

Sales and Use Tax Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Jefferson Moss

LONG TITLE**General Description:**

This bill enacts a sales and use tax exemption for operators of facilities that manufacture energy storage devices or equipment.

Highlighted Provisions:

This bill:

- defines "qualifying energy storage manufacturing facility";
- enacts a sales and use tax exemption for an operator of a qualifying energy storage manufacturing facility for purchases of:
 - tangible personal property incorporated into an energy storage device or equipment;
- and
 - machinery, equipment, and normal repair or replacement parts; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-12-102, as last amended by Laws of Utah 2024, Chapter 274

59-12-104, as last amended by Laws of Utah 2024, Chapter 35

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

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

59-12-102 . Definitions.

As used in this chapter:

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

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

(b) is typically marketed:

- (i) under the name 800 toll-free calling;
- (ii) under the name 855 toll-free calling;
- (iii) under the name 866 toll-free calling;
- (iv) under the name 877 toll-free calling;
- (v) under the name 888 toll-free calling; or
- (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

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

- (i) a subscriber purchases;
- (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:
 - (A) prerecorded announcement; or
 - (B) live service; and
- (iii) is typically marketed:
 - (A) under the name 900 service; or
 - (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

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

- (i) a collection service a seller of a telecommunications service provides to a subscriber; or
- (ii) the following a subscriber sells to the subscriber's customer:
 - (A) a product; or
 - (B) a service.

(3)(a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include:

- (i) annual membership dues to private organizations; or
- (ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

(4) "Affiliate" or "affiliated person" means a person that, with respect to another person:

- (a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or
- (b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more

- 65 than 5%, whether direct or indirect, in the related persons.
- 66 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
67 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
68 Agreement after November 12, 2002.
- 69 (6) "Agreement combined tax rate" means the sum of the tax rates:
70 (a) listed under Subsection (7); and
71 (b) that are imposed within a local taxing jurisdiction.
- 72 (7) "Agreement sales and use tax" means a tax imposed under:
73 (a) Subsection 59-12-103(2)(a)(i)(A);
74 (b) Subsection 59-12-103(2)(b)(i);
75 (c) Subsection 59-12-103(2)(c)(i);
76 (d) Subsection 59-12-103(2)(d);
77 (e) Subsection 59-12-103(2)(e)(i)(A)(I);
78 (f) Section 59-12-204;
79 (g) Section 59-12-401;
80 (h) Section 59-12-402;
81 (i) Section 59-12-402.1;
82 (j) Section 59-12-703;
83 (k) Section 59-12-802;
84 (l) Section 59-12-804;
85 (m) Section 59-12-1102;
86 (n) Section 59-12-1302;
87 (o) Section 59-12-1402;
88 (p) Section 59-12-1802;
89 (q) Section 59-12-2003;
90 (r) Section 59-12-2103;
91 (s) Section 59-12-2213;
92 (t) Section 59-12-2214;
93 (u) Section 59-12-2215;
94 (v) Section 59-12-2216;
95 (w) Section 59-12-2217;
96 (x) Section 59-12-2218;
97 (y) Section 59-12-2219; or
98 (z) Section 59-12-2220.

- 99 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 100 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 101 (a) except for:
- 102 (i) an airline as defined in Section 59-2-102; or
- 103 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 104 includes a corporation that is qualified to do business but is not otherwise doing
- 105 business in the state, of an airline; and
- 106 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 107 whether the business entity performs the following in this state:
- 108 (i) check, diagnose, overhaul, and repair:
- 109 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 110 (B) the parts that comprise an onboard system of a fixed wing turbine powered
- 111 aircraft;
- 112 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered
- 113 aircraft engine;
- 114 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 115 aircraft:
- 116 (A) an inspection;
- 117 (B) a repair, including a structural repair or modification;
- 118 (C) changing landing gear; and
- 119 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 120 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft
- 121 and completely apply new paint to the fixed wing turbine powered aircraft; and
- 122 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 123 results in a change in the fixed wing turbine powered aircraft's certification
- 124 requirements by the authority that certifies the fixed wing turbine powered aircraft.
- 125 (10) "Alcoholic beverage" means a beverage that:
- 126 (a) is suitable for human consumption; and
- 127 (b) contains .5% or more alcohol by volume.
- 128 (11) "Alternative energy" means:
- 129 (a) biomass energy;
- 130 (b) geothermal energy;
- 131 (c) hydroelectric energy;
- 132 (d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(12)(a) Subject to Subsection (12)(b), "alternative energy electricity production facility"

means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(13)(a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(14) "Area agency on aging" means the same as that term is defined in Section 26B-6-101.

