

1                   **EMERGENCY MANAGEMENT ACT AMENDMENTS**

2                                   2014 GENERAL SESSION

3                                   STATE OF UTAH

4                           **Chief Sponsor: Wayne A. Harper**

5                           House Sponsor: Ryan D. Wilcox

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7 **LONG TITLE**

8 **General Description:**

9           This bill modifies the Emergency Management Act regarding out-of-state businesses  
10 that provide recovery services in the state during a declared disaster or emergency.

11 **Highlighted Provisions:**

12           This bill:

13           ▶ provides that an out-of-state business that enters the state during a declared disaster  
14 or emergency to conduct work related to the disaster or emergency is exempt from:

- 15                   • licensing or registration requirements as provided;
- 16                   • income taxation related to an out-of-state employee as provided; and
- 17                   • sales and use taxation of a transaction during a disaster period;

18           ▶ provides that any out-of-state business or out-of-state employee that remains in the  
19 state after the disaster period is subject to the state's normal standards for  
20 establishing presence or residency, or doing business in the state; and

21           ▶ requires any out-of-state business that enters the state for disaster- or  
22 emergency-related work to provide the Division of Occupational and Professional  
23 Licensing a statement about the purpose of its business in the state, upon request.

24 **Money Appropriated in this Bill:**

25           None

26 **Other Special Clauses:**

27           This bill provides an effective date.

28           This bill provides retrospective operation for a taxable year beginning on or after  
29 January 1, 2014.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **59-7-102**, as last amended by Laws of Utah 2012, Chapter 369

33 **59-7-404.5**, as last amended by Laws of Utah 2011, Chapter 69

34 **59-10-403**, as renumbered and amended by Laws of Utah 1987, Chapter 2

35 **59-12-104**, as last amended by Laws of Utah 2013, Chapters 82, 223, 229, 234, and 441

36 ENACTS:

37 **53-2a-1201**, Utah Code Annotated 1953

38 **53-2a-1202**, Utah Code Annotated 1953

39 **53-2a-1203**, Utah Code Annotated 1953

40 **53-2a-1204**, Utah Code Annotated 1953

41 **53-2a-1205**, Utah Code Annotated 1953

42 **59-10-116.1**, Utah Code Annotated 1953



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

45 Section 1. Section **53-2a-1201** is enacted to read:

46 **Part 12. Facilitating Business Rapid Response to State Declared Disasters Act**

47 **53-2a-1201. Title.**

48 This part is known as the "Facilitating Business Rapid Response to State Declared  
49 Disasters Act."

50 Section 2. Section **53-2a-1202** is enacted to read:

51 **53-2a-1202. Definitions.**

52 As used in this part:

53 (1) "Declared state disaster or emergency" means a declared disaster as defined in  
54 Section [53-2a-602](#).

55 (2) "Disaster- or emergency-related work" means repairing, renovating, installing,  
56 building, rendering services, or other business activities that relate to infrastructure that has  
57 been damaged, impaired, or destroyed by a declared state disaster or emergency.

58 (3) "Disaster period" means a period that begins within 10 days after the first day of a  
59 declared state disaster or emergency and that extends for a period of 60 calendar days after the  
60 end of the declared state disaster or emergency.

61 (4) "Infrastructure" means property and equipment owned or used by communications  
62 networks, electric generation systems, transmission and distribution systems, gas distribution  
63 systems, water pipelines, and related support facilities that serve multiple customers or citizens,  
64 including real and personal property, such as buildings, offices, power and communication  
65 lines and poles, pipes, structures, and equipment.

66 (5) "Out-of-state business" means a business entity that:

67 (a) has no presence in the state, other than any prior disaster- or emergency-related  
68 work, and conducts no business in the state, and whose services are requested by a registered  
69 business or by a state or local government for purposes of performing disaster- or  
70 emergency-related work in the state; and

71 (b) has no registration or tax filings or presence sufficient to require the collection or  
72 payment of a tax in the state prior to the declared state disaster or emergency.

73 (6) "Out-of-state employee" means an employee who does not work in the state, except  
74 for disaster- or emergency-related work during the disaster period.

75 (7) "Registered business" means a business entity that is currently registered to do  
76 business in the state prior to the declared state disaster or emergency.

77 Section 3. Section **53-2a-1203** is enacted to read:

78 **53-2a-1203. Business and employee status during disaster period.**

79 (1) Notwithstanding any other provision, an out-of-state business that conducts  
80 operations within the state for purposes of performing work or services related to a declared  
81 state disaster or emergency during the disaster period:

82 (a) is not considered to have established a level of presence that would require that  
83 business to be subject to any state licensing or registration requirements, provided that the  
84 out-of-state business is in substantial compliance with all applicable regulatory and licensing  
85 requirements in its state of domicile, including:

86            (i) unemployment insurance;  
 87            (ii) state or local occupational licensing fees;  
 88            (iii) public service commission regulation; or  
 89            (iv) state or local licensing or regulatory requirements; and  
 90            (b) is exempt from the registration requirements under Title 16, Corporations, Title 42,  
 91 Names, and Title 48, Partnership; and

92            (c) shall, within a reasonable time after entry, upon the request of the Labor  
 93 Commission or the Department of Insurance, confirm that it is in compliance with Subsections  
 94 34A-2-406(1)(a), (1)(b), and (2).

95            (2) Notwithstanding any other provision, an out-of-state employee who performs  
 96 disaster- or emergency-related work specific to a declared state disaster or emergency during  
 97 the disaster period is not subject to any state licensing or registration requirements provided  
 98 that the out-of-state employee is in substantial compliance with all applicable regulatory and  
 99 licensing requirements in the employee's state of residence or state of employment.

