

3053 (I) for a definite or specified length of time; and

3054 (II) that terminates upon the occurrence of a condition[-]; and

3055 (n) amounts paid or charged for the retail sale of potable delivered water.

3056 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax

3057 is imposed on a transaction described in Subsection (1), including Subsection (1)(n), equal to

3058 the sum of:

3059 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

3060 (A) 4.70%; and

3061 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales

3062 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

3063 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional

3064 State Sales and Use Tax Act; and

3065 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales

3066 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
3067 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
3068 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3069 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3070 transaction under this chapter other than this part.

3071 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
3072 on a transaction described in Subsection (1)(d) equal to the sum of:

3073 (i) a state tax imposed on the transaction at a tax rate of 2%; and

3074 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3075 transaction under this chapter other than this part.

3076 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
3077 on amounts paid or charged for food and food ingredients equal to the sum of:

3078 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
3079 a tax rate of 1.75%; and

3080 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3081 amounts paid or charged for food and food ingredients under this chapter other than this part.

3082 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
3083 tangible personal property other than food and food ingredients, a state tax and a local tax is
3084 imposed on the entire bundled transaction equal to the sum of:

3085 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

3086 (I) the tax rate described in Subsection (2)(a)(i)(A); and

3087 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
3088 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3089 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
3090 Additional State Sales and Use Tax Act; and

3091 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
3092 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3093 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
3094 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3095 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
3096 described in Subsection (2)(a)(ii).

3097 (ii) If an optional computer software maintenance contract is a bundled transaction that
3098 consists of taxable and nontaxable products that are not separately itemized on an invoice or
3099 similar billing document, the purchase of the optional computer software maintenance contract
3100 is 40% taxable under this chapter and 60% nontaxable under this chapter.

3101 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
3102 transaction described in Subsection (2)(d)(i) or (ii):

3103 (A) if the sales price of the bundled transaction is attributable to tangible personal
3104 property, a product, or a service that is subject to taxation under this chapter and tangible
3105 personal property, a product, or service that is not subject to taxation under this chapter, the
3106 entire bundled transaction is subject to taxation under this chapter unless:

3107 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3108 personal property, product, or service that is not subject to taxation under this chapter from the
3109 books and records the seller keeps in the seller's regular course of business; or

3110 (II) state or federal law provides otherwise; or

3111 (B) if the sales price of a bundled transaction is attributable to two or more items of
3112 tangible personal property, products, or services that are subject to taxation under this chapter
3113 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
3114 higher tax rate unless:

3115 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3116 personal property, product, or service that is subject to taxation under this chapter at the lower
3117 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3118 (II) state or federal law provides otherwise.

3119 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
3120 seller's regular course of business includes books and records the seller keeps in the regular
3121 course of business for nontax purposes.

3122 (e) Subject to Subsections (2)(f) and (g), a tax rate repeal or tax rate change for a tax
3123 rate imposed under the following shall take effect on the first day of a calendar quarter:

3124 (i) Subsection (2)(a)(i)(A);

3125 (ii) Subsection (2)(b)(i);

3126 (iii) Subsection (2)(c)(i); or

3127 (iv) Subsection (2)(d)(i)(A)(I).

- 3128 (f) (i) A tax rate increase takes effect on the first day of the first billing period that
- 3129 begins on or after the effective date of the tax rate increase if the billing period for the
- 3130 transaction begins before the effective date of a tax rate increase imposed under:
 - 3131 (A) Subsection (2)(a)(i)(A);
 - 3132 (B) Subsection (2)(b)(i);
 - 3133 (C) Subsection (2)(c)(i); or
 - 3134 (D) Subsection (2)(d)(i)(A)(I).
- 3135 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
- 3136 statement for the billing period is rendered on or after the effective date of the repeal of the tax
- 3137 or the tax rate decrease imposed under:
 - 3138 (A) Subsection (2)(a)(i)(A);
 - 3139 (B) Subsection (2)(b)(i);
 - 3140 (C) Subsection (2)(c)(i); or
 - 3141 (D) Subsection (2)(d)(i)(A)(I).
- 3142 (g) (i) For a tax rate described in Subsection (2)(g)(ii), if a tax due on a catalogue sale
- 3143 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal
- 3144 or change in a tax rate takes effect:
 - 3145 (A) on the first day of a calendar quarter; and
 - 3146 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 3147 (ii) Subsection (2)(g)(i) applies to the tax rates described in the following:
 - 3148 (A) Subsection (2)(a)(i)(A);
 - 3149 (B) Subsection (2)(b)(i);
 - 3150 (C) Subsection (2)(c)(i); or
 - 3151 (D) Subsection (2)(d)(i)(A)(I).
- 3152 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 3153 the commission may by rule define the term "catalogue sale."
- 3154 (3) (a) The following state taxes shall be deposited into the General Fund:
 - 3155 (i) the tax imposed by Subsection (2)(a)(i)(A);
 - 3156 (ii) the tax imposed by Subsection (2)(b)(i);
 - 3157 (iii) the tax imposed by Subsection (2)(c)(i); or
 - 3158 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

3159 (b) The following local taxes shall be distributed to a county, city, or town as provided
3160 in this chapter:

- 3161 (i) the tax imposed by Subsection (2)(a)(ii);
- 3162 (ii) the tax imposed by Subsection (2)(b)(ii);
- 3163 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 3164 (iv) the tax imposed by Subsection (2)(d)(i)(B).

3165 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3166 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
3167 through (g):

3168 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

- 3169 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 3170 (B) for the fiscal year; or

3171 (ii) \$17,500,000.

3172 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
3173 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
3174 Department of Natural Resources to:

3175 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
3176 protect sensitive plant and animal species; or

3177 (B) award grants, up to the amount authorized by the Legislature in an appropriations
3178 act, to political subdivisions of the state to implement the measures described in Subsections
3179 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

3180 (ii) Money transferred to the Department of Natural Resources under Subsection
3181 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
3182 person to list or attempt to have listed a species as threatened or endangered under the
3183 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

3184 (iii) At the end of each fiscal year:

3185 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3186 Conservation and Development Fund created in Section 73-10-24;

3187 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3188 Program Subaccount created in Section 73-10c-5; and

3189 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

3190 Program Subaccount created in Section 73-10c-5.

3191 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
3192 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
3193 created in Section 4-18-6.

3194 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
3195 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
3196 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
3197 water rights.

3198 (ii) At the end of each fiscal year:

3199 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3200 Conservation and Development Fund created in Section 73-10-24;

3201 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3202 Program Subaccount created in Section 73-10c-5; and

3203 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3204 Program Subaccount created in Section 73-10c-5.

3205 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
3206 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
3207 Fund created in Section 73-10-24 for use by the Division of Water Resources.

3208 (ii) In addition to the uses allowed of the Water Resources Conservation and
3209 Development Fund under Section 73-10-24, the Water Resources Conservation and
3210 Development Fund may also be used to:

3211 (A) conduct hydrologic and geotechnical investigations by the Division of Water
3212 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
3213 quantifying surface and ground water resources and describing the hydrologic systems of an
3214 area in sufficient detail so as to enable local and state resource managers to plan for and
3215 accommodate growth in water use without jeopardizing the resource;

3216 (B) fund state required dam safety improvements; and

3217 (C) protect the state's interest in interstate water compact allocations, including the
3218 hiring of technical and legal staff.

3219 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3220 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount

3221 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

3222 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3223 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
3224 created in Section 73-10c-5 for use by the Division of Drinking Water to:

3225 (i) provide for the installation and repair of collection, treatment, storage, and
3226 distribution facilities for any public water system, as defined in Section 19-4-102;

3227 (ii) develop underground sources of water, including springs and wells; and

3228 (iii) develop surface water sources.

3229 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3230 2006, the difference between the following amounts shall be expended as provided in this
3231 Subsection (5), if that difference is greater than \$1:

3232 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
3233 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

3234 (ii) \$17,500,000.