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

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

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

167 ride device.

168 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or
169 washing of tangible personal property if the cleaning or washing labor is primarily
170 performed by an individual:
171 (a) who is not the purchaser of the cleaning or washing of the tangible personal property;
172 and
173 (b) at the direction of the seller of the cleaning or washing of the tangible personal
174 property.

175 (17) "Authorized carrier" means:

176 (a) in the case of vehicles operated over public highways, the holder of credentials
177 indicating that the vehicle is or will be operated pursuant to both the International
178 Registration Plan and the International Fuel Tax Agreement;
179 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
180 certificate or air carrier's operating certificate; or
181 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
182 stock, a person who uses locomotives, freight cars, railroad work equipment, or other
183 rolling stock in more than one state.

184 (18)(a) "Biomass energy" means any of the following that is used as the primary source
185 of energy to produce fuel or electricity:

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

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

197 (i) black liquor; or
198 (ii) treated woods.

199 (19)(a) "Bundled transaction" means the sale of two or more items of tangible personal
200 property, products, or services if the tangible personal property, products, or services

201 are:

202 (i) distinct and identifiable; and

203 (ii) sold for one nonitemized price.

204 (b) "Bundled transaction" does not include:

205 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
206 the basis of the selection by the purchaser of the items of tangible personal
207 property included in the transaction;

208 (ii) the sale of real property;

209 (iii) the sale of services to real property;

210 (iv) the retail sale of tangible personal property and a service if:

211 (A) the tangible personal property:

212 (I) is essential to the use of the service; and

213 (II) is provided exclusively in connection with the service; and

214 (B) the service is the true object of the transaction;

215 (v) the retail sale of two services if:

216 (A) one service is provided that is essential to the use or receipt of a second
217 service;

218 (B) the first service is provided exclusively in connection with the second service;
219 and

220 (C) the second service is the true object of the transaction;

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

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

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

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

231 (A) that retail sale includes:

232 (I) food and food ingredients;

233 (II) a drug;

234 (III) durable medical equipment;

- 235 (IV) mobility enhancing equipment;
- 236 (V) an over-the-counter drug;
- 237 (VI) a prosthetic device; or
- 238 (VII) a medical supply; and
- 239 (B) subject to Subsection (19)(f):
- 240 (I) the seller's purchase price of the tangible personal property subject to
- 241 taxation under this chapter is 50% or less of the seller's total purchase price
- 242 of that retail sale; or
- 243 (II) the seller's sales price of the tangible personal property subject to taxation
- 244 under this chapter is 50% or less of the seller's total sales price of that retail
- 245 sale.
- 246 (c)(i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or
- 247 a service that is distinct and identifiable does not include:
- 248 (A) packaging that:
- 249 (I) accompanies the sale of the tangible personal property, product, or service;
- 250 and
- 251 (II) is incidental or immaterial to the sale of the tangible personal property,
- 252 product, or service;
- 253 (B) tangible personal property, a product, or a service provided free of charge with
- 254 the purchase of another item of tangible personal property, a product, or a
- 255 service; or
- 256 (C) an item of tangible personal property, a product, or a service included in the
- 257 definition of "purchase price."
- 258 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a
- 259 product, or a service is provided free of charge with the purchase of another item
- 260 of tangible personal property, a product, or a service if the sales price of the
- 261 purchased item of tangible personal property, product, or service does not vary
- 262 depending on the inclusion of the tangible personal property, product, or service
- 263 provided free of charge.
- 264 (d)(i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price
- 265 does not include a price that is separately identified by tangible personal property,
- 266 product, or service on the following, regardless of whether the following is in
- 267 paper format or electronic format:
- 268 (A) a binding sales document; or