100           (3) (a) Income taxation related to an out-of-state employee or an out-of-state business  
 101 is as provided in:

102           (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; and  
 103           (ii) Title 59, Chapter 10, Individual Income Tax Act.

104           (b) Sales and use taxation during a disaster period is as provided in Title 59, Chapter  
 105 12, Sales and Use Tax Act.

106           (c) Any property brought into the state temporarily during the disaster period is not  
 107 subject to any state or local ad valorem taxes under Title 59, Chapter 2, Property Tax Act.

108           Section 4. Section **53-2a-1204** is enacted to read:

109           **53-2a-1204. Business or employee activity after disaster period.**

110           Any out-of-state business or out-of-state employee that remains in the state after the  
 111 disaster period will become subject to the state's normal standards for establishing presence or  
 112 residency, or doing business in the state.

113           Section 5. Section **53-2a-1205** is enacted to read:

114 **53-2a-1205. Administration -- Notification and procedures.**

115 (1) Any out-of-state business that enters the state shall, within a reasonable time after  
116 entry, not to exceed 30 days, provide to the Division of Occupational and Professional  
117 Licensing a statement that it is in the state for purposes of responding to the disaster or  
118 emergency, which statement shall include the business's:

119 (a) name;

120 (b) state of domicile;

121 (c) principal business address;

122 (d) federal tax identification number;

123 (e) date of entry;

124 (f) contact information; and

125 (g) evidence of compliance with the regulatory or licensing requirements in Section  
126 53-2a-1203, such as a copy of applicable permits or licenses.

127 (2) Any affiliate of a registered business in the state and any out-of-state business that  
128 is registered as a public utility in another state and that is providing assistance under the terms  
129 of a utility multistate mutual aid agreement shall not be required to provide the information  
130 required in Subsection (1), unless requested by the Division of Occupational and Professional  
131 Licensing within a reasonable period of time.

132 (3) An out-of-state business or an out-of-state employee that remains in the state after  
133 the disaster period shall complete state and local registration, licensing, and filing requirements  
134 that establish the requisite business presence or residency in the state.

135 (4) The Division of Occupational and Professional Licensing shall:

136 (a) make rules necessary to implement Subsection (3);

137 (b) develop and provide forms or online processes; and

138 (c) maintain and make available an annual report of any designations made pursuant to  
139 this section.

140 Section 6. Section **59-7-102** is amended to read:

141 **59-7-102. Exemptions.**

142 (1) Except as provided in this section, the following are exempt from a tax under this  
143 chapter:

- 144 (a) an organization exempt under Section 501, Internal Revenue Code;
- 145 (b) an organization exempt under Section 528, Internal Revenue Code;
- 146 (c) an insurance company that is otherwise taxed on the insurance company's premiums  
147 under Chapter 9, Taxation of Admitted Insurers;
- 148 (d) a local building authority as defined in Section [17D-2-102](#);
- 149 (e) a farmers' cooperative; or
- 150 (f) a public agency, as defined in Section [11-13-103](#), with respect to or as a result of an  
151 ownership interest in:
  - 152 (i) a project, as defined in Section [11-13-103](#); or
  - 153 (ii) facilities providing additional project capacity, as defined in Section [11-13-103](#).

154 (2) A corporation is exempt from a tax under this chapter:

- 155 (a) if the corporation is an out-of-state business as defined in Section [53-2a-1202](#); and
- 156 (b) for income earned:
  - 157 (i) during a disaster period as defined in Section [53-2a-1202](#); and
  - 158 (ii) for the purpose of responding to a declared state disaster or emergency as defined  
159 in Section [53-2a-1202](#).

160 [~~2~~] (3) Notwithstanding any other provision in this chapter or Chapter 8, Gross  
161 Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax  
162 Act, a person not otherwise subject to the tax imposed by this chapter or Chapter 8 is not  
163 subject to a tax imposed by Section [59-7-104](#), [59-7-201](#), [59-7-701](#), or [59-8-104](#), because of:

- 164 (a) that person's ownership of tangible personal property located at the premises of a  
165 printer's facility in this state with which the person has contracted for printing; or
- 166 (b) the activities of the person's employees or agents who are:
  - 167 (i) located solely at the premises of a printer's facility; and
  - 168 (ii) performing services:
- 169 (A) related to:

- 170 (I) quality control;
- 171 (II) distribution; or
- 172 (III) printing services; and
- 173 (B) performed by the printer's facility in this state with which the person has contracted
- 174 for printing.

175 [~~(3)~~] (4) Notwithstanding Subsection (1), an organization, company, authority, farmers'  
 176 cooperative, or public agency exempt from this chapter under Subsection (1) is subject to Part  
 177 8, Unrelated Business Income, to the extent provided in Part 8.

178 [~~(4)~~] (5) Notwithstanding Subsection (1)(b), to the extent the income of an  
 179 organization described in Subsection (1)(b) is taxable for federal tax purposes under Section  
 180 528, Internal Revenue Code, the organization's income is also taxable under this chapter.

