

Representative Susan Duckworth proposes the following substitute bill:

TAX REVISIONS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tim Quinn

Senate Sponsor: _____

Cosponsor: Steve Eliason

LONG TITLE

General Description:

This bill modifies the Sales and Use Tax Act by amending provisions relating to the taxation of food and food ingredients and tax rates.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ excludes candy from the definition of food and food ingredients;
- ▶ increases the general state sales and use tax rate;
- ▶ reduces the state sales and use tax rate on food and food ingredients; and
- ▶ adds a sales and use tax exemption for an incontinence care item, feminine hygiene products, and diapers; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.



25 **Utah Code Sections Affected:**

26 AMENDS:

27 **59-12-102**, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422

28 **59-12-103**, as last amended by Laws of Utah 2017, Chapters 234, 421, and 422

29 **59-12-104**, as last amended by Laws of Utah 2017, Chapters 264, 268, and 429



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

32 Section 1. Section **59-12-102** is amended to read:

33 **59-12-102. Definitions.**

34 As used in this chapter:

35 (1) "800 service" means a telecommunications service that:

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

37 (b) is typically marketed:

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

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

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

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

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

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

44 Federal Communications Commission.

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

46 (i) a subscriber purchases;

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

48 the subscriber's:

49 (A) prerecorded announcement; or

50 (B) live service; and

51 (iii) is typically marketed:

52 (A) under the name 900 service; or

53 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

54 Communications Commission.

55 (b) "900 service" does not include a charge for:

- 56 (i) a collection service a seller of a telecommunications service provides to a
57 subscriber; or
- 58 (ii) the following a subscriber sells to the subscriber's customer:
- 59 (A) a product; or
- 60 (B) a service.
- 61 (3) (a) "Admission or user fees" includes season passes.
- 62 (b) "Admission or user fees" does not include annual membership dues to private
63 organizations.
- 64 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
65 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
66 Agreement after November 12, 2002.
- 67 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 68 (a) listed under Subsection (6); and
- 69 (b) that are imposed within a local taxing jurisdiction.
- 70 (6) "Agreement sales and use tax" means a tax imposed under:
- 71 (a) Subsection 59-12-103(2)(a)(i)(A);
- 72 (b) Subsection 59-12-103(2)(b)(i);
- 73 (c) Subsection 59-12-103(2)(c)(i);
- 74 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 75 (e) Section 59-12-204;
- 76 (f) Section 59-12-401;
- 77 (g) Section 59-12-402;
- 78 (h) Section 59-12-402.1;
- 79 (i) Section 59-12-703;
- 80 (j) Section 59-12-802;
- 81 (k) Section 59-12-804;
- 82 (l) Section 59-12-1102;
- 83 (m) Section 59-12-1302;
- 84 (n) Section 59-12-1402;
- 85 (o) Section 59-12-1802;
- 86 (p) Section 59-12-2003;

87 (q) Section 59-12-2103;

88 (r) Section 59-12-2213;

89 (s) Section 59-12-2214;

90 (t) Section 59-12-2215;

91 (u) Section 59-12-2216;

92 (v) Section 59-12-2217;

93 (w) Section 59-12-2218; or

94 (x) Section 59-12-2219.

95 (7) "Aircraft" means the same as that term is defined in Section 72-10-102.

96 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

97 (a) except for:

98 (i) an airline as defined in Section 59-2-102; or

99 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"

100 includes a corporation that is qualified to do business but is not otherwise doing business in the
101 state, of an airline; and

102 (b) that has the workers, expertise, and facilities to perform the following, regardless of
103 whether the business entity performs the following in this state:

104 (i) check, diagnose, overhaul, and repair:

105 (A) an onboard system of a fixed wing turbine powered aircraft; and

106 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

107 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
108 engine;

109 (iii) perform at least the following maintenance on a fixed wing turbine powered
110 aircraft:

111 (A) an inspection;

112 (B) a repair, including a structural repair or modification;

113 (C) changing landing gear; and

114 (D) addressing issues related to an aging fixed wing turbine powered aircraft;

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

117 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that

118 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
119 authority that certifies the fixed wing turbine powered aircraft.

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

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

123 (10) "Alternative energy" means:

- 124 (a) biomass energy;
- 125 (b) geothermal energy;
- 126 (c) hydroelectric energy;
- 127 (d) solar energy;
- 128 (e) wind energy; or
- 129 (f) energy that is derived from:
 - 130 (i) coal-to-liquids;
 - 131 (ii) nuclear fuel;
 - 132 (iii) oil-impregnated diatomaceous earth;
 - 133 (iv) oil sands;
 - 134 (v) oil shale;
 - 135 (vi) petroleum coke; or
 - 136 (vii) waste heat from:
 - 137 (A) an industrial facility; or
 - 138 (B) a power station in which an electric generator is driven through a process in which
 - 139 water is heated, turns into steam, and spins a steam turbine.

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

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

148 (12) (a) "Ancillary service" means a service associated with, or incidental to, the

149 provision of telecommunications service.

150 (b) "Ancillary service" includes:

151 (i) a conference bridging service;

152 (ii) a detailed communications billing service;

153 (iii) directory assistance;

154 (iv) a vertical service; or

155 (v) a voice mail service.

156 (13) "Area agency on aging" means the same as that term is defined in Section

157 [62A-3-101](#).

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

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

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

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

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

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

171 (16) "Authorized carrier" means:

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

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

177 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
178 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
179 stock in more than one state.

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

- 182 (i) material from a plant or tree; or
- 183 (ii) other organic matter that is available on a renewable basis, including:
 - 184 (A) slash and brush from forests and woodlands;
 - 185 (B) animal waste;
 - 186 (C) waste vegetable oil;
 - 187 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
188 wastewater residuals, or through the conversion of a waste material through a nonincineration,
189 thermal conversion process;
 - 190 (E) aquatic plants; and
 - 191 (F) agricultural products.

192 (b) "Biomass energy" does not include:

- 193 (i) black liquor; or
- 194 (ii) treated woods.

195 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
196 property, products, or services if the tangible personal property, products, or services are:

- 197 (i) distinct and identifiable; and
- 198 (ii) sold for one nonitemized price.
- 199 (b) "Bundled transaction" does not include:
 - 200 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
201 the basis of the selection by the purchaser of the items of tangible personal property included in
202 the transaction;
 - 203 (ii) the sale of real property;
 - 204 (iii) the sale of services to real property;
 - 205 (iv) the retail sale of tangible personal property and a service if:
 - 206 (A) the tangible personal property:
 - 207 (I) is essential to the use of the service; and
 - 208 (II) is provided exclusively in connection with the service; and
 - 209 (B) the service is the true object of the transaction;
 - 210 (v) the retail sale of two services if:

- 211 (A) one service is provided that is essential to the use or receipt of a second service;
- 212 (B) the first service is provided exclusively in connection with the second service; and
- 213 (C) the second service is the true object of the transaction;

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

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

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

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

223 (A) that retail sale includes:

224 (I) food and food ingredients;

225 (II) a drug;

226 (III) durable medical equipment;

227 (IV) mobility enhancing equipment;

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

229 (VI) a prosthetic device; or

230 (VII) a medical supply; and

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

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

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

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

238 (A) packaging that:

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

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

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

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

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

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

255 (A) a binding sales document; or

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

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

259 (A) a bill of sale;

260 (B) a contract;

261 (C) an invoice;

262 (D) a lease agreement;

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

264 (F) a price list;

265 (G) a rate card;

266 (H) a receipt; or

267 (I) a service agreement.

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

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

272 (B) the seller's sales price of the tangible personal property or product is 10% or less of

273 the seller's total sales price of the bundled transaction.

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

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

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

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

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

287 (19) (a) "Candy" means a preparation of sugar, honey, or other natural or artificial
288 sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the
289 form of bars, drops, or pieces.

290 (b) "Candy" does not include:

291 (i) any preparation containing flour; and

292 (ii) any preparation requiring refrigeration.

293 ~~[(19)]~~ (20) "Certified automated system" means software certified by the governing
294 board of the agreement that:

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

297 (i) on a transaction; and

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

299 (b) determines the amount of agreement sales and use tax to remit to a state that is a
300 member of the agreement; and

301 (c) maintains a record of the transaction described in Subsection ~~[(19)]~~ (20)(a)(i).

302 ~~[(20)]~~ (21) "Certified service provider" means an agent certified:

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

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

307 ~~[(21)]~~ (22) (a) ~~[Subject]~~ Except as provided in Subsection (22)(b) and subject to
308 Subsection ~~[(21)(b)]~~ (22)(c), "clothing" means all human wearing apparel suitable for general
309 use.

310 (b) "Clothing" does not include diapers.

311 ~~[(b)]~~ (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
312 Act, the commission shall make rules:

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

314 (ii) that are consistent with the list of items that constitute "clothing" under the
315 agreement and this Subsection (22).

316 ~~[(22)]~~ (23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic
317 fuel.

318 ~~[(23)]~~ (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or
319 other fuels that does not constitute industrial use under Subsection ~~[(56)]~~ (59) or residential use
320 under Subsection ~~[(106)]~~ (109).

321 ~~[(24)]~~ (25) (a) "Common carrier" means a person engaged in or transacting the
322 business of transporting passengers, freight, merchandise, or other property for hire within this
323 state.

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

327 (ii) For purposes of Subsection ~~[(24)]~~ (25)(b)(i), in accordance with Title 63G, Chapter
328 3, Utah Administrative Rulemaking Act, the commission may make rules defining what
329 constitutes a person's place of employment.

330 (c) "Common carrier" does not include a person that provides transportation network
331 services, as defined in Section 13-51-102.

332 ~~[(25)]~~ (26) "Component part" includes:

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

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

335 (c) fuel used for providing temperature control of orchards and commercial
336 greenhouses doing a majority of their business in wholesale sales, and for providing power for
337 off-highway type farm machinery; and

338 (d) feed, seeds, and seedlings.

339 [~~26~~] (27) "Computer" means an electronic device that accepts information:

340 (a) (i) in digital form; or

341 (ii) in a form similar to digital form; and

342 (b) manipulates that information for a result based on a sequence of instructions.

343 [~~27~~] (28) "Computer software" means a set of coded instructions designed to cause:

344 (a) a computer to perform a task; or

345 (b) automatic data processing equipment to perform a task.

346 [~~28~~] (29) "Computer software maintenance contract" means a contract that obligates a
347 seller of computer software to provide a customer with:

348 (a) future updates or upgrades to computer software;

349 (b) support services with respect to computer software; or

350 (c) a combination of Subsections [~~28~~] (29)(a) and (b).

351 [~~29~~] (30) (a) "Conference bridging service" means an ancillary service that links two
352 or more participants of an audio conference call or video conference call.

353 (b) "Conference bridging service" may include providing a telephone number as part of
354 the ancillary service described in Subsection [~~29~~] (30)(a).

355 (c) "Conference bridging service" does not include a telecommunications service used
356 to reach the ancillary service described in Subsection [~~29~~] (30)(a).

357 [~~30~~] (31) "Construction materials" means any tangible personal property that will be
358 converted into real property.

359 [~~31~~] (32) "Delivered electronically" means delivered to a purchaser by means other
360 than tangible storage media.

361 [~~32~~] (33) (a) "Delivery charge" means a charge:

362 (i) by a seller of:

363 (A) tangible personal property;

364 (B) a product transferred electronically; or

365 (C) services; and

366 (ii) for preparation and delivery of the tangible personal property, product transferred
367 electronically, or services described in Subsection [~~(32)~~] (33)(a)(i) to a location designated by
368 the purchaser.

369 (b) "Delivery charge" includes a charge for the following:

370 (i) transportation;

371 (ii) shipping;

372 (iii) postage;

373 (iv) handling;

374 (v) crating; or

375 (vi) packing.

376 [~~(33)~~] (34) "Detailed telecommunications billing service" means an ancillary service of
377 separately stating information pertaining to individual calls on a customer's billing statement.

378 (35) "Diaper" means an absorbent garment worn by humans who are incapable of, or
379 have difficulty, controlling their bladder or bowel movements.

380 [~~(34)~~] (36) "Dietary supplement" means a product, other than tobacco, that:

381 (a) is intended to supplement the diet;

382 (b) contains one or more of the following dietary ingredients:

383 (i) a vitamin;

384 (ii) a mineral;

385 (iii) an herb or other botanical;

386 (iv) an amino acid;

387 (v) a dietary substance for use by humans to supplement the diet by increasing the total
388 dietary intake; or

389 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
390 described in Subsections [~~(34)~~] (36)(b)(i) through (v);

391 (c) (i) except as provided in Subsection [~~(34)~~] (36)(c)(ii), is intended for ingestion in:

392 (A) tablet form;

393 (B) capsule form;

394 (C) powder form;

395 (D) softgel form;

396 (E) gelcap form; or

397 (F) liquid form; or
398 (ii) if the product is not intended for ingestion in a form described in Subsections [~~(34)~~
399 ~~(36)~~(c)(i)(A) through (F), is not represented:
400 (A) as conventional food; and
401 (B) for use as a sole item of:
402 (I) a meal; or
403 (II) the diet; and
404 (d) is required to be labeled as a dietary supplement:
405 (i) identifiable by the "Supplemental Facts" box found on the label; and
406 (ii) as required by 21 C.F.R. Sec. 101.36.
407 [~~(35)~~] (37) "Digital audio-visual work" means a series of related images which, when
408 shown in succession, imparts an impression of motion, together with accompanying sounds, if
409 any.
410 [~~(36)~~] (38) (a) "Digital audio work" means a work that results from the fixation of a
411 series of musical, spoken, or other sounds.
412 (b) "Digital audio work" includes a ringtone.
413 [~~(37)~~] (39) "Digital book" means a work that is generally recognized in the ordinary
414 and usual sense as a book.
415 [~~(38)~~] (40) (a) "Direct mail" means printed material delivered or distributed by United
416 States mail or other delivery service:
417 (i) to:
418 (A) a mass audience; or
419 (B) addressees on a mailing list provided:
420 (I) by a purchaser of the mailing list; or
421 (II) at the discretion of the purchaser of the mailing list; and
422 (ii) if the cost of the printed material is not billed directly to the recipients.
423 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
424 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
425 (c) "Direct mail" does not include multiple items of printed material delivered to a
426 single address.
427 [~~(39)~~] (41) "Directory assistance" means an ancillary service of providing:

- 428 (a) address information; or
- 429 (b) telephone number information.
- 430 ~~[(40)]~~ (42) (a) "Disposable home medical equipment or supplies" means medical
- 431 equipment or supplies that:
 - 432 (i) cannot withstand repeated use; and
 - 433 (ii) are purchased by, for, or on behalf of a person other than:
 - 434 (A) a health care facility as defined in Section 26-21-2;
 - 435 (B) a health care provider as defined in Section 78B-3-403;
 - 436 (C) an office of a health care provider described in Subsection ~~[(40)]~~ (42)(a)(ii)(B); or
 - 437 (D) a person similar to a person described in Subsections ~~[(40)]~~ (42)(a)(ii)(A) through
 - 438 (C).
 - 439 (b) "Disposable home medical equipment or supplies" does not include:
 - 440 (i) a drug;
 - 441 (ii) durable medical equipment;
 - 442 (iii) a hearing aid;
 - 443 (iv) a hearing aid accessory;
 - 444 (v) mobility enhancing equipment; or
 - 445 (vi) tangible personal property used to correct impaired vision, including:
 - 446 (A) eyeglasses; or
 - 447 (B) contact lenses.
 - 448 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 - 449 commission may by rule define what constitutes medical equipment or supplies.
 - 450 ~~[(41)]~~ (43) "Drilling equipment manufacturer" means a facility:
 - 451 (a) located in the state;
 - 452 (b) with respect to which 51% or more of the manufacturing activities of the facility
 - 453 consist of manufacturing component parts of drilling equipment;
 - 454 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
 - 455 manufacturing process; and
 - 456 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
 - 457 manufacturing process.
 - 458 ~~[(42)]~~ (44) (a) "Drug" means a compound, substance, or preparation, or a component of

459 a compound, substance, or preparation that is:

460 (i) recognized in:

461 (A) the official United States Pharmacopoeia;

462 (B) the official Homeopathic Pharmacopoeia of the United States;

463 (C) the official National Formulary; or

464 (D) a supplement to a publication listed in Subsections [~~(42)~~] (44)(a)(i)(A) through

465 (C);

466 (ii) intended for use in the:

467 (A) diagnosis of disease;

468 (B) cure of disease;

469 (C) mitigation of disease;

470 (D) treatment of disease; or

471 (E) prevention of disease; or

472 (iii) intended to affect:

473 (A) the structure of the body; or

474 (B) any function of the body.