- 269 (B) another supporting sales-related document that is available to a purchaser.
- 270 (ii) For purposes of Subsection (19)(d)(i), a binding sales document or another
- 271 supporting sales-related document that is available to a purchaser includes:
- 272 (A) a bill of sale;
- 273 (B) a contract;
- 274 (C) an invoice;
- 275 (D) a lease agreement;
- 276 (E) a periodic notice of rates and services;
- 277 (F) a price list;
- 278 (G) a rate card;
- 279 (H) a receipt; or
- 280 (I) a service agreement.
- 281 (e)(i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal
- 282 property or a product subject to taxation under this chapter is de minimis if:
- 283 (A) the seller's purchase price of the tangible personal property or product is 10%
- 284 or less of the seller's total purchase price of the bundled transaction; or
- 285 (B) the seller's sales price of the tangible personal property or product is 10% or
- 286 less of the seller's total sales price of the bundled transaction.
- 287 (ii) For purposes of Subsection (19)(b)(vi), a seller:
- 288 (A) shall use the seller's purchase price or the seller's sales price to determine if
- 289 the purchase price or sales price of the tangible personal property or product
- 290 subject to taxation under this chapter is de minimis; and
- 291 (B) may not use a combination of the seller's purchase price and the seller's sales
- 292 price to determine if the purchase price or sales price of the tangible personal
- 293 property or product subject to taxation under this chapter is de minimis.
- 294 (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service
- 295 contract to determine if the sales price of tangible personal property or a product is
- 296 de minimis.
- 297 (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the
- 298 seller's purchase price and the seller's sales price to determine if tangible personal
- 299 property subject to taxation under this chapter is 50% or less of the seller's total
- 300 purchase price or sales price of that retail sale.
- 301 (20) "Car sharing" means the same as that term is defined in Section 13-48a-101.
- 302 (21) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.

- (22) "Certified automated system" means software certified by the governing board of the agreement that:
- (a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:
 - (i) on a transaction; and
 - (ii) in the states that are members of the agreement;
 - (b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and
 - (c) maintains a record of the transaction described in Subsection (22)(a)(i).
- (23) "Certified service provider" means an agent certified:
- (a) by the governing board of the agreement; and
 - (b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.
- (24)(a) Subject to Subsection (24)(b), "clothing" means all human wearing apparel suitable for general use.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
- (i) listing the items that constitute "clothing"; and
 - (ii) that are consistent with the list of items that constitute "clothing" under the agreement.
- (25) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- (26) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (60) or residential use under Subsection ~~[(115)]~~ (116).
- (27)(a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.
- (b)(i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.
- (ii) For purposes of Subsection (27)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

- 337 (c) "Common carrier" does not include a person that provides transportation network
338 services, as defined in Section 13-51-102.
- 339 (28) "Component part" includes:
- 340 (a) poultry, dairy, and other livestock feed, and their components;
- 341 (b) baling ties and twine used in the baling of hay and straw;
- 342 (c) fuel used for providing temperature control of orchards and commercial greenhouses
343 doing a majority of their business in wholesale sales, and for providing power for
344 off-highway type farm machinery; and
- 345 (d) feed, seeds, and seedlings.
- 346 (29) "Computer" means an electronic device that accepts information:
- 347 (a)(i) in digital form; or
- 348 (ii) in a form similar to digital form; and
- 349 (b) manipulates that information for a result based on a sequence of instructions.
- 350 (30) "Computer software" means a set of coded instructions designed to cause:
- 351 (a) a computer to perform a task; or
- 352 (b) automatic data processing equipment to perform a task.
- 353 (31) "Computer software maintenance contract" means a contract that obligates a seller of
354 computer software to provide a customer with:
- 355 (a) future updates or upgrades to computer software;
- 356 (b) support services with respect to computer software; or
- 357 (c) a combination of Subsections (31)(a) and (b).
- 358 (32)(a) "Conference bridging service" means an ancillary service that links two or more
359 participants of an audio conference call or video conference call.
- 360 (b) "Conference bridging service" may include providing a telephone number as part of
361 the ancillary service described in Subsection (32)(a).
- 362 (c) "Conference bridging service" does not include a telecommunications service used to
363 reach the ancillary service described in Subsection (32)(a).
- 364 (33) "Construction materials" means any tangible personal property that will be converted
365 into real property.
- 366 (34) "Delivered electronically" means delivered to a purchaser by means other than tangible
367 storage media.
- 368 (35)(a) "Delivery charge" means a charge:
- 369 (i) by a seller of:
- 370 (A) tangible personal property;

