

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 **59-7-404.5**, 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.

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

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

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

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

101 (b) Sales and use taxation during a disaster period is as provided in Title 59, Chapter
102 12, Sales and Use Tax Act.

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

104 **53-2a-1204. Business or employee activity after disaster period.**

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

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

109 **53-2a-1205. Administration -- Notification and procedures.**

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

114 (a) name;

115 (b) state of domicile;

116 (c) principal business address;

117 (d) federal tax identification number;

118 (e) date of entry;

- 119 (f) contact information; and
- 120 (g) evidence of compliance with the regulatory or licensing requirements in Section
- 121 53-2a-1203, such as a copy of applicable permits or license.

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

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

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

- 131 (a) make rules necessary to implement Subsection (3);
- 132 (b) develop and provide forms or online processes; and
- 133 (c) maintain and make available an annual report of any designations made pursuant to
- 134 this section.

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

136 **59-7-102. Exemptions.**

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

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

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

150 (a) if the corporation is an out-of-state business as defined in Section 53-2a-1202; and

151 (b) for income earned:

152 (i) during a disaster period as defined in Section 53-2a-1202; and

153 (ii) for the purpose of responding to a declared state disaster or emergency as defined

154 in Section 53-2a-1202.

155 [~~2~~] (3) Notwithstanding any other provision in this chapter or Chapter 8, Gross
156 Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax
157 Act, a person not otherwise subject to the tax imposed by this chapter or Chapter 8 is not
158 subject to a tax imposed by Section 59-7-104, 59-7-201, 59-7-701, or 59-8-104, because of:

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

161 (b) the activities of the person's employees or agents who are:

162 (i) located solely at the premises of a printer's facility; and

163 (ii) performing services:

164 (A) related to:

165 (I) quality control;

166 (II) distribution; or

167 (III) printing services; and

168 (B) performed by the printer's facility in this state with which the person has contracted
169 for printing.

170 [~~3~~] (4) Notwithstanding Subsection (1), an organization, company, authority, farmers'
171 cooperative, or public agency exempt from this chapter under Subsection (1) is subject to Part
172 8, Unrelated Business Income, to the extent provided in Part 8.

173 [~~4~~] (5) Notwithstanding Subsection (1)(b), to the extent the income of an
174 organization described in Subsection (1)(b) is taxable for federal tax purposes under Section
175 528, Internal Revenue Code, the organization's income is also taxable under this chapter.

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

177 **59-7-404.5. Adjustment to apportionment factors for corporations in a combined**
178 **report -- Sales factor -- Property factor.**

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

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

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

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

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

193 **59-10-116.1. Exemption for out-of-state-employee.**

194 (1) As used in this section:

195 (a) "Declared state disaster or emergency" is as defined in Section 53-2a-1202.

196 (b) "Disaster period" is as defined in Section 53-2a-1202.

197 (c) "Out-of-state business" is as defined in Section 53-2a-1202.

198 (d) "Out-of-state employee" is as defined in Section 53-2a-1202.

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

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

203 (b) during a disaster period; and

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

206 Section 9. Section 59-10-403 is amended to read:

207 **59-10-403. Circumstances under which an employer is not required to deduct**
208 **and withhold a tax.**

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

211 (a) if there is in effect with respect to [~~such~~] the payment a withholding exemption

212 certificate [~~(in such form and containing such other information as the commission may~~
213 ~~prescribe)~~] furnished to the employer by the employee, certifying that the employee:

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

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

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

219 (b) if the employer:

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

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

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

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

227 **59-12-104. Exemptions.**

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

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

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

233 (a) construction materials except:

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

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

241 (b) tangible personal property in connection with the construction, operation,
242 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities

243 providing additional project capacity, as defined in Section 11-13-103;

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

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

246 (ii) the seller or operator of the vending machine reports an amount equal to 150% of

247 the cost of the item described in Subsection (3)(b) as goods consumed; and

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

249 (i) food and food ingredients; or

250 (ii) prepared food;

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

252 (i) alcoholic beverages;

253 (ii) food and food ingredients; or

254 (iii) prepared food;

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

256 (i) to a passenger;

257 (ii) by a commercial airline carrier; and

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

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

260 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts

261 and equipment:

262 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002

263 North American Industry Classification System of the federal Executive Office of the

264 President, Office of Management and Budget; and

265 (II) for:

266 (Aa) installation in an aircraft, including services relating to the installation of parts or

267 equipment in the aircraft;