181 Section 7. Section 59-7-404.5 is amended to read:

182 **59-7-404.5. Adjustment to apportionment factors for corporations in a combined**  
 183 **report -- Sales factor -- Property factor.**

184 For purposes of apportionment under Part 3, Allocation and Apportionment of Income -  
 185 Utah UDITPA Provisions:

186 (1) corporations filing a combined report under Section 59-7-402 or 59-7-403 may not  
 187 include intercompany sales or other intercompany transactions between the corporations  
 188 included in the combined report in determining the sales factor; [~~and~~]

189 (2) corporations filing a combined report under Section 59-7-402 or 59-7-403 may not  
 190 include intercompany rents or other intercompany transactions between the corporations  
 191 included in the combined report in determining the property factor[~~:-~~]; and

192 (3) the amounts of the numerators in this state of the property, payroll, and sales factors  
 193 of an out-of-state business, as defined in Section 53-2a-1202, that are directly related to  
 194 disaster- or emergency-related work, as defined in Section 53-2a-1202, during a disaster period,  
 195 as defined in Section 53-2a-1202, may not be included in the apportionment fraction of the  
 196 combined group.

197 Section 8. Section 59-10-116.1 is enacted to read:

198 **59-10-116.1. Exemption for out-of-state employee.**199 (1) As used in this section:200 (a) "Declared state disaster or emergency" is as defined in Section 53-2a-1202.201 (b) "Disaster period" is as defined in Section 53-2a-1202.202 (c) "Out-of-state business" is as defined in Section 53-2a-1202.203 (d) "Out-of-state employee" is as defined in Section 53-2a-1202.204 (2) An out-of-state employee, including a pass-through entity taxpayer who is an  
205 out-of-state employee, is exempt from a tax under this chapter for income earned or passed  
206 through:207 (a) from an out-of-state business;208 (b) during a disaster period; and209 (c) as a result of the out-of-state business responding to a declared state disaster or  
210 emergency.211 Section 9. Section **59-10-403** is amended to read:212 **59-10-403. Circumstances under which an employer is not required to deduct**  
213 **and withhold a tax.**214 (1) Notwithstanding any other provision of this chapter, an employer is not required to  
215 deduct and withhold any tax under this chapter upon a payment of wages to an employee;216 (a) if there is in effect with respect to ~~[such]~~ the payment a withholding exemption  
217 certificate ~~[(in such form and containing such other information as the commission may~~  
218 ~~prescribe)]~~ furnished to the employer by the employee, certifying that the employee:219 ~~[(a)]~~ (i) incurred no liability for ~~[income]~~ a tax imposed under this chapter for ~~[his]~~ the  
220 employee's immediately preceding taxable year; and221 ~~[(b) anticipates that he will incur no liability for income]~~222 (ii) expects that the employee will not incur liability for a tax imposed under this  
223 chapter for [his] the employee's current taxable year[:]; or

224 (b) if the employer:

225 (i) is an out-of-state business as defined in Section 53-2a-1202; and



226           (ii) pays the wages as compensation for services performed in response to a declared  
227 state disaster or emergency as defined in Section 53-2a-1202.

228           (2) [~~The commission shall by rule~~] In accordance with Title 63G, Chapter 3, Utah  
229 Administrative Rulemaking Act, the commission shall provide for the coordination of [~~the~~  
230 ~~provisions of~~] this section with [~~the provisions of~~] Section 59-10-402.

231           Section 10. Section **59-12-104** is amended to read:

232           **59-12-104. Exemptions.**

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

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

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

238           (a) construction materials except:

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

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

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

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

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

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

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

254 (i) food and food ingredients; or  
255 (ii) prepared food;  
256 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:  
257 (i) alcoholic beverages;  
258 (ii) food and food ingredients; or  
259 (iii) prepared food;  
260 (b) sales of tangible personal property or a product transferred electronically:  
261 (i) to a passenger;  
262 (ii) by a commercial airline carrier; and  
263 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or  
264 (c) services related to Subsection (4)(a) or (b);  
265 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts  
266 and equipment:  
267 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002  
268 North American Industry Classification System of the federal Executive Office of the  
269 President, Office of Management and Budget; and  
270 (II) for:  
271 (Aa) installation in an aircraft, including services relating to the installation of parts or  
272 equipment in the aircraft;  
273 (Bb) renovation of an aircraft; or  
274 (Cc) repair of an aircraft; or  
275 (B) for installation in an aircraft operated by a common carrier in interstate or foreign  
276 commerce; or  
277 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an  
278 aircraft operated by a common carrier in interstate or foreign commerce; and  
279 (b) notwithstanding the time period of Subsection [59-1-1410\(8\)](#) for filing for a refund,  
280 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a  
281 refund:

- 282 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
- 283 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
- 284 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for  
285 the sale prior to filing for the refund;
- 286 (iv) for sales and use taxes paid under this chapter on the sale;
- 287 (v) in accordance with Section 59-1-1410; and
- 288 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if  
289 the person files for the refund on or before September 30, 2011;
- 290 (6) sales of commercials, motion picture films, prerecorded audio program tapes or  
291 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture  
292 exhibitor, distributor, or commercial television or radio broadcaster;
- 293 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal  
294 property if the cleaning or washing of the tangible personal property is not assisted cleaning or  
295 washing of tangible personal property;
- 296 (b) if a seller that sells at the same business location assisted cleaning or washing of  
297 tangible personal property and cleaning or washing of tangible personal property that is not  
298 assisted cleaning or washing of tangible personal property, the exemption described in  
299 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning  
300 or washing of the tangible personal property; and
- 301 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,  
302 Utah Administrative Rulemaking Act, the commission may make rules:
  - 303 (i) governing the circumstances under which sales are at the same business location;
  - 304 and
  - 305 (ii) establishing the procedures and requirements for a seller to separately account for  
306 sales of assisted cleaning or washing of tangible personal property;
- 307 (8) sales made to or by religious or charitable institutions in the conduct of their regular  
308 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are  
309 fulfilled;