475 (b) "Drug" does not include:

476 (i) food and food ingredients;

477 (ii) a dietary supplement;

478 (iii) an alcoholic beverage; or

479 (iv) a prosthetic device.

480 [~~(43)~~] (45) (a) Except as provided in Subsection [~~(43)~~] (45)(c), "durable medical

481 equipment" means equipment that:

482 (i) can withstand repeated use;

483 (ii) is primarily and customarily used to serve a medical purpose;

484 (iii) generally is not useful to a person in the absence of illness or injury; and

485 (iv) is not worn in or on the body.

486 (b) "Durable medical equipment" includes parts used in the repair or replacement of the

487 equipment described in Subsection [~~(43)~~] (45)(a).

488 (c) "Durable medical equipment" does not include mobility enhancing equipment.

489 [~~(44)~~] (46) "Electronic" means:

- 490 (a) relating to technology; and
- 491 (b) having:
 - 492 (i) electrical capabilities;
 - 493 (ii) digital capabilities;
 - 494 (iii) magnetic capabilities;
 - 495 (iv) wireless capabilities;
 - 496 (v) optical capabilities;
 - 497 (vi) electromagnetic capabilities; or
 - 498 (vii) capabilities similar to Subsections [~~(44)~~] (46)(b)(i) through (vi).
- 499 [~~(45)~~] (47) "Electronic financial payment service" means an establishment:
 - 500 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
 - 501 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
 - 502 federal Executive Office of the President, Office of Management and Budget; and
 - 503 (b) that performs electronic financial payment services.
- 504 [~~(46)~~] (48) "Employee" means the same as that term is defined in Section 59-10-401.
- 505 (49) (a) "Feminine hygiene products" means:
 - 506 (i) tampons;
 - 507 (ii) panty liners;
 - 508 (iii) menstrual cups;
 - 509 (iv) sanitary napkins; and
 - 510 (v) other similar tangible personal property designed for feminine hygiene in
 - 511 connection with the human menstrual cycle.
- 512 (b) "Feminine hygiene products" does not include:
 - 513 (i) soaps and cleaning solutions;
 - 514 (ii) shampoo;
 - 515 (iii) toothpaste;
 - 516 (iv) mouthwash;
 - 517 (v) antiperspirants; or
 - 518 (vi) sun tan lotions and screens.
- 519 [~~(47)~~] (50) "Fixed guideway" means a public transit facility that uses and occupies:
 - 520 (a) rail for the use of public transit; or

- 521 (b) a separate right-of-way for the use of public transit.
- 522 [~~(48)~~] (51) "Fixed wing turbine powered aircraft" means an aircraft that:
- 523 (a) is powered by turbine engines;
- 524 (b) operates on jet fuel; and
- 525 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 526 [~~(49)~~] (52) "Fixed wireless service" means a telecommunications service that provides
- 527 radio communication between fixed points.
- 528 [~~(50)~~] (53) (a) "Food and food ingredients" means substances:
- 529 (i) regardless of whether the substances are in:
- 530 (A) liquid form;
- 531 (B) concentrated form;
- 532 (C) solid form;
- 533 (D) frozen form;
- 534 (E) dried form; or
- 535 (F) dehydrated form; and
- 536 (ii) that are:
- 537 (A) sold for:
- 538 (I) ingestion by humans; or
- 539 (II) chewing by humans; and
- 540 (B) consumed for the substance's:
- 541 (I) taste; or
- 542 (II) nutritional value.
- 543 (b) "Food and food ingredients" includes an item described in Subsection [~~(91)~~]
- 544 (94)(b)(iii).
- 545 (c) "Food and food ingredients" does not include:
- 546 (i) an alcoholic beverage;
- 547 (ii) tobacco; [~~or~~]
- 548 (iii) prepared food[~~;~~]; or
- 549 (vi) candy.
- 550 [~~(51)~~] (54) (a) "Fundraising sales" means sales:
- 551 (i) (A) made by a school; or

552 (B) made by a school student;

553 (ii) that are for the purpose of raising funds for the school to purchase equipment,

554 materials, or provide transportation; and

555 (iii) that are part of an officially sanctioned school activity.

556 (b) For purposes of Subsection [~~(51)~~] (54)(a)(iii), "officially sanctioned school activity"

557 means a school activity:

558 (i) that is conducted in accordance with a formal policy adopted by the school or school

559 district governing the authorization and supervision of fundraising activities;

560 (ii) that does not directly or indirectly compensate an individual teacher or other

561 educational personnel by direct payment, commissions, or payment in kind; and

562 (iii) the net or gross revenues from which are deposited in a dedicated account

563 controlled by the school or school district.

564 [~~(52)~~] (55) "Geothermal energy" means energy contained in heat that continuously

565 flows outward from the earth that is used as the sole source of energy to produce electricity.

566 [~~(53)~~] (56) "Governing board of the agreement" means the governing board of the

567 agreement that is:

568 (a) authorized to administer the agreement; and

569 (b) established in accordance with the agreement.

570 [~~(54)~~] (57) (a) For purposes of Subsection 59-12-104(41), "governmental entity"

571 means:

572 (i) the executive branch of the state, including all departments, institutions, boards,

573 divisions, bureaus, offices, commissions, and committees;

574 (ii) the judicial branch of the state, including the courts, the Judicial Council, the

575 Office of the Court Administrator, and similar administrative units in the judicial branch;

576 (iii) the legislative branch of the state, including the House of Representatives, the

577 Senate, the Legislative Printing Office, the Office of Legislative Research and General

578 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal

579 Analyst;

580 (iv) the National Guard;

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

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

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

- 585 (i) a school;
- 586 (ii) the State Board of Education;
- 587 (iii) the State Board of Regents; or
- 588 (iv) an institution of higher education described in Section [53B-1-102](#).

589 [~~55~~] [\(58\)](#) "Hydroelectric energy" means water used as the sole source of energy to
590 produce electricity.

591 [~~56~~] [\(59\)](#) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
592 or other fuels:

- 593 (a) in mining or extraction of minerals;
- 594 (b) in agricultural operations to produce an agricultural product up to the time of
595 harvest or placing the agricultural product into a storage facility, including:

- 596 (i) commercial greenhouses;
- 597 (ii) irrigation pumps;
- 598 (iii) farm machinery;
- 599 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered
600 under Title 41, Chapter 1a, Part 2, Registration; and

- 601 (v) other farming activities;
- 602 (c) in manufacturing tangible personal property at an establishment described in SIC
603 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
604 Executive Office of the President, Office of Management and Budget;

- 605 (d) by a scrap recycler if:
606 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
607 one or more of the following items into prepared grades of processed materials for use in new
608 products:

- 609 (A) iron;
- 610 (B) steel;
- 611 (C) nonferrous metal;
- 612 (D) paper;
- 613 (E) glass;

- 614 (F) plastic;
- 615 (G) textile; or
- 616 (H) rubber; and
- 617 (ii) the new products under Subsection [~~(56)~~] (59)(d)(i) would otherwise be made with
- 618 nonrecycled materials; or
- 619 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 620 cogeneration facility as defined in Section 54-2-1.
- 621 [~~(57)~~] (60) (a) Except as provided in Subsection [~~(57)~~] (60)(b), "installation charge"
- 622 means a charge for installing:
 - 623 (i) tangible personal property; or
 - 624 (ii) a product transferred electronically.
 - 625 (b) "Installation charge" does not include a charge for:
 - 626 (i) repairs or renovations of:
 - 627 (A) tangible personal property; or
 - 628 (B) a product transferred electronically; or
 - 629 (ii) attaching tangible personal property or a product transferred electronically:
 - 630 (A) to other tangible personal property; and
 - 631 (B) as part of a manufacturing or fabrication process.
 - 632 [~~(58)~~] (61) "Institution of higher education" means an institution of higher education
 - 633 listed in Section 53B-2-101.
 - 634 [~~(59)~~] (62) (a) "Lease" or "rental" means a transfer of possession or control of tangible
 - 635 personal property or a product transferred electronically for:
 - 636 (i) (A) a fixed term; or
 - 637 (B) an indeterminate term; and
 - 638 (ii) consideration.
 - 639 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
 - 640 amount of consideration may be increased or decreased by reference to the amount realized
 - 641 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
 - 642 Code.
 - 643 (c) "Lease" or "rental" does not include:
 - 644 (i) a transfer of possession or control of property under a security agreement or

645 deferred payment plan that requires the transfer of title upon completion of the required
646 payments;

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

649 (A) upon completion of required payments; and

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

651 (I) \$100; or

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

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

656 (d) For purposes of Subsection [~~(59)~~] (62)(c)(iii), an operator is necessary for
657 equipment to perform as designed if the operator's duties exceed the:

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

659 (ii) maintenance of tangible personal property; or

660 (iii) inspection of tangible personal property.

661 [~~(60)~~] (63) "Life science establishment" means an establishment in this state that is
662 classified under the following NAICS codes of the 2007 North American Industry
663 Classification System of the federal Executive Office of the President, Office of Management
664 and Budget:

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

666 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
667 Manufacturing; or

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

669 [~~(61)~~] (64) "Life science research and development facility" means a facility owned,
670 leased, or rented by a life science establishment if research and development is performed in
671 51% or more of the total area of the facility.

672 [~~(62)~~] (65) "Load and leave" means delivery to a purchaser by use of a tangible storage
673 media if the tangible storage media is not physically transferred to the purchaser.

674 [~~(63)~~] (66) "Local taxing jurisdiction" means a:

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

- 676 (b) city that is authorized to impose an agreement sales and use tax; or
677 (c) town that is authorized to impose an agreement sales and use tax.
- 678 [~~(64)~~] (67) "Manufactured home" means the same as that term is defined in Section
679 15A-1-302.
- 680 [~~(65)~~] (68) "Manufacturing facility" means:
- 681 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
682 Industrial Classification Manual of the federal Executive Office of the President, Office of
683 Management and Budget;
- 684 (b) a scrap recycler if:
- 685 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
686 one or more of the following items into prepared grades of processed materials for use in new
687 products:
- 688 (A) iron;
689 (B) steel;
690 (C) nonferrous metal;
691 (D) paper;
692 (E) glass;
693 (F) plastic;
694 (G) textile; or
695 (H) rubber; and
- 696 (ii) the new products under Subsection [~~(65)~~] (68)(b)(i) would otherwise be made with
697 nonrecycled materials; or
- 698 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
699 placed in service on or after May 1, 2006.
- 700 [~~(66)~~] (69) "Member of the immediate family of the producer" means a person who is
701 related to a producer described in Subsection 59-12-104(20)(a) as a:
- 702 (a) child or stepchild, regardless of whether the child or stepchild is:
- 703 (i) an adopted child or adopted stepchild; or
704 (ii) a foster child or foster stepchild;
- 705 (b) grandchild or stepgrandchild;
706 (c) grandparent or stepgrandparent;

- 707 (d) nephew or stepnephew;
- 708 (e) niece or stepniece;
- 709 (f) parent or stepparent;
- 710 (g) sibling or stepsibling;
- 711 (h) spouse;
- 712 (i) person who is the spouse of a person described in Subsections ~~[(66)]~~ (69)(a) through
- 713 (g); or
- 714 (j) person similar to a person described in Subsections ~~[(66)]~~ (69)(a) through (i) as
- 715 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 716 Administrative Rulemaking Act.
- 717 ~~[(67)]~~ (70) "Mobile home" means the same as that term is defined in Section
- 718 15A-1-302.
- 719 ~~[(68)]~~ (71) "Mobile telecommunications service" is as defined in the Mobile
- 720 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 721 ~~[(69)]~~ (72) (a) "Mobile wireless service" means a telecommunications service,
- 722 regardless of the technology used, if:
- 723 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 724 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 725 (iii) the origination point described in Subsection ~~[(69)]~~ (72)(a)(i) and the termination
- 726 point described in Subsection ~~[(69)]~~ (72)(a)(ii) are not fixed.
- 727 (b) "Mobile wireless service" includes a telecommunications service that is provided
- 728 by a commercial mobile radio service provider.
- 729 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 730 commission may by rule define "commercial mobile radio service provider."
- 731 ~~[(70)]~~ (73) (a) Except as provided in Subsection ~~[(70)]~~ (73)(c), "mobility enhancing
- 732 equipment" means equipment that is:
- 733 (i) primarily and customarily used to provide or increase the ability to move from one
- 734 place to another;
- 735 (ii) appropriate for use in a:
- 736 (A) home; or
- 737 (B) motor vehicle; and

- 738 (iii) not generally used by persons with normal mobility.
- 739 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
740 the equipment described in Subsection [~~(70)~~] (73)(a).
- 741 (c) "Mobility enhancing equipment" does not include:
- 742 (i) a motor vehicle;
- 743 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
744 vehicle manufacturer;
- 745 (iii) durable medical equipment; or
- 746 (iv) a prosthetic device.
- 747 [~~(71)~~] (74) "Model 1 seller" means a seller registered under the agreement that has
748 selected a certified service provider as the seller's agent to perform all of the seller's sales and
749 use tax functions for agreement sales and use taxes other than the seller's obligation under
750 Section [59-12-124](#) to remit a tax on the seller's own purchases.
- 751 [~~(72)~~] (75) "Model 2 seller" means a seller registered under the agreement that:
- 752 (a) except as provided in Subsection [~~(72)~~] (75)(b), has selected a certified automated
753 system to perform the seller's sales tax functions for agreement sales and use taxes; and
- 754 (b) retains responsibility for remitting all of the sales tax:
- 755 (i) collected by the seller; and
- 756 (ii) to the appropriate local taxing jurisdiction.
- 757 [~~(73)~~] (76) (a) Subject to Subsection [~~(73)~~] (76)(b), "model 3 seller" means a seller
758 registered under the agreement that has:
- 759 (i) sales in at least five states that are members of the agreement;
- 760 (ii) total annual sales revenues of at least \$500,000,000;
- 761 (iii) a proprietary system that calculates the amount of tax:
- 762 (A) for an agreement sales and use tax; and
- 763 (B) due to each local taxing jurisdiction; and
- 764 (iv) entered into a performance agreement with the governing board of the agreement.
- 765 (b) For purposes of Subsection [~~(73)~~] (76)(a), "model 3 seller" includes an affiliated
766 group of sellers using the same proprietary system.
- 767 [~~(74)~~] (77) "Model 4 seller" means a seller that is registered under the agreement and is
768 not a model 1 seller, model 2 seller, or model 3 seller.

