

Senator Curtis S. Bramble proposes the following substitute bill:

TAX PROVISION AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Francis D. Gibson

LONG TITLE

General Description:

This bill modifies provisions in the Revenue and Taxation code.

Highlighted Provisions:

This bill:

- ▶ adds automobile manufacturing to the NAICS codes that qualify a taxpayer to be a sales factor weighted taxpayer;
- ▶ addresses how a taxpayer determines if the taxpayer is an optional sales factor weighted taxpayer;
- ▶ exempts a purchase or lease of certain machinery, equipment, and parts from sales and use tax; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-7-302, as last amended by Laws of Utah 2016, Chapters 311 and 368



26 **59-12-104**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 6

27

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

29 Section 1. Section **59-7-302** is amended to read:

30 **59-7-302. Definitions.**

31 (1) As used in this part, unless the context otherwise requires:

32 (a) "Aircraft type" means a particular model of aircraft as designated by the
33 manufacturer of the aircraft.

34 (b) "Airline" means the same as that term is defined in Section **59-2-102**.

35 (c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during
36 the airline's tax period.

37 (d) "Business income" means income arising from transactions and activity in the
38 regular course of the taxpayer's trade or business and includes income from tangible and
39 intangible property if the acquisition, management, and disposition of the property constitutes
40 integral parts of the taxpayer's regular trade or business operations.

41 (e) "Commercial domicile" means the principal place from which the trade or business
42 of the taxpayer is directed or managed.

43 (f) "Compensation" means wages, salaries, commissions, and any other form of
44 remuneration paid to employees for personal services.

45 (g) (i) Except as provided in Subsection (1)(g)(ii), "mobile flight equipment" ~~is as~~
46 means the same as that term is defined in Section **59-2-102**.

47 (ii) "Mobile flight equipment" does not include:

48 (A) a spare engine; or

49 (B) tangible personal property described in Subsection **59-2-102**(27) owned by an~~[-(F)]~~
50 air charter service~~[-]~~ or ~~[(H)]~~ an air contract service.

51 (h) "Nonbusiness income" means all income other than business income.

52 (i) ~~["Optional"]~~ Subject to Subsection (2), "optional sales factor weighted taxpayer"
53 means:

54 (i) for a taxpayer that is not a unitary group, regardless of the number of economic
55 activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales
56 everywhere generated by economic activities performed by the taxpayer if the economic

57 activities are classified in a NAICS code within NAICS Subsector 334, Computer and
58 Electronic Product Manufacturing, of the 2002 or 2007 North American Industry Classification
59 System of the federal Executive Office of the President, Office of Management and Budget; or

60 (ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the
61 taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if
62 the economic activities are classified in a NAICS code within NAICS Subsector 334,
63 Computer and Electronic Product Manufacturing, of the 2002 or 2007 North American
64 Industry Classification System of the federal Executive Office of the President, Office of
65 Management and Budget.

66 (j) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

67 (k) "Sales" means all gross receipts of the taxpayer not allocated under Sections
68 59-7-306 through 59-7-310.

69 (l) Subject to Subsection (2), "sales factor weighted taxpayer" means:

70 (i) for a taxpayer that is not a unitary group, regardless of the number of economic
71 activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales
72 everywhere generated by economic activities performed by the taxpayer if the economic
73 activities are classified in a NAICS code of the 2002 or 2007 North American Industry
74 Classification System of the federal Executive Office of the President, Office of Management
75 and Budget, except for:

76 (A) a NAICS code within NAICS Sector 21, Mining;

77 (B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

78 (C) a NAICS code within NAICS Sector 31-33, Manufacturing, other than NAICS
79 Code 336111, Automobile Manufacturing;

80 (D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

81 (E) a NAICS code within NAICS Sector 51, Information, [~~except for~~] other than
82 NAICS Subsector 519, Other Information Services; or

83 (F) a NAICS code within NAICS Sector 52, Finance and Insurance; or

84 (ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the
85 taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if
86 the economic activities are classified in a NAICS code of the 2002 or 2007 North American
87 Industry Classification System of the federal Executive Office of the President, Office of

88 Management and Budget, except for a NAICS code under Subsections (1)(1)(i)(A) through (F).

89 (m) "State" means any state of the United States, the District of Columbia, the
90 Commonwealth of Puerto Rico, any territory or possession of the United States, and any
91 foreign country or political subdivision thereof.