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

312 (a) not registered in this state; and

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

314 (ii) used in this state:

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

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

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

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

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

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

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

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

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

326 (A) a drug;

327 (B) a syringe; or

328 (C) a stoma supply; and

329 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
330 commission may by rule define the terms:

331 (A) "syringe"; or

332 (B) "stoma supply";

333 (11) sales or use of property, materials, or services used in the construction of or  
334 incorporated in pollution control facilities allowed by Sections [19-2-123](#) through [19-2-127](#);

335 (12) (a) sales of an item described in Subsection (12)(c) served by:

336 (i) the following if the item described in Subsection (12)(c) is not available to the  
337 general public:

- 338 (A) a church; or
- 339 (B) a charitable institution;
- 340 (ii) an institution of higher education if:
- 341 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 342 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 343 offered by the institution of higher education; or
- 344 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 345 (i) a medical facility; or
- 346 (ii) a nursing facility; and
- 347 (c) Subsections (12)(a) and (b) apply to:
- 348 (i) food and food ingredients;
- 349 (ii) prepared food; or
- 350 (iii) alcoholic beverages;
- 351 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 352 or a product transferred electronically by a person:
- 353 (i) regardless of the number of transactions involving the sale of that tangible personal
- 354 property or product transferred electronically by that person; and
- 355 (ii) not regularly engaged in the business of selling that type of tangible personal
- 356 property or product transferred electronically;
- 357 (b) this Subsection (13) does not apply if:
- 358 (i) the sale is one of a series of sales of a character to indicate that the person is
- 359 regularly engaged in the business of selling that type of tangible personal property or product
- 360 transferred electronically;
- 361 (ii) the person holds that person out as regularly engaged in the business of selling that
- 362 type of tangible personal property or product transferred electronically;
- 363 (iii) the person sells an item of tangible personal property or product transferred
- 364 electronically that the person purchased as a sale that is exempt under Subsection (25); or
- 365 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of

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

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

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

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

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

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

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

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

384 (i) machinery and equipment that:

385 (A) are used:

386 (I) for a manufacturing facility except for a manufacturing facility that is a scrap  
387 recycler described in Subsection 59-12-102(64)(b):

388 (Aa) in the manufacturing process;

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

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

392 (II) for a manufacturing facility that is a scrap recycler described in Subsection  
393 59-12-102(64)(b):

394 (Aa) to process an item sold as tangible personal property; and  
395 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection  
396 (14)(a)(i)(A)(II) in the state; and  
397 (B) have an economic life of three or more years; and  
398 (ii) normal operating repair or replacement parts that:  
399 (A) have an economic life of three or more years; and  
400 (B) are used:  
401 (I) for a manufacturing facility except for a manufacturing facility that is a scrap  
402 recycler described in Subsection 59-12-102(64)(b):  
403 (Aa) in the manufacturing process; and  
404 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the  
405 state; or  
406 (II) for a manufacturing facility that is a scrap recycler described in Subsection  
407 59-12-102(64)(b):  
408 (Aa) to process an item sold as tangible personal property; and  
409 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the  
410 state;  
411 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a  
412 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,  
413 of the following:  
414 (i) machinery and equipment that:  
415 (A) are used:  
416 (I) in the manufacturing process;  
417 (II) to manufacture an item sold as tangible personal property; and  
418 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection  
419 (14)(b) in the state; and  
420 (B) have an economic life of three or more years; and  
421 (ii) normal operating repair or replacement parts that:

422 (A) are used:  
423 (I) in the manufacturing process; and  
424 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and  
425 (B) have an economic life of three or more years;  
426 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,  
427 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or  
428 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for  
429 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,  
430 of the 2002 North American Industry Classification System of the federal Executive Office of  
431 the President, Office of Management and Budget, of the following:  
432 (i) machinery and equipment that:  
433 (A) are used:  
434 (I) (Aa) in the production process, other than the production of real property; or  
435 (Bb) in research and development; and  
436 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)  
437 in the state; and  
438 (B) have an economic life of three or more years; and  
439 (ii) normal operating repair or replacement parts that:  
440 (A) have an economic life of three or more years; and  
441 (B) are used in:  
442 (I) (Aa) the production process, except for the production of real property; and  
443 (Bb) an establishment described in this Subsection (14)(c) in the state; or  
444 (II) (Aa) research and development; and  
445 (Bb) in an establishment described in this Subsection (14)(c) in the state;  
446 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,  
447 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web  
448 Search Portals, of the 2002 North American Industry Classification System of the federal  
449 Executive Office of the President, Office of Management and Budget, of the following:



- 450 (A) machinery and equipment that:
- 451 (I) are used in the operation of the web search portal;
- 452 (II) have an economic life of three or more years; and
- 453 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
- 454 in the state; and
- 455 (B) normal operating repair or replacement parts that:
- 456 (I) are used in the operation of the web search portal;
- 457 (II) have an economic life of three or more years; and
- 458 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
- 459 in the state; or
- 460 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by
- 461 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North
- 462 American Industry Classification System of the federal Executive Office of the President,
- 463 Office of Management and Budget, of the following:
- 464 (A) machinery and equipment that:
- 465 (I) are used in the operation of the web search portal; and
- 466 (II) have an economic life of three or more years; and
- 467 (B) normal operating repair or replacement parts that:
- 468 (I) are used in the operation of the web search portal; and
- 469 (II) have an economic life of three or more years;
- 470 (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
- 471 Utah Administrative Rulemaking Act, the commission:
- 472 (i) shall by rule define the term "establishment"; and
- 473 (ii) may by rule define what constitutes:
- 474 (A) processing an item sold as tangible personal property;
- 475 (B) the production process, except for the production of real property;
- 476 (C) research and development; or
- 477 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and