268 (Bb) renovation of an aircraft; or

269 (Cc) repair of an aircraft; or

270 (B) for installation in an aircraft operated by a common carrier in interstate or foreign

271 commerce; or

272 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an

273 aircraft operated by a common carrier in interstate or foreign commerce; and

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

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

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

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

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

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

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

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

288 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
289 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
290 washing of tangible personal property;

291 (b) if a seller that sells at the same business location assisted cleaning or washing of
292 tangible personal property and cleaning or washing of tangible personal property that is not
293 assisted cleaning or washing of tangible personal property, the exemption described in
294 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
295 or washing of the tangible personal property; and

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

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

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

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

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

307 (a) not registered in this state; and

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

309 (ii) used in this state:

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

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

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

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

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

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

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

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

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

321 (A) a drug;

322 (B) a syringe; or

323 (C) a stoma supply; and

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

326 (A) "syringe"; or

327 (B) "stoma supply";

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

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

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

333 (A) a church; or

334 (B) a charitable institution;

335 (ii) an institution of higher education if:

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

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

338 offered by the institution of higher education; or

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

340 (i) a medical facility; or

341 (ii) a nursing facility; and

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

343 (i) food and food ingredients;

344 (ii) prepared food; or

345 (iii) alcoholic beverages;

346 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
347 or a product transferred electronically by a person:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

379 (i) machinery and equipment that:

380 (A) are used:

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

383 (Aa) in the manufacturing process;

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

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

387 (II) for a manufacturing facility that is a scrap recycler described in Subsection
388 59-12-102(64)(b):

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

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

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

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

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

395 (B) are used:

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

398 (Aa) in the manufacturing process; and
399 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
400 state; or
401 (II) for a manufacturing facility that is a scrap recycler described in Subsection
402 59-12-102(64)(b):
403 (Aa) to process an item sold as tangible personal property; and
404 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
405 state;
406 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
407 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
408 of the following:
409 (i) machinery and equipment that:
410 (A) are used:
411 (I) in the manufacturing process;
412 (II) to manufacture an item sold as tangible personal property; and
413 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
414 (14)(b) in the state; and
415 (B) have an economic life of three or more years; and
416 (ii) normal operating repair or replacement parts that:
417 (A) are used:
418 (I) in the manufacturing process; and
419 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and
420 (B) have an economic life of three or more years;
421 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
422 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
423 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
424 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
425 of the 2002 North American Industry Classification System of the federal Executive Office of
426 the President, Office of Management and Budget, of the following:
427 (i) machinery and equipment that:
428 (A) are used:

429 (I) (Aa) in the production process, other than the production of real property; or
430 (Bb) in research and development; and
431 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)
432 in the state; and
433 (B) have an economic life of three or more years; and
434 (ii) normal operating repair or replacement parts that:
435 (A) have an economic life of three or more years; and
436 (B) are used in:
437 (I) (Aa) the production process, except for the production of real property; and
438 (Bb) an establishment described in this Subsection (14)(c) in the state; or
439 (II) (Aa) research and development; and
440 (Bb) in an establishment described in this Subsection (14)(c) in the state;
441 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,
442 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web
443 Search Portals, of the 2002 North American Industry Classification System of the federal
444 Executive Office of the President, Office of Management and Budget, of the following:
445 (A) machinery and equipment that:
446 (I) are used in the operation of the web search portal;
447 (II) have an economic life of three or more years; and
448 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
449 in the state; and
450 (B) normal operating repair or replacement parts 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; or
455 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by
456 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North
457 American Industry Classification System of the federal Executive Office of the President,
458 Office of Management and Budget, of the following:
459 (A) machinery and equipment that:

- 460 (I) are used in the operation of the web search portal; and
- 461 (II) have an economic life of three or more years; and
- 462 (B) normal operating repair or replacement parts that:
- 463 (I) are used in the operation of the web search portal; and
- 464 (II) have an economic life of three or more years;
- 465 (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
- 466 Utah Administrative Rulemaking Act, the commission:
- 467 (i) shall by rule define the term "establishment"; and
- 468 (ii) may by rule define what constitutes:
- 469 (A) processing an item sold as tangible personal property;
- 470 (B) the production process, except for the production of real property;
- 471 (C) research and development; or
- 472 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and
- 473 (f) on or before October 1, 2011, and every five years after October 1, 2011, the
- 474 commission shall:
- 475 (i) review the exemptions described in this Subsection (14) and make
- 476 recommendations to the Revenue and Taxation Interim Committee concerning whether the
- 477 exemptions should be continued, modified, or repealed; and
- 478 (ii) include in its report:
- 479 (A) an estimate of the cost of the exemptions;
- 480 (B) the purpose and effectiveness of the exemptions; and
- 481 (C) the benefits of the exemptions to the state;
- 482 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
- 483 (i) tooling;
- 484 (ii) special tooling;
- 485 (iii) support equipment;
- 486 (iv) special test equipment; or
- 487 (v) parts used in the repairs or renovations of tooling or equipment described in
- 488 Subsections (15)(a)(i) through (iv); and
- 489 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
- 490 (i) the tooling, equipment, or parts are used or consumed exclusively in the