92 (n) "Transportation revenue" means revenue an airline earns from:

93 (i) transporting a passenger or cargo; or

94 (ii) from miscellaneous sales of merchandise as part of providing transportation
95 services.

96 (o) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within
97 the borders of this state:

98 (i) during the airline's tax period; and

99 (ii) from flight stages that originate or terminate in this state.

100 (2) The following apply to ~~[Subsection]~~ Subsections (1)(i) and (1):

101 (a) (i) Subject to the other provisions of this Subsection (2), for each taxable year, a
102 taxpayer shall ~~[for each taxable year]~~ determine whether the taxpayer is a sales factor weighted
103 taxpayer.

104 (ii) A taxpayer shall make the determination required by Subsection (2)(a)(i) before the
105 due date for filing the taxpayer's return under this chapter for the taxable year, including
106 extensions.

107 (iii) For purposes of making the determination required by Subsection (2)(a)(i), total
108 sales everywhere include only the total sales everywhere:

109 (A) as determined in accordance with this part; and

110 (B) made during the taxable year for which a taxpayer makes the determination
111 required by Subsection (2)(a)(i).

112 (b) (i) (A) Subject to other provisions of this Subsection (2), for each taxable year, a
113 taxpayer that is not a sales factor weighted taxpayer may determine whether the taxpayer is an
114 optional sales factor weighted taxpayer.

115 (B) A taxpayer that is not a sales factor weighted taxpayer shall determine that the
116 taxpayer is an optional sales factor weighted taxpayer before the taxpayer may use the
117 apportionment options described in Subsection 59-7-311(4).

118 (ii) A taxpayer making the determination described in Subsection (2)(b)(i) shall make

119 the determination before the due date for filing the taxpayer's return under this chapter for the
120 taxable year, including extensions.

121 (iii) For purposes of making the determination described in Subsection (2)(b)(i), total
122 sales everywhere include only the total sales everywhere:

123 (A) as determined in accordance with this part; and

124 (B) made during the taxable year for which a taxpayer makes a determination described
125 in Subsection (2)(b)(i).

126 ~~[(b)]~~ (c) A taxpayer that files a return as a unitary group for a taxable year is considered
127 to be a unitary group for that taxable year.

128 ~~[(c)]~~ (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
129 Act, the commission may define the term "economic activity" consistent with the use of the
130 term "activity" in the 2007 North American Industry Classification System of the federal
131 Executive Office of the President, Office of Management and Budget.

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

133 **59-12-104. Exemptions.**

134 Exemptions from the taxes imposed by this chapter are as follows:

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

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

139 (a) construction materials except:

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

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

147 (b) tangible personal property in connection with the construction, operation,
148 maintenance, repair, or replacement of a project, as defined in Section [11-13-103](#), or facilities
149 providing additional project capacity, as defined in Section [11-13-103](#);

- 150 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
- 151 (i) the proceeds of each sale do not exceed \$1; and
- 152 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
- 153 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 154 (b) Subsection (3)(a) applies to:
- 155 (i) food and food ingredients; or
- 156 (ii) prepared food;
- 157 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
- 158 (i) alcoholic beverages;
- 159 (ii) food and food ingredients; or
- 160 (iii) prepared food;
- 161 (b) sales of tangible personal property or a product transferred electronically:
- 162 (i) to a passenger;
- 163 (ii) by a commercial airline carrier; and
- 164 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 165 (c) services related to Subsection (4)(a) or (b);
- 166 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
- 167 and equipment:
- 168 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
- 169 North American Industry Classification System of the federal Executive Office of the
- 170 President, Office of Management and Budget; and
- 171 (II) for:
- 172 (Aa) installation in an aircraft, including services relating to the installation of parts or
- 173 equipment in the aircraft;
- 174 (Bb) renovation of an aircraft; or
- 175 (Cc) repair of an aircraft; or
- 176 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
- 177 commerce; or
- 178 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
- 179 aircraft operated by a common carrier in interstate or foreign commerce; and
- 180 (b) notwithstanding the time period of Subsection [59-1-1410\(8\)](#) for filing for a refund,

181 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
182 refund:

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

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

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

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

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

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

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

194 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
195 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
196 washing of tangible personal property;

197 (b) if a seller that sells at the same business location assisted cleaning or washing of
198 tangible personal property and cleaning or washing of tangible personal property that is not
199 assisted cleaning or washing of tangible personal property, the exemption described in
200 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
201 or washing of the tangible personal property; and

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

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

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

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

211 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of

212 this state if the vehicle is:

213 (a) not registered in this state; and

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

215 (ii) used in this state:

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

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

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

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

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

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

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

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

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

227 (A) a drug;

228 (B) a syringe; or

229 (C) a stoma supply; and

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

232 (A) "syringe"; or

233 (B) "stoma supply";

234 (11) purchases or leases exempt under Section [19-12-201](#);

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

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

238 (A) a church; or

239 (B) a charitable institution;

240 (ii) an institution of higher education if:

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

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

243 offered by the institution of higher education; or
244 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
245 (i) a medical facility; or
246 (ii) a nursing facility; and
247 (c) Subsections (12)(a) and (b) apply to:
248 (i) food and food ingredients;
249 (ii) prepared food; or
250 (iii) alcoholic beverages;
251 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
252 or a product transferred electronically by a person:
253 (i) regardless of the number of transactions involving the sale of that tangible personal
254 property or product transferred electronically by that person; and
255 (ii) not regularly engaged in the business of selling that type of tangible personal
256 property or product transferred electronically;
257 (b) this Subsection (13) does not apply if:
258 (i) the sale is one of a series of sales of a character to indicate that the person is
259 regularly engaged in the business of selling that type of tangible personal property or product
260 transferred electronically;
261 (ii) the person holds that person out as regularly engaged in the business of selling that
262 type of tangible personal property or product transferred electronically;
263 (iii) the person sells an item of tangible personal property or product transferred
264 electronically that the person purchased as a sale that is exempt under Subsection (25); or
265 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
266 this state in which case the tax is based upon:
267 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
268 sold; or
269 (B) in the absence of a bill of sale or other written evidence of value, the fair market
270 value of the vehicle or vessel being sold at the time of the sale as determined by the
271 commission; and
272 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
273 commission shall make rules establishing the circumstances under which:

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

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

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

281 (14) ~~[(a)]~~ amounts paid or charged for a purchase or lease ~~[(i) by a manufacturing~~
282 ~~facility located in the state; and (ii)]~~ of machinery, equipment, or normal operating repair or
283 replacement parts ~~[if the machinery, equipment, or normal operating repair or replacement~~
284 ~~parts have]~~ with an economic life of three or more years [and are used] by:

285 (a) a manufacturing facility, except as provided in Subsection (86), that:

286 (i) is located in the state; and

287 (ii) uses the machinery, equipment, or normal operating repair or replacement parts:

288 (A) in the manufacturing process to manufacture an item sold as tangible personal
289 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
290 Utah Administrative Rulemaking Act; or

291 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
292 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
293 Administrative Rulemaking Act;

294 ~~[(b) amounts paid or charged for a purchase or lease:]~~

295 ~~[(i) by]~~ (b) an establishment, as the commission defines that term in accordance with
296 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

297 ~~[(A)]~~ (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or
298 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
299 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
300 of the 2002 North American Industry Classification System of the federal Executive Office of
301 the President, Office of Management and Budget; [and]

302 ~~[(B)]~~ (ii) is located in the state; and

303 ~~[(ii) of]~~ (iii) uses the machinery, equipment, or normal operating repair or replacement
304 parts [if the machinery, equipment, or normal operating repair or replacement parts have an

305 ~~economic life of three or more years and are used]~~ in:

306 (A) the production process to produce an item sold as tangible personal property, as the
307 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah

308 Administrative Rulemaking Act;

309 (B) research and development, as the commission may define that phrase in accordance
310 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

311 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
312 produced from mining;

313 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
314 mining; or

315 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

316 ~~[(e) amounts paid or charged for a purchase or lease:]~~

317 ~~[(i) by]~~ (c) an establishment, as the commission defines that term in accordance with
318 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

319 ~~[(A)]~~ (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
320 American Industry Classification System of the federal Executive Office of the President,
321 Office of Management and Budget; [and]

322 ~~[(B)]~~ (ii) is located in the state; and

323 ~~[(ii) of]~~ (iii) uses the machinery, equipment, or normal operating repair or replacement
324 parts [if the machinery, equipment, or normal operating repair or replacement parts: (A) are

325 used] in the operation of the web search portal; [and]

326 ~~[(B) have an economic life of three or more years; and]~~

327 ~~[(d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
328 Utah Administrative Rulemaking Act, the commission:]~~

329 ~~[(i) shall by rule define the term "establishment"; and]~~

330 ~~[(ii) may by rule define what constitutes:]~~

331 ~~[(A) processing an item sold as tangible personal property;]~~

332 ~~[(B) the production process, to produce an item sold as tangible personal property; or]~~