478 (f) on or before October 1, 2011, and every five years after October 1, 2011, the  
479 commission shall:

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

483 (ii) include in its report:

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

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

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

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

488 (i) tooling;

489 (ii) special tooling;

490 (iii) support equipment;

491 (iv) special test equipment; or

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

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

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

495 (i) the tooling, equipment, or parts are used or consumed exclusively in the

496 performance of any aerospace or electronics industry contract with the United States

497 government or any subcontract under that contract; and

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

499 title to the tooling, equipment, or parts is vested in the United States government as evidenced

500 by:

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

502 (B) listing on a government-approved property record if placing a government

503 identification tag on the tooling, equipment, or parts is impractical;

504 (16) sales of newspapers or newspaper subscriptions;

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

506 product transferred electronically traded in as full or part payment of the purchase price, except  
507 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,  
508 trade-ins are limited to other vehicles only, and the tax is based upon:

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

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

514 (b) Subsection (17)(a) does not apply to the following items of tangible personal  
515 property or products transferred electronically traded in as full or part payment of the purchase  
516 price:

517 (i) money;

518 (ii) electricity;

519 (iii) water;

520 (iv) gas; or

521 (v) steam;

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

526 (A) becomes part of real estate; or

527 (B) is installed by a:

528 (I) farmer;

529 (II) contractor; or

530 (III) subcontractor; or

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

534 (b) amounts paid or charged for the following are subject to the taxes imposed by this  
535 chapter:

536 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is  
537 incidental to farming:

538 (I) machinery;

539 (II) equipment;

540 (III) materials; or

541 (IV) supplies; and

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

544 (I) hand tools; or

545 (II) maintenance and janitorial equipment and supplies;

546 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product  
547 transferred electronically if the tangible personal property or product transferred electronically  
548 is used in an activity other than farming; and

549 (B) tangible personal property or a product transferred electronically that is considered  
550 to be used in an activity other than farming includes:

551 (I) office equipment and supplies; or

552 (II) equipment and supplies used in:

553 (Aa) the sale or distribution of farm products;

554 (Bb) research; or

555 (Cc) transportation; or

556 (iii) a vehicle required to be registered by the laws of this state during the period  
557 ending two years after the date of the vehicle's purchase;

558 (19) sales of hay;

559 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or  
560 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or  
561 garden, farm, or other agricultural produce is sold by:

- 562 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other  
563 agricultural produce;
- 564 (b) an employee of the producer described in Subsection (20)(a); or
- 565 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 566 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued  
567 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 568 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,  
569 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,  
570 wholesaler, or retailer for use in packaging tangible personal property to be sold by that  
571 manufacturer, processor, wholesaler, or retailer;
- 572 (23) a product stored in the state for resale;
- 573 (24) (a) purchases of a product if:
- 574 (i) the product is:
- 575 (A) purchased outside of this state;
- 576 (B) brought into this state:
- 577 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- 578 (II) by a nonresident person who is not living or working in this state at the time of the  
579 purchase;
- 580 (C) used for the personal use or enjoyment of the nonresident person described in  
581 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- 582 (D) not used in conducting business in this state; and
- 583 (ii) for:
- 584 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of  
585 the product for a purpose for which the product is designed occurs outside of this state;
- 586 (B) a boat, the boat is registered outside of this state; or
- 587 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
588 outside of this state;
- 589 (b) the exemption provided for in Subsection (24)(a) does not apply to:

- 590 (i) a lease or rental of a product; or  
591 (ii) a sale of a vehicle exempt under Subsection (33); and  
592 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
593 purposes of Subsection (24)(a), the commission may by rule define what constitutes the  
594 following:
- 595 (i) conducting business in this state if that phrase has the same meaning in this  
596 Subsection (24) as in Subsection (63);  
597 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)  
598 as in Subsection (63); or  
599 (iii) a purpose for which a product is designed if that phrase has the same meaning in  
600 this Subsection (24) as in Subsection (63);  
601 (25) a product purchased for resale in this state, in the regular course of business, either  
602 in its original form or as an ingredient or component part of a manufactured or compounded  
603 product;  
604 (26) a product upon which a sales or use tax was paid to some other state, or one of its  
605 subdivisions, except that the state shall be paid any difference between the tax paid and the tax  
606 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if  
607 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax  
608 Act;  
609 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a  
610 person for use in compounding a service taxable under the subsections;  
611 (28) purchases made in accordance with the special supplemental nutrition program for  
612 women, infants, and children established in 42 U.S.C. Sec. 1786;  
613 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,  
614 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens  
615 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification  
616 Manual of the federal Executive Office of the President, Office of Management and Budget;  
617 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State

618 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

619 (a) not registered in this state; and

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

621 (ii) used in this state:

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

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

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

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

630 (31) sales of aircraft manufactured in Utah;

631 (32) amounts paid for the purchase of telecommunications service for purposes of  
632 providing telecommunications service;

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

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

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

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

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

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

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

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

641 (36) sales or rentals of durable medical equipment if:

642 (a) a person presents a prescription for the durable medical equipment; and

643 (b) the durable medical equipment is used for home use only;

644 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in

645 Section [72-11-102](#); and

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

648 (38) sales to a ski resort of:

649 (a) snowmaking equipment;

650 (b) ski slope grooming equipment;

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

652 (d) parts used in the repairs or renovations of equipment or passenger ropeways

653 described in Subsections (38)(a) through (c);

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

655 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for  
656 amusement, entertainment, or recreation an unassisted amusement device as defined in Section  
657 59-12-102;

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

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

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

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

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

671 (i) a governmental entity; or

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

673 (A) a school; or



674 (B) the State Board of Education; or  
675 (b) sales of publications by a governmental entity;  
676 (42) amounts paid for admission to an athletic event at an institution of higher  
677 education that is subject to the provisions of Title IX of the Education Amendments of 1972,  
678 20 U.S.C. Sec. 1681 et seq.;

679 (43) (a) sales made to or by:  
680 (i) an area agency on aging; or  
681 (ii) a senior citizen center owned by a county, city, or town; or  
682 (b) sales made by a senior citizen center that contracts with an area agency on aging;

683 (44) sales or leases of semiconductor fabricating, processing, research, or development  
684 materials regardless of whether the semiconductor fabricating, processing, research, or  
685 development materials:  
686 (a) actually come into contact with a semiconductor; or  
687 (b) ultimately become incorporated into real property;

688 (45) an amount paid by or charged to a purchaser for accommodations and services  
689 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section  
690 59-12-104.2;

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

694 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted  
695 by the Public Service Commission of Utah only for purchase of electricity produced from a  
696 new alternative energy source, as designated in the tariff by the Public Service Commission of  
697 Utah; and  
698 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a  
699 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under  
700 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

701 (48) sales or rentals of mobility enhancing equipment if a person presents a

702 prescription for the mobility enhancing equipment;

703 (49) sales of water in a:

704 (a) pipe;

705 (b) conduit;

706 (c) ditch; or

707 (d) reservoir;

708 (50) sales of currency or coins that constitute legal tender of a state, the United States,

709 or a foreign nation;

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

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

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

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

714 (i) ingot;

715 (ii) bar;

716 (iii) medallion; or

717 (iv) decorative coin;

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

719 (53) sales of a prosthetic device:

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

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

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

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

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

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

726 commercial distribution:

727 (i) a motion picture;

728 (ii) a television program;

729 (iii) a movie made for television;

730 (iv) a music video;  
731 (v) a commercial;  
732 (vi) a documentary; or  
733 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the  
734 commission by administrative rule made in accordance with Subsection (54)(d); or  
735 (b) purchases, leases, or rentals of machinery or equipment by an establishment  
736 described in Subsection (54)(c) that is used for the production or postproduction of the  
737 following are subject to the taxes imposed by this chapter:  
738 (i) a live musical performance;  
739 (ii) a live news program; or  
740 (iii) a live sporting event;  
741 (c) the following establishments listed in the 1997 North American Industry  
742 Classification System of the federal Executive Office of the President, Office of Management  
743 and Budget, apply to Subsections (54)(a) and (b):  
744 (i) NAICS Code 512110; or  
745 (ii) NAICS Code 51219; and  
746 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
747 commission may by rule:  
748 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);  
749 or  
750 (ii) define:  
751 (A) "commercial distribution";  
752 (B) "live musical performance";  
753 (C) "live news program"; or  
754 (D) "live sporting event";  
755 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but  
756 on or before June 30, 2027, of tangible personal property that:  
757 (i) is leased or purchased for or by a facility that:

758 (A) is an alternative energy electricity production facility;  
759 (B) is located in the state; and  
760 (C) (I) becomes operational on or after July 1, 2004; or  
761 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
762 2004, as a result of the use of the tangible personal property;  
763 (ii) has an economic life of five or more years; and  
764 (iii) is used to make the facility or the increase in capacity of the facility described in  
765 Subsection (55)(a)(i) operational up to the point of interconnection with an existing  
766 transmission grid including:  
767 (A) a wind turbine;  
768 (B) generating equipment;  
769 (C) a control and monitoring system;  
770 (D) a power line;  
771 (E) substation equipment;  
772 (F) lighting;  
773 (G) fencing;  
774 (H) pipes; or  
775 (I) other equipment used for locating a power line or pole; and  
776 (b) this Subsection (55) does not apply to:  
777 (i) tangible personal property used in construction of:  
778 (A) a new alternative energy electricity production facility; or  
779 (B) the increase in the capacity of an alternative energy electricity production facility;  
780 (ii) contracted services required for construction and routine maintenance activities;  
781 and  
782 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
783 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or  
784 acquired after:  
785 (A) the alternative energy electricity production facility described in Subsection

786 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or  
787 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described  
788 in Subsection (55)(a)(iii);  
789 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but  
790 on or before June 30, 2027, of tangible personal property that:  
791 (i) is leased or purchased for or by a facility that:  
792 (A) is a waste energy production facility;  
793 (B) is located in the state; and  
794 (C) (I) becomes operational on or after July 1, 2004; or  
795 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
796 2004, as a result of the use of the tangible personal property;  
797 (ii) has an economic life of five or more years; and  
798 (iii) is used to make the facility or the increase in capacity of the facility described in  
799 Subsection (56)(a)(i) operational up to the point of interconnection with an existing  
800 transmission grid including:  
801 (A) generating equipment;  
802 (B) a control and monitoring system;  
803 (C) a power line;  
804 (D) substation equipment;  
805 (E) lighting;  
806 (F) fencing;  
807 (G) pipes; or  
808 (H) other equipment used for locating a power line or pole; and  
809 (b) this Subsection (56) does not apply to:  
810 (i) tangible personal property used in construction of:  
811 (A) a new waste energy facility; or  
812 (B) the increase in the capacity of a waste energy facility;  
813 (ii) contracted services required for construction and routine maintenance activities;