491 performance of any aerospace or electronics industry contract with the United States
492 government or any subcontract under that contract; and
493 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
494 title to the tooling, equipment, or parts is vested in the United States government as evidenced
495 by:
496 (A) a government identification tag placed on the tooling, equipment, or parts; or
497 (B) listing on a government-approved property record if placing a government
498 identification tag on the tooling, equipment, or parts is impractical;
499 (16) sales of newspapers or newspaper subscriptions;
500 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
501 product transferred electronically traded in as full or part payment of the purchase price, except
502 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
503 trade-ins are limited to other vehicles only, and the tax is based upon:
504 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
505 vehicle being traded in; or
506 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
507 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
508 commission; and
509 (b) Subsection (17)(a) does not apply to the following items of tangible personal
510 property or products transferred electronically traded in as full or part payment of the purchase
511 price:
512 (i) money;
513 (ii) electricity;
514 (iii) water;
515 (iv) gas; or
516 (v) steam;
517 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
518 or a product transferred electronically used or consumed primarily and directly in farming
519 operations, regardless of whether the tangible personal property or product transferred
520 electronically:
521 (A) becomes part of real estate; or

522 (B) is installed by a:
523 (I) farmer;
524 (II) contractor; or
525 (III) subcontractor; or
526 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
527 product transferred electronically if the tangible personal property or product transferred
528 electronically is exempt under Subsection (18)(a)(i); and
529 (b) amounts paid or charged for the following are subject to the taxes imposed by this
530 chapter:
531 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
532 incidental to farming:
533 (I) machinery;
534 (II) equipment;
535 (III) materials; or
536 (IV) supplies; and
537 (B) tangible personal property that is considered to be used in a manner that is
538 incidental to farming includes:
539 (I) hand tools; or
540 (II) maintenance and janitorial equipment and supplies;
541 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
542 transferred electronically if the tangible personal property or product transferred electronically
543 is used in an activity other than farming; and
544 (B) tangible personal property or a product transferred electronically that is considered
545 to be used in an activity other than farming includes:
546 (I) office equipment and supplies; or
547 (II) equipment and supplies used in:
548 (Aa) the sale or distribution of farm products;
549 (Bb) research; or
550 (Cc) transportation; or
551 (iii) a vehicle required to be registered by the laws of this state during the period
552 ending two years after the date of the vehicle's purchase;

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

584 (b) the exemption provided for in Subsection (24)(a) does not apply to:
585 (i) a lease or rental of a product; or
586 (ii) a sale of a vehicle exempt under Subsection (33); and
587 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
588 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
589 following:

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

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

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

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

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

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

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

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

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

614 (a) not registered in this state; and

- 615 (b) (i) not used in this state; or
- 616 (ii) used in this state:
- 617 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
- 618 time period that does not exceed the longer of:
- 619 (I) 30 days in any calendar year; or
- 620 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 621 the borders of this state; or
- 622 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
- 623 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
- 624 state;
- 625 (31) sales of aircraft manufactured in Utah;
- 626 (32) amounts paid for the purchase of telecommunications service for purposes of
- 627 providing telecommunications service;
- 628 (33) sales, leases, or uses of the following:
- 629 (a) a vehicle by an authorized carrier; or
- 630 (b) tangible personal property that is installed on a vehicle:
- 631 (i) sold or leased to or used by an authorized carrier; and
- 632 (ii) before the vehicle is placed in service for the first time;
- 633 (34) (a) 45% of the sales price of any new manufactured home; and
- 634 (b) 100% of the sales price of any used manufactured home;
- 635 (35) sales relating to schools and fundraising sales;
- 636 (36) sales or rentals of durable medical equipment if:
- 637 (a) a person presents a prescription for the durable medical equipment; and
- 638 (b) the durable medical equipment is used for home use only;
- 639 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 640 Section [72-11-102](#); and
- 641 (b) the commission shall by rule determine the method for calculating sales exempt
- 642 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 643 (38) sales to a ski resort of:
- 644 (a) snowmaking equipment;
- 645 (b) ski slope grooming equipment;