3235 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

3236 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
3237 credits; and

3238 (B) expended by the Department of Natural Resources for watershed rehabilitation or
3239 restoration.

3240 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3241 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
3242 created in Section 73-10-24.

3243 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
3244 remaining difference described in Subsection (5)(a) shall be:

3245 (A) transferred each fiscal year to the Division of Water Resources as dedicated
3246 credits; and

3247 (B) expended by the Division of Water Resources for cloud-seeding projects
3248 authorized by Title 73, Chapter 15, Modification of Weather.

3249 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3250 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
3251 created in Section 73-10-24.

3252 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
3253 remaining difference described in Subsection (5)(a) shall be deposited into the Water
3254 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
3255 Division of Water Resources for:

3256 (i) preconstruction costs:

3257 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
3258 26, Bear River Development Act; and

3259 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
3260 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

3261 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
3262 Chapter 26, Bear River Development Act;

3263 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
3264 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

3265 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
3266 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

3267 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
3268 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
3269 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
3270 incurred for employing additional technical staff for the administration of water rights.

3271 (f) At the end of each fiscal year, any unexpended dedicated credits described in
3272 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
3273 Fund created in Section 73-10-24.

3274 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3275 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
3276 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
3277 the Transportation Fund created by Section 72-2-102.

3278 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
3279 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section
3280 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
3281 by a 1/64% tax rate on the taxable transactions under Subsection (1).

3282 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in

3283 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,
3284 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
3285 created by Section 72-2-124:

3286 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
3287 the revenues collected from the following taxes, which represents a portion of the
3288 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
3289 on vehicles and vehicle-related products:

3290 (A) the tax imposed by Subsection (2)(a)(i)(A);

3291 (B) the tax imposed by Subsection (2)(b)(i);

3292 (C) the tax imposed by Subsection (2)(c)(i); and

3293 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

3294 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
3295 current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through
3296 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
3297 (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

3298 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of
3299 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total
3300 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D)
3301 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
3302 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
3303 (8)(a) equal to the product of:

3304 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the
3305 previous fiscal year; and

3306 (B) the total sales and use tax revenue generated by the taxes described in Subsections
3307 (8)(a)(i)(A) through (D) in the current fiscal year.

3308 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
3309 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes
3310 described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of
3311 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
3312 Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

3313 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected

3314 from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited
3315 under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues
3316 collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the
3317 current fiscal year under Subsection (8)(a).

3318 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
3319 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of
3320 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under
3321 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section
3322 72-2-124.

3323 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
3324 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
3325 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

3326 (11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b),
3327 and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July
3328 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
3329 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the
3330 transactions described in Subsection (1).

3331 (b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into
3332 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
3333 charged for food and food ingredients, except for tax revenue generated by a bundled
3334 transaction attributable to food and food ingredients and tangible personal property other than
3335 food and food ingredients described in Subsection (2)(d).

3336 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
3337 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
3338 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
3339 .025% tax rate on the transactions described in Subsection (1) to be expended to address
3340 chokepoints in construction management.

3341 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
3342 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
3343 food ingredients, except for tax revenue generated by a bundled transaction attributable to food
3344 and food ingredients and tangible personal property other than food and food ingredients

3345 described in Subsection (2)(d).

3346 (13) The Division of Finance shall annually deposit into the Water Resources
3347 Conservation and Development Fund created in Section 73-10-24 an amount equal to the
3348 amount of state sales and use tax revenues collected under this section on amounts paid or
3349 charged under Subsection (1)(n).

3350 Section 4. Section **59-12-103 (Effective 07/01/14)** is amended to read:

3351 **59-12-103 (Effective 07/01/14). Sales and use tax base -- Rates -- Effective dates --**
3352 **Use of sales and use tax revenues.**

3353 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
3354 charged for the following transactions:

3355 (a) retail sales of tangible personal property made within the state;

3356 (b) amounts paid for:

3357 (i) telecommunications service, other than mobile telecommunications service, that
3358 originates and terminates within the boundaries of this state;

3359 (ii) mobile telecommunications service that originates and terminates within the
3360 boundaries of one state only to the extent permitted by the Mobile Telecommunications
3361 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

3362 (iii) an ancillary service associated with a:

3363 (A) telecommunications service described in Subsection (1)(b)(i); or

3364 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

3365 (c) sales of the following for commercial use:

3366 (i) gas;

3367 (ii) electricity;

3368 (iii) heat;

3369 (iv) coal;

3370 (v) fuel oil; or

3371 (vi) other fuels;

3372 (d) sales of the following for residential use:

3373 (i) gas;

3374 (ii) electricity;

3375 (iii) heat;

- 3376 (iv) coal;
- 3377 (v) fuel oil; or
- 3378 (vi) other fuels;
- 3379 (e) sales of prepared food;
- 3380 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 3381 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 3382 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 3383 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 3384 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 3385 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 3386 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 3387 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 3388 exhibition, cultural, or athletic activity;
- 3389 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 3390 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 3391 (i) the tangible personal property; and
- 3392 (ii) parts used in the repairs or renovations of the tangible personal property described
- 3393 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
- 3394 of that tangible personal property;
- 3395 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 3396 assisted cleaning or washing of tangible personal property;
- 3397 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 3398 accommodations and services that are regularly rented for less than 30 consecutive days;
- 3399 (j) amounts paid or charged for laundry or dry cleaning services;
- 3400 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 3401 this state the tangible personal property is:
- 3402 (i) stored;
- 3403 (ii) used; or
- 3404 (iii) otherwise consumed;
- 3405 (l) amounts paid or charged for tangible personal property if within this state the
- 3406 tangible personal property is:

- 3407 (i) stored;
- 3408 (ii) used; or
- 3409 (iii) consumed; [~~and~~]
- 3410 (m) amounts paid or charged for a sale:
- 3411 (i) (A) of a product transferred electronically; or
- 3412 (B) of a repair or renovation of a product transferred electronically; and
- 3413 (ii) regardless of whether the sale provides:
- 3414 (A) a right of permanent use of the product; or
- 3415 (B) a right to use the product that is less than a permanent use, including a right:
- 3416 (I) for a definite or specified length of time; and
- 3417 (II) that terminates upon the occurrence of a condition[-]; and
- 3418 (n) amounts paid or charged for the retail sale of potable delivered water.
- 3419 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
- 3420 is imposed on a transaction described in Subsection (1), including Subsection (1)(n), equal to
- 3421 the sum of:
- 3422 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
- 3423 (A) 4.70%; and
- 3424 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
- 3425 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
- 3426 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
- 3427 State Sales and Use Tax Act; and
- 3428 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
- 3429 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
- 3430 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
- 3431 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
- 3432 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 3433 transaction under this chapter other than this part.
- 3434 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
- 3435 on a transaction described in Subsection (1)(d) equal to the sum of:
- 3436 (i) a state tax imposed on the transaction at a tax rate of 2%; and
- 3437 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

3438 transaction under this chapter other than this part.

3439 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
3440 on amounts paid or charged for food and food ingredients equal to the sum of:

3441 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
3442 a tax rate of 1.75%; and

3443 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3444 amounts paid or charged for food and food ingredients under this chapter other than this part.

3445 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
3446 tangible personal property other than food and food ingredients, a state tax and a local tax is
3447 imposed on the entire bundled transaction equal to the sum of:

3448 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

3449 (I) the tax rate described in Subsection (2)(a)(i)(A); and

3450 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
3451 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3452 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
3453 Additional State Sales and Use Tax Act; and

3454 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
3455 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3456 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
3457 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3458 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
3459 described in Subsection (2)(a)(ii).

3460 (ii) If an optional computer software maintenance contract is a bundled transaction that
3461 consists of taxable and nontaxable products that are not separately itemized on an invoice or
3462 similar billing document, the purchase of the optional computer software maintenance contract
3463 is 40% taxable under this chapter and 60% nontaxable under this chapter.