- 371 (B) a product transferred electronically; or
372 (C) a service; and
373 (ii) for preparation and delivery of the tangible personal property, product transferred
374 electronically, or services described in Subsection (35)(a)(i) to a location
375 designated by the purchaser.
- 376 (b) "Delivery charge" includes a charge for the following:
377 (i) transportation;
378 (ii) shipping;
379 (iii) postage;
380 (iv) handling;
381 (v) crating; or
382 (vi) packing.
- 383 (36) "Detailed telecommunications billing service" means an ancillary service of separately
384 stating information pertaining to individual calls on a customer's billing statement.
- 385 (37) "Dietary supplement" means a product, other than tobacco, that:
386 (a) is intended to supplement the diet;
387 (b) contains one or more of the following dietary ingredients:
388 (i) a vitamin;
389 (ii) a mineral;
390 (iii) an herb or other botanical;
391 (iv) an amino acid;
392 (v) a dietary substance for use by humans to supplement the diet by increasing the
393 total dietary intake; or
394 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
395 described in Subsections (37)(b)(i) through (v);
396 (c)(i) except as provided in Subsection (37)(c)(ii), is intended for ingestion in:
397 (A) tablet form;
398 (B) capsule form;
399 (C) powder form;
400 (D) softgel form;
401 (E) gelcap form; or
402 (F) liquid form; or
403 (ii) if the product is not intended for ingestion in a form described in Subsections
404 (37)(c)(i)(A) through (F), is not represented:

- 405 (A) as conventional food; and
406 (B) for use as a sole item of:
407 (I) a meal; or
408 (II) the diet; and
409 (d) is required to be labeled as a dietary supplement:
410 (i) identifiable by the "Supplemental Facts" box found on the label; and
411 (ii) as required by 21 C.F.R. Sec. 101.36.
- 412 (38)(a) "Digital audio work" means a work that results from the fixation of a series of
413 musical, spoken, or other sounds.
414 (b) "Digital audio work" includes a ringtone.
- 415 (39) "Digital audio-visual work" means a series of related images which, when shown in
416 succession, imparts an impression of motion, together with accompanying sounds, if any.
- 417 (40) "Digital book" means a work that is generally recognized in the ordinary and usual
418 sense as a book.
- 419 (41)(a) "Direct mail" means printed material delivered or distributed by United States
420 mail or other delivery service:
421 (i) to:
422 (A) a mass audience; or
423 (B) addressees on a mailing list provided:
424 (I) by a purchaser of the mailing list; or
425 (II) at the discretion of the purchaser of the mailing list; and
426 (ii) if the cost of the printed material is not billed directly to the recipients.
- 427 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
428 purchaser to a seller of direct mail for inclusion in a package containing the printed
429 material.
- 430 (c) "Direct mail" does not include multiple items of printed material delivered to a single
431 address.
- 432 (42) "Directory assistance" means an ancillary service of providing:
433 (a) address information; or
434 (b) telephone number information.
- 435 (43)(a) "Disposable home medical equipment or supplies" means medical equipment or
436 supplies that:
437 (i) cannot withstand repeated use; and
438 (ii) are purchased by, for, or on behalf of a person other than:

- 439 (A) a health care facility as defined in Section 26B-2-201;
440 (B) a health care provider as defined in Section 78B-3-403;
441 (C) an office of a health care provider described in Subsection (43)(a)(ii)(B); or
442 (D) a person similar to a person described in Subsections (43)(a)(ii)(A) through
443 (C).
- 444 (b) "Disposable home medical equipment or supplies" does not include:
445 (i) a drug;
446 (ii) durable medical equipment;
447 (iii) a hearing aid;
448 (iv) a hearing aid accessory;
449 (v) mobility enhancing equipment; or
450 (vi) tangible personal property used to correct impaired vision, including:
451 (A) eyeglasses; or
452 (B) contact lenses.
- 453 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
454 commission may by rule define what constitutes medical equipment or supplies.
- 455 (44) "Drilling equipment manufacturer" means a facility:
456 (a) located in the state;
457 (b) with respect to which 51% or more of the manufacturing activities of the facility
458 consist of manufacturing component parts of drilling equipment;
459 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
460 manufacturing process; and
461 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
462 manufacturing process.
- 463 (45)(a) "Drug" means a compound, substance, or preparation, or a component of a
464 compound, substance, or preparation that is:
465 (i) recognized in:
466 (A) the official United States Pharmacopoeia;
467 (B) the official Homeopathic Pharmacopoeia of the United States;
468 (C) the official National Formulary; or
469 (D) a supplement to a publication listed in Subsections (45)(a)(i)(A) through (C);
470 (ii) intended for use in the:
471 (A) diagnosis of disease;
472 (B) cure of disease;

- 473 (C) mitigation of disease;
474 (D) treatment of disease; or
475 (E) prevention of disease; or
476 (iii) intended to affect:
477 (A) the structure of the body; or
478 (B) any function of the body.
- 479 (b) "Drug" does not include:
480 (i) food and food ingredients;
481 (ii) a dietary supplement;
482 (iii) an alcoholic beverage; or
483 (iv) a prosthetic device.
- 484 (46)(a) "Durable medical equipment" means equipment that:
485 (i) can withstand repeated use;
486 (ii) is primarily and customarily used to serve a medical purpose;
487 (iii) generally is not useful to a person in the absence of illness or injury; and
488 (iv) is not worn in or on the body.
- 489 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
490 equipment described in Subsection (46)(a).
- 491 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 492 (47) "Electronic" means:
493 (a) relating to technology; and
494 (b) having:
495 (i) electrical capabilities;
496 (ii) digital capabilities;
497 (iii) magnetic capabilities;
498 (iv) wireless capabilities;
499 (v) optical capabilities;
500 (vi) electromagnetic capabilities; or
501 (vii) capabilities similar to Subsections (47)(b)(i) through (vi).
- 502 (48) "Electronic financial payment service" means an establishment:
503 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
504 Clearinghouse Activities, of the 2012 North American Industry Classification System
505 of the federal Executive Office of the President, Office of Management and Budget;
506 and

- 507 (b) that performs electronic financial payment services.
- 508 (49) "Employee" means the same as that term is defined in Section 59-10-401.
- 509 (50) "Fixed guideway" means a public transit facility that uses and occupies:
- 510 (a) rail for the use of public transit; or
- 511 (b) a separate right-of-way for the use of public transit.
- 512 (51) "Fixed wing turbine powered aircraft" means an aircraft that:
- 513 (a) is powered by turbine engines;
- 514 (b) operates on jet fuel; and
- 515 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 516 (52) "Fixed wireless service" means a telecommunications service that provides radio
- 517 communication between fixed points.
- 518 (53)(a) "Food and food ingredients" means substances:
- 519 (i) regardless of whether the substances are in:
- 520 (A) liquid form;
- 521 (B) concentrated form;
- 522 (C) solid form;
- 523 (D) frozen form;
- 524 (E) dried form; or
- 525 (F) dehydrated form; and
- 526 (ii) that are:
- 527 (A) sold for:
- 528 (I) ingestion by humans; or
- 529 (II) chewing by humans; and
- 530 (B) consumed for the substance's:
- 531 (I) taste; or
- 532 (II) nutritional value.
- 533 (b) "Food and food ingredients" includes an item described in Subsection (99)(b)(iii).
- 534 (c) "Food and food ingredients" does not include:
- 535 (i) an alcoholic beverage;
- 536 (ii) tobacco; or
- 537 (iii) prepared food.
- 538 (54)(a) "Fundraising sales" means sales:
- 539 (i)(A) made by a school; or
- 540 (B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

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

(b) For purposes of Subsection (54)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenue from which is deposited in a dedicated account controlled by the school or school district.