769 [~~(75)~~] (78) "Modular home" means a modular unit as defined in Section 15A-1-302.

770 [~~(76)~~] (79) "Motor vehicle" means the same as that term is defined in Section

771 41-1a-102.

772 [~~(77)~~] (80) "Oil sands" means impregnated bituminous sands that:

773 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
774 other hydrocarbons, or otherwise treated;

775 (b) yield mixtures of liquid hydrocarbon; and

776 (c) require further processing other than mechanical blending before becoming finished
777 petroleum products.

778 [~~(78)~~] (81) "Oil shale" means a group of fine black to dark brown shales containing
779 kerogen material that yields petroleum upon heating and distillation.

780 [~~(79)~~] (82) "Optional computer software maintenance contract" means a computer
781 software maintenance contract that a customer is not obligated to purchase as a condition to the
782 retail sale of computer software.

783 [~~(80)~~] (83) (a) "Other fuels" means products that burn independently to produce heat or
784 energy.

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

787 [~~(81)~~] (84) (a) "Paging service" means a telecommunications service that provides
788 transmission of a coded radio signal for the purpose of activating a specific pager.

789 (b) For purposes of Subsection [~~(81)~~] (84)(a), the transmission of a coded radio signal
790 includes a transmission by message or sound.

791 [~~(82)~~] (85) "Pawnbroker" means the same as that term is defined in Section
792 13-32a-102.

793 [~~(83)~~] (86) "Pawn transaction" means the same as that term is defined in Section
794 13-32a-102.

795 [~~(84)~~] (87) (a) "Permanently attached to real property" means that for tangible personal
796 property attached to real property:

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

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

799 (B) suggests that the tangible personal property will remain attached to the real

800 property in the same place over the useful life of the tangible personal property; or
801 (ii) if the tangible personal property is detached from the real property, the detachment
802 would:

803 (A) cause substantial damage to the tangible personal property; or
804 (B) require substantial alteration or repair of the real property to which the tangible
805 personal property is attached.

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

807 (i) the attachment of an accessory to the tangible personal property if the accessory is:
808 (A) essential to the operation of the tangible personal property; and
809 (B) attached only to facilitate the operation of the tangible personal property;

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

813 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
814 Subsection [~~84~~] (87)(c)(iii) or (iv).

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

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

818 (A) convenience;
819 (B) stability; or
820 (C) for an obvious temporary purpose;

821 (ii) the detachment of tangible personal property from real property except for the
822 detachment described in Subsection [~~84~~] (87)(b)(ii);

823 (iii) an attachment of the following tangible personal property to real property if the
824 attachment to real property is only through a line that supplies water, electricity, gas,
825 telecommunications, cable, or supplies a similar item as determined by the commission by rule
826 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

827 (A) a computer;
828 (B) a telephone;
829 (C) a television; or
830 (D) tangible personal property similar to Subsections [~~84~~] (87)(c)(iii)(A) through (C)

831 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
832 Administrative Rulemaking Act; or

833 (iv) an item listed in Subsection [~~(125)~~] (128)(c).

834 [~~(85)~~] (88) "Person" includes any individual, firm, partnership, joint venture,
835 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
836 city, municipality, district, or other local governmental entity of the state, or any group or
837 combination acting as a unit.

838 [~~(86)~~] (89) "Place of primary use":

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

842 (i) the residential street address of the customer; or

843 (ii) the primary business street address of the customer; or

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

846 [~~(87)~~] (90) (a) "Postpaid calling service" means a telecommunications service a person
847 obtains by making a payment on a call-by-call basis:

848 (i) through the use of a:

849 (A) bank card;

850 (B) credit card;

851 (C) debit card; or

852 (D) travel card; or

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

855 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
856 service, that would be a prepaid wireless calling service if the service were exclusively a
857 telecommunications service.

858 [~~(88)~~] (91) "Postproduction" means an activity related to the finishing or duplication of
859 a medium described in Subsection 59-12-104(54)(a).

860 [~~(89)~~] (92) "Prepaid calling service" means a telecommunications service:

861 (a) that allows a purchaser access to telecommunications service that is exclusively

862 telecommunications service;

863 (b) that:

864 (i) is paid for in advance; and

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

866 (A) access number; or

867 (B) authorization code;

868 (c) that is dialed:

869 (i) manually; or

870 (ii) electronically; and

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

872 (i) by a known amount; and

873 (ii) with use.

874 [~~(90)~~] (93) "Prepaid wireless calling service" means a telecommunications service:

875 (a) that provides the right to utilize:

876 (i) mobile wireless service; and

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

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

879 (B) a content service; or

880 (C) an ancillary service;

881 (b) that:

882 (i) is paid for in advance; and

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

884 (A) access number; or

885 (B) authorization code;

886 (c) that is dialed:

887 (i) manually; or

888 (ii) electronically; and

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

890 (i) by a known amount; and

891 (ii) with use.

892 [~~(91)~~] (94) (a) "Prepared food" means:

- 893 (i) food:
- 894 (A) sold in a heated state; or
- 895 (B) heated by a seller;
- 896 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 897 item; or
- 898 (iii) except as provided in Subsection [~~(91)~~] (94)(c), food sold with an eating utensil
- 899 provided by the seller, including a:
- 900 (A) plate;
- 901 (B) knife;
- 902 (C) fork;
- 903 (D) spoon;
- 904 (E) glass;
- 905 (F) cup;
- 906 (G) napkin; or
- 907 (H) straw.
- 908 (b) "Prepared food" does not include:
- 909 (i) food that a seller only:
- 910 (A) cuts;
- 911 (B) repackages; or
- 912 (C) pasteurizes; or
- 913 (ii) (A) the following:
- 914 (I) raw egg;
- 915 (II) raw fish;
- 916 (III) raw meat;
- 917 (IV) raw poultry; or
- 918 (V) a food containing an item described in Subsections [~~(91)~~] (94)(b)(ii)(A)(I) through
- 919 (IV); and
- 920 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 921 Food and Drug Administration's Food Code that a consumer cook the items described in
- 922 Subsection [~~(91)~~] (94)(b)(ii)(A) to prevent food borne illness; or
- 923 (iii) the following if sold without eating utensils provided by the seller:

924 (A) food and food ingredients sold by a seller if the seller's proper primary
925 classification under the 2002 North American Industry Classification System of the federal
926 Executive Office of the President, Office of Management and Budget, is manufacturing in
927 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
928 Manufacturing;

929 (B) food and food ingredients sold in an unheated state:

930 (I) by weight or volume; and

931 (II) as a single item; or

932 (C) a bakery item, including:

933 (I) a bagel;

934 (II) a bar;

935 (III) a biscuit;

936 (IV) bread;

937 (V) a bun;

938 (VI) a cake;

939 (VII) a cookie;

940 (VIII) a croissant;

941 (IX) a danish;

942 (X) a donut;

943 (XI) a muffin;

944 (XII) a pastry;

945 (XIII) a pie;

946 (XIV) a roll;

947 (XV) a tart;

948 (XVI) a torte; or

949 (XVII) a tortilla.

950 (c) An eating utensil provided by the seller does not include the following used to
951 transport the food:

952 (i) a container; or

953 (ii) packaging.

954 [(92)] (95) "Prescription" means an order, formula, or recipe that is issued:

955 (a) (i) orally;

956 (ii) in writing;

957 (iii) electronically; or

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

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

960 [~~(93)~~] (96) (a) Except as provided in Subsection [~~(93)~~] (96)(b)(ii) or (iii), "prewritten

961 computer software" means computer software that is not designed and developed:

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

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

964 (b) "Prewritten computer software" includes:

965 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer

966 software is not designed and developed:

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

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

969 (ii) computer software designed and developed by the author or other creator of the

970 computer software to the specifications of a specific purchaser if the computer software is sold

971 to a person other than the purchaser; or

972 (iii) except as provided in Subsection [~~(93)~~] (96)(c), prewritten computer software or a

973 prewritten portion of prewritten computer software:

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

975 (B) if the modification or enhancement described in Subsection [~~(93)~~] (96)(b)(iii)(A) is

976 designed and developed to the specifications of a specific purchaser.

977 (c) "Prewritten computer software" does not include a modification or enhancement

978 described in Subsection [~~(93)~~] (96)(b)(iii) if the charges for the modification or enhancement

979 are:

980 (i) reasonable; and

981 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the

982 invoice or other statement of price provided to the purchaser at the time of sale or later, as

983 demonstrated by:

984 (A) the books and records the seller keeps at the time of the transaction in the regular

985 course of business, including books and records the seller keeps at the time of the transaction in

986 the regular course of business for nontax purposes;

987 (B) a preponderance of the facts and circumstances at the time of the transaction; and

988 (C) the understanding of all of the parties to the transaction.

989 ~~[(94)]~~ (97) (a) "Private communications service" means a telecommunications service:

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

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

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

996 (i) an extension line;

997 (ii) a station;

998 (iii) switching capacity; or

999 (iv) another associated service that is provided in connection with the use of one or
1000 more communications channels as defined in Section [59-12-215](#).

1001 ~~[(95)]~~ (98) (a) Except as provided in Subsection ~~[(95)]~~ (98)(b), "product transferred
1002 electronically" means a product transferred electronically that would be subject to a tax under
1003 this chapter if that product was transferred in a manner other than electronically.

1004 (b) "Product transferred electronically" does not include:

1005 (i) an ancillary service;

1006 (ii) computer software; or

1007 (iii) a telecommunications service.

1008 ~~[(96)]~~ (99) (a) "Prosthetic device" means a device that is worn on or in the body to:

1009 (i) artificially replace a missing portion of the body;

1010 (ii) prevent or correct a physical deformity or physical malfunction; or

1011 (iii) support a weak or deformed portion of the body.

1012 (b) "Prosthetic device" includes:

1013 (i) parts used in the repairs or renovation of a prosthetic device;

1014 (ii) replacement parts for a prosthetic device;

1015 (iii) a dental prosthesis; or

1016 (iv) a hearing aid.

- 1017 (c) "Prosthetic device" does not include:
- 1018 (i) corrective eyeglasses; or
- 1019 (ii) contact lenses.
- 1020 ~~[(97)]~~ (100) (a) "Protective equipment" means an item:
- 1021 (i) for human wear; and
- 1022 (ii) that is:
- 1023 (A) designed as protection:
- 1024 (I) to the wearer against injury or disease; or
- 1025 (II) against damage or injury of other persons or property; and
- 1026 (B) not suitable for general use.
- 1027 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1028 commission shall make rules:
- 1029 (i) listing the items that constitute "protective equipment"; and
- 1030 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1031 under the agreement.
- 1032 ~~[(98)]~~ (101) (a) For purposes of Subsection 59-12-104(41), "publication" means any
- 1033 written or printed matter, other than a photocopy:
- 1034 (i) regardless of:
- 1035 (A) characteristics;
- 1036 (B) copyright;
- 1037 (C) form;
- 1038 (D) format;
- 1039 (E) method of reproduction; or
- 1040 (F) source; and
- 1041 (ii) made available in printed or electronic format.
- 1042 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1043 commission may by rule define the term "photocopy."
- 1044 ~~[(99)]~~ (102) (a) "Purchase price" and "sales price" mean the total amount of
- 1045 consideration:
- 1046 (i) valued in money; and
- 1047 (ii) for which tangible personal property, a product transferred electronically, or

1048 services are:

1049 (A) sold;

1050 (B) leased; or

1051 (C) rented.

1052 (b) "Purchase price" and "sales price" include:

1053 (i) the seller's cost of the tangible personal property, a product transferred

1054 electronically, or services sold;

1055 (ii) expenses of the seller, including:

1056 (A) the cost of materials used;

1057 (B) a labor cost;

1058 (C) a service cost;

1059 (D) interest;

1060 (E) a loss;

1061 (F) the cost of transportation to the seller; or

1062 (G) a tax imposed on the seller;

1063 (iii) a charge by the seller for any service necessary to complete the sale; or

1064 (iv) consideration a seller receives from a person other than the purchaser if:

1065 (A) (I) the seller actually receives consideration from a person other than the purchaser;

1066 and

1067 (II) the consideration described in Subsection [~~99~~] (102)(b)(iv)(A)(I) is directly

1068 related to a price reduction or discount on the sale;

1069 (B) the seller has an obligation to pass the price reduction or discount through to the

1070 purchaser;

1071 (C) the amount of the consideration attributable to the sale is fixed and determinable by

1072 the seller at the time of the sale to the purchaser; and

1073 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the

1074 seller to claim a price reduction or discount; and

1075 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,

1076 coupon, or other documentation with the understanding that the person other than the seller

1077 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1078 (II) the purchaser identifies that purchaser to the seller as a member of a group or

1079 organization allowed a price reduction or discount, except that a preferred customer card that is
1080 available to any patron of a seller does not constitute membership in a group or organization
1081 allowed a price reduction or discount; or

1082 (III) the price reduction or discount is identified as a third party price reduction or
1083 discount on the:

1084 (Aa) invoice the purchaser receives; or

1085 (Bb) certificate, coupon, or other documentation the purchaser presents.

1086 (c) "Purchase price" and "sales price" do not include:

1087 (i) a discount:

1088 (A) in a form including:

1089 (I) cash;

1090 (II) term; or

1091 (III) coupon;

1092 (B) that is allowed by a seller;

1093 (C) taken by a purchaser on a sale; and

1094 (D) that is not reimbursed by a third party; or

1095 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
1096 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
1097 sale or later, as demonstrated by the books and records the seller keeps at the time of the
1098 transaction in the regular course of business, including books and records the seller keeps at the
1099 time of the transaction in the regular course of business for nontax purposes, by a
1100 preponderance of the facts and circumstances at the time of the transaction, and by the
1101 understanding of all of the parties to the transaction:

1102 (A) the following from credit extended on the sale of tangible personal property or
1103 services:

1104 (I) a carrying charge;

1105 (II) a financing charge; or

1106 (III) an interest charge;

1107 (B) a delivery charge;

1108 (C) an installation charge;

1109 (D) a manufacturer rebate on a motor vehicle; or

1110 (E) a tax or fee legally imposed directly on the consumer.

1111 [~~(100)~~] (103) "Purchaser" means a person to whom:

1112 (a) a sale of tangible personal property is made;

1113 (b) a product is transferred electronically; or

1114 (c) a service is furnished.

1115 [~~(101)~~] (104) "Qualifying enterprise data center" means an establishment that will:

1116 (a) own and operate a data center facility that will house a group of networked server

1117 computers in one physical location in order to centralize the dissemination, management, and

1118 storage of data and information;

1119 (b) be located in the state;

1120 (c) be a new operation constructed on or after July 1, 2016;

1121 (d) consist of one or more buildings that total 150,000 or more square feet;

1122 (e) be owned or leased by:

1123 (i) the establishment; or

1124 (ii) a person under common ownership, as defined in Section 59-7-101, of the

1125 establishment; and

1126 (f) be located on one or more parcels of land that are owned or leased by:

1127 (i) the establishment; or

1128 (ii) a person under common ownership, as defined in Section 59-7-101, of the

1129 establishment.

1130 [~~(102)~~] (105) "Regularly rented" means:

1131 (a) rented to a guest for value three or more times during a calendar year; or

1132 (b) advertised or held out to the public as a place that is regularly rented to guests for

1133 value.

1134 [~~(103)~~] (106) "Rental" means the same as that term is defined in Subsection [~~(59)~~] (62).