3464 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
3465 transaction described in Subsection (2)(d)(i) or (ii):

3466 (A) if the sales price of the bundled transaction is attributable to tangible personal
3467 property, a product, or a service that is subject to taxation under this chapter and tangible
3468 personal property, a product, or service that is not subject to taxation under this chapter, the

3469 entire bundled transaction is subject to taxation under this chapter unless:

3470 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3471 personal property, product, or service that is not subject to taxation under this chapter from the
3472 books and records the seller keeps in the seller's regular course of business; or

3473 (II) state or federal law provides otherwise; or

3474 (B) if the sales price of a bundled transaction is attributable to two or more items of
3475 tangible personal property, products, or services that are subject to taxation under this chapter
3476 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
3477 higher tax rate unless:

3478 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3479 personal property, product, or service that is subject to taxation under this chapter at the lower
3480 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3481 (II) state or federal law provides otherwise.

3482 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
3483 seller's regular course of business includes books and records the seller keeps in the regular
3484 course of business for nontax purposes.

3485 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
3486 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
3487 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
3488 of tangible personal property, other property, a product, or a service that is not subject to
3489 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
3490 the seller, at the time of the transaction:

3491 (A) separately states the portion of the transaction that is not subject to taxation under
3492 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

3493 (B) is able to identify by reasonable and verifiable standards, from the books and
3494 records the seller keeps in the seller's regular course of business, the portion of the transaction
3495 that is not subject to taxation under this chapter.

3496 (ii) A purchaser and a seller may correct the taxability of a transaction if:

3497 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
3498 the transaction that is not subject to taxation under this chapter was not separately stated on an
3499 invoice, bill of sale, or similar document provided to the purchaser because of an error or

3500 ignorance of the law; and

3501 (B) the seller is able to identify by reasonable and verifiable standards, from the books
3502 and records the seller keeps in the seller's regular course of business, the portion of the
3503 transaction that is not subject to taxation under this chapter.

3504 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
3505 in the seller's regular course of business includes books and records the seller keeps in the
3506 regular course of business for nontax purposes.

3507 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
3508 personal property, products, or services that are subject to taxation under this chapter at
3509 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
3510 unless the seller, at the time of the transaction:

3511 (A) separately states the items subject to taxation under this chapter at each of the
3512 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

3513 (B) is able to identify by reasonable and verifiable standards the tangible personal
3514 property, product, or service that is subject to taxation under this chapter at the lower tax rate
3515 from the books and records the seller keeps in the seller's regular course of business.

3516 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
3517 seller's regular course of business includes books and records the seller keeps in the regular
3518 course of business for nontax purposes.

3519 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
3520 rate imposed under the following shall take effect on the first day of a calendar quarter:

3521 (i) Subsection (2)(a)(i)(A);

3522 (ii) Subsection (2)(b)(i);

3523 (iii) Subsection (2)(c)(i); or

3524 (iv) Subsection (2)(d)(i)(A)(I).

3525 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
3526 begins on or after the effective date of the tax rate increase if the billing period for the
3527 transaction begins before the effective date of a tax rate increase imposed under:

3528 (A) Subsection (2)(a)(i)(A);

3529 (B) Subsection (2)(b)(i);

3530 (C) Subsection (2)(c)(i); or

- 3531 (D) Subsection (2)(d)(i)(A)(I).
- 3532 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
3533 statement for the billing period is rendered on or after the effective date of the repeal of the tax
3534 or the tax rate decrease imposed under:
- 3535 (A) Subsection (2)(a)(i)(A);
- 3536 (B) Subsection (2)(b)(i);
- 3537 (C) Subsection (2)(c)(i); or
- 3538 (D) Subsection (2)(d)(i)(A)(I).
- 3539 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
3540 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
3541 change in a tax rate takes effect:
- 3542 (A) on the first day of a calendar quarter; and
- 3543 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 3544 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
- 3545 (A) Subsection (2)(a)(i)(A);
- 3546 (B) Subsection (2)(b)(i);
- 3547 (C) Subsection (2)(c)(i); or
- 3548 (D) Subsection (2)(d)(i)(A)(I).
- 3549 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3550 the commission may by rule define the term "catalogue sale."
- 3551 (3) (a) The following state taxes shall be deposited into the General Fund:
- 3552 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 3553 (ii) the tax imposed by Subsection (2)(b)(i);
- 3554 (iii) the tax imposed by Subsection (2)(c)(i); or
- 3555 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
- 3556 (b) The following local taxes shall be distributed to a county, city, or town as provided
3557 in this chapter:
- 3558 (i) the tax imposed by Subsection (2)(a)(ii);
- 3559 (ii) the tax imposed by Subsection (2)(b)(ii);
- 3560 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 3561 (iv) the tax imposed by Subsection (2)(d)(i)(B).

3562 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3563 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
3564 through (g):

3565 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

3566 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

3567 (B) for the fiscal year; or

3568 (ii) \$17,500,000.

3569 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
3570 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
3571 Department of Natural Resources to:

3572 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
3573 protect sensitive plant and animal species; or

3574 (B) award grants, up to the amount authorized by the Legislature in an appropriations
3575 act, to political subdivisions of the state to implement the measures described in Subsections
3576 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

3577 (ii) Money transferred to the Department of Natural Resources under Subsection
3578 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
3579 person to list or attempt to have listed a species as threatened or endangered under the
3580 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

3581 (iii) At the end of each fiscal year:

3582 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3583 Conservation and Development Fund created in Section 73-10-24;

3584 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3585 Program Subaccount created in Section 73-10c-5; and

3586 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3587 Program Subaccount created in Section 73-10c-5.

3588 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
3589 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
3590 created in Section 4-18-6.

3591 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
3592 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water

3593 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
3594 water rights.

3595 (ii) At the end of each fiscal year:

3596 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3597 Conservation and Development Fund created in Section 73-10-24;

3598 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3599 Program Subaccount created in Section 73-10c-5; and

3600 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3601 Program Subaccount created in Section 73-10c-5.

3602 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
3603 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
3604 Fund created in Section 73-10-24 for use by the Division of Water Resources.

3605 (ii) In addition to the uses allowed of the Water Resources Conservation and
3606 Development Fund under Section 73-10-24, the Water Resources Conservation and
3607 Development Fund may also be used to:

3608 (A) conduct hydrologic and geotechnical investigations by the Division of Water
3609 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
3610 quantifying surface and ground water resources and describing the hydrologic systems of an
3611 area in sufficient detail so as to enable local and state resource managers to plan for and
3612 accommodate growth in water use without jeopardizing the resource;

3613 (B) fund state required dam safety improvements; and

3614 (C) protect the state's interest in interstate water compact allocations, including the
3615 hiring of technical and legal staff.

3616 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3617 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
3618 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

3619 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3620 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
3621 created in Section 73-10c-5 for use by the Division of Drinking Water to:

3622 (i) provide for the installation and repair of collection, treatment, storage, and
3623 distribution facilities for any public water system, as defined in Section 19-4-102;

3624 (ii) develop underground sources of water, including springs and wells; and
3625 (iii) develop surface water sources.

3626 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3627 2006, the difference between the following amounts shall be expended as provided in this
3628 Subsection (5), if that difference is greater than \$1:

3629 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
3630 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and
3631 (ii) \$17,500,000.

3632 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:
3633 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
3634 credits; and
3635 (B) expended by the Department of Natural Resources for watershed rehabilitation or
3636 restoration.

3637 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3638 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
3639 created in Section 73-10-24.

3640 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
3641 remaining difference described in Subsection (5)(a) shall be:
3642 (A) transferred each fiscal year to the Division of Water Resources as dedicated
3643 credits; and
3644 (B) expended by the Division of Water Resources for cloud-seeding projects
3645 authorized by Title 73, Chapter 15, Modification of Weather.

3646 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3647 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
3648 created in Section 73-10-24.