- 646 (c) passenger ropeways as defined in Section 72-11-102; or
- 647 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 648 described in Subsections (38)(a) through (c);
- 649 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 650 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 651 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 652 59-12-102;
- 653 (b) if a seller that sells or rents at the same business location the right to use or operate
- 654 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 655 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 656 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 657 amusement, entertainment, or recreation for the assisted amusement devices; and
- 658 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
- 659 Utah Administrative Rulemaking Act, the commission may make rules:
- 660 (i) governing the circumstances under which sales are at the same business location;
- 661 and
- 662 (ii) establishing the procedures and requirements for a seller to separately account for
- 663 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
- 664 assisted amusement devices;
- 665 (41) (a) sales of photocopies by:
- 666 (i) a governmental entity; or
- 667 (ii) an entity within the state system of public education, including:
- 668 (A) a school; or
- 669 (B) the State Board of Education; or
- 670 (b) sales of publications by a governmental entity;
- 671 (42) amounts paid for admission to an athletic event at an institution of higher
- 672 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 673 20 U.S.C. Sec. 1681 et seq.;
- 674 (43) (a) sales made to or by:
- 675 (i) an area agency on aging; or
- 676 (ii) a senior citizen center owned by a county, city, or town; or

677 (b) sales made by a senior citizen center that contracts with an area agency on aging;
678 (44) sales or leases of semiconductor fabricating, processing, research, or development
679 materials regardless of whether the semiconductor fabricating, processing, research, or
680 development materials:

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

682 (b) ultimately become incorporated into real property;

683 (45) an amount paid by or charged to a purchaser for accommodations and services
684 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
685 59-12-104.2;

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

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

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

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

698 (49) sales of water in a:

699 (a) pipe;

700 (b) conduit;

701 (c) ditch; or

702 (d) reservoir;

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

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

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

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

708 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
709 (i) ingot;
710 (ii) bar;
711 (iii) medallion; or
712 (iv) decorative coin;
713 (52) amounts paid on a sale-leaseback transaction;
714 (53) sales of a prosthetic device:
715 (a) for use on or in a human; and
716 (b) (i) for which a prescription is required; or
717 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
718 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
719 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
720 or equipment is primarily used in the production or postproduction of the following media for
721 commercial distribution:
722 (i) a motion picture;
723 (ii) a television program;
724 (iii) a movie made for television;
725 (iv) a music video;
726 (v) a commercial;
727 (vi) a documentary; or
728 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
729 commission by administrative rule made in accordance with Subsection (54)(d); or
730 (b) purchases, leases, or rentals of machinery or equipment by an establishment
731 described in Subsection (54)(c) that is used for the production or postproduction of the
732 following are subject to the taxes imposed by this chapter:
733 (i) a live musical performance;
734 (ii) a live news program; or
735 (iii) a live sporting event;
736 (c) the following establishments listed in the 1997 North American Industry
737 Classification System of the federal Executive Office of the President, Office of Management
738 and Budget, apply to Subsections (54)(a) and (b):

- 739 (i) NAICS Code 512110; or
- 740 (ii) NAICS Code 51219; and
- 741 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 742 commission may by rule:
 - 743 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
 - 744 or
 - 745 (ii) define:
 - 746 (A) "commercial distribution";
 - 747 (B) "live musical performance";
 - 748 (C) "live news program"; or
 - 749 (D) "live sporting event";
- 750 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 751 on or before June 30, 2027, of tangible personal property that:
 - 752 (i) is leased or purchased for or by a facility that:
 - 753 (A) is an alternative energy electricity production facility;
 - 754 (B) is located in the state; and
 - 755 (C) (I) becomes operational on or after July 1, 2004; or
 - 756 (II) has its generation capacity increased by one or more megawatts on or after July 1,
 - 757 2004, as a result of the use of the tangible personal property;
 - 758 (ii) has an economic life of five or more years; and
 - 759 (iii) is used to make the facility or the increase in capacity of the facility described in
 - 760 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
 - 761 transmission grid including:
 - 762 (A) a wind turbine;
 - 763 (B) generating equipment;
 - 764 (C) a control and monitoring system;
 - 765 (D) a power line;
 - 766 (E) substation equipment;
 - 767 (F) lighting;
 - 768 (G) fencing;
 - 769 (H) pipes; or