1135 [~~(104)~~] (107) (a) Except as provided in Subsection [~~(104)~~] (107)(b), "repairs or

1136 renovations of tangible personal property" means:

1137 (i) a repair or renovation of tangible personal property that is not permanently attached

1138 to real property; or

1139 (ii) attaching tangible personal property or a product transferred electronically to other

1140 tangible personal property or detaching tangible personal property or a product transferred

1141 electronically from other tangible personal property if:

1142 (A) the other tangible personal property to which the tangible personal property or
1143 product transferred electronically is attached or from which the tangible personal property or
1144 product transferred electronically is detached is not permanently attached to real property; and

1145 (B) the attachment of tangible personal property or a product transferred electronically
1146 to other tangible personal property or detachment of tangible personal property or a product
1147 transferred electronically from other tangible personal property is made in conjunction with a
1148 repair or replacement of tangible personal property or a product transferred electronically.

1149 (b) "Repairs or renovations of tangible personal property" does not include:

1150 (i) attaching prewritten computer software to other tangible personal property if the
1151 other tangible personal property to which the prewritten computer software is attached is not
1152 permanently attached to real property; or

1153 (ii) detaching prewritten computer software from other tangible personal property if the
1154 other tangible personal property from which the prewritten computer software is detached is
1155 not permanently attached to real property.

1156 ~~[(105)]~~ (108) "Research and development" means the process of inquiry or
1157 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
1158 process of preparing those devices, technologies, or applications for marketing.

1159 ~~[(106)]~~ (109) (a) "Residential telecommunications services" means a
1160 telecommunications service or an ancillary service that is provided to an individual for personal
1161 use:

1162 (i) at a residential address; or

1163 (ii) at an institution, including a nursing home or a school, if the telecommunications
1164 service or ancillary service is provided to and paid for by the individual residing at the
1165 institution rather than the institution.

1166 (b) For purposes of Subsection ~~[(106)]~~ (109)(a)(i), a residential address includes an:

1167 (i) apartment; or

1168 (ii) other individual dwelling unit.

1169 ~~[(107)]~~ (110) "Residential use" means the use in or around a home, apartment building,
1170 sleeping quarters, and similar facilities or accommodations.

1171 ~~[(108)]~~ (111) (a) "Retailer" means any person engaged in a regularly organized

1172 business in tangible personal property or any other taxable transaction under Subsection
1173 [59-12-103](#)(1), and who is selling to the user or consumer and not for resale.

1174 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1175 engaged in the business of selling to users or consumers within the state.

1176 [~~(109)~~] [\(112\)](#) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
1177 other than:

1178 (a) resale;

1179 (b) sublease; or

1180 (c) subrent.

1181 [~~(110)~~] [\(113\)](#) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1182 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1183 Subsection [59-12-103](#)(1), for consideration.

1184 (b) "Sale" includes:

1185 (i) installment and credit sales;

1186 (ii) any closed transaction constituting a sale;

1187 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1188 chapter;

1189 (iv) any transaction if the possession of property is transferred but the seller retains the
1190 title as security for the payment of the price; and

1191 (v) any transaction under which right to possession, operation, or use of any article of
1192 tangible personal property is granted under a lease or contract and the transfer of possession
1193 would be taxable if an outright sale were made.

1194 [~~(111)~~] [\(114\)](#) "Sale at retail" means the same as that term is defined in Subsection
1195 [~~(109)~~] [\(112\)](#).

1196 [~~(112)~~] [\(115\)](#) "Sale-leaseback transaction" means a transaction by which title to
1197 tangible personal property or a product transferred electronically that is subject to a tax under
1198 this chapter is transferred:

1199 (a) by a purchaser-lessee;

1200 (b) to a lessor;

1201 (c) for consideration; and

1202 (d) if:

1203 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1204 of the tangible personal property or product transferred electronically;

1205 (ii) the sale of the tangible personal property or product transferred electronically to the
1206 lessor is intended as a form of financing:

1207 (A) for the tangible personal property or product transferred electronically; and

1208 (B) to the purchaser-lessee; and

1209 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1210 is required to:

1211 (A) capitalize the tangible personal property or product transferred electronically for
1212 financial reporting purposes; and

1213 (B) account for the lease payments as payments made under a financing arrangement.

1214 [~~(113)~~] (116) "Sales price" means the same as that term is defined in Subsection [~~(99)~~]
1215 (102).

1216 [~~(114)~~] (117) (a) "Sales relating to schools" means the following sales by, amounts
1217 paid to, or amounts charged by a school:

1218 (i) sales that are directly related to the school's educational functions or activities
1219 including:

1220 (A) the sale of:

1221 (I) textbooks;

1222 (II) textbook fees;

1223 (III) laboratory fees;

1224 (IV) laboratory supplies; or

1225 (V) safety equipment;

1226 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
1227 that:

1228 (I) a student is specifically required to wear as a condition of participation in a
1229 school-related event or school-related activity; and

1230 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1231 place of ordinary clothing;

1232 (C) sales of the following if the net or gross revenues generated by the sales are
1233 deposited into a school district fund or school fund dedicated to school meals:

- 1234 (I) food and food ingredients; or
- 1235 (II) prepared food; or
- 1236 (D) transportation charges for official school activities; or
- 1237 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1238 event or school-related activity.
- 1239 (b) "Sales relating to schools" does not include:
- 1240 (i) bookstore sales of items that are not educational materials or supplies;
- 1241 (ii) except as provided in Subsection [~~(114)~~] (117)(a)(i)(B):
- 1242 (A) clothing;
- 1243 (B) clothing accessories or equipment;
- 1244 (C) protective equipment; or
- 1245 (D) sports or recreational equipment; or
- 1246 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1247 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1248 (A) other than a:
- 1249 (I) school;
- 1250 (II) nonprofit organization authorized by a school board or a governing body of a
- 1251 private school to organize and direct a competitive secondary school activity; or
- 1252 (III) nonprofit association authorized by a school board or a governing body of a
- 1253 private school to organize and direct a competitive secondary school activity; and
- 1254 (B) that is required to collect sales and use taxes under this chapter.
- 1255 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1256 commission may make rules defining the term "passed through."
- 1257 [~~(115)~~] (118) For purposes of this section and Section [59-12-104](#), "school":
- 1258 (a) means:
- 1259 (i) an elementary school or a secondary school that:
- 1260 (A) is a:
- 1261 (I) public school; or
- 1262 (II) private school; and
- 1263 (B) provides instruction for one or more grades kindergarten through 12; or
- 1264 (ii) a public school district; and

- 1265 (b) includes the Electronic High School as defined in Section [53A-15-1002](#).
- 1266 [~~(116)~~] (119) "Seller" means a person that makes a sale, lease, or rental of:
- 1267 (a) tangible personal property;
- 1268 (b) a product transferred electronically; or
- 1269 (c) a service.
- 1270 [~~(117)~~] (120) (a) "Semiconductor fabricating, processing, research, or development
- 1271 materials" means tangible personal property or a product transferred electronically if the
- 1272 tangible personal property or product transferred electronically is:
- 1273 (i) used primarily in the process of:
- 1274 (A) (I) manufacturing a semiconductor;
- 1275 (II) fabricating a semiconductor; or
- 1276 (III) research or development of a:
- 1277 (Aa) semiconductor; or
- 1278 (Bb) semiconductor manufacturing process; or
- 1279 (B) maintaining an environment suitable for a semiconductor; or
- 1280 (ii) consumed primarily in the process of:
- 1281 (A) (I) manufacturing a semiconductor;
- 1282 (II) fabricating a semiconductor; or
- 1283 (III) research or development of a:
- 1284 (Aa) semiconductor; or
- 1285 (Bb) semiconductor manufacturing process; or
- 1286 (B) maintaining an environment suitable for a semiconductor.
- 1287 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1288 includes:
- 1289 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1290 transferred electronically described in Subsection [~~(117)~~] (120)(a); or
- 1291 (ii) a chemical, catalyst, or other material used to:
- 1292 (A) produce or induce in a semiconductor a:
- 1293 (I) chemical change; or
- 1294 (II) physical change;
- 1295 (B) remove impurities from a semiconductor; or

1296 (C) improve the marketable condition of a semiconductor.

1297 [~~(118)~~] (121) "Senior citizen center" means a facility having the primary purpose of
1298 providing services to the aged as defined in Section 62A-3-101.

1299 [~~(119)~~] (122) (a) Subject to Subsections [~~(119)~~] (122)(b) and (c), "short-term lodging
1300 consumable" means tangible personal property that:

1301 (i) a business that provides accommodations and services described in Subsection
1302 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
1303 to a purchaser;

1304 (ii) is intended to be consumed by the purchaser; and

1305 (iii) is:

1306 (A) included in the purchase price of the accommodations and services; and

1307 (B) not separately stated on an invoice, bill of sale, or other similar document provided
1308 to the purchaser.

1309 (b) "Short-term lodging consumable" includes:

1310 (i) a beverage;

1311 (ii) a brush or comb;

1312 (iii) a cosmetic;

1313 (iv) a hair care product;

1314 (v) lotion;

1315 (vi) a magazine;

1316 (vii) makeup;

1317 (viii) a meal;

1318 (ix) mouthwash;

1319 (x) nail polish remover;

1320 (xi) a newspaper;

1321 (xii) a notepad;

1322 (xiii) a pen;

1323 (xiv) a pencil;

1324 (xv) a razor;

1325 (xvi) saline solution;

1326 (xvii) a sewing kit;

- 1327 (xviii) shaving cream;
- 1328 (xix) a shoe shine kit;
- 1329 (xx) a shower cap;
- 1330 (xxi) a snack item;
- 1331 (xxii) soap;
- 1332 (xxiii) toilet paper;
- 1333 (xxiv) a toothbrush;
- 1334 (xxv) toothpaste; or
- 1335 (xxvi) an item similar to Subsections [~~(119)~~] (122)(b)(i) through (xxv) as the
- 1336 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah
- 1337 Administrative Rulemaking Act.
- 1338 (c) "Short-term lodging consumable" does not include:
- 1339 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1340 property to be reused; or
- 1341 (ii) a product transferred electronically.
- 1342 [~~(120)~~] (123) "Simplified electronic return" means the electronic return:
- 1343 (a) described in Section 318(C) of the agreement; and
- 1344 (b) approved by the governing board of the agreement.
- 1345 [~~(121)~~] (124) "Solar energy" means the sun used as the sole source of energy for
- 1346 producing electricity.
- 1347 [~~(122)~~] (125) (a) "Sports or recreational equipment" means an item:
- 1348 (i) designed for human use; and
- 1349 (ii) that is:
- 1350 (A) worn in conjunction with:
- 1351 (I) an athletic activity; or
- 1352 (II) a recreational activity; and
- 1353 (B) not suitable for general use.
- 1354 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1355 commission shall make rules:
- 1356 (i) listing the items that constitute "sports or recreational equipment"; and
- 1357 (ii) that are consistent with the list of items that constitute "sports or recreational

1358 equipment" under the agreement.

1359 [~~(123)~~] (126) "State" means the state of Utah, its departments, and agencies.

1360 [~~(124)~~] (127) "Storage" means any keeping or retention of tangible personal property or

1361 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose

1362 except sale in the regular course of business.

1363 [~~(125)~~] (128) (a) Except as provided in Subsection [~~(125)~~] (128)(d) or (e), "tangible

1364 personal property" means personal property that:

1365 (i) may be:

1366 (A) seen;

1367 (B) weighed;

1368 (C) measured;

1369 (D) felt; or

1370 (E) touched; or

1371 (ii) is in any manner perceptible to the senses.

1372 (b) "Tangible personal property" includes:

1373 (i) electricity;

1374 (ii) water;

1375 (iii) gas;

1376 (iv) steam; or

1377 (v) prewritten computer software, regardless of the manner in which the prewritten

1378 computer software is transferred.

1379 (c) "Tangible personal property" includes the following regardless of whether the item

1380 is attached to real property:

1381 (i) a dishwasher;

1382 (ii) a dryer;

1383 (iii) a freezer;

1384 (iv) a microwave;

1385 (v) a refrigerator;

1386 (vi) a stove;

1387 (vii) a washer; or

1388 (viii) an item similar to Subsections [~~(125)~~] (128)(c)(i) through (vii) as determined by

1389 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1390 Rulemaking Act.

1391 (d) "Tangible personal property" does not include a product that is transferred
1392 electronically.

1393 (e) "Tangible personal property" does not include the following if attached to real
1394 property, regardless of whether the attachment to real property is only through a line that
1395 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1396 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1397 Rulemaking Act:

- 1398 (i) a hot water heater;
- 1399 (ii) a water filtration system; or
- 1400 (iii) a water softener system.

1401 [~~126~~] (129) (a) "Telecommunications enabling or facilitating equipment, machinery,
1402 or software" means an item listed in Subsection [~~126~~] (129)(b) if that item is purchased or
1403 leased primarily to enable or facilitate one or more of the following to function:

- 1404 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1405 (ii) telecommunications transmission equipment, machinery, or software.

1406 (b) The following apply to Subsection [~~126~~] (129)(a):

- 1407 (i) a pole;
- 1408 (ii) software;
- 1409 (iii) a supplementary power supply;
- 1410 (iv) temperature or environmental equipment or machinery;
- 1411 (v) test equipment;
- 1412 (vi) a tower; or
- 1413 (vii) equipment, machinery, or software that functions similarly to an item listed in

1414 Subsections [~~126~~] (129)(b)(i) through (vi) as determined by the commission by rule made in
1415 accordance with Subsection [~~126~~] (129)(c).

1416 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1417 commission may by rule define what constitutes equipment, machinery, or software that
1418 functions similarly to an item listed in Subsections [~~126~~] (129)(b)(i) through (vi).

1419 [~~127~~] (130) "Telecommunications equipment, machinery, or software required for

1420 911 service" means equipment, machinery, or software that is required to comply with 47
1421 C.F.R. Sec. 20.18.

1422 ~~[(128)]~~ (131) "Telecommunications maintenance or repair equipment, machinery, or
1423 software" means equipment, machinery, or software purchased or leased primarily to maintain
1424 or repair one or more of the following, regardless of whether the equipment, machinery, or
1425 software is purchased or leased as a spare part or as an upgrade or modification to one or more
1426 of the following:

- 1427 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1428 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1429 (c) telecommunications transmission equipment, machinery, or software.

1430 ~~[(129)]~~ (132) (a) "Telecommunications service" means the electronic conveyance,
1431 routing, or transmission of audio, data, video, voice, or any other information or signal to a
1432 point, or among or between points.

1433 (b) "Telecommunications service" includes:

1434 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1435 processing application is used to act:

1436 (A) on the code, form, or protocol of the content;

1437 (B) for the purpose of electronic conveyance, routing, or transmission; and

1438 (C) regardless of whether the service:

1439 (I) is referred to as voice over Internet protocol service; or

1440 (II) is classified by the Federal Communications Commission as enhanced or value
1441 added;

1442 (ii) an 800 service;

1443 (iii) a 900 service;

1444 (iv) a fixed wireless service;

1445 (v) a mobile wireless service;

1446 (vi) a postpaid calling service;

1447 (vii) a prepaid calling service;

1448 (viii) a prepaid wireless calling service; or

1449 (ix) a private communications service.