333 ~~[(C) research and development;]~~

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

335 (i) tooling;

- 336 (ii) special tooling;
- 337 (iii) support equipment;
- 338 (iv) special test equipment; or
- 339 (v) parts used in the repairs or renovations of tooling or equipment described in
- 340 Subsections (15)(a)(i) through (iv); and
- 341 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
- 342 (i) the tooling, equipment, or parts are used or consumed exclusively in the
- 343 performance of any aerospace or electronics industry contract with the United States
- 344 government or any subcontract under that contract; and
- 345 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
- 346 title to the tooling, equipment, or parts is vested in the United States government as evidenced
- 347 by:
- 348 (A) a government identification tag placed on the tooling, equipment, or parts; or
- 349 (B) listing on a government-approved property record if placing a government
- 350 identification tag on the tooling, equipment, or parts is impractical;
- 351 (16) sales of newspapers or newspaper subscriptions;
- 352 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
- 353 product transferred electronically traded in as full or part payment of the purchase price, except
- 354 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
- 355 trade-ins are limited to other vehicles only, and the tax is based upon:
- 356 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
- 357 vehicle being traded in; or
- 358 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
- 359 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
- 360 commission; and
- 361 (b) Subsection (17)(a) does not apply to the following items of tangible personal
- 362 property or products transferred electronically traded in as full or part payment of the purchase
- 363 price:
- 364 (i) money;
- 365 (ii) electricity;
- 366 (iii) water;

367 (iv) gas; or
368 (v) steam;
369 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
370 or a product transferred electronically used or consumed primarily and directly in farming
371 operations, regardless of whether the tangible personal property or product transferred
372 electronically:
373 (A) becomes part of real estate; or
374 (B) is installed by a:
375 (I) farmer;
376 (II) contractor; or
377 (III) subcontractor; or
378 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
379 product transferred electronically if the tangible personal property or product transferred
380 electronically is exempt under Subsection (18)(a)(i); and
381 (b) amounts paid or charged for the following are subject to the taxes imposed by this
382 chapter:
383 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
384 incidental to farming:
385 (I) machinery;
386 (II) equipment;
387 (III) materials; or
388 (IV) supplies; and
389 (B) tangible personal property that is considered to be used in a manner that is
390 incidental to farming includes:
391 (I) hand tools; or
392 (II) maintenance and janitorial equipment and supplies;
393 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
394 transferred electronically if the tangible personal property or product transferred electronically
395 is used in an activity other than farming; and
396 (B) tangible personal property or a product transferred electronically that is considered
397 to be used in an activity other than farming includes:

- 398 (I) office equipment and supplies; or
- 399 (II) equipment and supplies used in:
 - 400 (Aa) the sale or distribution of farm products;
 - 401 (Bb) research; or
 - 402 (Cc) transportation; or
 - 403 (iii) a vehicle required to be registered by the laws of this state during the period
 - 404 ending two years after the date of the vehicle's purchase;
- 405 (19) sales of hay;
- 406 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
- 407 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
- 408 garden, farm, or other agricultural produce is sold by:
 - 409 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
 - 410 agricultural produce;
 - 411 (b) an employee of the producer described in Subsection (20)(a); or
 - 412 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 413 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
- 414 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 415 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
- 416 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
- 417 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
- 418 manufacturer, processor, wholesaler, or retailer;
- 419 (23) a product stored in the state for resale;
- 420 (24) (a) purchases of a product if:
 - 421 (i) the product is:
 - 422 (A) purchased outside of this state;
 - 423 (B) brought into this state:
 - 424 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
 - 425 (II) by a nonresident person who is not living or working in this state at the time of the
 - 426 purchase;
 - 427 (C) used for the personal use or enjoyment of the nonresident person described in
 - 428 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

- 429 (D) not used in conducting business in this state; and
430 (ii) for:
431 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
432 the product for a purpose for which the product is designed occurs outside of this state;
433 (B) a boat, the boat is registered outside of this state; or
434 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
435 outside of this state;
436 (b) the exemption provided for in Subsection (24)(a) does not apply to:
437 (i) a lease or rental of a product; or
438 (ii) a sale of a vehicle exempt under Subsection (33); and
439 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
440 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
441 following:
442 (i) conducting business in this state if that phrase has the same meaning in this
443 Subsection (24) as in Subsection (63);
444 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
445 as in Subsection (63); or
446 (iii) a purpose for which a product is designed if that phrase has the same meaning in
447 this Subsection (24) as in Subsection (63);
448 (25) a product purchased for resale in this state, in the regular course of business, either
449 in its original form or as an ingredient or component part of a manufactured or compounded
450 product;
451 (26) a product upon which a sales or use tax was paid to some other state, or one of its
452 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
453 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
454 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
455 Act;
456 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
457 person for use in compounding a service taxable under the subsections;
458 (28) purchases made in accordance with the special supplemental nutrition program for
459 women, infants, and children established in 42 U.S.C. Sec. 1786;

