

Senator Wayne A. Harper proposes the following substitute bill:

EMERGENCY MANAGEMENT ACT AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

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

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

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

Money Appropriated in this Bill:

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

34 **59-12-104**, as last amended by Laws of Utah 2013, Chapters 82, 223, 229, 234, and 441

35 ENACTS:

36 **53-2a-1201**, Utah Code Annotated 1953

37 **53-2a-1202**, Utah Code Annotated 1953

38 **53-2a-1203**, Utah Code Annotated 1953

39 **53-2a-1204**, Utah Code Annotated 1953

40 **53-2a-1205**, Utah Code Annotated 1953

41 **59-10-116.1**, Utah Code Annotated 1953



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

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

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

46 **53-2a-1201. Title.**

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

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

50 **53-2a-1202. Definitions.**

51 As used in this part:

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

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

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

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

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

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

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

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

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

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

77 **53-2a-1203. Business and employee status during disaster period.**

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

81 (a) is not considered to have established a level of presence that would require that
82 business or any out-of-state employees to be subject to any state licensing or registration
83 requirements, including:

84 (i) unemployment insurance;

85 (ii) state or local occupational licensing fees;

86 (iii) public service commission regulation; or

87 (iv) state or local licensing or regulatory requirements; and

88 (b) is exempt from the registration requirements under Title 16, Corporations, Title 42,
89 Names, and Title 48, Partnership.

90 (2) (a) Income taxation related to an out-of-state employee or an out-of-state business
91 is as provided in:

92 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; and

93 (ii) Title 59, Chapter 10, Individual Income Tax Act.

94 (b) Sales and use taxation during a disaster period is as provided in Title 59, Chapter
95 12, Sales and Use Tax Act.

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

97 **53-2a-1204. Business or employee activity after disaster period.**

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

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

102 **53-2a-1205. Administration -- Notification and procedures.**

103 (1) Any out-of-state business that enters the state shall, upon request, provide to the
104 Division of Occupational and Professional Licensing a statement that it is in the state for
105 purposes of responding to the disaster or emergency, which statement shall include the
106 business's:

107 (a) name;

108 (b) state of domicile;

109 (c) principal business address;

110 (d) federal tax identification number;

111 (e) date of entry; and

112 (f) contact information.

113 (2) A registered business in the state shall, upon request, provide the information
114 required in Subsection (1) for any affiliate that enters the state and that is an out-of-state
115 business, including contact information for the business that is registered in the state.

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

- 119 (4) The Division of Occupational and Professional Licensing shall:
- 120 (a) make rules necessary to implement Subsection (3);
- 121 (b) develop and provide forms or online processes; and
- 122 (c) maintain and make available an annual report of any designations made pursuant to
- 123 this section.

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

125 **59-7-102. Exemptions.**

126 (1) Except as provided in this section, the following are exempt from a tax under this

127 chapter:

- 128 (a) an organization exempt under Section 501, Internal Revenue Code;
- 129 (b) an organization exempt under Section 528, Internal Revenue Code;
- 130 (c) an insurance company that is otherwise taxed on the insurance company's premiums
- 131 under Chapter 9, Taxation of Admitted Insurers;
- 132 (d) a local building authority as defined in Section [17D-2-102](#);
- 133 (e) a farmers' cooperative; or
- 134 (f) a public agency, as defined in Section [11-13-103](#), with respect to or as a result of an
- 135 ownership interest in:
 - 136 (i) a project, as defined in Section [11-13-103](#); or
 - 137 (ii) facilities providing additional project capacity, as defined in Section [11-13-103](#).

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

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

144 ~~[(2)]~~ (3) Notwithstanding any other provision in this chapter or Chapter 8, Gross

145 Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax

146 Act, a person not otherwise subject to the tax imposed by this chapter or Chapter 8 is not

147 subject to a tax imposed by Section [59-7-104](#), [59-7-201](#), [59-7-701](#), or [59-8-104](#), because of:

- 148 (a) that person's ownership of tangible personal property located at the premises of a
- 149 printer's facility in this state with which the person has contracted for printing; or

150 (b) the activities of the person's employees or agents who are:
151 (i) located solely at the premises of a printer's facility; and
152 (ii) performing services:
153 (A) related to:
154 (I) quality control;
155 (II) distribution; or
156 (III) printing services; and
157 (B) performed by the printer's facility in this state with which the person has contracted
158 for printing.