1450 (c) "Telecommunications service" does not include:

- 1451 (i) advertising, including directory advertising;
- 1452 (ii) an ancillary service;
- 1453 (iii) a billing and collection service provided to a third party;
- 1454 (iv) a data processing and information service if:
 - 1455 (A) the data processing and information service allows data to be:
 - 1456 (I) (Aa) acquired;
 - 1457 (Bb) generated;
 - 1458 (Cc) processed;
 - 1459 (Dd) retrieved; or
 - 1460 (Ee) stored; and
 - 1461 (II) delivered by an electronic transmission to a purchaser; and
 - 1462 (B) the purchaser's primary purpose for the underlying transaction is the processed data
 - 1463 or information;
- 1464 (v) installation or maintenance of the following on a customer's premises:
 - 1465 (A) equipment; or
 - 1466 (B) wiring;
 - 1467 (vi) Internet access service;
 - 1468 (vii) a paging service;
 - 1469 (viii) a product transferred electronically, including:
 - 1470 (A) music;
 - 1471 (B) reading material;
 - 1472 (C) a ring tone;
 - 1473 (D) software; or
 - 1474 (E) video;
 - 1475 (ix) a radio and television audio and video programming service:
 - 1476 (A) regardless of the medium; and
 - 1477 (B) including:
 - 1478 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 1479 programming service by a programming service provider;
 - 1480 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 1481 (III) audio and video programming services delivered by a commercial mobile radio

1482 service provider as defined in 47 C.F.R. Sec. 20.3;

1483 (x) a value-added nonvoice data service; or

1484 (xi) tangible personal property.

1485 [~~(130)~~] (133) (a) "Telecommunications service provider" means a person that:

1486 (i) owns, controls, operates, or manages a telecommunications service; and

1487 (ii) engages in an activity described in Subsection [~~(130)~~] (133)(a)(i) for the shared use

1488 with or resale to any person of the telecommunications service.

1489 (b) A person described in Subsection [~~(130)~~] (133)(a) is a telecommunications service

1490 provider whether or not the Public Service Commission of Utah regulates:

1491 (i) that person; or

1492 (ii) the telecommunications service that the person owns, controls, operates, or

1493 manages.

1494 [~~(131)~~] (134) (a) "Telecommunications switching or routing equipment, machinery, or

1495 software" means an item listed in Subsection [~~(131)~~] (134)(b) if that item is purchased or

1496 leased primarily for switching or routing:

1497 (i) an ancillary service;

1498 (ii) data communications;

1499 (iii) voice communications; or

1500 (iv) telecommunications service.

1501 (b) The following apply to Subsection [~~(131)~~] (134)(a):

1502 (i) a bridge;

1503 (ii) a computer;

1504 (iii) a cross connect;

1505 (iv) a modem;

1506 (v) a multiplexer;

1507 (vi) plug in circuitry;

1508 (vii) a router;

1509 (viii) software;

1510 (ix) a switch; or

1511 (x) equipment, machinery, or software that functions similarly to an item listed in

1512 Subsections [~~(131)~~] (134)(b)(i) through (ix) as determined by the commission by rule made in

1513 accordance with Subsection [~~(131)~~] (134)(c).

1514 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1515 commission may by rule define what constitutes equipment, machinery, or software that
1516 functions similarly to an item listed in Subsections [~~(131)~~] (134)(b)(i) through (ix).

1517 [~~(132)~~] (135) (a) "Telecommunications transmission equipment, machinery, or
1518 software" means an item listed in Subsection [~~(132)~~] (135)(b) if that item is purchased or
1519 leased primarily for sending, receiving, or transporting:

1520 (i) an ancillary service;

1521 (ii) data communications;

1522 (iii) voice communications; or

1523 (iv) telecommunications service.

1524 (b) The following apply to Subsection [~~(132)~~] (135)(a):

1525 (i) an amplifier;

1526 (ii) a cable;

1527 (iii) a closure;

1528 (iv) a conduit;

1529 (v) a controller;

1530 (vi) a duplexer;

1531 (vii) a filter;

1532 (viii) an input device;

1533 (ix) an input/output device;

1534 (x) an insulator;

1535 (xi) microwave machinery or equipment;

1536 (xii) an oscillator;

1537 (xiii) an output device;

1538 (xiv) a pedestal;

1539 (xv) a power converter;

1540 (xvi) a power supply;

1541 (xvii) a radio channel;

1542 (xviii) a radio receiver;

1543 (xix) a radio transmitter;

1544 (xx) a repeater;
 1545 (xxi) software;
 1546 (xxii) a terminal;
 1547 (xxiii) a timing unit;
 1548 (xxiv) a transformer;
 1549 (xxv) a wire; or
 1550 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
 1551 Subsections ~~[(132)]~~ (135)(b)(i) through (xxv) as determined by the commission by rule made in
 1552 accordance with Subsection ~~[(132)]~~ (135)(c).

1553 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 1554 commission may by rule define what constitutes equipment, machinery, or software that
 1555 functions similarly to an item listed in Subsections ~~[(132)]~~ (135)(b)(i) through (xxv).

1556 ~~[(133)]~~ (136) (a) "Textbook for a higher education course" means a textbook or other
 1557 printed material that is required for a course:

- 1558 (i) offered by an institution of higher education; and
- 1559 (ii) that the purchaser of the textbook or other printed material attends or will attend.

1560 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1561 ~~[(134)]~~ (137) "Tobacco" means:

- 1562 (a) a cigarette;
- 1563 (b) a cigar;
- 1564 (c) chewing tobacco;
- 1565 (d) pipe tobacco; or
- 1566 (e) any other item that contains tobacco.

1567 ~~[(135)]~~ (138) "Unassisted amusement device" means an amusement device, skill
 1568 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
 1569 operate the amusement device, skill device, or ride device.

1570 ~~[(136)]~~ (139) (a) "Use" means the exercise of any right or power over tangible personal
 1571 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
 1572 incident to the ownership or the leasing of that tangible personal property, product transferred
 1573 electronically, or service.

1574 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal

1575 property, a product transferred electronically, or a service in the regular course of business and
1576 held for resale.

1577 ~~[(137)]~~ (140) "Value-added nonvoice data service" means a service:

1578 (a) that otherwise meets the definition of a telecommunications service except that a
1579 computer processing application is used to act primarily for a purpose other than conveyance,
1580 routing, or transmission; and

1581 (b) with respect to which a computer processing application is used to act on data or
1582 information:

- 1583 (i) code;
- 1584 (ii) content;
- 1585 (iii) form; or
- 1586 (iv) protocol.

1587 ~~[(138)]~~ (141) (a) Subject to Subsection ~~[(138)]~~ (141)(b), "vehicle" means the following
1588 that are required to be titled, registered, or titled and registered:

- 1589 (i) an aircraft as defined in Section 72-10-102;
- 1590 (ii) a vehicle as defined in Section 41-1a-102;
- 1591 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1592 (iv) a vessel as defined in Section 41-1a-102.

1593 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1594 (i) a vehicle described in Subsection ~~[(138)]~~ (141)(a); or
- 1595 (ii) (A) a locomotive;
- 1596 (B) a freight car;
- 1597 (C) railroad work equipment; or
- 1598 (D) other railroad rolling stock.

1599 ~~[(139)]~~ (142) "Vehicle dealer" means a person engaged in the business of buying,
1600 selling, or exchanging a vehicle as defined in Subsection ~~[(138)]~~ (141).

1601 ~~[(140)]~~ (143) (a) "Vertical service" means an ancillary service that:

- 1602 (i) is offered in connection with one or more telecommunications services; and
- 1603 (ii) offers an advanced calling feature that allows a customer to:
 - 1604 (A) identify a caller; and
 - 1605 (B) manage multiple calls and call connections.

1606 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1607 conference bridging service.

1608 ~~[(141)]~~ (144) (a) "Voice mail service" means an ancillary service that enables a
1609 customer to receive, send, or store a recorded message.

1610 (b) "Voice mail service" does not include a vertical service that a customer is required
1611 to have in order to utilize a voice mail service.

1612 ~~[(142)]~~ (145) (a) Except as provided in Subsection ~~[(142)]~~ (145)(b), "waste energy
1613 facility" means a facility that generates electricity:

1614 (i) using as the primary source of energy waste materials that would be placed in a
1615 landfill or refuse pit if it were not used to generate electricity, including:

1616 (A) tires;

1617 (B) waste coal;

1618 (C) oil shale; or

1619 (D) municipal solid waste; and

1620 (ii) in amounts greater than actually required for the operation of the facility.

1621 (b) "Waste energy facility" does not include a facility that incinerates:

1622 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1623 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1624 ~~[(143)]~~ (146) "Watercraft" means a vessel as defined in Section 73-18-2.

1625 ~~[(144)]~~ (147) "Wind energy" means wind used as the sole source of energy to produce
1626 electricity.

1627 ~~[(145)]~~ (148) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
1628 geographic location by the United States Postal Service.

1629 Section 2. Section **59-12-103** is amended to read:

1630 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
1631 **tax revenues.**

1632 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
1633 sales price for amounts paid or charged for the following transactions:

1634 (a) retail sales of tangible personal property made within the state;

1635 (b) amounts paid for:

1636 (i) telecommunications service, other than mobile telecommunications service, that

1637 originates and terminates within the boundaries of this state;

1638 (ii) mobile telecommunications service that originates and terminates within the

1639 boundaries of one state only to the extent permitted by the Mobile Telecommunications

1640 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

1641 (iii) an ancillary service associated with a:

1642 (A) telecommunications service described in Subsection (1)(b)(i); or

1643 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

1644 (c) sales of the following for commercial use:

1645 (i) gas;

1646 (ii) electricity;

1647 (iii) heat;

1648 (iv) coal;

1649 (v) fuel oil; or

1650 (vi) other fuels;

1651 (d) sales of the following for residential use:

1652 (i) gas;

1653 (ii) electricity;

1654 (iii) heat;

1655 (iv) coal;

1656 (v) fuel oil; or

1657 (vi) other fuels;

1658 (e) sales of prepared food;

1659 (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or

1660 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,

1661 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,

1662 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit

1663 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf

1664 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,

1665 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,

1666 horseback rides, sports activities, or any other amusement, entertainment, recreation,

1667 exhibition, cultural, or athletic activity;

1668 (g) amounts paid or charged for services for repairs or renovations of tangible personal
1669 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

1670 (i) the tangible personal property; and

1671 (ii) parts used in the repairs or renovations of the tangible personal property described
1672 in Subsection (1)(g)(i), regardless of whether:

1673 (A) any parts are actually used in the repairs or renovations of that tangible personal
1674 property; or

1675 (B) the particular parts used in the repairs or renovations of that tangible personal
1676 property are exempt from a tax under this chapter;

1677 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
1678 assisted cleaning or washing of tangible personal property;

1679 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
1680 accommodations and services that are regularly rented for less than 30 consecutive days;

1681 (j) amounts paid or charged for laundry or dry cleaning services;

1682 (k) amounts paid or charged for leases or rentals of tangible personal property if within
1683 this state the tangible personal property is:

1684 (i) stored;

1685 (ii) used; or

1686 (iii) otherwise consumed;

1687 (l) amounts paid or charged for tangible personal property if within this state the
1688 tangible personal property is:

1689 (i) stored;

1690 (ii) used; or

1691 (iii) consumed; and

1692 (m) amounts paid or charged for a sale:

1693 (i) (A) of a product transferred electronically; or

1694 (B) of a repair or renovation of a product transferred electronically; and

1695 (ii) regardless of whether the sale provides:

1696 (A) a right of permanent use of the product; or

1697 (B) a right to use the product that is less than a permanent use, including a right:

1698 (I) for a definite or specified length of time; and

1699 (II) that terminates upon the occurrence of a condition.

1700 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
1701 is imposed on a transaction described in Subsection (1) equal to the sum of:

1702 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

1703 (A) [~~4.70%~~] 4.93%; and

1704 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
1705 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)
1706 through [59-12-215](#) is in a county in which the state imposes the tax under Part 18, Additional
1707 State Sales and Use Tax Act; and

1708 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
1709 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)
1710 through [59-12-215](#) is in a city, town, or the unincorporated area of a county in which the state
1711 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1712 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1713 transaction under this chapter other than this part.

1714 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
1715 on a transaction described in Subsection (1)(d) equal to the sum of:

1716 (i) a state tax imposed on the transaction at a tax rate of 2%; and

1717 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1718 transaction under this chapter other than this part.

1719 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
1720 on amounts paid or charged for food and food ingredients equal to the sum of:

1721 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
1722 a tax rate of [~~1.75%~~] 0%; and

1723 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1724 amounts paid or charged for food and food ingredients under this chapter other than this part.

1725 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
1726 tangible personal property other than food and food ingredients, a state tax and a local tax is
1727 imposed on the entire bundled transaction equal to the sum of:

1728 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

1729 (I) the tax rate described in Subsection (2)(a)(i)(A); and

1730 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
1731 Sales and Use Tax Act, if the location of the transaction as determined under Sections
1732 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
1733 Additional State Sales and Use Tax Act; and

1734 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
1735 Sales and Use Tax Act, if the location of the transaction as determined under Sections
1736 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
1737 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1738 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
1739 described in Subsection (2)(a)(ii).

1740 (ii) If an optional computer software maintenance contract is a bundled transaction that
1741 consists of taxable and nontaxable products that are not separately itemized on an invoice or
1742 similar billing document, the purchase of the optional computer software maintenance contract
1743 is 40% taxable under this chapter and 60% nontaxable under this chapter.

1744 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
1745 transaction described in Subsection (2)(d)(i) or (ii):

1746 (A) if the sales price of the bundled transaction is attributable to tangible personal
1747 property, a product, or a service that is subject to taxation under this chapter and tangible
1748 personal property, a product, or service that is not subject to taxation under this chapter, the
1749 entire bundled transaction is subject to taxation under this chapter unless:

1750 (I) the seller is able to identify by reasonable and verifiable standards the tangible
1751 personal property, product, or service that is not subject to taxation under this chapter from the
1752 books and records the seller keeps in the seller's regular course of business; or

1753 (II) state or federal law provides otherwise; or

1754 (B) if the sales price of a bundled transaction is attributable to two or more items of
1755 tangible personal property, products, or services that are subject to taxation under this chapter
1756 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
1757 higher tax rate unless:

1758 (I) the seller is able to identify by reasonable and verifiable standards the tangible
1759 personal property, product, or service that is subject to taxation under this chapter at the lower
1760 tax rate from the books and records the seller keeps in the seller's regular course of business; or

1761 (II) state or federal law provides otherwise.

1762 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
1763 seller's regular course of business includes books and records the seller keeps in the regular
1764 course of business for nontax purposes.

1765 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
1766 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
1767 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
1768 of tangible personal property, other property, a product, or a service that is not subject to
1769 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
1770 the seller, at the time of the transaction:

1771 (A) separately states the portion of the transaction that is not subject to taxation under
1772 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

1773 (B) is able to identify by reasonable and verifiable standards, from the books and
1774 records the seller keeps in the seller's regular course of business, the portion of the transaction
1775 that is not subject to taxation under this chapter.

1776 (ii) A purchaser and a seller may correct the taxability of a transaction if:

1777 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
1778 the transaction that is not subject to taxation under this chapter was not separately stated on an
1779 invoice, bill of sale, or similar document provided to the purchaser because of an error or
1780 ignorance of the law; and

1781 (B) the seller is able to identify by reasonable and verifiable standards, from the books
1782 and records the seller keeps in the seller's regular course of business, the portion of the
1783 transaction that is not subject to taxation under this chapter.

1784 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
1785 in the seller's regular course of business includes books and records the seller keeps in the
1786 regular course of business for nontax purposes.

1787 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
1788 personal property, products, or services that are subject to taxation under this chapter at
1789 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
1790 unless the seller, at the time of the transaction:

1791 (A) separately states the items subject to taxation under this chapter at each of the

1792 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

1793 (B) is able to identify by reasonable and verifiable standards the tangible personal
1794 property, product, or service that is subject to taxation under this chapter at the lower tax rate
1795 from the books and records the seller keeps in the seller's regular course of business.