(55) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(56) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(57)(a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

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

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

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

(i) a school;

(ii) the State Board of Education;

(iii) the Utah Board of Higher Education; or

(iv) an institution of higher education described in Section 53B-1-102.

(58) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(59) "Individual-owned shared vehicle" means the same as that term is defined in Section 13-48a-101.

(60) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

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

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

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

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

(A) upon completion of required payments; and

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

(I) \$100; or

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

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

(d) For purposes of Subsection (63)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(64) "Lesson" means a fixed period of time for the duration of which a trained instructor:

(a) is present with a student in person or by video; and

(b) actively instructs the student, including by providing observation or feedback.

(65) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

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

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

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(66) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(67) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(68) "Local taxing jurisdiction" means a:

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

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(69) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(70) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

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

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (70)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(71)(a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(72)(a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

711 (i) does any of the following:

- 712 (A) lists, makes available, or advertises tangible personal property, a product
713 transferred electronically, or a service for sale by a marketplace seller on a
714 marketplace that the person owns, operates, or controls;
- 715 (B) facilitates the sale of a marketplace seller's tangible personal property, product
716 transferred electronically, or service by transmitting or otherwise
717 communicating an offer or acceptance of a retail sale between the marketplace
718 seller and a purchaser using the marketplace;
- 719 (C) owns, rents, licenses, makes available, or operates any electronic or physical
720 infrastructure or any property, process, method, copyright, trademark, or patent
721 that connects a marketplace seller to a purchaser for the purpose of making a
722 retail sale of tangible personal property, a product transferred electronically, or
723 a service;
- 724 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of
725 tangible personal property, a product transferred electronically, or a service,
726 regardless of ownership or control of the tangible personal property, the
727 product transferred electronically, or the service that is the subject of the retail
728 sale;
- 729 (E) provides software development or research and development activities related
730 to any activity described in this Subsection (72)(a)(i), if the software
731 development or research and development activity is directly related to the
732 person's marketplace;
- 733 (F) provides or offers fulfillment or storage services for a marketplace seller;
- 734 (G) sets prices for the sale of tangible personal property, a product transferred
735 electronically, or a service by a marketplace seller;
- 736 (H) provides or offers customer service to a marketplace seller or a marketplace
737 seller's purchaser or accepts or assists with taking orders, returns, or exchanges
738 of tangible personal property, a product transferred electronically, or a service
739 sold by a marketplace seller on the person's marketplace; or
- 740 (I) brands or otherwise identifies sales as those of the person; and

741 (ii) does any of the following:

- 742 (A) collects the sales price or purchase price of a retail sale of tangible personal
743 property, a product transferred electronically, or a service;
- 744 (B) provides payment processing services for a retail sale of tangible personal

- 745 property, a product transferred electronically, or a service;
- 746 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee,
747 closing fee, a fee for inserting or making available tangible personal property, a
748 product transferred electronically, or a service on the person's marketplace, or
749 other consideration for the facilitation of a retail sale of tangible personal
750 property, a product transferred electronically, or a service, regardless of
751 ownership or control of the tangible personal property, the product transferred
752 electronically, or the service that is the subject of the retail sale;
- 753 (D) through terms and conditions, an agreement, or another arrangement with a
754 third person, collects payment from a purchase for a retail sale of tangible
755 personal property, a product transferred electronically, or a service and
756 transmits that payment to the marketplace seller, regardless of whether the
757 third person receives compensation or other consideration in exchange for the
758 service; or
- 759 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
760 property, a product transferred electronically, or service offered for sale.
- 761 (b) "Marketplace facilitator" does not include:
- 762 (i) a person that only provides payment processing services; or
- 763 (ii) a person described in Subsection (72)(a) to the extent the person is facilitating a
764 sale for a seller that is a restaurant as defined in Section 59-12-602.
- 765 (73) "Marketplace seller" means a seller that makes one or more retail sales through a
766 marketplace that a marketplace facilitator owns, operates, or controls, regardless of
767 whether the seller is required to be registered to collect and remit the tax under this part.
- 768 (74) "Member of the immediate family of the producer" means a person who is related to a
769 producer described in Subsection 59-12-104(20)(a) as a:
- 770 (a) child or stepchild, regardless of whether the child or stepchild is:
- 771 (i) an adopted child or adopted stepchild; or
- 772 (ii) a foster child or foster stepchild;
- 773 (b) grandchild or stepgrandchild;
- 774 (c) grandparent or stepgrandparent;
- 775 (d) nephew or stepnephew;
- 776 (e) niece or stepniece;
- 777 (f) parent or stepparent;
- 778 (g) sibling or stepsibling;