- 460 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
461 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
462 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
463 the President, Office of Management and Budget;
- 464 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
465 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
- 466 (a) not registered in this state; and
467 (b) (i) not used in this state; or
468 (ii) used in this state:
- 469 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
470 time period that does not exceed the longer of:
- 471 (I) 30 days in any calendar year; or
472 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
473 the borders of this state; or
- 474 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
475 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
476 state;
- 477 (31) sales of aircraft manufactured in Utah;
- 478 (32) amounts paid for the purchase of telecommunications service for purposes of
479 providing telecommunications service;
- 480 (33) sales, leases, or uses of the following:
- 481 (a) a vehicle by an authorized carrier; or
482 (b) tangible personal property that is installed on a vehicle:
- 483 (i) sold or leased to or used by an authorized carrier; and
484 (ii) before the vehicle is placed in service for the first time;
- 485 (34) (a) 45% of the sales price of any new manufactured home; and
486 (b) 100% of the sales price of any used manufactured home;
- 487 (35) sales relating to schools and fundraising sales;
- 488 (36) sales or rentals of durable medical equipment if:
- 489 (a) a person presents a prescription for the durable medical equipment; and
490 (b) the durable medical equipment is used for home use only;

491 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
492 Section 72-11-102; and

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

495 (38) sales to a ski resort of:

496 (a) snowmaking equipment;

497 (b) ski slope grooming equipment;

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

499 (d) parts used in the repairs or renovations of equipment or passenger ropeways
500 described in Subsections (38)(a) through (c);

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

502 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
503 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
504 59-12-102;

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

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

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

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

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

518 (i) a governmental entity; or

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

520 (A) a school; or

521 (B) the State Board of Education; or

- 522 (b) sales of publications by a governmental entity;
- 523 (42) amounts paid for admission to an athletic event at an institution of higher
- 524 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 525 20 U.S.C. Sec. 1681 et seq.;
- 526 (43) (a) sales made to or by:
- 527 (i) an area agency on aging; or
- 528 (ii) a senior citizen center owned by a county, city, or town; or
- 529 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 530 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 531 materials regardless of whether the semiconductor fabricating, processing, research, or
- 532 development materials:
- 533 (a) actually come into contact with a semiconductor; or
- 534 (b) ultimately become incorporated into real property;
- 535 (45) an amount paid by or charged to a purchaser for accommodations and services
- 536 described in Subsection [59-12-103\(1\)\(i\)](#) to the extent the amount is exempt under Section
- 537 [59-12-104.2](#);
- 538 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
- 539 sports event registration certificate in accordance with Section [41-3-306](#) for the event period
- 540 specified on the temporary sports event registration certificate;
- 541 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
- 542 adopted by the Public Service Commission only for purchase of electricity produced from a
- 543 new alternative energy source built after January 1, 2016, as designated in the tariff by the
- 544 Public Service Commission;
- 545 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
- 546 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
- 547 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
- 548 customer would have paid absent the tariff;
- 549 (48) sales or rentals of mobility enhancing equipment if a person presents a
- 550 prescription for the mobility enhancing equipment;
- 551 (49) sales of water in a:
- 552 (a) pipe;

- 553 (b) conduit;
- 554 (c) ditch; or
- 555 (d) reservoir;
- 556 (50) sales of currency or coins that constitute legal tender of a state, the United States,
- 557 or a foreign nation;
- 558 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 559 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 560 (ii) has a gold, silver, or platinum content of 50% or more; and
- 561 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 562 (i) ingot;
- 563 (ii) bar;
- 564 (iii) medallion; or
- 565 (iv) decorative coin;
- 566 (52) amounts paid on a sale-leaseback transaction;
- 567 (53) sales of a prosthetic device:
- 568 (a) for use on or in a human; and
- 569 (b) (i) for which a prescription is required; or
- 570 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 571 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 572 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 573 or equipment is primarily used in the production or postproduction of the following media for
- 574 commercial distribution:
- 575 (i) a motion picture;
- 576 (ii) a television program;
- 577 (iii) a movie made for television;
- 578 (iv) a music video;
- 579 (v) a commercial;
- 580 (vi) a documentary; or
- 581 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
- 582 commission by administrative rule made in accordance with Subsection (54)(d); or
- 583 (b) purchases, leases, or rentals of machinery or equipment by an establishment