814 and

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

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

819 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described  
820 in Subsection (56)(a)(iii);

821 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on  
822 or before June 30, 2027, of tangible personal property that:

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

824 (A) is located in the state;

825 (B) produces fuel from alternative energy, including:

826 (I) methanol; or

827 (II) ethanol; and

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

829 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as  
830 a result of the installation of the tangible personal property;

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

832 (iii) is installed on the facility described in Subsection (57)(a)(i);

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

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

835 (A) a new facility described in Subsection (57)(a)(i); or

836 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

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

838 and

839 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
840 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

841 (A) the facility described in Subsection (57)(a)(i) is operational; or

842 (B) the increased capacity described in Subsection (57)(a)(i) is operational;  
843 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a  
844 product transferred electronically to a person within this state if that tangible personal property  
845 or product transferred electronically is subsequently shipped outside the state and incorporated  
846 pursuant to contract into and becomes a part of real property located outside of this state;

847 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other  
848 state or political entity to which the tangible personal property is shipped imposes a sales, use,  
849 gross receipts, or other similar transaction excise tax on the transaction against which the other  
850 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

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

854 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

855 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on  
856 which the sale is made;

857 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the  
858 sale prior to filing for the refund;

859 (iv) for sales and use taxes paid under this chapter on the sale;

860 (v) in accordance with Section 59-1-1410; and

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

863 (59) purchases:

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

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

866 (A) names; or

867 (B) addresses; or

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

869 (A) names; or

870 (B) addresses; and  
871 (b) used to send direct mail;  
872 (60) redemptions or repurchases of a product by a person if that product was:  
873 (a) delivered to a pawnbroker as part of a pawn transaction; and  
874 (b) redeemed or repurchased within the time period established in a written agreement  
875 between the person and the pawnbroker for redeeming or repurchasing the product;  
876 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:  
877 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;  
878 and  
879 (ii) has a useful economic life of one or more years; and  
880 (b) the following apply to Subsection (61)(a):  
881 (i) telecommunications enabling or facilitating equipment, machinery, or software;  
882 (ii) telecommunications equipment, machinery, or software required for 911 service;  
883 (iii) telecommunications maintenance or repair equipment, machinery, or software;  
884 (iv) telecommunications switching or routing equipment, machinery, or software; or  
885 (v) telecommunications transmission equipment, machinery, or software;  
886 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible  
887 personal property or a product transferred electronically that are used in the research and  
888 development of alternative energy technology; and  
889 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
890 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes  
891 purchases of tangible personal property or a product transferred electronically that are used in  
892 the research and development of alternative energy technology;  
893 (63) (a) purchases of tangible personal property or a product transferred electronically  
894 if:  
895 (i) the tangible personal property or product transferred electronically is:  
896 (A) purchased outside of this state;  
897 (B) brought into this state at any time after the purchase described in Subsection



898 (63)(a)(i)(A); and  
899 (C) used in conducting business in this state; and  
900 (ii) for:  
901 (A) tangible personal property or a product transferred electronically other than the  
902 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property  
903 for a purpose for which the property is designed occurs outside of this state; or  
904 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
905 outside of this state;  
906 (b) the exemption provided for in Subsection (63)(a) does not apply to:  
907 (i) a lease or rental of tangible personal property or a product transferred electronically;  
908 or  
909 (ii) a sale of a vehicle exempt under Subsection (33); and  
910 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
911 purposes of Subsection (63)(a), the commission may by rule define what constitutes the  
912 following:  
913 (i) conducting business in this state if that phrase has the same meaning in this  
914 Subsection (63) as in Subsection (24);  
915 (ii) the first use of tangible personal property or a product transferred electronically if  
916 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or  
917 (iii) a purpose for which tangible personal property or a product transferred  
918 electronically is designed if that phrase has the same meaning in this Subsection (63) as in  
919 Subsection (24);  
920 (64) sales of disposable home medical equipment or supplies if:  
921 (a) a person presents a prescription for the disposable home medical equipment or  
922 supplies;  
923 (b) the disposable home medical equipment or supplies are used exclusively by the  
924 person to whom the prescription described in Subsection (64)(a) is issued; and  
925 (c) the disposable home medical equipment and supplies are listed as eligible for

- 926 payment under:
- 927 (i) Title XVIII, federal Social Security Act; or
- 928 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 929 (65) sales:
- 930 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
- 931 District Act; or
- 932 (b) of tangible personal property to a subcontractor of a public transit district, if the
- 933 tangible personal property is:
- 934 (i) clearly identified; and
- 935 (ii) installed or converted to real property owned by the public transit district;
- 936 (66) sales of construction materials:
- 937 (a) purchased on or after July 1, 2010;
- 938 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 939 (i) located within a county of the first class; and
- 940 (ii) that has a United States customs office on its premises; and
- 941 (c) if the construction materials are:
- 942 (i) clearly identified;
- 943 (ii) segregated; and
- 944 (iii) installed or converted to real property:
- 945 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 946 (B) located at the international airport described in Subsection (66)(b);
- 947 (67) sales of construction materials:
- 948 (a) purchased on or after July 1, 2008;
- 949 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 950 (i) located within a county of the second class; and
- 951 (ii) that is owned or operated by a city in which an airline as defined in Section
- 952 [59-2-102](#) is headquartered; and
- 953 (c) if the construction materials are:

- 954 (i) clearly identified;
- 955 (ii) segregated; and
- 956 (iii) installed or converted to real property:
  - 957 (A) owned or operated by the new airport described in Subsection (67)(b);
  - 958 (B) located at the new airport described in Subsection (67)(b); and
  - 959 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 960 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 961 (69) purchases and sales described in Section [63H-4-111](#);
- 962 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 963 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 964 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 965 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 966 powered aircraft; or
- 967 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 968 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 969 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 970 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 971 powered aircraft;
- 972 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:
  - 973 (a) to a person admitted to an institution of higher education; and
  - 974 (b) by a seller, other than a bookstore owned by an institution of higher education, if
  - 975 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
  - 976 textbook for a higher education course;
- 977 (72) a license fee or tax a municipality imposes in accordance with Subsection
- 978 [10-1-203\(5\)](#) on a purchaser from a business for which the municipality provides an enhanced
- 979 level of municipal services;
- 980 (73) amounts paid or charged for construction materials used in the construction of a
- 981 new or expanding life science research and development facility in the state, if the construction

982 materials are:

983 (a) clearly identified;

984 (b) segregated; and

985 (c) installed or converted to real property;

986 (74) amounts paid or charged for:

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

988 (i) are used in performing qualified research:

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

990 (B) in the state; and

991 (C) with respect to which the purchaser pays or incurs a qualified research expense as

992 defined in Section 59-7-612; and

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

994 (b) normal operating repair or replacement parts:

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

996 (ii) that have an economic life of three or more years;

997 (75) a sale or lease of tangible personal property used in the preparation of prepared

998 food if:

999 (a) for a sale:

1000 (i) the ownership of the seller and the ownership of the purchaser are identical; and

1001 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that

1002 tangible personal property prior to making the sale; or

1003 (b) for a lease:

1004 (i) the ownership of the lessor and the ownership of the lessee are identical; and

1005 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible

1006 personal property prior to making the lease;

1007 (76) (a) purchases of machinery or equipment if:

1008 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,

1009 Gambling, and Recreation Industries, of the 2012 North American Industry Classification

1010 System of the federal Executive Office of the President, Office of Management and Budget;  
1011 (ii) the machinery or equipment:  
1012 (A) has an economic life of three or more years; and  
1013 (B) is used by one or more persons who pay admission or user fees described in  
1014 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and  
1015 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:  
1016 (A) amounts paid or charged as admission or user fees described in Subsection  
1017 59-12-103(1)(f); and  
1018 (B) subject to taxation under this chapter;  
1019 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1020 commission may make rules for verifying that 51% of a purchaser's sales revenue for the  
1021 previous calendar quarter is:  
1022 (i) amounts paid or charged as admission or user fees described in Subsection  
1023 59-12-103(1)(f); and  
1024 (ii) subject to taxation under this chapter; and  
1025 (c) on or before the November 2018 interim meeting, and every five years after the  
1026 November 2018 interim meeting, the commission shall review the exemption provided in this  
1027 Subsection (76) and report to the Revenue and Taxation Interim Committee on:  
1028 (i) the revenue lost to the state and local taxing jurisdictions as a result of the  
1029 exemption;  
1030 (ii) the purpose and effectiveness of the exemption; and  
1031 (iii) whether the exemption benefits the state;  
1032 (77) purchases of a short-term lodging consumable by a business that provides  
1033 accommodations and services described in Subsection 59-12-103(1)(i);  
1034 (78) amounts paid or charged to access a database:  
1035 (a) if the primary purpose for accessing the database is to view or retrieve information  
1036 from the database; and  
1037 (b) not including amounts paid or charged for a:

- 1038 (i) digital audiowork;
- 1039 (ii) digital audio-visual work; or
- 1040 (iii) digital book;
- 1041 (79) amounts paid or charged for a purchase or lease made by an electronic financial
- 1042 payment service, of:
- 1043 (a) machinery and equipment that:
- 1044 (i) are used in the operation of the electronic financial payment service; and
- 1045 (ii) have an economic life of three or more years; and
- 1046 (b) normal operating repair or replacement parts that:
- 1047 (i) are used in the operation of the electronic financial payment service; and
- 1048 (ii) have an economic life of three or more years; [~~and~~]
- 1049 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section [54-15-102](#)[~~-~~];
- 1050 and
- 1051 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
- 1052 product transferred electronically if the tangible personal property or product transferred
- 1053 electronically:
- 1054 (a) is stored, used, or consumed in the state; and
- 1055 (b) is temporarily brought into the state from another state:
- 1056 (i) during a disaster period as defined in Section [53-2a-1202](#);
- 1057 (ii) by an out-of-state business as defined in Section [53-2a-1202](#);
- 1058 (iii) for a declared state disaster or emergency as defined in Section [53-2a-1202](#); and
- 1059 (iv) for disaster- or emergency-related work as defined in Section [53-2a-1202](#).
- 1060 Section 11. **Effective date.**
- 1061 (1) Except as provided in Subsection (2), this bill takes effect on May 13, 2014.
- 1062 (2) The actions affecting Section [59-12-104](#) take effect on July 1, 2014.
- 1063 Section 12. **Retrospective operation.**
- 1064 The actions affecting the following sections have retrospective operation for a taxable
- 1065 year beginning on or after January 1, 2014:

- 1066            (1) Section 59-7-102;
- 1067            (2) Section 59-10-104; and
- 1068            (3) Section 59-10-403.