3649 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
3650 remaining difference described in Subsection (5)(a) shall be deposited into the Water
3651 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
3652 Division of Water Resources for:
3653 (i) preconstruction costs:
3654 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter

3655 26, Bear River Development Act; and

3656 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
3657 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

3658 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
3659 Chapter 26, Bear River Development Act;

3660 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
3661 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

3662 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
3663 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

3664 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
3665 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
3666 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
3667 incurred for employing additional technical staff for the administration of water rights.

3668 (f) At the end of each fiscal year, any unexpended dedicated credits described in
3669 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
3670 Fund created in Section 73-10-24.

3671 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3672 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
3673 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
3674 the Transportation Fund created by Section 72-2-102.

3675 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
3676 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section
3677 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
3678 by a 1/64% tax rate on the taxable transactions under Subsection (1).

3679 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
3680 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,
3681 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
3682 created by Section 72-2-124:

3683 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
3684 the revenues collected from the following taxes, which represents a portion of the
3685 approximately 17% of sales and use tax revenues generated annually by the sales and use tax

3686 on vehicles and vehicle-related products:

3687 (A) the tax imposed by Subsection (2)(a)(i)(A);

3688 (B) the tax imposed by Subsection (2)(b)(i);

3689 (C) the tax imposed by Subsection (2)(c)(i); and

3690 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

3691 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the

3692 current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through

3693 (D) that exceeds the amount collected from the sales and use taxes described in Subsections

3694 (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

3695 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of

3696 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total

3697 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D)

3698 generated in the current fiscal year than the total percentage of sales and use taxes deposited in

3699 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection

3700 (8)(a) equal to the product of:

3701 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the

3702 previous fiscal year; and

3703 (B) the total sales and use tax revenue generated by the taxes described in Subsections

3704 (8)(a)(i)(A) through (D) in the current fiscal year.

3705 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under

3706 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes

3707 described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of

3708 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in

3709 Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

3710 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected

3711 from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited

3712 under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues

3713 collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the

3714 current fiscal year under Subsection (8)(a).

3715 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under

3716 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of

3717 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under
3718 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section
3719 72-2-124.

3720 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
3721 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
3722 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

3723 (11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b),
3724 and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July
3725 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
3726 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the
3727 transactions described in Subsection (1).

3728 (b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into
3729 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
3730 charged for food and food ingredients, except for tax revenue generated by a bundled
3731 transaction attributable to food and food ingredients and tangible personal property other than
3732 food and food ingredients described in Subsection (2)(d).

3733 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
3734 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
3735 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
3736 .025% tax rate on the transactions described in Subsection (1) to be expended to address
3737 chokepoints in construction management.

3738 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
3739 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
3740 food ingredients, except for tax revenue generated by a bundled transaction attributable to food
3741 and food ingredients and tangible personal property other than food and food ingredients
3742 described in Subsection (2)(d).

3743 (13) The Division of Finance shall annually deposit into the Water Resources
3744 Conservation and Development Fund created in Section 73-10-24 an amount equal to the
3745 amount of state sales and use tax revenues collected under this section on amounts paid or
3746 charged under Subsection (1)(n).

3747 Section 5. Section **59-12-104** is amended to read:

3748 **59-12-104. Exemptions.**

3749 The following sales and uses are exempt from the taxes imposed by this chapter:

3750 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
3751 under Chapter 13, Motor and Special Fuel Tax Act;3752 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
3753 subdivisions; however, this exemption does not apply to sales of:

3754 (a) construction materials except:

3755 (i) construction materials purchased by or on behalf of institutions of the public
3756 education system as defined in Utah Constitution Article X, Section 2, provided the
3757 construction materials are clearly identified and segregated and installed or converted to real
3758 property which is owned by institutions of the public education system; and3759 (ii) construction materials purchased by the state, its institutions, or its political
3760 subdivisions which are installed or converted to real property by employees of the state, its
3761 institutions, or its political subdivisions; or3762 (b) tangible personal property in connection with the construction, operation,
3763 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
3764 providing additional project capacity, as defined in Section 11-13-103;

3765 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

3766 (i) the proceeds of each sale do not exceed \$1; and

3767 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
3768 the cost of the item described in Subsection (3)(b) as goods consumed; and

3769 (b) Subsection (3)(a) applies to:

3770 (i) food and food ingredients; or

3771 (ii) prepared food;

3772 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

3773 (i) alcoholic beverages;

3774 (ii) food and food ingredients; or

3775 (iii) prepared food;

3776 (b) sales of tangible personal property or a product transferred electronically:

3777 (i) to a passenger;

3778 (ii) by a commercial airline carrier; and

- 3779 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
3780 (c) services related to Subsection (4)(a) or (b);
3781 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
3782 and equipment:
3783 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
3784 North American Industry Classification System of the federal Executive Office of the
3785 President, Office of Management and Budget; and
3786 (II) for:
3787 (Aa) installation in an aircraft, including services relating to the installation of parts or
3788 equipment in the aircraft;
3789 (Bb) renovation of an aircraft; or
3790 (Cc) repair of an aircraft; or
3791 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
3792 commerce; or
3793 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
3794 aircraft operated by a common carrier in interstate or foreign commerce; and
3795 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
3796 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
3797 refund:
3798 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
3799 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
3800 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
3801 the sale prior to filing for the refund;
3802 (iv) for sales and use taxes paid under this chapter on the sale;
3803 (v) in accordance with Section 59-1-1410; and
3804 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
3805 the person files for the refund on or before September 30, 2011;
3806 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
3807 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
3808 exhibitor, distributor, or commercial television or radio broadcaster;
3809 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal

3810 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
3811 washing of tangible personal property;

3812 (b) if a seller that sells at the same business location assisted cleaning or washing of
3813 tangible personal property and cleaning or washing of tangible personal property that is not
3814 assisted cleaning or washing of tangible personal property, the exemption described in
3815 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
3816 or washing of the tangible personal property; and

3817 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
3818 Utah Administrative Rulemaking Act, the commission may make rules:

3819 (i) governing the circumstances under which sales are at the same business location;
3820 and

3821 (ii) establishing the procedures and requirements for a seller to separately account for
3822 sales of assisted cleaning or washing of tangible personal property;

3823 (8) sales made to or by religious or charitable institutions in the conduct of their regular
3824 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
3825 fulfilled;

3826 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
3827 this state if the vehicle is:

3828 (a) not registered in this state; and

3829 (b) (i) not used in this state; or

3830 (ii) used in this state:

3831 (A) if the vehicle is not used to conduct business, for a time period that does not
3832 exceed the longer of:

3833 (I) 30 days in any calendar year; or

3834 (II) the time period necessary to transport the vehicle to the borders of this state; or

3835 (B) if the vehicle is used to conduct business, for the time period necessary to transport
3836 the vehicle to the borders of this state;

3837 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

3838 (i) the item is intended for human use; and

3839 (ii) (A) a prescription was issued for the item; or

3840 (B) the item was purchased by a hospital or other medical facility; and

- 3841 (b) (i) Subsection (10)(a) applies to:
- 3842 (A) a drug;
- 3843 (B) a syringe; or
- 3844 (C) a stoma supply; and
- 3845 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3846 commission may by rule define the terms:
- 3847 (A) "syringe"; or
- 3848 (B) "stoma supply";
- 3849 (11) sales or use of property, materials, or services used in the construction of or
- 3850 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
- 3851 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 3852 (i) the following if the item described in Subsection (12)(c) is not available to the
- 3853 general public:
- 3854 (A) a church; or
- 3855 (B) a charitable institution;
- 3856 (ii) an institution of higher education if:
- 3857 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 3858 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 3859 offered by the institution of higher education; or
- 3860 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 3861 (i) a medical facility; or
- 3862 (ii) a nursing facility; and
- 3863 (c) Subsections (12)(a) and (b) apply to:
- 3864 (i) food and food ingredients;
- 3865 (ii) prepared food; or
- 3866 (iii) alcoholic beverages;
- 3867 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 3868 or a product transferred electronically by a person:
- 3869 (i) regardless of the number of transactions involving the sale of that tangible personal
- 3870 property or product transferred electronically by that person; and
- 3871 (ii) not regularly engaged in the business of selling that type of tangible personal