770 (I) other equipment used for locating a power line or pole; and
771 (b) this Subsection (55) does not apply to:
772 (i) tangible personal property used in construction of:
773 (A) a new alternative energy electricity production facility; or
774 (B) the increase in the capacity of an alternative energy electricity production facility;
775 (ii) contracted services required for construction and routine maintenance activities;
776 and
777 (iii) unless the tangible personal property is used or acquired for an increase in capacity
778 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
779 acquired after:
780 (A) the alternative energy electricity production facility described in Subsection
781 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
782 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
783 in Subsection (55)(a)(iii);
784 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
785 on or before June 30, 2027, of tangible personal property that:
786 (i) is leased or purchased for or by a facility that:
787 (A) is a waste energy production facility;
788 (B) is located in the state; and
789 (C) (I) becomes operational on or after July 1, 2004; or
790 (II) has its generation capacity increased by one or more megawatts on or after July 1,
791 2004, as a result of the use of the tangible personal property;
792 (ii) has an economic life of five or more years; and
793 (iii) is used to make the facility or the increase in capacity of the facility described in
794 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
795 transmission grid including:
796 (A) generating equipment;
797 (B) a control and monitoring system;
798 (C) a power line;
799 (D) substation equipment;
800 (E) lighting;

- 801 (F) fencing;
- 802 (G) pipes; or
- 803 (H) other equipment used for locating a power line or pole; and
- 804 (b) this Subsection (56) does not apply to:
 - 805 (i) tangible personal property used in construction of:
 - 806 (A) a new waste energy facility; or
 - 807 (B) the increase in the capacity of a waste energy facility;
 - 808 (ii) contracted services required for construction and routine maintenance activities;
- 809 and
 - 810 (iii) unless the tangible personal property is used or acquired for an increase in capacity
 - 811 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
 - 812 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
 - 813 described in Subsection (56)(a)(iii); or
 - 814 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
 - 815 in Subsection (56)(a)(iii);
 - 816 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
 - 817 or before June 30, 2027, of tangible personal property that:
 - 818 (i) is leased or purchased for or by a facility that:
 - 819 (A) is located in the state;
 - 820 (B) produces fuel from alternative energy, including:
 - 821 (I) methanol; or
 - 822 (II) ethanol; and
 - 823 (C) (I) becomes operational on or after July 1, 2004; or
 - 824 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
 - 825 a result of the installation of the tangible personal property;
 - 826 (ii) has an economic life of five or more years; and
 - 827 (iii) is installed on the facility described in Subsection (57)(a)(i);
 - 828 (b) this Subsection (57) does not apply to:
 - 829 (i) tangible personal property used in construction of:
 - 830 (A) a new facility described in Subsection (57)(a)(i); or
 - 831 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

832 (ii) contracted services required for construction and routine maintenance activities;
833 and
834 (iii) unless the tangible personal property is used or acquired for an increase in capacity
835 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
836 (A) the facility described in Subsection (57)(a)(i) is operational; or
837 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
838 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
839 product transferred electronically to a person within this state if that tangible personal property
840 or product transferred electronically is subsequently shipped outside the state and incorporated
841 pursuant to contract into and becomes a part of real property located outside of this state;
842 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
843 state or political entity to which the tangible personal property is shipped imposes a sales, use,
844 gross receipts, or other similar transaction excise tax on the transaction against which the other
845 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
846 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
847 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
848 refund:
849 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
850 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
851 which the sale is made;
852 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
853 sale prior to filing for the refund;
854 (iv) for sales and use taxes paid under this chapter on the sale;
855 (v) in accordance with Section 59-1-1410; and
856 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
857 the person files for the refund on or before June 30, 2011;
858 (59) purchases:
859 (a) of one or more of the following items in printed or electronic format:
860 (i) a list containing information that includes one or more:
861 (A) names; or
862 (B) addresses; or