584 described in Subsection (54)(c) that is used for the production or postproduction of the
585 following are subject to the taxes imposed by this chapter:

586 (i) a live musical performance;

587 (ii) a live news program; or

588 (iii) a live sporting event;

589 (c) the following establishments listed in the 1997 North American Industry
590 Classification System of the federal Executive Office of the President, Office of Management
591 and Budget, apply to Subsections (54)(a) and (b):

592 (i) NAICS Code 512110; or

593 (ii) NAICS Code 51219; and

594 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
595 commission may by rule:

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

597 or

598 (ii) define:

599 (A) "commercial distribution";

600 (B) "live musical performance";

601 (C) "live news program"; or

602 (D) "live sporting event";

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

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

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

607 (B) is located in the state; and

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

609 (II) has its generation capacity increased by one or more megawatts on or after July 1,
610 2004, as a result of the use of the tangible personal property;

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

612 (iii) is used to make the facility or the increase in capacity of the facility described in
613 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
614 transmission grid including:

- 615 (A) a wind turbine;
- 616 (B) generating equipment;
- 617 (C) a control and monitoring system;
- 618 (D) a power line;
- 619 (E) substation equipment;
- 620 (F) lighting;
- 621 (G) fencing;
- 622 (H) pipes; or
- 623 (I) other equipment used for locating a power line or pole; and
- 624 (b) this Subsection (55) does not apply to:
 - 625 (i) tangible personal property used in construction of:
 - 626 (A) a new alternative energy electricity production facility; or
 - 627 (B) the increase in the capacity of an alternative energy electricity production facility;
 - 628 (ii) contracted services required for construction and routine maintenance activities;
- 629 and
 - 630 (iii) unless the tangible personal property is used or acquired for an increase in capacity
 - 631 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
 - 632 acquired after:
 - 633 (A) the alternative energy electricity production facility described in Subsection
 - 634 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
 - 635 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
 - 636 in Subsection (55)(a)(iii);
 - 637 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
 - 638 on or before June 30, 2027, of tangible personal property that:
 - 639 (i) is leased or purchased for or by a facility that:
 - 640 (A) is a waste energy production facility;
 - 641 (B) is located in the state; and
 - 642 (C) (I) becomes operational on or after July 1, 2004; or
 - 643 (II) has its generation capacity increased by one or more megawatts on or after July 1,
 - 644 2004, as a result of the use of the tangible personal property;
 - 645 (ii) has an economic life of five or more years; and

646 (iii) is used to make the facility or the increase in capacity of the facility described in
647 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
648 transmission grid including:

- 649 (A) generating equipment;
- 650 (B) a control and monitoring system;
- 651 (C) a power line;
- 652 (D) substation equipment;
- 653 (E) lighting;
- 654 (F) fencing;
- 655 (G) pipes; or
- 656 (H) other equipment used for locating a power line or pole; and

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

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

- 659 (A) a new waste energy facility; or
- 660 (B) the increase in the capacity of a waste energy facility;

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

662 and

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

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

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

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

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

- 672 (A) is located in the state;
- 673 (B) produces fuel from alternative energy, including:
 - 674 (I) methanol; or
 - 675 (II) ethanol; and

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

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

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

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

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

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

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

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

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

686 and

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

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

690 (B) the increased capacity described in Subsection (57)(a)(i) is operational;

691 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
692 product transferred electronically to a person within this state if that tangible personal property
693 or product transferred electronically is subsequently shipped outside the state and incorporated
694 pursuant to contract into and becomes a part of real property located outside of this state;

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

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

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

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

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

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

708 (v) in accordance with Section 59-1-1410; and
709 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
710 the person files for the refund on or before June 30, 2011;

711 (59) purchases:
712 (a) of one or more of the following items in printed or electronic format:
713 (i) a list containing information that includes one or more:
714 (A) names; or
715 (B) addresses; or
716 (ii) a database containing information that includes one or more:
717 (A) names; or
718 (B) addresses; and
719 (b) used to send direct mail;