3872 property or product transferred electronically;

3873 (b) this Subsection (13) does not apply if:

3874 (i) the sale is one of a series of sales of a character to indicate that the person is
3875 regularly engaged in the business of selling that type of tangible personal property or product
3876 transferred electronically;

3877 (ii) the person holds that person out as regularly engaged in the business of selling that
3878 type of tangible personal property or product transferred electronically;

3879 (iii) the person sells an item of tangible personal property or product transferred
3880 electronically that the person purchased as a sale that is exempt under Subsection (25); or

3881 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
3882 this state in which case the tax is based upon:

3883 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
3884 sold; or

3885 (B) in the absence of a bill of sale or other written evidence of value, the fair market
3886 value of the vehicle or vessel being sold at the time of the sale as determined by the
3887 commission; and

3888 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3889 commission shall make rules establishing the circumstances under which:

3890 (i) a person is regularly engaged in the business of selling a type of tangible personal
3891 property or product transferred electronically;

3892 (ii) a sale of tangible personal property or a product transferred electronically is one of
3893 a series of sales of a character to indicate that a person is regularly engaged in the business of
3894 selling that type of tangible personal property or product transferred electronically; or

3895 (iii) a person holds that person out as regularly engaged in the business of selling a type
3896 of tangible personal property or product transferred electronically;

3897 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
3898 July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration
3899 facility, of the following:

3900 (i) machinery and equipment that:

3901 (A) are used:

3902 (I) for a manufacturing facility except for a manufacturing facility that is a scrap

3903 recycler described in Subsection 59-12-102(60)(b):

3904 (Aa) in the manufacturing process;

3905 (Bb) to manufacture an item sold as tangible personal property; and

3906 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection

3907 (14)(a)(i)(A)(I) in the state; or

3908 (II) for a manufacturing facility that is a scrap recycler described in Subsection

3909 59-12-102(60)(b):

3910 (Aa) to process an item sold as tangible personal property; and

3911 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection

3912 (14)(a)(i)(A)(II) in the state; and

3913 (B) have an economic life of three or more years; and

3914 (ii) normal operating repair or replacement parts that:

3915 (A) have an economic life of three or more years; and

3916 (B) are used:

3917 (I) for a manufacturing facility except for a manufacturing facility that is a scrap

3918 recycler described in Subsection 59-12-102(60)(b):

3919 (Aa) in the manufacturing process; and

3920 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the

3921 state; or

3922 (II) for a manufacturing facility that is a scrap recycler described in Subsection

3923 59-12-102(60)(b):

3924 (Aa) to process an item sold as tangible personal property; and

3925 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the

3926 state;

3927 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a

3928 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,

3929 of the following:

3930 (i) machinery and equipment that:

3931 (A) are used:

3932 (I) in the manufacturing process;

3933 (II) to manufacture an item sold as tangible personal property; and

3934 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
3935 (14)(b) in the state; and
3936 (B) have an economic life of three or more years; and
3937 (ii) normal operating repair or replacement parts that:
3938 (A) are used:
3939 (I) in the manufacturing process; and
3940 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and
3941 (B) have an economic life of three or more years;
3942 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
3943 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
3944 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
3945 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
3946 of the 2002 North American Industry Classification System of the federal Executive Office of
3947 the President, Office of Management and Budget, of the following:
3948 (i) machinery and equipment that:
3949 (A) are used:
3950 (I) (Aa) in the production process, other than the production of real property; or
3951 (Bb) in research and development; and
3952 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)
3953 in the state; and
3954 (B) have an economic life of three or more years; and
3955 (ii) normal operating repair or replacement parts that:
3956 (A) have an economic life of three or more years; and
3957 (B) are used in:
3958 (I) (Aa) the production process, except for the production of real property; and
3959 (Bb) an establishment described in this Subsection (14)(c) in the state; or
3960 (II) (Aa) research and development; and
3961 (Bb) in an establishment described in this Subsection (14)(c) in the state;
3962 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,
3963 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web
3964 Search Portals, of the 2002 North American Industry Classification System of the federal

3965 Executive Office of the President, Office of Management and Budget, of the following:

3966 (A) machinery and equipment that:

3967 (I) are used in the operation of the web search portal;

3968 (II) have an economic life of three or more years; and

3969 (III) are used in a new or expanding establishment described in this Subsection (14)(d)

3970 in the state; and

3971 (B) normal operating repair or replacement parts that:

3972 (I) are used in the operation of the web search portal;

3973 (II) have an economic life of three or more years; and

3974 (III) are used in a new or expanding establishment described in this Subsection (14)(d)

3975 in the state; or

3976 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by

3977 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North

3978 American Industry Classification System of the federal Executive Office of the President,

3979 Office of Management and Budget, of the following:

3980 (A) machinery and equipment that:

3981 (I) are used in the operation of the web search portal; and

3982 (II) have an economic life of three or more years; and

3983 (B) normal operating repair or replacement parts that:

3984 (I) are used in the operation of the web search portal; and

3985 (II) have an economic life of three or more years;

3986 (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,

3987 Utah Administrative Rulemaking Act, the commission:

3988 (i) shall by rule define the term "establishment"; and

3989 (ii) may by rule define what constitutes:

3990 (A) processing an item sold as tangible personal property;

3991 (B) the production process, except for the production of real property;

3992 (C) research and development; or

3993 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and

3994 (f) on or before October 1, 2011, and every five years after October 1, 2011, the

3995 commission shall:

3996 (i) review the exemptions described in this Subsection (14) and make
3997 recommendations to the Revenue and Taxation Interim Committee concerning whether the
3998 exemptions should be continued, modified, or repealed; and

3999 (ii) include in its report:

4000 (A) an estimate of the cost of the exemptions;

4001 (B) the purpose and effectiveness of the exemptions; and

4002 (C) the benefits of the exemptions to the state;

4003 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

4004 (i) tooling;

4005 (ii) special tooling;

4006 (iii) support equipment;

4007 (iv) special test equipment; or

4008 (v) parts used in the repairs or renovations of tooling or equipment described in

4009 Subsections (15)(a)(i) through (iv); and

4010 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

4011 (i) the tooling, equipment, or parts are used or consumed exclusively in the

4012 performance of any aerospace or electronics industry contract with the United States

4013 government or any subcontract under that contract; and

4014 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),

4015 title to the tooling, equipment, or parts is vested in the United States government as evidenced

4016 by:

4017 (A) a government identification tag placed on the tooling, equipment, or parts; or

4018 (B) listing on a government-approved property record if placing a government

4019 identification tag on the tooling, equipment, or parts is impractical;

4020 (16) sales of newspapers or newspaper subscriptions;

4021 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a

4022 product transferred electronically traded in as full or part payment of the purchase price, except

4023 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,

4024 trade-ins are limited to other vehicles only, and the tax is based upon:

4025 (i) the bill of sale or other written evidence of value of the vehicle being sold and the

4026 vehicle being traded in; or

4027 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
4028 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
4029 commission; and

4030 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
4031 following items of tangible personal property or products transferred electronically traded in as
4032 full or part payment of the purchase price:

4033 (i) money;

4034 (ii) electricity;

4035 (iii) water;

4036 (iv) gas; or

4037 (v) steam;

4038 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
4039 or a product transferred electronically used or consumed primarily and directly in farming
4040 operations, regardless of whether the tangible personal property or product transferred
4041 electronically:

4042 (A) becomes part of real estate; or

4043 (B) is installed by a:

4044 (I) farmer;

4045 (II) contractor; or

4046 (III) subcontractor; or

4047 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
4048 product transferred electronically if the tangible personal property or product transferred
4049 electronically is exempt under Subsection (18)(a)(i); and