1796 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
1797 seller's regular course of business includes books and records the seller keeps in the regular
1798 course of business for nontax purposes.

1799 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
1800 rate imposed under the following shall take effect on the first day of a calendar quarter:

1801 (i) Subsection (2)(a)(i)(A);

1802 (ii) Subsection (2)(b)(i);

1803 (iii) Subsection (2)(c)(i); or

1804 (iv) Subsection (2)(d)(i)(A)(I).

1805 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
1806 begins on or after the effective date of the tax rate increase if the billing period for the
1807 transaction begins before the effective date of a tax rate increase imposed under:

1808 (A) Subsection (2)(a)(i)(A);

1809 (B) Subsection (2)(b)(i);

1810 (C) Subsection (2)(c)(i); or

1811 (D) Subsection (2)(d)(i)(A)(I).

1812 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
1813 statement for the billing period is rendered on or after the effective date of the repeal of the tax
1814 or the tax rate decrease imposed under:

1815 (A) Subsection (2)(a)(i)(A);

1816 (B) Subsection (2)(b)(i);

1817 (C) Subsection (2)(c)(i); or

1818 (D) Subsection (2)(d)(i)(A)(I).

1819 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
1820 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
1821 change in a tax rate takes effect:

1822 (A) on the first day of a calendar quarter; and

- 1823 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 1824 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
- 1825 (A) Subsection (2)(a)(i)(A);
- 1826 (B) Subsection (2)(b)(i);
- 1827 (C) Subsection (2)(c)(i); or
- 1828 (D) Subsection (2)(d)(i)(A)(I).

1829 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1830 the commission may by rule define the term "catalogue sale."

1831 (3) (a) The following state taxes shall be deposited into the General Fund:

- 1832 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 1833 (ii) the tax imposed by Subsection (2)(b)(i);
- 1834 (iii) the tax imposed by Subsection (2)(c)(i); or
- 1835 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

1836 (b) The following local taxes shall be distributed to a county, city, or town as provided
1837 in this chapter:

- 1838 (i) the tax imposed by Subsection (2)(a)(ii);
- 1839 (ii) the tax imposed by Subsection (2)(b)(ii);
- 1840 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 1841 (iv) the tax imposed by Subsection (2)(d)(i)(B).

1842 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1843 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
1844 through (g):

- 1845 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 1846 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 1847 (B) for the fiscal year; or
- 1848 (ii) \$17,500,000.

1849 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
1850 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
1851 Department of Natural Resources to:

- 1852 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
1853 protect sensitive plant and animal species; or

1854 (B) award grants, up to the amount authorized by the Legislature in an appropriations
1855 act, to political subdivisions of the state to implement the measures described in Subsections
1856 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

1857 (ii) Money transferred to the Department of Natural Resources under Subsection
1858 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
1859 person to list or attempt to have listed a species as threatened or endangered under the
1860 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1861 (iii) At the end of each fiscal year:

1862 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1863 Conservation and Development Fund created in Section 73-10-24;

1864 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1865 Program Subaccount created in Section 73-10c-5; and

1866 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1867 Program Subaccount created in Section 73-10c-5.

1868 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1869 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
1870 created in Section 4-18-106.

1871 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
1872 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
1873 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
1874 water rights.

1875 (ii) At the end of each fiscal year:

1876 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1877 Conservation and Development Fund created in Section 73-10-24;

1878 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1879 Program Subaccount created in Section 73-10c-5; and

1880 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1881 Program Subaccount created in Section 73-10c-5.

1882 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
1883 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
1884 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

1885 (ii) In addition to the uses allowed of the Water Resources Conservation and
1886 Development Fund under Section 73-10-24, the Water Resources Conservation and
1887 Development Fund may also be used to:

1888 (A) conduct hydrologic and geotechnical investigations by the Division of Water
1889 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1890 quantifying surface and ground water resources and describing the hydrologic systems of an
1891 area in sufficient detail so as to enable local and state resource managers to plan for and
1892 accommodate growth in water use without jeopardizing the resource;

1893 (B) fund state required dam safety improvements; and

1894 (C) protect the state's interest in interstate water compact allocations, including the
1895 hiring of technical and legal staff.

1896 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1897 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
1898 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1899 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1900 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
1901 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1902 (i) provide for the installation and repair of collection, treatment, storage, and
1903 distribution facilities for any public water system, as defined in Section 19-4-102;

1904 (ii) develop underground sources of water, including springs and wells; and

1905 (iii) develop surface water sources.

1906 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1907 2006, the difference between the following amounts shall be expended as provided in this
1908 Subsection (5), if that difference is greater than \$1:

1909 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
1910 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

1911 (ii) \$17,500,000.

1912 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

1913 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
1914 credits; and

1915 (B) expended by the Department of Natural Resources for watershed rehabilitation or

1916 restoration.

1917 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1918 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
1919 created in Section 73-10-24.

1920 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
1921 remaining difference described in Subsection (5)(a) shall be:

1922 (A) transferred each fiscal year to the Division of Water Resources as dedicated
1923 credits; and

1924 (B) expended by the Division of Water Resources for cloud-seeding projects
1925 authorized by Title 73, Chapter 15, Modification of Weather.

1926 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1927 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
1928 created in Section 73-10-24.

1929 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
1930 remaining difference described in Subsection (5)(a) shall be deposited into the Water
1931 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
1932 Division of Water Resources for:

1933 (i) preconstruction costs:

1934 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
1935 26, Bear River Development Act; and

1936 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
1937 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

1938 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
1939 Chapter 26, Bear River Development Act;

1940 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
1941 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

1942 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
1943 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

1944 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
1945 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
1946 transferred each year as dedicated credits to the Division of Water Rights to cover the costs

1947 incurred for employing additional technical staff for the administration of water rights.

1948 (f) At the end of each fiscal year, any unexpended dedicated credits described in

1949 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development

1950 Fund created in Section [73-10-24](#).

1951 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the

1952 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection

1953 (1) for the fiscal year shall be deposited as follows:

1954 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)

1955 shall be deposited into the Transportation Investment Fund of 2005 created by Section

1956 [72-2-124](#);

1957 (b) for fiscal year 2017-18 only:

1958 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the

1959 Transportation Investment Fund of 2005 created by Section [72-2-124](#); and

1960 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the

1961 Water Infrastructure Restricted Account created by Section [73-10g-103](#);

1962 (c) for fiscal year 2018-19 only:

1963 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the

1964 Transportation Investment Fund of 2005 created by Section [72-2-124](#); and

1965 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the

1966 Water Infrastructure Restricted Account created by Section [73-10g-103](#);

1967 (d) for fiscal year 2019-20 only:

1968 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the

1969 Transportation Investment Fund of 2005 created by Section [72-2-124](#); and

1970 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the

1971 Water Infrastructure Restricted Account created by Section [73-10g-103](#);

1972 (e) for fiscal year 2020-21 only:

1973 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the

1974 Transportation Investment Fund of 2005 created by Section [72-2-124](#); and

1975 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the

1976 Water Infrastructure Restricted Account created by Section [73-10g-103](#); and

1977 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described

1978 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
1979 created by Section 73-10g-103.

1980 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
1981 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
1982 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
1983 created by Section 72-2-124:

1984 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
1985 the revenues collected from the following taxes, which represents a portion of the
1986 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
1987 on vehicles and vehicle-related products:

1988 (A) the tax imposed by Subsection (2)(a)(i)(A);

1989 (B) the tax imposed by Subsection (2)(b)(i);

1990 (C) the tax imposed by Subsection (2)(c)(i); and

1991 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

1992 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
1993 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
1994 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
1995 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

1996 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
1997 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
1998 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
1999 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
2000 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
2001 (7)(a) equal to the product of:

2002 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
2003 previous fiscal year; and

2004 (B) the total sales and use tax revenue generated by the taxes described in Subsections
2005 (7)(a)(i)(A) through (D) in the current fiscal year.

2006 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
2007 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
2008 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of

2009 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
2010 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

2011 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
2012 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited
2013 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues
2014 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the
2015 current fiscal year under Subsection (7)(a).

2016 (8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited
2017 under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall
2018 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into
2019 the Transportation Investment Fund of 2005 created by Section [72-2-124](#).

2020 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
2021 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit
2022 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
2023 Transportation Investment Fund of 2005 created by Section [72-2-124](#).

2024 (c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
2025 Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or
2026 after July 1, 2018, the commission shall annually deposit into the Transportation Investment
2027 Fund of 2005 created by Section [72-2-124](#) a portion of the taxes listed under Subsection (3)(a)
2028 in an amount equal to 3.68% of the revenues collected from the following taxes:

- 2029 (A) the tax imposed by Subsection (2)(a)(i)(A);
- 2030 (B) the tax imposed by Subsection (2)(b)(i);
- 2031 (C) the tax imposed by Subsection (2)(c)(i); and
- 2032 (D) the tax imposed by Subsection (2)(d)(i)(A)(I).

2033 (ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
2034 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)
2035 by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year
2036 by the portion of the tax imposed on motor and special fuel that is sold, used, or received for
2037 sale or use in this state that exceeds 29.4 cents per gallon.

2038 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2039 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund

2040 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

2041 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
2042 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
2043 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
2044 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on
2045 the transactions described in Subsection (1).

2046 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
2047 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
2048 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
2049 amount of revenue described as follows:

2050 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
2051 tax rate on the transactions described in Subsection (1);

2052 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
2053 tax rate on the transactions described in Subsection (1);

2054 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
2055 tax rate on the transactions described in Subsection (1);

2056 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
2057 .05% tax rate on the transactions described in Subsection (1); and

2058 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
2059 tax rate on the transactions described in Subsection (1).

2060 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
2061 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts
2062 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
2063 transaction attributable to food and food ingredients and tangible personal property other than
2064 food and food ingredients described in Subsection (2)(d).

2065 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
2066 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
2067 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
2068 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
2069 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
2070 created in Section 63N-2-512.

2071 (12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the
2072 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed
2073 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

2074 (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of
2075 Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under
2076 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

2077 (13) Notwithstanding Subsections (4) through (12), an amount required to be expended
2078 or deposited in accordance with Subsections (4) through (12) may not include an amount the
2079 Division of Finance deposits in accordance with Section 59-12-103.2.

2080 Section 3. Section 59-12-104 is amended to read:

2081 **59-12-104. Exemptions.**

2082 Exemptions from the taxes imposed by this chapter are as follows:

2083 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
2084 under Chapter 13, Motor and Special Fuel Tax Act;

2085 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
2086 subdivisions; however, this exemption does not apply to sales of:

2087 (a) construction materials except:

2088 (i) construction materials purchased by or on behalf of institutions of the public
2089 education system as defined in Utah Constitution, Article X, Section 2, provided the
2090 construction materials are clearly identified and segregated and installed or converted to real
2091 property which is owned by institutions of the public education system; and

2092 (ii) construction materials purchased by the state, its institutions, or its political
2093 subdivisions which are installed or converted to real property by employees of the state, its
2094 institutions, or its political subdivisions; or

2095 (b) tangible personal property in connection with the construction, operation,
2096 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
2097 providing additional project capacity, as defined in Section 11-13-103;

2098 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

2099 (i) the proceeds of each sale do not exceed \$1; and

2100 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
2101 the cost of the item described in Subsection (3)(b) as goods consumed; and

- 2102 (b) Subsection (3)(a) applies to:
- 2103 (i) food and food ingredients; or
- 2104 (ii) prepared food;
- 2105 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
- 2106 (i) alcoholic beverages;
- 2107 (ii) food and food ingredients; or
- 2108 (iii) prepared food;
- 2109 (b) sales of tangible personal property or a product transferred electronically:
- 2110 (i) to a passenger;
- 2111 (ii) by a commercial airline carrier; and
- 2112 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 2113 (c) services related to Subsection (4)(a) or (b);
- 2114 ~~[(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts~~
- 2115 ~~and equipment:]~~
- 2116 ~~[(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002~~
- 2117 ~~North American Industry Classification System of the federal Executive Office of the~~
- 2118 ~~President, Office of Management and Budget; and]~~
- 2119 ~~[(H) for:]~~
- 2120 ~~[(Aa) installation in an aircraft, including services relating to the installation of parts or~~
- 2121 ~~equipment in the aircraft;]~~
- 2122 ~~[(Bb) renovation of an aircraft; or]~~
- 2123 ~~[(Cc) repair of an aircraft; or]~~
- 2124 ~~[(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~
- 2125 ~~commerce; or]~~
- 2126 ~~[(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an~~
- 2127 ~~aircraft operated by a common carrier in interstate or foreign commerce; and]~~
- 2128 ~~[(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
- 2129 ~~a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a~~
- 2130 ~~refund:]~~
- 2131 ~~[(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]~~
- 2132 ~~[(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;]~~

2133 ~~[(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~
2134 ~~the sale prior to filing for the refund;]~~

2135 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~

2136 ~~[(v) in accordance with Section 59-1-1410; and]~~

2137 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~
2138 ~~if the person files for the refund on or before September 30, 2011;]~~

2139 (5) sales of parts and equipment for installation in an aircraft operated by a common
2140 carrier in interstate or foreign commerce;

2141 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
2142 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
2143 exhibitor, distributor, or commercial television or radio broadcaster;

2144 (7) (a) except as provided in Subsection (88) and subject to Subsection (7)(b), sales of
2145 cleaning or washing of tangible personal property if the cleaning or washing of the tangible
2146 personal property is not assisted cleaning or washing of tangible personal property;

2147 (b) if a seller that sells at the same business location assisted cleaning or washing of
2148 tangible personal property and cleaning or washing of tangible personal property that is not
2149 assisted cleaning or washing of tangible personal property, the exemption described in
2150 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
2151 or washing of the tangible personal property; and

2152 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
2153 Utah Administrative Rulemaking Act, the commission may make rules:

2154 (i) governing the circumstances under which sales are at the same business location;
2155 and

2156 (ii) establishing the procedures and requirements for a seller to separately account for
2157 sales of assisted cleaning or washing of tangible personal property;

2158 (8) sales made to or by religious or charitable institutions in the conduct of their regular
2159 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
2160 fulfilled;

2161 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
2162 this state if the vehicle is:

2163 (a) not registered in this state; and

- 2164 (b) (i) not used in this state; or
- 2165 (ii) used in this state:
- 2166 (A) if the vehicle is not used to conduct business, for a time period that does not
- 2167 exceed the longer of:
- 2168 (I) 30 days in any calendar year; or
- 2169 (II) the time period necessary to transport the vehicle to the borders of this state; or
- 2170 (B) if the vehicle is used to conduct business, for the time period necessary to transport
- 2171 the vehicle to the borders of this state;
- 2172 (10) (a) amounts paid for ~~[an item described in Subsection (10)(b) if]~~ the following
- 2173 items:
- 2174 (i) a bed pad or bed liner that is marketed for human incontinence care:
- 2175 (ii) feminine hygiene products; or
- 2176 (iii) diapers; or
- 2177 (b) amounts paid for a drug, a syringe, or a stoma supply if:
- 2178 (i) the item is intended for human use; and
- 2179 (ii) (A) a prescription was issued for the item; or
- 2180 (B) the item was purchased by a hospital or other medical facility; ~~[and]~~
- 2181 ~~[(b) (i) Subsection (10)(a) applies to:]~~
- 2182 ~~[(A) a drug;]~~
- 2183 ~~[(B) a syringe; or]~~
- 2184 ~~[(C) a stoma supply; and]~~
- 2185 ~~[(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
- 2186 ~~the commission may by rule define the terms:]~~
- 2187 ~~[(A) "syringe"; or]~~
- 2188 ~~[(B) "stoma supply";]~~
- 2189 (11) purchases or leases exempt under Section 19-12-201;
- 2190 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 2191 (i) the following if the item described in Subsection (12)(c) is not available to the
- 2192 general public:
- 2193 (A) a church; or
- 2194 (B) a charitable institution;