720 (60) redemptions or repurchases of a product by a person if that product was:
721 (a) delivered to a pawnbroker as part of a pawn transaction; and
722 (b) redeemed or repurchased within the time period established in a written agreement
723 between the person and the pawnbroker for redeeming or repurchasing the product;

724 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
725 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
726 and
727 (ii) has a useful economic life of one or more years; and
728 (b) the following apply to Subsection (61)(a):
729 (i) telecommunications enabling or facilitating equipment, machinery, or software;
730 (ii) telecommunications equipment, machinery, or software required for 911 service;
731 (iii) telecommunications maintenance or repair equipment, machinery, or software;
732 (iv) telecommunications switching or routing equipment, machinery, or software; or
733 (v) telecommunications transmission equipment, machinery, or software;

734 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
735 personal property or a product transferred electronically that are used in the research and
736 development of alternative energy technology; and
737 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
738 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes

739 purchases of tangible personal property or a product transferred electronically that are used in
740 the research and development of alternative energy technology;

741 (63) (a) purchases of tangible personal property or a product transferred electronically
742 if:

743 (i) the tangible personal property or product transferred electronically is:

744 (A) purchased outside of this state;

745 (B) brought into this state at any time after the purchase described in Subsection
746 (63)(a)(i)(A); and

747 (C) used in conducting business in this state; and

748 (ii) for:

749 (A) tangible personal property or a product transferred electronically other than the
750 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
751 for a purpose for which the property is designed occurs outside of this state; or

752 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
753 outside of this state;

754 (b) the exemption provided for in Subsection (63)(a) does not apply to:

755 (i) a lease or rental of tangible personal property or a product transferred electronically;

756 or

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

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

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

763 (ii) the first use of tangible personal property or a product transferred electronically if
764 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

765 (iii) a purpose for which tangible personal property or a product transferred
766 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
767 Subsection (24);

768 (64) sales of disposable home medical equipment or supplies if:

769 (a) a person presents a prescription for the disposable home medical equipment or

770 supplies;

771 (b) the disposable home medical equipment or supplies are used exclusively by the
772 person to whom the prescription described in Subsection (64)(a) is issued; and

773 (c) the disposable home medical equipment and supplies are listed as eligible for
774 payment under:

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

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

777 (65) sales:

778 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
779 District Act; or

780 (b) of tangible personal property to a subcontractor of a public transit district, if the
781 tangible personal property is:

782 (i) clearly identified; and

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

784 (66) sales of construction materials:

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

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

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

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

789 (c) if the construction materials are:

790 (i) clearly identified;

791 (ii) segregated; and

792 (iii) installed or converted to real property:

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

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

795 (67) sales of construction materials:

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

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

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

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

800 [59-2-102](#) is headquartered; and

- 801 (c) if the construction materials are:
- 802 (i) clearly identified;
- 803 (ii) segregated; and
- 804 (iii) installed or converted to real property:
- 805 (A) owned or operated by the new airport described in Subsection (67)(b);
- 806 (B) located at the new airport described in Subsection (67)(b); and
- 807 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 808 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 809 (69) purchases and sales described in Section [63H-4-111](#);
- 810 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 811 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 812 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 813 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 814 powered aircraft; or
- 815 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 816 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 817 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 818 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 819 powered aircraft;
- 820 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:
- 821 (a) to a person admitted to an institution of higher education; and
- 822 (b) by a seller, other than a bookstore owned by an institution of higher education, if
- 823 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
- 824 textbook for a higher education course;
- 825 (72) a license fee or tax a municipality imposes in accordance with Subsection
- 826 [10-1-203\(5\)](#) on a purchaser from a business for which the municipality provides an enhanced
- 827 level of municipal services;
- 828 (73) amounts paid or charged for construction materials used in the construction of a
- 829 new or expanding life science research and development facility in the state, if the construction
- 830 materials are:
- 831 (a) clearly identified;