4050 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are
4051 subject to the taxes imposed by this chapter:

4052 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
4053 incidental to farming:

4054 (I) machinery;

4055 (II) equipment;

4056 (III) materials; or

4057 (IV) supplies; and

4058 (B) tangible personal property that is considered to be used in a manner that is
4059 incidental to farming includes:

4060 (I) hand tools; or
4061 (II) maintenance and janitorial equipment and supplies;

4062 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
4063 transferred electronically if the tangible personal property or product transferred electronically
4064 is used in an activity other than farming; and

4065 (B) tangible personal property or a product transferred electronically that is considered
4066 to be used in an activity other than farming includes:

4067 (I) office equipment and supplies; or
4068 (II) equipment and supplies used in:

4069 (Aa) the sale or distribution of farm products;
4070 (Bb) research; or
4071 (Cc) transportation; or
4072 (iii) a vehicle required to be registered by the laws of this state during the period
4073 ending two years after the date of the vehicle's purchase;

4074 (19) sales of hay;
4075 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
4076 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
4077 garden, farm, or other agricultural produce is sold by:

4078 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
4079 agricultural produce;
4080 (b) an employee of the producer described in Subsection (20)(a); or
4081 (c) a member of the immediate family of the producer described in Subsection (20)(a);

4082 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
4083 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

4084 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
4085 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
4086 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
4087 manufacturer, processor, wholesaler, or retailer;

4088 (23) a product stored in the state for resale;

4089 (24) (a) purchases of a product if:
4090 (i) the product is:
4091 (A) purchased outside of this state;
4092 (B) brought into this state:
4093 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
4094 (II) by a nonresident person who is not living or working in this state at the time of the
4095 purchase;
4096 (C) used for the personal use or enjoyment of the nonresident person described in
4097 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
4098 (D) not used in conducting business in this state; and
4099 (ii) for:
4100 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
4101 the product for a purpose for which the product is designed occurs outside of this state;
4102 (B) a boat, the boat is registered outside of this state; or
4103 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
4104 outside of this state;
4105 (b) the exemption provided for in Subsection (24)(a) does not apply to:
4106 (i) a lease or rental of a product; or
4107 (ii) a sale of a vehicle exempt under Subsection (33); and
4108 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
4109 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
4110 following:
4111 (i) conducting business in this state if that phrase has the same meaning in this
4112 Subsection (24) as in Subsection (63);
4113 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
4114 as in Subsection (63); or
4115 (iii) a purpose for which a product is designed if that phrase has the same meaning in
4116 this Subsection (24) as in Subsection (63);
4117 (25) a product purchased for resale in this state, in the regular course of business, either
4118 in its original form or as an ingredient or component part of a manufactured or compounded
4119 product;

4120 (26) a product upon which a sales or use tax was paid to some other state, or one of its
4121 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
4122 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
4123 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
4124 Act;

4125 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
4126 person for use in compounding a service taxable under the subsections;

4127 (28) purchases made in accordance with the special supplemental nutrition program for
4128 women, infants, and children established in 42 U.S.C. Sec. 1786;

4129 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
4130 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
4131 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
4132 Manual of the federal Executive Office of the President, Office of Management and Budget;

4133 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
4134 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

4135 (a) not registered in this state; and

4136 (b) (i) not used in this state; or

4137 (ii) used in this state:

4138 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
4139 time period that does not exceed the longer of:

4140 (I) 30 days in any calendar year; or

4141 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
4142 the borders of this state; or

4143 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
4144 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
4145 state;

4146 (31) sales of aircraft manufactured in Utah;

4147 (32) amounts paid for the purchase of telecommunications service for purposes of
4148 providing telecommunications service;

4149 (33) sales, leases, or uses of the following:

4150 (a) a vehicle by an authorized carrier; or

- 4151 (b) tangible personal property that is installed on a vehicle:
4152 (i) sold or leased to or used by an authorized carrier; and
4153 (ii) before the vehicle is placed in service for the first time;
4154 (34) (a) 45% of the sales price of any new manufactured home; and
4155 (b) 100% of the sales price of any used manufactured home;
4156 (35) sales relating to schools and fundraising sales;
4157 (36) sales or rentals of durable medical equipment if:
4158 (a) a person presents a prescription for the durable medical equipment; and
4159 (b) the durable medical equipment is used for home use only;
4160 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
4161 Section 72-11-102; and
4162 (b) the commission shall by rule determine the method for calculating sales exempt
4163 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
4164 (38) sales to a ski resort of:
4165 (a) snowmaking equipment;
4166 (b) ski slope grooming equipment;
4167 (c) passenger ropeways as defined in Section 72-11-102; or
4168 (d) parts used in the repairs or renovations of equipment or passenger ropeways
4169 described in Subsections (38)(a) through (c);
4170 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
4171 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
4172 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
4173 59-12-102;
4174 (b) if a seller that sells or rents at the same business location the right to use or operate
4175 for amusement, entertainment, or recreation one or more unassisted amusement devices and
4176 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
4177 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
4178 amusement, entertainment, or recreation for the assisted amusement devices; and
4179 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
4180 Utah Administrative Rulemaking Act, the commission may make rules:
4181 (i) governing the circumstances under which sales are at the same business location;

4182 and

4183 (ii) establishing the procedures and requirements for a seller to separately account for
4184 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
4185 assisted amusement devices;

4186 (41) (a) sales of photocopies by:

4187 (i) a governmental entity; or

4188 (ii) an entity within the state system of public education, including:

4189 (A) a school; or

4190 (B) the State Board of Education; or

4191 (b) sales of publications by a governmental entity;

4192 (42) amounts paid for admission to an athletic event at an institution of higher
4193 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
4194 20 U.S.C. Sec. 1681 et seq.;

4195 (43) (a) sales made to or by:

4196 (i) an area agency on aging; or

4197 (ii) a senior citizen center owned by a county, city, or town; or

4198 (b) sales made by a senior citizen center that contracts with an area agency on aging;

4199 (44) sales or leases of semiconductor fabricating, processing, research, or development
4200 materials regardless of whether the semiconductor fabricating, processing, research, or
4201 development materials:

4202 (a) actually come into contact with a semiconductor; or

4203 (b) ultimately become incorporated into real property;

4204 (45) an amount paid by or charged to a purchaser for accommodations and services
4205 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
4206 59-12-104.2;

4207 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
4208 sports event registration certificate in accordance with Section 41-3-306 for the event period
4209 specified on the temporary sports event registration certificate;

4210 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted
4211 by the Public Service Commission of Utah only for purchase of electricity produced from a
4212 new alternative energy source, as designated in the tariff by the Public Service Commission of

- 4213 Utah; and
- 4214 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a
4215 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under
4216 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;
- 4217 (48) sales or rentals of mobility enhancing equipment if a person presents a
4218 prescription for the mobility enhancing equipment;
- 4219 (49) sales of water, except for potable delivered water sold at retail, in a:
- 4220 (a) pipe;
- 4221 (b) conduit;
- 4222 (c) ditch; or
- 4223 (d) reservoir;
- 4224 (50) sales of currency or coins that constitute legal tender of a state, the United States,
4225 or a foreign nation;
- 4226 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 4227 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
4228 (ii) has a gold, silver, or platinum content of 50% or more; and
- 4229 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 4230 (i) ingot;
- 4231 (ii) bar;
- 4232 (iii) medallion; or
- 4233 (iv) decorative coin;
- 4234 (52) amounts paid on a sale-leaseback transaction;
- 4235 (53) sales of a prosthetic device:
- 4236 (a) for use on or in a human; and
4237 (b) (i) for which a prescription is required; or
4238 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 4239 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
4240 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
4241 or equipment is primarily used in the production or postproduction of the following media for
4242 commercial distribution:
- 4243 (i) a motion picture;