159 ~~[(3)]~~ (4) Notwithstanding Subsection (1), an organization, company, authority, farmers'
160 cooperative, or public agency exempt from this chapter under Subsection (1) is subject to Part
161 8, Unrelated Business Income, to the extent provided in Part 8.

162 ~~[(4)]~~ (5) Notwithstanding Subsection (1)(b), to the extent the income of an
163 organization described in Subsection (1)(b) is taxable for federal tax purposes under Section
164 528, Internal Revenue Code, the organization's income is also taxable under this chapter.

165 Section 7. Section **59-10-116.1** is enacted to read:

166 **59-10-116.1. Exemption for out-of-state-employee.**

167 (1) As used in this section:

168 (a) "Declared state disaster or emergency" is as defined in Section [53-2a-1202](#).

169 (b) "Disaster period" is as defined in Section [53-2a-1202](#).

170 (c) "Out-of-state business" is as defined in Section [53-2a-1202](#).

171 (d) "Out-of-state employee" is as defined in Section [53-2a-1202](#).

172 (2) An out-of-state employee, including a pass-through entity taxpayer who is an
173 out-of-state employee, is exempt from a tax under this chapter for income earned or passed
174 through:

175 (a) from an out-of-state business;

176 (b) during a disaster period; and

177 (c) as a result of the out-of-state business responding to a declared state disaster or
178 emergency.

179 Section 8. Section **59-10-403** is amended to read:

180 **59-10-403. Circumstances under which an employer is not required to deduct**

181 **and withhold a tax.**

182 (1) Notwithstanding any other provision of this chapter, an employer is not required to
183 deduct and withhold any tax under this chapter upon a payment of wages to an employee;

184 (a) if there is in effect with respect to ~~[such]~~ the payment a withholding exemption
185 certificate [~~(in such form and containing such other information as the commission may~~
186 ~~prescribe)] furnished to the employer by the employee, certifying that the employee:~~

187 ~~[(a)]~~ (i) incurred no liability for ~~[income]~~ a tax imposed under this chapter for ~~[his]~~ the
188 employee's immediately preceding taxable year; and

189 ~~[(b) anticipates that he will incur no liability for income]~~

190 (ii) expects that the employee will not incur liability for a tax imposed under this
191 chapter for [his] the employee's current taxable year[-]; or

192 (b) if the employer:

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

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

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

199 Section 9. Section 59-12-104 is amended to read:

200 **59-12-104. Exemptions.**

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

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

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

206 (a) construction materials except:

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

211 (ii) construction materials purchased by the state, its institutions, or its political

212 subdivisions which are installed or converted to real property by employees of the state, its
213 institutions, or its political subdivisions; or

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

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

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

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

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

222 (i) food and food ingredients; or

223 (ii) prepared food;

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

225 (i) alcoholic beverages;

226 (ii) food and food ingredients; or

227 (iii) prepared food;

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

229 (i) to a passenger;

230 (ii) by a commercial airline carrier; and

231 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

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

233 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
234 and equipment:

235 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
236 North American Industry Classification System of the federal Executive Office of the
237 President, Office of Management and Budget; and

238 (II) for:

239 (Aa) installation in an aircraft, including services relating to the installation of parts or
240 equipment in the aircraft;

241 (Bb) renovation of an aircraft; or

242 (Cc) repair of an aircraft; or

243 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
244 commerce; or

245 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
246 aircraft operated by a common carrier in interstate or foreign commerce; and

247 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
248 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
249 refund:

250 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

251 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

252 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
253 the sale prior to filing for the refund;

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

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

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

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

261 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
262 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
263 washing of tangible personal property;

264 (b) if a seller that sells at the same business location assisted cleaning or washing of
265 tangible personal property and cleaning or washing of tangible personal property that is not
266 assisted cleaning or washing of tangible personal property, the exemption described in
267 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
268 or washing of the tangible personal property; and

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

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

273 (ii) establishing the procedures and requirements for a seller to separately account for