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

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

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

- 956 (69) purchases and sales described in Section [63H-4-111](#);
- 957 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
958 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
959 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
960 lists a state or country other than this state as the location of registry of the fixed wing turbine
961 powered aircraft; or
- 962 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
963 provider in connection with 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;
- 967 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:
968 (a) to a person admitted to an institution of higher education; and
969 (b) by a seller, other than a bookstore owned by an institution of higher education, if
970 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
971 textbook for a higher education course;
- 972 (72) a license fee or tax a municipality imposes in accordance with Subsection
973 [10-1-203\(5\)](#) on a purchaser from a business for which the municipality provides an enhanced
974 level of municipal services;
- 975 (73) amounts paid or charged for construction materials used in the construction of a
976 new or expanding life science research and development facility in the state, if the construction
977 materials are:
- 978 (a) clearly identified;
979 (b) segregated; and
980 (c) installed or converted to real property;
- 981 (74) amounts paid or charged for:
982 (a) a purchase or lease of machinery and equipment that:
983 (i) are used in performing qualified research:
984 (A) as defined in Section [59-7-612](#);
985 (B) in the state; and
986 (C) with respect to which the purchaser pays or incurs a qualified research expense as

987 defined in Section 59-7-612; and

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

989 (b) normal operating repair or replacement parts:

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

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

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

993 food if:

994 (a) for a sale:

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

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

997 tangible personal property prior to making the sale; or

998 (b) for a lease:

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

1000 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible

1001 personal property prior to making the lease;

1002 (76) (a) purchases of machinery or equipment if:

1003 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,

1004 Gambling, and Recreation Industries, of the 2012 North American Industry Classification

1005 System of the federal Executive Office of the President, Office of Management and Budget;

1006 (ii) the machinery or equipment:

1007 (A) has an economic life of three or more years; and

1008 (B) is used by one or more persons who pay admission or user fees described in

1009 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

1010 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

1011 (A) amounts paid or charged as admission or user fees described in Subsection

1012 59-12-103(1)(f); and

1013 (B) subject to taxation under this chapter;

1014 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1015 commission may make rules for verifying that 51% of a purchaser's sales revenue for the

1016 previous calendar quarter is:

1017 (i) amounts paid or charged as admission or user fees described in Subsection

1018 59-12-103(1)(f); and
1019 (ii) subject to taxation under this chapter; and
1020 (c) on or before the November 2018 interim meeting, and every five years after the
1021 November 2018 interim meeting, the commission shall review the exemption provided in this
1022 Subsection (76) and report to the Revenue and Taxation Interim Committee on:
1023 (i) the revenue lost to the state and local taxing jurisdictions as a result of the
1024 exemption;
1025 (ii) the purpose and effectiveness of the exemption; and
1026 (iii) whether the exemption benefits the state;
1027 (77) purchases of a short-term lodging consumable by a business that provides
1028 accommodations and services described in Subsection 59-12-103(1)(i);
1029 (78) amounts paid or charged to access a database:
1030 (a) if the primary purpose for accessing the database is to view or retrieve information
1031 from the database; and
1032 (b) not including amounts paid or charged for a:
1033 (i) digital audiowork;
1034 (ii) digital audio-visual work; or
1035 (iii) digital book;
1036 (79) amounts paid or charged for a purchase or lease made by an electronic financial
1037 payment service, of:
1038 (a) machinery and equipment that:
1039 (i) are used in the operation of the electronic financial payment service; and
1040 (ii) have an economic life of three or more years; and
1041 (b) normal operating repair or replacement parts that:
1042 (i) are used in the operation of the electronic financial payment service; and
1043 (ii) have an economic life of three or more years; [~~and~~]
1044 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102[-];
1045 and
1046 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
1047 product transferred electronically if the tangible personal property or product transferred
1048 electronically:

- 1049 (a) is stored, used, or consumed in the state; and
- 1050 (b) is temporarily brought into the state from another state;
- 1051 (i) during a disaster period as defined in Section [53-2a-1202](#);
- 1052 (ii) by an out-of-state business as defined in Section [53-2a-1202](#);
- 1053 (iii) for a declared state disaster or emergency as defined in Section [53-2a-1202](#); and
- 1054 (iv) for disaster- or emergency-related work as defined in Section [53-2a-1202](#).

1055 Section 11. **Effective date.**

1056 (1) Except as provided in Subsection (2), this bill takes effect on May 13, 2014.

1057 (2) The actions affecting Section [59-12-104](#) take effect on July 1, 2014.

1058 Section 12. **Retrospective operation.**

1059 The actions affecting the following sections have retrospective operation for a taxable
1060 year beginning on or after January 1, 2014:

1061 (1) Section [59-7-102](#);

1062 (2) Section [59-10-104](#); and

1063 (3) Section [59-10-403](#).