- 4244 (ii) a television program;
- 4245 (iii) a movie made for television;
- 4246 (iv) a music video;
- 4247 (v) a commercial;
- 4248 (vi) a documentary; or
- 4249 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
- 4250 commission by administrative rule made in accordance with Subsection (54)(d); or
- 4251 (b) notwithstanding Subsection (54)(a), purchases, leases, or rentals of machinery or
- 4252 equipment by an establishment described in Subsection (54)(c) that is used for the production
- 4253 or postproduction of the following are subject to the taxes imposed by this chapter:
- 4254 (i) a live musical performance;
- 4255 (ii) a live news program; or
- 4256 (iii) a live sporting event;
- 4257 (c) the following establishments listed in the 1997 North American Industry
- 4258 Classification System of the federal Executive Office of the President, Office of Management
- 4259 and Budget, apply to Subsections (54)(a) and (b):
- 4260 (i) NAICS Code 512110; or
- 4261 (ii) NAICS Code 51219; and
- 4262 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4263 commission may by rule:
- 4264 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
- 4265 or
- 4266 (ii) define:
- 4267 (A) "commercial distribution";
- 4268 (B) "live musical performance";
- 4269 (C) "live news program"; or
- 4270 (D) "live sporting event";
- 4271 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 4272 on or before June 30, 2027, of tangible personal property that:
- 4273 (i) is leased or purchased for or by a facility that:
- 4274 (A) is an alternative energy electricity production facility;

4275 (B) is located in the state; and
4276 (C) (I) becomes operational on or after July 1, 2004; or
4277 (II) has its generation capacity increased by one or more megawatts on or after July 1,
4278 2004, as a result of the use of the tangible personal property;
4279 (ii) has an economic life of five or more years; and
4280 (iii) is used to make the facility or the increase in capacity of the facility described in
4281 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
4282 transmission grid including:
4283 (A) a wind turbine;
4284 (B) generating equipment;
4285 (C) a control and monitoring system;
4286 (D) a power line;
4287 (E) substation equipment;
4288 (F) lighting;
4289 (G) fencing;
4290 (H) pipes; or
4291 (I) other equipment used for locating a power line or pole; and
4292 (b) this Subsection (55) does not apply to:
4293 (i) tangible personal property used in construction of:
4294 (A) a new alternative energy electricity production facility; or
4295 (B) the increase in the capacity of an alternative energy electricity production facility;
4296 (ii) contracted services required for construction and routine maintenance activities;
4297 and
4298 (iii) unless the tangible personal property is used or acquired for an increase in capacity
4299 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
4300 acquired after:
4301 (A) the alternative energy electricity production facility described in Subsection
4302 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
4303 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
4304 in Subsection (55)(a)(iii);
4305 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but

4306 on or before June 30, 2027, of tangible personal property that:

4307 (i) is leased or purchased for or by a facility that:

4308 (A) is a waste energy production facility;

4309 (B) is located in the state; and

4310 (C) (I) becomes operational on or after July 1, 2004; or

4311 (II) has its generation capacity increased by one or more megawatts on or after July 1,

4312 2004, as a result of the use of the tangible personal property;

4313 (ii) has an economic life of five or more years; and

4314 (iii) is used to make the facility or the increase in capacity of the facility described in

4315 Subsection (56)(a)(i) operational up to the point of interconnection with an existing

4316 transmission grid including:

4317 (A) generating equipment;

4318 (B) a control and monitoring system;

4319 (C) a power line;

4320 (D) substation equipment;

4321 (E) lighting;

4322 (F) fencing;

4323 (G) pipes; or

4324 (H) other equipment used for locating a power line or pole; and

4325 (b) this Subsection (56) does not apply to:

4326 (i) tangible personal property used in construction of:

4327 (A) a new waste energy facility; or

4328 (B) the increase in the capacity of a waste energy facility;

4329 (ii) contracted services required for construction and routine maintenance activities;

4330 and

4331 (iii) unless the tangible personal property is used or acquired for an increase in capacity

4332 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

4333 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as

4334 described in Subsection (56)(a)(iii); or

4335 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described

4336 in Subsection (56)(a)(iii);

4337 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
4338 or before June 30, 2027, of tangible personal property that:

4339 (i) is leased or purchased for or by a facility that:

4340 (A) is located in the state;

4341 (B) produces fuel from alternative energy, including:

4342 (I) methanol; or

4343 (II) ethanol; and

4344 (C) (I) becomes operational on or after July 1, 2004; or

4345 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as

4346 a result of the installation of the tangible personal property;

4347 (ii) has an economic life of five or more years; and

4348 (iii) is installed on the facility described in Subsection (57)(a)(i);

4349 (b) this Subsection (57) does not apply to:

4350 (i) tangible personal property used in construction of:

4351 (A) a new facility described in Subsection (57)(a)(i); or

4352 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

4353 (ii) contracted services required for construction and routine maintenance activities;

4354 and

4355 (iii) unless the tangible personal property is used or acquired for an increase in capacity

4356 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

4357 (A) the facility described in Subsection (57)(a)(i) is operational; or

4358 (B) the increased capacity described in Subsection (57)(a)(i) is operational;

4359 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a

4360 product transferred electronically to a person within this state if that tangible personal property

4361 or product transferred electronically is subsequently shipped outside the state and incorporated

4362 pursuant to contract into and becomes a part of real property located outside of this state;

4363 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other

4364 state or political entity to which the tangible personal property is shipped imposes a sales, use,

4365 gross receipts, or other similar transaction excise tax on the transaction against which the other

4366 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

4367 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,

4368 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
4369 refund:

4370 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

4371 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
4372 which the sale is made;

4373 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
4374 sale prior to filing for the refund;

4375 (iv) for sales and use taxes paid under this chapter on the sale;

4376 (v) in accordance with Section 59-1-1410; and

4377 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
4378 the person files for the refund on or before June 30, 2011;

4379 (59) purchases:

4380 (a) of one or more of the following items in printed or electronic format:

4381 (i) a list containing information that includes one or more:

4382 (A) names; or

4383 (B) addresses; or

4384 (ii) a database containing information that includes one or more:

4385 (A) names; or

4386 (B) addresses; and

4387 (b) used to send direct mail;

4388 (60) redemptions or repurchases of a product by a person if that product was:

4389 (a) delivered to a pawnbroker as part of a pawn transaction; and

4390 (b) redeemed or repurchased within the time period established in a written agreement
4391 between the person and the pawnbroker for redeeming or repurchasing the product;

4392 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

4393 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

4394 and

4395 (ii) has a useful economic life of one or more years; and

4396 (b) the following apply to Subsection (61)(a):

4397 (i) telecommunications enabling or facilitating equipment, machinery, or software;

4398 (ii) telecommunications equipment, machinery, or software required for 911 service;

- 4399 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 4400 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 4401 (v) telecommunications transmission equipment, machinery, or software;
- 4402 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
- 4403 personal property or a product transferred electronically that are used in the research and
- 4404 development of alternative energy technology; and
- 4405 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4406 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
- 4407 purchases of tangible personal property or a product transferred electronically that are used in
- 4408 the research and development of alternative energy technology;
- 4409 (63) (a) purchases of tangible personal property or a product transferred electronically
- 4410 if:
- 4411 (i) the tangible personal property or product transferred electronically is:
- 4412 (A) purchased outside of this state;
- 4413 (B) brought into this state at any time after the purchase described in Subsection
- 4414 (63)(a)(i)(A); and
- 4415 (C) used in conducting business in this state; and
- 4416 (ii) for:
- 4417 (A) tangible personal property or a product transferred electronically other than the
- 4418 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
- 4419 for a purpose for which the property is designed occurs outside of this state; or
- 4420 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
- 4421 outside of this state;
- 4422 (b) the exemption provided for in Subsection (63)(a) does not apply to:
- 4423 (i) a lease or rental of tangible personal property or a product transferred electronically;
- 4424 or
- 4425 (ii) a sale of a vehicle exempt under Subsection (33); and
- 4426 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 4427 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
- 4428 following:
- 4429 (i) conducting business in this state if that phrase has the same meaning in this