274 sales of assisted cleaning or washing of tangible personal property;

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

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

280 (a) not registered in this state; and

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

282 (ii) used in this state:

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

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

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

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

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

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

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

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

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

294 (A) a drug;

295 (B) a syringe; or

296 (C) a stoma supply; and

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

299 (A) "syringe"; or

300 (B) "stoma supply";

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

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

304 (i) the following if the item described in Subsection (12)(c) is not available to the

305 general public:

306 (A) a church; or

307 (B) a charitable institution;

308 (ii) an institution of higher education if:

309 (A) the item described in Subsection (12)(c) is not available to the general public; or

310 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan

311 offered by the institution of higher education; or

312 (b) sales of an item described in Subsection (12)(c) provided for a patient by:

313 (i) a medical facility; or

314 (ii) a nursing facility; and

315 (c) Subsections (12)(a) and (b) apply to:

316 (i) food and food ingredients;

317 (ii) prepared food; or

318 (iii) alcoholic beverages;

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

320 or a product transferred electronically by a person:

321 (i) regardless of the number of transactions involving the sale of that tangible personal
322 property or product transferred electronically by that person; and

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

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

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

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

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

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

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

336 sold; or

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

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

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

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

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

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

352 (i) machinery and equipment that:

353 (A) are used:

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

356 (Aa) in the manufacturing process;

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

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

360 (II) for a manufacturing facility that is a scrap recycler described in Subsection
361 59-12-102(64)(b):

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

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

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

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

367 (A) have an economic life of three or more years; and
368 (B) are used:
369 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
370 recycler described in Subsection 59-12-102(64)(b):
371 (Aa) in the manufacturing process; and
372 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
373 state; or
374 (II) for a manufacturing facility that is a scrap recycler described in Subsection
375 59-12-102(64)(b):
376 (Aa) to process an item sold as tangible personal property; and
377 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
378 state;
379 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
380 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
381 of the following:
382 (i) machinery and equipment that:
383 (A) are used:
384 (I) in the manufacturing process;
385 (II) to manufacture an item sold as tangible personal property; and
386 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
387 (14)(b) in the state; and
388 (B) have an economic life of three or more years; and
389 (ii) normal operating repair or replacement parts that:
390 (A) are used:
391 (I) in the manufacturing process; and
392 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and
393 (B) have an economic life of three or more years;
394 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
395 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
396 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
397 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,

398 of the 2002 North American Industry Classification System of the federal Executive Office of
399 the President, Office of Management and Budget, of the following:

400 (i) machinery and equipment that:

401 (A) are used:

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

403 (Bb) in research and development; and

404 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)

405 in the state; and

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

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

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

409 (B) are used in:

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

411 (Bb) an establishment described in this Subsection (14)(c) in the state; or

412 (II) (Aa) research and development; and

413 (Bb) in an establishment described in this Subsection (14)(c) in the state;

414 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,

415 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web

416 Search Portals, of the 2002 North American Industry Classification System of the federal

417 Executive Office of the President, Office of Management and Budget, of the following:

418 (A) machinery and equipment that:

419 (I) are used in the operation of the web search portal;

420 (II) have an economic life of three or more years; and

421 (III) are used in a new or expanding establishment described in this Subsection (14)(d)

422 in the state; and

423 (B) normal operating repair or replacement parts that:

424 (I) are used in the operation of the web search portal;

425 (II) have an economic life of three or more years; and

426 (III) are used in a new or expanding establishment described in this Subsection (14)(d)

427 in the state; or

428 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by

429 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North
430 American Industry Classification System of the federal Executive Office of the President,
431 Office of Management and Budget, of the following:

432 (A) machinery and equipment that:

433 (I) are used in the operation of the web search portal; and

434 (II) have an economic life of three or more years; and

435 (B) normal operating repair or replacement parts that:

436 (I) are used in the operation of the web search portal; and

437 (II) have an economic life of three or more years;

438 (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,

439 Utah Administrative Rulemaking Act, the commission:

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

441 (ii) may by rule define what constitutes:

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

443 (B) the production process, except for the production of real property;

444 (C) research and development; or

445 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and

446 (f) on or before October 1, 2011, and every five years after October 1, 2011, the