2195 (ii) an institution of higher education if:
2196 (A) the item described in Subsection (12)(c) is not available to the general public; or
2197 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
2198 offered by the institution of higher education; or
2199 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
2200 (i) a medical facility; or
2201 (ii) a nursing facility; and
2202 (c) Subsections (12)(a) and (b) apply to:
2203 (i) food and food ingredients;
2204 (ii) prepared food; or
2205 (iii) alcoholic beverages;
2206 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
2207 or a product transferred electronically by a person:
2208 (i) regardless of the number of transactions involving the sale of that tangible personal
2209 property or product transferred electronically by that person; and
2210 (ii) not regularly engaged in the business of selling that type of tangible personal
2211 property or product transferred electronically;
2212 (b) this Subsection (13) does not apply if:
2213 (i) the sale is one of a series of sales of a character to indicate that the person is
2214 regularly engaged in the business of selling that type of tangible personal property or product
2215 transferred electronically;
2216 (ii) the person holds that person out as regularly engaged in the business of selling that
2217 type of tangible personal property or product transferred electronically;
2218 (iii) the person sells an item of tangible personal property or product transferred
2219 electronically that the person purchased as a sale that is exempt under Subsection (25); or
2220 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
2221 this state in which case the tax is based upon:
2222 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
2223 sold; or
2224 (B) in the absence of a bill of sale or other written evidence of value, the fair market
2225 value of the vehicle or vessel being sold at the time of the sale as determined by the

2226 commission; and

2227 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2228 commission shall make rules establishing the circumstances under which:

2229 (i) a person is regularly engaged in the business of selling a type of tangible personal
2230 property or product transferred electronically;

2231 (ii) a sale of tangible personal property or a product transferred electronically is one of
2232 a series of sales of a character to indicate that a person is regularly engaged in the business of
2233 selling that type of tangible personal property or product transferred electronically; or

2234 (iii) a person holds that person out as regularly engaged in the business of selling a type
2235 of tangible personal property or product transferred electronically;

2236 (14) amounts paid or charged for a purchase or lease of machinery, equipment, or
2237 normal operating repair or replacement parts with an economic life of three or more years by:

2238 (a) a manufacturing facility, except as provided in Subsection (86), that:

2239 (i) is located in the state; and

2240 (ii) uses the machinery, equipment, or normal operating repair or replacement parts:

2241 (A) in the manufacturing process to manufacture an item sold as tangible personal
2242 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
2243 Utah Administrative Rulemaking Act; or

2244 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
2245 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
2246 Administrative Rulemaking Act;

2247 (b) an establishment, as the commission defines that term in accordance with Title 63G,
2248 Chapter 3, Utah Administrative Rulemaking Act, that:

2249 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
2250 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
2251 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
2252 2002 North American Industry Classification System of the federal Executive Office of the
2253 President, Office of Management and Budget;

2254 (ii) is located in the state; and

2255 (iii) uses the machinery, equipment, or normal operating repair or replacement parts in:

2256 (A) the production process to produce an item sold as tangible personal property, as the

2257 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
2258 Administrative Rulemaking Act;

2259 (B) research and development, as the commission may define that phrase in accordance
2260 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2261 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
2262 produced from mining;

2263 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
2264 mining; or

2265 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

2266 (c) an establishment, as the commission defines that term in accordance with Title 63G,
2267 Chapter 3, Utah Administrative Rulemaking Act, that:

2268 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
2269 American Industry Classification System of the federal Executive Office of the President,
2270 Office of Management and Budget;

2271 (ii) is located in the state; and

2272 (iii) uses the machinery, equipment, or normal operating repair or replacement parts in
2273 the operation of the web search portal;

2274 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

2275 (i) tooling;

2276 (ii) special tooling;

2277 (iii) support equipment;

2278 (iv) special test equipment; or

2279 (v) parts used in the repairs or renovations of tooling or equipment described in
2280 Subsections (15)(a)(i) through (iv); and

2281 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

2282 (i) the tooling, equipment, or parts are used or consumed exclusively in the
2283 performance of any aerospace or electronics industry contract with the United States
2284 government or any subcontract under that contract; and

2285 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
2286 title to the tooling, equipment, or parts is vested in the United States government as evidenced
2287 by:

2288 (A) a government identification tag placed on the tooling, equipment, or parts; or
2289 (B) listing on a government-approved property record if placing a government
2290 identification tag on the tooling, equipment, or parts is impractical;
2291 (16) sales of newspapers or newspaper subscriptions;
2292 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
2293 product transferred electronically traded in as full or part payment of the purchase price, except
2294 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
2295 trade-ins are limited to other vehicles only, and the tax is based upon:
2296 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
2297 vehicle being traded in; or
2298 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
2299 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
2300 commission; and
2301 (b) Subsection (17)(a) does not apply to the following items of tangible personal
2302 property or products transferred electronically traded in as full or part payment of the purchase
2303 price:
2304 (i) money;
2305 (ii) electricity;
2306 (iii) water;
2307 (iv) gas; or
2308 (v) steam;
2309 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
2310 or a product transferred electronically used or consumed primarily and directly in farming
2311 operations, regardless of whether the tangible personal property or product transferred
2312 electronically:
2313 (A) becomes part of real estate; or
2314 (B) is installed by a~~[(H)]~~ farmer~~[(H)]~~, contractor~~[(H)]~~, or ~~[(H)]~~ subcontractor; or
2315 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
2316 product transferred electronically if the tangible personal property or product transferred
2317 electronically is exempt under Subsection (18)(a)(i); and
2318 (b) amounts paid or charged for the following are subject to the taxes imposed by this

2319 chapter:

2320 (i) (A) subject to Subsection (18)(b)(i)(B), [~~the following~~] machinery, equipment,
2321 materials, or supplies if used in a manner that is incidental to farming[?]; and

2322 [~~(I) machinery;~~]

2323 [~~(II) equipment;~~]

2324 [~~(III) materials; or~~]

2325 [~~(IV) supplies; and~~]

2326 (B) tangible personal property that is considered to be used in a manner that is

2327 incidental to farming includes:

2328 (I) hand tools; or

2329 (II) maintenance and janitorial equipment and supplies;

2330 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
2331 transferred electronically if the tangible personal property or product transferred electronically
2332 is used in an activity other than farming; and

2333 (B) tangible personal property or a product transferred electronically that is considered
2334 to be used in an activity other than farming includes:

2335 (I) office equipment and supplies; or

2336 (II) equipment and supplies used in:

2337 (Aa) the sale or distribution of farm products;

2338 (Bb) research; or

2339 (Cc) transportation; or

2340 (iii) a vehicle required to be registered by the laws of this state during the period
2341 ending two years after the date of the vehicle's purchase;

2342 (19) sales of hay;

2343 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
2344 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
2345 garden, farm, or other agricultural produce is sold by:

2346 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
2347 agricultural produce;

2348 (b) an employee of the producer described in Subsection (20)(a); or

2349 (c) a member of the immediate family of the producer described in Subsection (20)(a);

2350 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
2351 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

2352 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
2353 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
2354 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
2355 manufacturer, processor, wholesaler, or retailer;

2356 (23) a product stored in the state for resale;

2357 (24) (a) purchases of a product if:

2358 (i) the product is:

2359 (A) purchased outside of this state;

2360 (B) brought into this state:

2361 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

2362 (II) by a nonresident person who is not living or working in this state at the time of the
2363 purchase;

2364 (C) used for the personal use or enjoyment of the nonresident person described in
2365 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

2366 (D) not used in conducting business in this state; and

2367 (ii) for:

2368 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
2369 the product for a purpose for which the product is designed occurs outside of this state;

2370 (B) a boat, the boat is registered outside of this state; or

2371 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
2372 outside of this state;

2373 (b) the exemption provided for in Subsection (24)(a) does not apply to:

2374 (i) a lease or rental of a product; or

2375 (ii) a sale of a vehicle exempt under Subsection (33); and

2376 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2377 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
2378 following:

2379 (i) conducting business in this state if that phrase has the same meaning in this
2380 Subsection (24) as in Subsection (63);

2381 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
2382 as in Subsection (63); or

2383 (iii) a purpose for which a product is designed if that phrase has the same meaning in
2384 this Subsection (24) as in Subsection (63);

2385 (25) a product purchased for resale in this state, in the regular course of business, either
2386 in its original form or as an ingredient or component part of a manufactured or compounded
2387 product;

2388 (26) a product upon which a sales or use tax was paid to some other state, or one of its
2389 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
2390 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
2391 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
2392 Act;

2393 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
2394 person for use in compounding a service taxable under the subsections;

2395 (28) purchases made in accordance with the special supplemental nutrition program for
2396 women, infants, and children established in 42 U.S.C. Sec. 1786;

2397 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
2398 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
2399 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
2400 the President, Office of Management and Budget;

2401 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
2402 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

2403 (a) not registered in this state; and

2404 (b) (i) not used in this state; or

2405 (ii) used in this state:

2406 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
2407 time period that does not exceed the longer of:

2408 (I) 30 days in any calendar year; or

2409 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
2410 the borders of this state; or

2411 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time

2412 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
2413 state;

2414 (31) sales of aircraft manufactured in Utah;

2415 (32) amounts paid for the purchase of telecommunications service for purposes of
2416 providing telecommunications service;

2417 (33) sales, leases, or uses of the following:

2418 (a) a vehicle by an authorized carrier; or

2419 (b) tangible personal property that is installed on a vehicle:

2420 (i) sold or leased to or used by an authorized carrier; and

2421 (ii) before the vehicle is placed in service for the first time;

2422 (34) (a) 45% of the sales price of any new manufactured home; and

2423 (b) 100% of the sales price of any used manufactured home;

2424 (35) sales relating to schools and fundraising sales;

2425 (36) sales or rentals of durable medical equipment if:

2426 (a) a person presents a prescription for the durable medical equipment; and

2427 (b) the durable medical equipment is used for home use only;

2428 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
2429 Section [72-11-102](#); and

2430 (b) the commission shall by rule determine the method for calculating sales exempt
2431 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

2432 (38) sales to a ski resort of:

2433 (a) snowmaking equipment;

2434 (b) ski slope grooming equipment;

2435 (c) passenger ropeways as defined in Section [72-11-102](#); or

2436 (d) parts used in the repairs or renovations of equipment or passenger ropeways
2437 described in Subsections (38)(a) through (c);

2438 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

2439 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
2440 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
2441 [59-12-102](#);

2442 (b) if a seller that sells or rents at the same business location the right to use or operate

2443 for amusement, entertainment, or recreation one or more unassisted amusement devices and
2444 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
2445 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
2446 amusement, entertainment, or recreation for the assisted amusement devices; and

2447 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
2448 Utah Administrative Rulemaking Act, the commission may make rules:

2449 (i) governing the circumstances under which sales are at the same business location;
2450 and

2451 (ii) establishing the procedures and requirements for a seller to separately account for
2452 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
2453 assisted amusement devices;

2454 (41) (a) sales of photocopies by:

2455 (i) a governmental entity; or

2456 (ii) an entity within the state system of public education, including:

2457 (A) a school; or

2458 (B) the State Board of Education; or

2459 (b) sales of publications by a governmental entity;

2460 (42) amounts paid for admission to an athletic event at an institution of higher
2461 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
2462 20 U.S.C. Sec. 1681 et seq.;

2463 (43) (a) sales made to or by:

2464 (i) an area agency on aging; or

2465 (ii) a senior citizen center owned by a county, city, or town; or

2466 (b) sales made by a senior citizen center that contracts with an area agency on aging;

2467 (44) sales or leases of semiconductor fabricating, processing, research, or development
2468 materials regardless of whether the semiconductor fabricating, processing, research, or
2469 development materials:

2470 (a) actually come into contact with a semiconductor; or

2471 (b) ultimately become incorporated into real property;

2472 (45) an amount paid by or charged to a purchaser for accommodations and services
2473 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section

2474 59-12-104.2;

2475 (46) [~~beginning on September 1, 2001,~~] the lease or use of a vehicle issued a temporary
2476 sports event registration certificate in accordance with Section 41-3-306 for the event period
2477 specified on the temporary sports event registration certificate;

2478 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
2479 adopted by the Public Service Commission only for purchase of electricity produced from a
2480 new alternative energy source built after January 1, 2016, as designated in the tariff by the
2481 Public Service Commission;

2482 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
2483 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
2484 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
2485 customer would have paid absent the tariff;

2486 (48) sales or rentals of mobility enhancing equipment if a person presents a
2487 prescription for the mobility enhancing equipment;

2488 (49) sales of water in a:

2489 (a) pipe;

2490 (b) conduit;

2491 (c) ditch; or

2492 (d) reservoir;

2493 (50) sales of currency or coins that constitute legal tender of a state, the United States,
2494 or a foreign nation;

2495 (51) (a) sales of an item described in Subsection (51)(b) if the item:

2496 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

2497 (ii) has a gold, silver, or platinum content of 50% or more; and

2498 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

2499 (i) ingot;

2500 (ii) bar;

2501 (iii) medallion; or

2502 (iv) decorative coin;

2503 (52) amounts paid on a sale-leaseback transaction;

2504 (53) sales of a prosthetic device;

2505 (a) for use on or in a human; and
2506 (b) (i) for which a prescription is required; or
2507 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
2508 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
2509 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
2510 or equipment is primarily used in the production or postproduction of the following media for
2511 commercial distribution:
2512 (i) a motion picture;
2513 (ii) a television program;
2514 (iii) a movie made for television;
2515 (iv) a music video;
2516 (v) a commercial;
2517 (vi) a documentary; or
2518 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
2519 commission by administrative rule made in accordance with Subsection (54)(d); or
2520 (b) purchases, leases, or rentals of machinery or equipment by an establishment
2521 described in Subsection (54)(c) that is used for the production or postproduction of the
2522 following are subject to the taxes imposed by this chapter:
2523 (i) a live musical performance;
2524 (ii) a live news program; or
2525 (iii) a live sporting event;
2526 (c) the following establishments listed in the 1997 North American Industry
2527 Classification System of the federal Executive Office of the President, Office of Management
2528 and Budget, apply to Subsections (54)(a) and (b):
2529 (i) NAICS Code 512110; or
2530 (ii) NAICS Code 51219; and
2531 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2532 commission may by rule:
2533 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
2534 or
2535 (ii) define:

- 2536 (A) "commercial distribution";
- 2537 (B) "live musical performance";
- 2538 (C) "live news program"; or
- 2539 (D) "live sporting event";
- 2540 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 2541 on or before June 30, 2027, of tangible personal property that:
- 2542 (i) is leased or purchased for or by a facility that:
- 2543 (A) is an alternative energy electricity production facility;
- 2544 (B) is located in the state; and
- 2545 (C) (I) becomes operational on or after July 1, 2004; or
- 2546 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 2547 2004, as a result of the use of the tangible personal property;
- 2548 (ii) has an economic life of five or more years; and
- 2549 (iii) is used to make the facility or the increase in capacity of the facility described in
- 2550 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
- 2551 transmission grid including:
- 2552 (A) a wind turbine;
- 2553 (B) generating equipment;
- 2554 (C) a control and monitoring system;
- 2555 (D) a power line;
- 2556 (E) substation equipment;
- 2557 (F) lighting;
- 2558 (G) fencing;
- 2559 (H) pipes; or
- 2560 (I) other equipment used for locating a power line or pole; and
- 2561 (b) this Subsection (55) does not apply to:
- 2562 (i) tangible personal property used in construction of:
- 2563 (A) a new alternative energy electricity production facility; or
- 2564 (B) the increase in the capacity of an alternative energy electricity production facility;
- 2565 (ii) contracted services required for construction and routine maintenance activities;
- 2566 and