- 832 (b) segregated; and
- 833 (c) installed or converted to real property;
- 834 (74) amounts paid or charged for:
 - 835 (a) a purchase or lease of machinery and equipment that:
 - 836 (i) are used in performing qualified research:
 - 837 (A) as defined in Section 41(d), Internal Revenue Code; and
 - 838 (B) in the state; and
 - 839 (ii) have an economic life of three or more years; and
 - 840 (b) normal operating repair or replacement parts:
 - 841 (i) for the machinery and equipment described in Subsection (74)(a); and
 - 842 (ii) that have an economic life of three or more years;
- 843 (75) a sale or lease of tangible personal property used in the preparation of prepared
- 844 food if:
 - 845 (a) for a sale:
 - 846 (i) the ownership of the seller and the ownership of the purchaser are identical; and
 - 847 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
 - 848 tangible personal property prior to making the sale; or
 - 849 (b) for a lease:
 - 850 (i) the ownership of the lessor and the ownership of the lessee are identical; and
 - 851 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
 - 852 personal property prior to making the lease;
- 853 (76) (a) purchases of machinery or equipment if:
 - 854 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
 - 855 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
 - 856 System of the federal Executive Office of the President, Office of Management and Budget;
 - 857 (ii) the machinery or equipment:
 - 858 (A) has an economic life of three or more years; and
 - 859 (B) is used by one or more persons who pay admission or user fees described in
 - 860 Subsection [59-12-103\(1\)\(f\)](#) to the purchaser of the machinery and equipment; and
 - 861 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
 - 862 (A) amounts paid or charged as admission or user fees described in Subsection

863 59-12-103(1)(f); and
864 (B) subject to taxation under this chapter; and
865 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
866 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
867 previous calendar quarter is:
868 (i) amounts paid or charged as admission or user fees described in Subsection
869 59-12-103(1)(f); and
870 (ii) subject to taxation under this chapter;
871 (77) purchases of a short-term lodging consumable by a business that provides
872 accommodations and services described in Subsection 59-12-103(1)(i);
873 (78) amounts paid or charged to access a database:
874 (a) if the primary purpose for accessing the database is to view or retrieve information
875 from the database; and
876 (b) not including amounts paid or charged for a:
877 (i) digital audiowork;
878 (ii) digital audio-visual work; or
879 (iii) digital book;
880 (79) amounts paid or charged for a purchase or lease made by an electronic financial
881 payment service, of:
882 (a) machinery and equipment that:
883 (i) are used in the operation of the electronic financial payment service; and
884 (ii) have an economic life of three or more years; and
885 (b) normal operating repair or replacement parts that:
886 (i) are used in the operation of the electronic financial payment service; and
887 (ii) have an economic life of three or more years;
888 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
889 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
890 product transferred electronically if the tangible personal property or product transferred
891 electronically:
892 (a) is stored, used, or consumed in the state; and
893 (b) is temporarily brought into the state from another state;

894 (i) during a disaster period as defined in Section 53-2a-1202;
895 (ii) by an out-of-state business as defined in Section 53-2a-1202;
896 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
897 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
898 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
899 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
900 Recreation Program;
901 (83) amounts paid or charged for a purchase or lease of molten magnesium;
902 (84) (a) except as provided in Subsection (84)(b), amounts paid or charged for a
903 purchase or lease made by a drilling equipment manufacturer of machinery, equipment,
904 materials, or normal operating repair or replacement parts:
905 (i) that are used or consumed exclusively in the drilling equipment manufacturer's
906 manufacturing process; and
907 (ii) except for office:
908 (A) equipment; or
909 (B) supplies; and
910 (b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an
911 exemption described in Subsection (84)(a) only by filing for a refund:
912 (i) of 50% of the tax paid on the amounts paid or charged; and
913 (ii) in accordance with Section 59-1-1410; ~~and~~
914 (85) amounts paid or charged for a purchase or lease made by a qualifying enterprise
915 data center of machinery, equipment, or normal operating repair or replacement parts, if the
916 machinery, equipment, or normal operating repair or replacement parts:
917 (a) are used in the operation of the establishment; and
918 (b) have an economic life of one or more years[-]; and
919 (86) amounts paid or charged for a purchase or lease of machinery, equipment, or
920 normal operating repair or replacement parts by a manufacturing facility that:
921 (a) is an establishment, as the commission defines that term in accordance with Title
922 63G, Chapter 3, Utah Administrative Rulemaking Act;
923 (b) is described in NAICS Code 336111, Automobile Manufacturing, of the 2002
924 North American Industry Classification System of the federal Executive Office of the

925 President, Office of Management and Budget;

926 (c) is located in the state; and

927 (d) uses the machinery, equipment, or normal operating repair or replacement parts in

928 the manufacturing process to manufacture an item sold as tangible personal property, as the

929 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah

930 Administrative Rulemaking Act.

931 Section 3. **Effective date.**

932 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2017.

933 (2) The amendments to Section [59-7-302](#) take effect for a taxable year beginning on or

934 after January 1, 2018.