447 commission shall:

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

449 recommendations to the Revenue and Taxation Interim Committee concerning whether the
450 exemptions should be continued, modified, or repealed; and

451 (ii) include in its report:

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

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

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

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

456 (i) tooling;

457 (ii) special tooling;

458 (iii) support equipment;

459 (iv) special test equipment; or

460 (v) parts used in the repairs or renovations of tooling or equipment described in
461 Subsections (15)(a)(i) through (iv); and
462 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
463 (i) the tooling, equipment, or parts are used or consumed exclusively in the
464 performance of any aerospace or electronics industry contract with the United States
465 government or any subcontract under that contract; and
466 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
467 title to the tooling, equipment, or parts is vested in the United States government as evidenced
468 by:
469 (A) a government identification tag placed on the tooling, equipment, or parts; or
470 (B) listing on a government-approved property record if placing a government
471 identification tag on the tooling, equipment, or parts is impractical;
472 (16) sales of newspapers or newspaper subscriptions;
473 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
474 product transferred electronically traded in as full or part payment of the purchase price, except
475 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
476 trade-ins are limited to other vehicles only, and the tax is based upon:
477 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
478 vehicle being traded in; or
479 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
480 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
481 commission; and
482 (b) Subsection (17)(a) does not apply to the following items of tangible personal
483 property or products transferred electronically traded in as full or part payment of the purchase
484 price:
485 (i) money;
486 (ii) electricity;
487 (iii) water;
488 (iv) gas; or
489 (v) steam;
490 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property

491 or a product transferred electronically used or consumed primarily and directly in farming
492 operations, regardless of whether the tangible personal property or product transferred
493 electronically:

494 (A) becomes part of real estate; or

495 (B) is installed by a:

496 (I) farmer;

497 (II) contractor; or

498 (III) subcontractor; or

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

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

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

506 (I) machinery;

507 (II) equipment;

508 (III) materials; or

509 (IV) supplies; and

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

512 (I) hand tools; or

513 (II) maintenance and janitorial equipment and supplies;

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

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

519 (I) office equipment and supplies; or

520 (II) equipment and supplies used in:

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

522 (Bb) research; or
523 (Cc) transportation; or
524 (iii) a vehicle required to be registered by the laws of this state during the period
525 ending two years after the date of the vehicle's purchase;
526 (19) sales of hay;
527 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
528 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
529 garden, farm, or other agricultural produce is sold by:
530 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
531 agricultural produce;
532 (b) an employee of the producer described in Subsection (20)(a); or
533 (c) a member of the immediate family of the producer described in Subsection (20)(a);
534 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
535 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

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

540 (23) a product stored in the state for resale;
541 (24) (a) purchases of a product if:
542 (i) the product is:
543 (A) purchased outside of this state;
544 (B) brought into this state:
545 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
546 (II) by a nonresident person who is not living or working in this state at the time of the
547 purchase;
548 (C) used for the personal use or enjoyment of the nonresident person described in
549 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
550 (D) not used in conducting business in this state; and
551 (ii) for:
552 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of

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

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

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

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

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

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

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

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

565 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
566 as in Subsection (63); or

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

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

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

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

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

581 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
582 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
583 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification

584 Manual of the federal Executive Office of the President, Office of Management and Budget;
585 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
586 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
587 (a) not registered in this state; and
588 (b) (i) not used in this state; or
589 (ii) used in this state:
590 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
591 time period that does not exceed the longer of:
592 (I) 30 days in any calendar year; or
593 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
594 the borders of this state; or
595 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
596 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
597 state;
598 (31) sales of aircraft manufactured in Utah;
599 (32) amounts paid for the purchase of telecommunications service for purposes of
600 providing telecommunications service;
601 (33) sales, leases, or uses of the following:
602 (a) a vehicle by an authorized carrier; or
603 (b) tangible personal property that is installed on a vehicle:
604 (i) sold or leased to or used by an authorized carrier; and
605 (ii) before the vehicle is placed in service for the first time;
606 (34) (a) 45% of the sales price of any new manufactured home; and
607 (b) 100% of the sales price of any used manufactured home;
608 (35) sales relating to schools and fundraising sales;
609 (36) sales or rentals of durable medical equipment if:
610 (a) a person presents a prescription for the durable medical equipment; and
611 (b) the durable medical equipment is used for home use only;
612 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
613 Section [72-11-102](#); and
614 (b) the commission shall by rule determine the method for calculating sales exempt