2567 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2568 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
2569 acquired after:

2570 (A) the alternative energy electricity production facility described in Subsection
2571 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

2572 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
2573 in Subsection (55)(a)(iii);

2574 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
2575 on or before June 30, 2027, of tangible personal property that:

2576 (i) is leased or purchased for or by a facility that:

2577 (A) is a waste energy production facility;

2578 (B) is located in the state; and

2579 (C) (I) becomes operational on or after July 1, 2004; or

2580 (II) has its generation capacity increased by one or more megawatts on or after July 1,
2581 2004, as a result of the use of the tangible personal property;

2582 (ii) has an economic life of five or more years; and

2583 (iii) is used to make the facility or the increase in capacity of the facility described in
2584 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
2585 transmission grid including:

2586 (A) generating equipment;

2587 (B) a control and monitoring system;

2588 (C) a power line;

2589 (D) substation equipment;

2590 (E) lighting;

2591 (F) fencing;

2592 (G) pipes; or

2593 (H) other equipment used for locating a power line or pole; and

2594 (b) this Subsection (56) does not apply to:

2595 (i) tangible personal property used in construction of:

2596 (A) a new waste energy facility; or

2597 (B) the increase in the capacity of a waste energy facility;

2598 (ii) contracted services required for construction and routine maintenance activities;
2599 and
2600 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2601 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
2602 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
2603 described in Subsection (56)(a)(iii); or
2604 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
2605 in Subsection (56)(a)(iii);
2606 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
2607 or before June 30, 2027, of tangible personal property that:
2608 (i) is leased or purchased for or by a facility that:
2609 (A) is located in the state;
2610 (B) produces fuel from alternative energy, including:
2611 (I) methanol; or
2612 (II) ethanol; and
2613 (C) (I) becomes operational on or after July 1, 2004; or
2614 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
2615 a result of the installation of the tangible personal property;
2616 (ii) has an economic life of five or more years; and
2617 (iii) is installed on the facility described in Subsection (57)(a)(i);
2618 (b) this Subsection (57) does not apply to:
2619 (i) tangible personal property used in construction of:
2620 (A) a new facility described in Subsection (57)(a)(i); or
2621 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
2622 (ii) contracted services required for construction and routine maintenance activities;
2623 and
2624 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2625 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
2626 (A) the facility described in Subsection (57)(a)(i) is operational; or
2627 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
2628 (58) (a) subject to Subsection (58)(b) [~~or (c)~~], sales of tangible personal property or a

2629 product transferred electronically to a person within this state if that tangible personal property
2630 or product transferred electronically is subsequently shipped outside the state and incorporated
2631 pursuant to contract into and becomes a part of real property located outside of this state;

2632 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
2633 state or political entity to which the tangible personal property is shipped imposes a sales, use,
2634 gross receipts, or other similar transaction excise tax on the transaction against which the other
2635 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

2636 [~~(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
2637 ~~a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a~~
2638 ~~refund;]~~

2639 [~~(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]~~

2640 [~~(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on~~
2641 ~~which the sale is made;]~~

2642 [~~(iii) if the person did not claim the exemption allowed by this Subsection (58) for the~~
2643 ~~sale prior to filing for the refund;]~~

2644 [~~(iv) for sales and use taxes paid under this chapter on the sale;]~~

2645 [~~(v) in accordance with Section 59-1-1410; and]~~

2646 [~~(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~
2647 ~~if the person files for the refund on or before June 30, 2011;]~~

2648 (59) purchases:

2649 (a) of one or more of the following items in printed or electronic format:

2650 (i) a list containing information that includes one or more[~~:(A)~~] names[~~;~~~~or~~~~(B)~~] or
2651 addresses; or

2652 (ii) a database containing information that includes one or more[~~:(A)~~] names[~~;~~~~or~~~~(B)~~]
2653 or addresses; and

2654 (b) used to send direct mail;

2655 (60) redemptions or repurchases of a product by a person if that product was:

2656 (a) delivered to a pawnbroker as part of a pawn transaction; and

2657 (b) redeemed or repurchased within the time period established in a written agreement
2658 between the person and the pawnbroker for redeeming or repurchasing the product;

2659 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

2660 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

2661 and

2662 (ii) has a useful economic life of one or more years; and

2663 (b) the following apply to Subsection (61)(a):

2664 (i) telecommunications enabling or facilitating equipment, machinery, or software;

2665 (ii) telecommunications equipment, machinery, or software required for 911 service;

2666 (iii) telecommunications maintenance or repair equipment, machinery, or software;

2667 (iv) telecommunications switching or routing equipment, machinery, or software; or

2668 (v) telecommunications transmission equipment, machinery, or software;

2669 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible

2670 personal property or a product transferred electronically that are used in the research and

2671 development of alternative energy technology; and

2672 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2673 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes

2674 purchases of tangible personal property or a product transferred electronically that are used in

2675 the research and development of alternative energy technology;

2676 (63) (a) purchases of tangible personal property or a product transferred electronically

2677 if:

2678 (i) the tangible personal property or product transferred electronically is:

2679 (A) purchased outside of this state;

2680 (B) brought into this state at any time after the purchase described in Subsection

2681 (63)(a)(i)(A); and

2682 (C) used in conducting business in this state; and

2683 (ii) for:

2684 (A) tangible personal property or a product transferred electronically other than the

2685 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property

2686 for a purpose for which the property is designed occurs outside of this state; or

2687 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

2688 outside of this state;

2689 (b) the exemption provided for in Subsection (63)(a) does not apply to:

2690 (i) a lease or rental of tangible personal property or a product transferred electronically;

2691 or

2692 (ii) a sale of a vehicle exempt under Subsection (33); and

2693 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2694 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
2695 following:

2696 (i) conducting business in this state if that phrase has the same meaning in this
2697 Subsection (63) as in Subsection (24);

2698 (ii) the first use of tangible personal property or a product transferred electronically if
2699 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

2700 (iii) a purpose for which tangible personal property or a product transferred
2701 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
2702 Subsection (24);

2703 (64) sales of disposable home medical equipment or supplies if:

2704 (a) a person presents a prescription for the disposable home medical equipment or
2705 supplies;

2706 (b) the disposable home medical equipment or supplies are used exclusively by the
2707 person to whom the prescription described in Subsection (64)(a) is issued; and

2708 (c) the disposable home medical equipment and supplies are listed as eligible for
2709 payment under:

2710 (i) Title XVIII, federal Social Security Act; or

2711 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

2712 (65) sales:

2713 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
2714 District Act; or

2715 (b) of tangible personal property to a subcontractor of a public transit district, if the
2716 tangible personal property is:

2717 (i) clearly identified; and

2718 (ii) installed or converted to real property owned by the public transit district;

2719 (66) sales of construction materials:

2720 (a) purchased on or after July 1, 2010;

2721 (b) purchased by, on behalf of, or for the benefit of an international airport:

- 2722 (i) located within a county of the first class; and
- 2723 (ii) that has a United States customs office on its premises; and
- 2724 (c) if the construction materials are:
- 2725 (i) clearly identified;
- 2726 (ii) segregated; and
- 2727 (iii) installed or converted to real property:
- 2728 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 2729 (B) located at the international airport described in Subsection (66)(b);
- 2730 (67) sales of construction materials:
- 2731 (a) purchased on or after July 1, 2008;
- 2732 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 2733 (i) located within a county of the second class; and
- 2734 (ii) that is owned or operated by a city in which an airline as defined in Section
- 2735 [59-2-102](#) is headquartered; and
- 2736 (c) if the construction materials are:
- 2737 (i) clearly identified;
- 2738 (ii) segregated; and
- 2739 (iii) installed or converted to real property:
- 2740 (A) owned or operated by the new airport described in Subsection (67)(b);
- 2741 (B) located at the new airport described in Subsection (67)(b); and
- 2742 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 2743 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 2744 (69) purchases and sales described in Section [63H-4-111](#);
- 2745 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 2746 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 2747 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2748 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2749 powered aircraft; or
- 2750 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 2751 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 2752 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration

2753 lists a state or country other than this state as the location of registry of the fixed wing turbine
2754 powered aircraft;

2755 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

2756 (a) to a person admitted to an institution of higher education; and

2757 (b) by a seller, other than a bookstore owned by an institution of higher education, if

2758 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a

2759 textbook for a higher education course;

2760 (72) a license fee or tax a municipality imposes in accordance with Subsection

2761 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced

2762 level of municipal services;

2763 (73) amounts paid or charged for construction materials used in the construction of a

2764 new or expanding life science research and development facility in the state, if the construction

2765 materials are:

2766 (a) clearly identified;

2767 (b) segregated; and

2768 (c) installed or converted to real property;

2769 (74) amounts paid or charged for:

2770 (a) a purchase or lease of machinery and equipment that:

2771 (i) are used in performing qualified research:

2772 (A) as defined in Section 41(d), Internal Revenue Code; and

2773 (B) in the state; and

2774 (ii) have an economic life of three or more years; and

2775 (b) normal operating repair or replacement parts:

2776 (i) for the machinery and equipment described in Subsection (74)(a); and

2777 (ii) that have an economic life of three or more years;

2778 (75) a sale or lease of tangible personal property used in the preparation of prepared

2779 food if:

2780 (a) for a sale:

2781 (i) the ownership of the seller and the ownership of the purchaser are identical; and

2782 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that

2783 tangible personal property prior to making the sale; or

- 2784 (b) for a lease:
- 2785 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 2786 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
- 2787 personal property prior to making the lease;
- 2788 (76) (a) purchases of machinery or equipment if:
- 2789 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 2790 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 2791 System of the federal Executive Office of the President, Office of Management and Budget;
- 2792 (ii) the machinery or equipment:
- 2793 (A) has an economic life of three or more years; and
- 2794 (B) is used by one or more persons who pay admission or user fees described in
- 2795 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- 2796 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 2797 (A) amounts paid or charged as admission or user fees described in Subsection
- 2798 59-12-103(1)(f); and
- 2799 (B) subject to taxation under this chapter; and
- 2800 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2801 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
- 2802 previous calendar quarter is:
- 2803 (i) amounts paid or charged as admission or user fees described in Subsection
- 2804 59-12-103(1)(f); and
- 2805 (ii) subject to taxation under this chapter;
- 2806 (77) purchases of a short-term lodging consumable by a business that provides
- 2807 accommodations and services described in Subsection 59-12-103(1)(i);
- 2808 (78) amounts paid or charged to access a database:
- 2809 (a) if the primary purpose for accessing the database is to view or retrieve information
- 2810 from the database; and
- 2811 (b) not including amounts paid or charged for a:
- 2812 (i) digital audiowork;
- 2813 (ii) digital audio-visual work; or
- 2814 (iii) digital book;

- 2815 (79) amounts paid or charged for a purchase or lease made by an electronic financial
2816 payment service, of:
- 2817 (a) machinery and equipment that:
- 2818 (i) are used in the operation of the electronic financial payment service; and
- 2819 (ii) have an economic life of three or more years; and
- 2820 (b) normal operating repair or replacement parts that:
- 2821 (i) are used in the operation of the electronic financial payment service; and
- 2822 (ii) have an economic life of three or more years;
- 2823 (80) [~~beginning on April 1, 2013,~~] sales of a fuel cell as defined in Section 54-15-102;
- 2824 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
2825 product transferred electronically if the tangible personal property or product transferred
2826 electronically:
- 2827 (a) is stored, used, or consumed in the state; and
- 2828 (b) is temporarily brought into the state from another state:
- 2829 (i) during a disaster period as defined in Section 53-2a-1202;
- 2830 (ii) by an out-of-state business as defined in Section 53-2a-1202;
- 2831 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- 2832 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- 2833 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
2834 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
2835 Recreation Program;
- 2836 (83) amounts paid or charged for a purchase or lease of molten magnesium;
- 2837 (84) [~~(a) except as provided in Subsection (84)(b),~~] amounts paid or charged for a
2838 purchase or lease made by a drilling equipment manufacturer of machinery, equipment,
2839 [~~materials, or~~] normal operating repair or replacement parts[~~:(i)~~], or materials, except for office
2840 equipment or office supplies, that are used or consumed exclusively in the drilling equipment
2841 manufacturer's manufacturing process; [~~and~~]
- 2842 [~~(ii) except for office:~~]
- 2843 [~~(A) equipment; or~~]
- 2844 [~~(B) supplies; and~~]
- 2845 [~~(b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an~~]

2846 exemption described in Subsection (84)(a) only by filing for a refund:]
2847 [(i) of 50% of the tax paid on the amounts paid or charged; and]
2848 [(ii) in accordance with Section 59-1-1410;]
2849 (85) amounts paid or charged for a purchase or lease made by a qualifying enterprise
2850 data center of machinery, equipment, or normal operating repair or replacement parts, if the
2851 machinery, equipment, or normal operating repair or replacement parts:
2852 (a) are used in the operation of the establishment; and
2853 (b) have an economic life of one or more years; [and]
2854 (86) amounts paid or charged for a purchase or lease of machinery, equipment, or
2855 normal operating repair or replacement parts by a manufacturing facility that:
2856 (a) is an establishment, as the commission defines that term in accordance with Title
2857 63G, Chapter 3, Utah Administrative Rulemaking Act;
2858 (b) is described in NAICS Code 336111, Automobile Manufacturing, of the 2002
2859 North American Industry Classification System of the federal Executive Office of the
2860 President, Office of Management and Budget;
2861 (c) is located in the state; and
2862 (d) uses the machinery, equipment, or normal operating repair or replacement parts in
2863 the manufacturing process to manufacture an item sold as tangible personal property, as the
2864 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
2865 Administrative Rulemaking Act;
2866 (87) amounts paid or charged for a purchase or lease of equipment or normal operating
2867 repair or replacement parts with an economic life of less than three years by a manufacturing
2868 facility that:
2869 (a) is an establishment, as the commission defines that term in accordance with Title
2870 63G, Chapter 3, Utah Administrative Rulemaking Act;
2871 (b) is described in NAICS Code 325120, Industrial Gas Manufacturing, of the 2002
2872 North American Industry Classification System of the federal Executive Office of the
2873 President, Office of Management and Budget;
2874 (c) is located in the state; and
2875 (d) uses the equipment or normal operating repair or replacement parts to manufacture
2876 hydrogen;

2877 (88) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
2878 vehicle that includes cleaning or washing of the interior of the vehicle; and

2879 (89) amounts paid or charged for a purchase or lease of machinery, equipment, normal
2880 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
2881 or consumed:

2882 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
2883 in Section 63M-4-701 located in the state;

2884 (b) if the machinery, equipment, normal operating repair or replacement parts,
2885 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

2886 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
2887 added to gasoline or diesel fuel;

2888 (ii) research and development;

2889 (iii) transporting, storing, or managing raw materials, work in process, finished
2890 products, and waste materials produced from refining gasoline or diesel fuel, or adding
2891 blendstock to gasoline or diesel fuel;

2892 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
2893 refining; or

2894 (v) preventing, controlling, or reducing pollutants from refining; and

2895 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office
2896 of Energy Development under Subsection 63M-4-702(2).

2897 Section 4. **Effective date.**

2898 This bill takes effect on July 1, 2018.