4430 Subsection (63) as in Subsection (24);
4431 (ii) the first use of tangible personal property or a product transferred electronically if
4432 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
4433 (iii) a purpose for which tangible personal property or a product transferred
4434 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
4435 Subsection (24);
4436 (64) sales of disposable home medical equipment or supplies if:
4437 (a) a person presents a prescription for the disposable home medical equipment or
4438 supplies;
4439 (b) the disposable home medical equipment or supplies are used exclusively by the
4440 person to whom the prescription described in Subsection (64)(a) is issued; and
4441 (c) the disposable home medical equipment and supplies are listed as eligible for
4442 payment under:
4443 (i) Title XVIII, federal Social Security Act; or
4444 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
4445 (65) sales:
4446 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
4447 District Act; or
4448 (b) of tangible personal property to a subcontractor of a public transit district, if the
4449 tangible personal property is:
4450 (i) clearly identified; and
4451 (ii) installed or converted to real property owned by the public transit district;
4452 (66) sales of construction materials:
4453 (a) purchased on or after July 1, 2010;
4454 (b) purchased by, on behalf of, or for the benefit of an international airport:
4455 (i) located within a county of the first class; and
4456 (ii) that has a United States customs office on its premises; and
4457 (c) if the construction materials are:
4458 (i) clearly identified;
4459 (ii) segregated; and
4460 (iii) installed or converted to real property;

- 4461 (A) owned or operated by the international airport described in Subsection (66)(b); and
4462 (B) located at the international airport described in Subsection (66)(b);
4463 (67) sales of construction materials:
4464 (a) purchased on or after July 1, 2008;
4465 (b) purchased by, on behalf of, or for the benefit of a new airport:
4466 (i) located within a county of the second class; and
4467 (ii) that is owned or operated by a city in which an airline as defined in Section
4468 59-2-102 is headquartered; and
4469 (c) if the construction materials are:
4470 (i) clearly identified;
4471 (ii) segregated; and
4472 (iii) installed or converted to real property:
4473 (A) owned or operated by the new airport described in Subsection (67)(b);
4474 (B) located at the new airport described in Subsection (67)(b); and
4475 (C) as part of the construction of the new airport described in Subsection (67)(b);
4476 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
4477 (69) purchases and sales described in Section 63H-4-111;
4478 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
4479 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
4480 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
4481 lists a state or country other than this state as the location of registry of the fixed wing turbine
4482 powered aircraft; or
4483 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
4484 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
4485 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
4486 lists a state or country other than this state as the location of registry of the fixed wing turbine
4487 powered aircraft;
4488 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
4489 (a) to a person admitted to an institution of higher education; and
4490 (b) by a seller, other than a bookstore owned by an institution of higher education, if
4491 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a

4492 textbook for a higher education course;

4493 (72) a license fee or tax a municipality imposes in accordance with Subsection
4494 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
4495 level of municipal services;

4496 (73) amounts paid or charged for construction materials used in the construction of a
4497 new or expanding life science research and development facility in the state, if the construction
4498 materials are:

4499 (a) clearly identified;

4500 (b) segregated; and

4501 (c) installed or converted to real property; and

4502 (74) amounts paid or charged for:

4503 (a) a purchase or lease of machinery and equipment that:

4504 (i) are used in performing qualified research:

4505 (A) as defined in Section 59-7-612;

4506 (B) in the state; and

4507 (C) with respect to which the purchaser pays or incurs a qualified research expense as
4508 defined in Section 59-7-612; and

4509 (ii) have an economic life of three or more years; and

4510 (b) normal operating repair or replacement parts:

4511 (i) for the machinery and equipment described in Subsection (74)(a); and

4512 (ii) that have an economic life of three or more years.

4513 Section 6. Section **59-12-1201** is amended to read:

4514 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**
4515 **collection, and enforcement of tax -- Administrative charge -- Deposits.**

4516 (1) (a) Except as provided in Subsection (3), there is imposed a tax of 2.5% on all
4517 short-term leases and rentals of motor vehicles not exceeding 30 days.

4518 (b) The tax imposed in this section is in addition to all other state, county, or municipal
4519 fees and taxes imposed on rentals of motor vehicles.

4520 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax
4521 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

4522 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall

4523 take effect on the first day of the first billing period:

4524 (A) that begins after the effective date of the tax rate increase; and

4525 (B) if the billing period for the transaction begins before the effective date of a tax rate
4526 increase imposed under Subsection (1).

4527 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax
4528 rate decrease shall take effect on the first day of the last billing period:

4529 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
4530 and

4531 (B) if the billing period for the transaction begins before the effective date of the repeal
4532 of the tax or the tax rate decrease imposed under Subsection (1).

4533 (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

4534 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

4535 (b) the motor vehicle is rented as a personal household goods moving van; or

4536 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily
4537 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an
4538 insurance agreement.

4539 (4) (a) (i) The tax authorized under this section shall be administered, collected, and
4540 enforced in accordance with:

4541 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,
4542 Tax Collection; and

4543 (B) Chapter 1, General Taxation Policies.

4544 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
4545 Subsections 59-12-103(4) through [~~12~~] (13) or Section 59-12-107.1 or 59-12-123.

4546 (b) The commission shall retain and deposit an administrative charge in accordance
4547 with Section 59-1-306 from the revenues the commission collects from a tax under this part.

4548 (c) Except as provided under Subsection (4)(b), all revenue received by the
4549 commission under this section shall be deposited daily with the state treasurer and credited
4550 monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

4551 Section 7. Section **73-10-25** is amended to read:

4552 **73-10-25. Contents of fund -- Investment -- Contributions.**

4553 (1) The Water Resources Conservation and Development Fund consists of:

- 4554 (a) money appropriated to it by the Legislature;
- 4555 (b) money deposited in accordance with Section 59-12-103;
- 4556 ~~[(b)]~~ (c) money received from the sale of project water and power, less operating and
- 4557 maintenance costs;
- 4558 ~~[(c)]~~ (d) annual payments on contracts for projects constructed under Section 73-10-24
- 4559 or the State Water Conservation Program; and
- 4560 ~~[(d)]~~ (e) other money or tax revenues designated by the Legislature to be credited to the
- 4561 Water Resources Conservation and Development Fund.

4562 (2) All money deposited into the Water Resources Conservation and Development
4563 Fund shall be invested by the state treasurer with interest accruing to the Water Resources
4564 Conservation and Development Fund, except for payments, if any, necessary to comply with
4565 Section 148(f), Internal Revenue Code of 1986.

4566 (3) Contributions of money, property, or equipment may be received from any political
4567 subdivision of the state, federal agency, water users' association, person, or corporation for use
4568 in carrying out the purposes of Section 73-10-24.

4569 Section 8. Section **73-10-31** is amended to read:

4570 **73-10-31. Allocation of funds for credit enhancement and interest buy-down**
4571 **agreements.**

4572 (1) Of the combined expenditures from the Water Resources Cities Water Loan Fund
4573 and Water Resources Conservation and Development Fund authorized by the Board of Water
4574 Resources each year, at least 10% shall be allocated for credit enhancement and interest
4575 buy-down agreements.

4576 (2) The requirement specified in Subsection (1) shall apply only so long as sales and
4577 use tax ~~[is]~~ revenues are transferred to the Water Resources Conservation and Development
4578 Fund as provided in ~~[Section]~~ Subsections 59-12-103(4) and (5).

4579 Section 9. **Effective date.**

4580 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2013.

4581 (2) The following sections take effect on July 1, 2014:

4582 (a) Section 59-12-102 (Effective 07/01/14); and

4583 (b) Section 59-12-103 (Effective 07/01/14).

Legislative Review Note
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Office of Legislative Research and General Counsel