615 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
616 (38) sales to a ski resort of:
617 (a) snowmaking equipment;
618 (b) ski slope grooming equipment;
619 (c) passenger ropeways as defined in Section 72-11-102; or
620 (d) parts used in the repairs or renovations of equipment or passenger ropeways
621 described in Subsections (38)(a) through (c);
622 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
623 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
624 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
625 59-12-102;
626 (b) if a seller that sells or rents at the same business location the right to use or operate
627 for amusement, entertainment, or recreation one or more unassisted amusement devices and
628 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
629 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
630 amusement, entertainment, or recreation for the assisted amusement devices; and
631 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
632 Utah Administrative Rulemaking Act, the commission may make rules:
633 (i) governing the circumstances under which sales are at the same business location;
634 and
635 (ii) establishing the procedures and requirements for a seller to separately account for
636 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
637 assisted amusement devices;
638 (41) (a) sales of photocopies by:
639 (i) a governmental entity; or
640 (ii) an entity within the state system of public education, including:
641 (A) a school; or
642 (B) the State Board of Education; or
643 (b) sales of publications by a governmental entity;
644 (42) amounts paid for admission to an athletic event at an institution of higher
645 education that is subject to the provisions of Title IX of the Education Amendments of 1972,

646 20 U.S.C. Sec. 1681 et seq.;

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

648 (i) an area agency on aging; or

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

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

651 (44) sales or leases of semiconductor fabricating, processing, research, or development
652 materials regardless of whether the semiconductor fabricating, processing, research, or
653 development materials:

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

655 (b) ultimately become incorporated into real property;

656 (45) an amount paid by or charged to a purchaser for accommodations and services
657 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
658 59-12-104.2;

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

662 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted
663 by the Public Service Commission of Utah only for purchase of electricity produced from a
664 new alternative energy source, as designated in the tariff by the Public Service Commission of
665 Utah; and

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

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

671 (49) sales of water in a:

672 (a) pipe;

673 (b) conduit;

674 (c) ditch; or

675 (d) reservoir;

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

677 or a foreign nation;

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

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

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

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

682 (i) ingot;

683 (ii) bar;

684 (iii) medallion; or

685 (iv) decorative coin;

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

687 (53) sales of a prosthetic device:

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

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

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

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

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

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

694 commercial distribution:

695 (i) a motion picture;

696 (ii) a television program;

697 (iii) a movie made for television;

698 (iv) a music video;

699 (v) a commercial;

700 (vi) a documentary; or

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

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

703 (b) purchases, leases, or rentals of machinery or equipment by an establishment

704 described in Subsection (54)(c) that is used for the production or postproduction of the

705 following are subject to the taxes imposed by this chapter:

706 (i) a live musical performance;

707 (ii) a live news program; or

708 (iii) a live sporting event;

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

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

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

712 (i) NAICS Code 512110; or

713 (ii) NAICS Code 51219; and

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

715 commission may by rule:

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

717 or

718 (ii) define:

719 (A) "commercial distribution";

720 (B) "live musical performance";

721 (C) "live news program"; or

722 (D) "live sporting event";

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

724 on or before June 30, 2027, of tangible personal property that:

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

726 (A) is an alternative energy electricity production facility;

727 (B) is located in the state; and

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

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

730 2004, as a result of the use of the tangible personal property;

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

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

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

734 transmission grid including:

735 (A) a wind turbine;

736 (B) generating equipment;

737 (C) a control and monitoring system;

738 (D) a power line;

- 739 (E) substation equipment;
- 740 (F) lighting;
- 741 (G) fencing;
- 742 (H) pipes; or
- 743 (I) other equipment used for locating a power line or pole; and
- 744 (b) this Subsection (55) does not apply to:
 - 745 (i) tangible personal property used in construction of:
 - 746 (A) a new alternative energy electricity production facility; or
 - 747 (B) the increase in the capacity of an alternative energy electricity production facility;
 - 748 (ii) contracted services required for construction and routine maintenance activities;
- 749 and
 - 750 (iii) unless the tangible personal property is used or acquired for an increase in capacity
 - 751 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
 - 752 acquired after:
 - 753 (A) the alternative energy electricity production facility described in Subsection
 - 754 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
 - 755 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
 - 756 in Subsection (55)(a)(iii);
 - 757 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
 - 758 on or before June 30, 2027, of tangible personal property that:
 - 759 (i) is leased or purchased for or by a facility that:
 - 760 (A) is a waste energy production facility;
 - 761 (B) is located in the state; and
 - 762 (C) (I) becomes operational on or after July 1, 2004; or
 - 763 (II) has its generation capacity increased by one or more megawatts on or after July 1,
 - 764 2004, as a result of the use of the tangible personal property;
 - 765 (ii) has an economic life of five or more years; and
 - 766 (iii) is used to make the facility or the increase in capacity of the facility described in
 - 767 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
 - 768 transmission grid including:
 - 769 (A) generating equipment;

- 770 (B) a control and monitoring system;
- 771 (C) a power line;
- 772 (D) substation equipment;
- 773 (E) lighting;
- 774 (F) fencing;
- 775 (G) pipes; or
- 776 (H) other equipment used for locating a power line or pole; and
- 777 (b) this Subsection (56) does not apply to:
 - 778 (i) tangible personal property used in construction of:
 - 779 (A) a new waste energy facility; or
 - 780 (B) the increase in the capacity of a waste energy facility;
 - 781 (ii) contracted services required for construction and routine maintenance activities;
- 782 and
 - 783 (iii) unless the tangible personal property is used or acquired for an increase in capacity
 - 784 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
 - 785 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
 - 786 described in Subsection (56)(a)(iii); or
 - 787 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
 - 788 in Subsection (56)(a)(iii);
 - 789 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
 - 790 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 located in the state;
 - 793 (B) produces fuel from alternative energy, including:
 - 794 (I) methanol; or
 - 795 (II) ethanol; and
 - 796 (C) (I) becomes operational on or after July 1, 2004; or
 - 797 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
 - 798 a result of the installation of the tangible personal property;
 - 799 (ii) has an economic life of five or more years; and
 - 800 (iii) is installed on the facility described in Subsection (57)(a)(i);

- 801 (b) this Subsection (57) does not apply to:
- 802 (i) tangible personal property used in construction of:
- 803 (A) a new facility described in Subsection (57)(a)(i); or
- 804 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
- 805 (ii) contracted services required for construction and routine maintenance activities;
- 806 and
- 807 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 808 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
- 809 (A) the facility described in Subsection (57)(a)(i) is operational; or
- 810 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
- 811 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
- 812 product transferred electronically to a person within this state if that tangible personal property
- 813 or product transferred electronically is subsequently shipped outside the state and incorporated
- 814 pursuant to contract into and becomes a part of real property located outside of this state;
- 815 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
- 816 state or political entity to which the tangible personal property is shipped imposes a sales, use,
- 817 gross receipts, or other similar transaction excise tax on the transaction against which the other
- 818 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
- 819 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
- 820 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
- 821 refund:
- 822 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
- 823 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
- 824 which the sale is made;
- 825 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
- 826 sale prior to filing for the refund;
- 827 (iv) for sales and use taxes paid under this chapter on the sale;
- 828 (v) in accordance with Section 59-1-1410; and
- 829 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
- 830 the person files for the refund on or before June 30, 2011;
- 831 (59) purchases:

- 832 (a) of one or more of the following items in printed or electronic format:
- 833 (i) a list containing information that includes one or more:
- 834 (A) names; or
- 835 (B) addresses; or
- 836 (ii) a database containing information that includes one or more:
- 837 (A) names; or
- 838 (B) addresses; and
- 839 (b) used to send direct mail;
- 840 (60) redemptions or repurchases of a product by a person if that product was:
- 841 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 842 (b) redeemed or repurchased within the time period established in a written agreement
- 843 between the person and the pawnbroker for redeeming or repurchasing the product;
- 844 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 845 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 846 and
- 847 (ii) has a useful economic life of one or more years; and
- 848 (b) the following apply to Subsection (61)(a):
- 849 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 850 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 851 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 852 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 853 (v) telecommunications transmission equipment, machinery, or software;
- 854 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
- 855 personal property or a product transferred electronically that are used in the research and
- 856 development of alternative energy technology; and
- 857 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 858 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
- 859 purchases of tangible personal property or a product transferred electronically that are used in
- 860 the research and development of alternative energy technology;
- 861 (63) (a) purchases of tangible personal property or a product transferred electronically
- 862 if:

- 863 (i) the tangible personal property or product transferred electronically is:
- 864 (A) purchased outside of this state;
- 865 (B) brought into this state at any time after the purchase described in Subsection
- 866 (63)(a)(i)(A); and
- 867 (C) used in conducting business in this state; and
- 868 (ii) for:
- 869 (A) tangible personal property or a product transferred electronically other than the
- 870 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
- 871 for a purpose for which the property is designed occurs outside of this state; or
- 872 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
- 873 outside of this state;
- 874 (b) the exemption provided for in Subsection (63)(a) does not apply to:
- 875 (i) a lease or rental of tangible personal property or a product transferred electronically;
- 876 or
- 877 (ii) a sale of a vehicle exempt under Subsection (33); and
- 878 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 879 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
- 880 following:
- 881 (i) conducting business in this state if that phrase has the same meaning in this
- 882 Subsection (63) as in Subsection (24);
- 883 (ii) the first use of tangible personal property or a product transferred electronically if
- 884 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
- 885 (iii) a purpose for which tangible personal property or a product transferred
- 886 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
- 887 Subsection (24);
- 888 (64) sales of disposable home medical equipment or supplies if:
- 889 (a) a person presents a prescription for the disposable home medical equipment or
- 890 supplies;
- 891 (b) the disposable home medical equipment or supplies are used exclusively by the
- 892 person to whom the prescription described in Subsection (64)(a) is issued; and
- 893 (c) the disposable home medical equipment and supplies are listed as eligible for

894 payment under:

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

896 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

897 (65) sales:

898 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

899 District Act; or

900 (b) of tangible personal property to a subcontractor of a public transit district, if the

901 tangible personal property is:

902 (i) clearly identified; and

903 (ii) installed or converted to real property owned by the public transit district;

904 (66) sales of construction materials:

905 (a) purchased on or after July 1, 2010;

906 (b) purchased by, on behalf of, or for the benefit of an international airport:

907 (i) located within a county of the first class; and

908 (ii) that has a United States customs office on its premises; and

909 (c) if the construction materials are:

910 (i) clearly identified;

911 (ii) segregated; and

912 (iii) installed or converted to real property:

913 (A) owned or operated by the international airport described in Subsection (66)(b); and

914 (B) located at the international airport described in Subsection (66)(b);

915 (67) sales of construction materials:

916 (a) purchased on or after July 1, 2008;

917 (b) purchased by, on behalf of, or for the benefit of a new airport:

918 (i) located within a county of the second class; and

919 (ii) that is owned or operated by a city in which an airline as defined in Section

920 [59-2-102](#) is headquartered; and

921 (c) if the construction materials are:

922 (i) clearly identified;

923 (ii) segregated; and

924 (iii) installed or converted to real property:

- 925 (A) owned or operated by the new airport described in Subsection (67)(b);
- 926 (B) located at the new airport described in Subsection (67)(b); and
- 927 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 928 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 929 (69) purchases and sales described in Section [63H-4-111](#);
- 930 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 931 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 932 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 933 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 934 powered aircraft; or
- 935 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 936 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 937 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 938 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 939 powered aircraft;
- 940 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:
- 941 (a) to a person admitted to an institution of higher education; and
- 942 (b) by a seller, other than a bookstore owned by an institution of higher education, if
- 943 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
- 944 textbook for a higher education course;
- 945 (72) a license fee or tax a municipality imposes in accordance with Subsection
- 946 [10-1-203\(5\)](#) on a purchaser from a business for which the municipality provides an enhanced
- 947 level of municipal services;
- 948 (73) amounts paid or charged for construction materials used in the construction of a
- 949 new or expanding life science research and development facility in the state, if the construction
- 950 materials are:
- 951 (a) clearly identified;
- 952 (b) segregated; and
- 953 (c) installed or converted to real property;
- 954 (74) amounts paid or charged for:
- 955 (a) a purchase or lease of machinery and equipment that:

- 956 (i) are used in performing qualified research:
- 957 (A) as defined in Section 59-7-612;
- 958 (B) in the state; and
- 959 (C) with respect to which the purchaser pays or incurs a qualified research expense as
- 960 defined in Section 59-7-612; and
- 961 (ii) have an economic life of three or more years; and
- 962 (b) normal operating repair or replacement parts:
- 963 (i) for the machinery and equipment described in Subsection (74)(a); and
- 964 (ii) that have an economic life of three or more years;
- 965 (75) a sale or lease of tangible personal property used in the preparation of prepared
- 966 food if:
- 967 (a) for a sale:
- 968 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 969 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
- 970 tangible personal property prior to making the sale; or
- 971 (b) for a lease:
- 972 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 973 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
- 974 personal property prior to making the lease;
- 975 (76) (a) purchases of machinery or equipment if:
- 976 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 977 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 978 System of the federal Executive Office of the President, Office of Management and Budget;
- 979 (ii) the machinery or equipment:
- 980 (A) has an economic life of three or more years; and
- 981 (B) is used by one or more persons who pay admission or user fees described in
- 982 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- 983 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 984 (A) amounts paid or charged as admission or user fees described in Subsection
- 985 59-12-103(1)(f); and
- 986 (B) subject to taxation under this chapter;

987 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
988 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
989 previous calendar quarter is:

990 (i) amounts paid or charged as admission or user fees described in Subsection

991 59-12-103(1)(f); and

992 (ii) subject to taxation under this chapter; and

993 (c) on or before the November 2018 interim meeting, and every five years after the
994 November 2018 interim meeting, the commission shall review the exemption provided in this

995 Subsection (76) and report to the Revenue and Taxation Interim Committee on:

996 (i) the revenue lost to the state and local taxing jurisdictions as a result of the
997 exemption;

998 (ii) the purpose and effectiveness of the exemption; and

999 (iii) whether the exemption benefits the state;

1000 (77) purchases of a short-term lodging consumable by a business that provides
1001 accommodations and services described in Subsection 59-12-103(1)(i);

1002 (78) amounts paid or charged to access a database:

1003 (a) if the primary purpose for accessing the database is to view or retrieve information
1004 from the database; and

1005 (b) not including amounts paid or charged for a:

1006 (i) digital audiowork;

1007 (ii) digital audio-visual work; or

1008 (iii) digital book;

1009 (79) amounts paid or charged for a purchase or lease made by an electronic financial
1010 payment service, of:

1011 (a) machinery and equipment that:

1012 (i) are used in the operation of the electronic financial payment service; and

1013 (ii) have an economic life of three or more years; and

1014 (b) normal operating repair or replacement parts that:

1015 (i) are used in the operation of the electronic financial payment service; and

1016 (ii) have an economic life of three or more years; ~~and~~

1017 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102[-];

1018 and

1019 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
1020 product transferred electronically if the tangible personal property or product transferred
1021 electronically:

1022 (a) is stored, used, or consumed in the state; and

1023 (b) is temporarily brought into the state from another state;

1024 (i) during a disaster period as defined in Section [53-2a-1202](#);

1025 (ii) by an out-of-state business as defined in Section [53-2a-1202](#);

1026 (iii) for a declared state disaster or emergency as defined in Section [53-2a-1202](#); and

1027 (iv) for disaster- or emergency-related work as defined in Section [53-2a-1202](#).

1028 Section 10. **Effective date.**

1029 (1) Except as provided in Subsection (2), this bill takes effect on May 13, 2014.

1030 (2) The actions affecting Section [59-12-104](#) take effect on July 1, 2014.

1031 Section 11. **Retrospective operation.**

1032 The actions affecting the following sections have retrospective operation for a taxable
1033 year beginning on or after January 1, 2014:

1034 (1) Section [59-7-102](#);

1035 (2) Section [59-10-104](#); and

1036 (3) Section [59-10-403](#).