- (h) spouse;
- (i) person who is the spouse of a person described in Subsections (74)(a) through (g); or
- (j) person similar to a person described in Subsections (74)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(75) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(76) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(77)(a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

- (i) the origination point of the conveyance, routing, or transmission is not fixed;
- (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- (iii) the origination point described in Subsection (77)(a)(i) and the termination point described in Subsection (77)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(78)(a) "Mobility enhancing equipment" means equipment that is:

- (i) primarily and customarily used to provide or increase the ability to move from one place to another;
- (ii) appropriate for use in a:
 - (A) home; or
 - (B) motor vehicle; and
- (iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (78)(a).

(c) "Mobility enhancing equipment" does not include:

- (i) a motor vehicle;
- (ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;
- (iii) durable medical equipment; or
- (iv) a prosthetic device.

(79) "Model 1 seller" means a seller registered under the agreement that has selected a

certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(80) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (80)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(81)(a) Subject to Subsection (81)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenue of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (81)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(82) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(83) "Modular home" means a modular unit as defined in Section 15A-1-302.

(84) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(85) "Oil sands" means impregnated bituminous sands that:

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

(b) yield mixtures of liquid hydrocarbon; and

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

(86) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(87) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the

847 retail sale of computer software.

848 (88)(a) "Other fuels" means products that burn independently to produce heat or energy.

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

851 (89)(a) "Paging service" means a telecommunications service that provides transmission
852 of a coded radio signal for the purpose of activating a specific pager.

853 (b) For purposes of Subsection (89)(a), the transmission of a coded radio signal includes
854 a transmission by message or sound.

855 (90) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

856 (91) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

857 (92)(a) "Permanently attached to real property" means that for tangible personal property
858 attached to real property:

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

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

861 (B) suggests that the tangible personal property will remain attached to the real
862 property in the same place over the useful life of the tangible personal
863 property; or

864 (ii) if the tangible personal property is detached from the real property, the
865 detachment would:

866 (A) cause substantial damage to the tangible personal property; or

867 (B) require substantial alteration or repair of the real property to which the
868 tangible personal property is attached.

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

870 (i) the attachment of an accessory to the tangible personal property if the accessory is:

871 (A) essential to the operation of the tangible personal property; and

872 (B) attached only to facilitate the operation of the tangible personal property;

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

876 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
877 Subsection (92)(c)(iii) or (iv).

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

879 (i) the attachment of portable or movable tangible personal property to real property
880 if that portable or movable tangible personal property is attached to real property

- 881 only for:
- 882 (A) convenience;
- 883 (B) stability; or
- 884 (C) for an obvious temporary purpose;
- 885 (ii) the detachment of tangible personal property from real property except for the
- 886 detachment described in Subsection (92)(b)(ii);
- 887 (iii) an attachment of the following tangible personal property to real property if the
- 888 attachment to real property is only through a line that supplies water, electricity,
- 889 gas, telecommunications, cable, or supplies a similar item as determined by the
- 890 commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 891 Administrative Rulemaking Act:
- 892 (A) a computer;
- 893 (B) a telephone;
- 894 (C) a television; or
- 895 (D) tangible personal property similar to Subsections (92)(c)(iii)(A) through (C)
- 896 as determined by the commission by rule made in accordance with Title 63G,
- 897 Chapter 3, Utah Administrative Rulemaking Act; or
- 898 (iv) an item listed in Subsection [~~(137)(e)~~] (138)(c).
- 899 (93) "Person" includes any individual, firm, partnership, joint venture, association,
- 900 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
- 901 municipality, district, or other local governmental entity of the state, or any group or
- 902 combination acting as a unit.
- 903 (94) "Place of primary use":
- 904 (a) for telecommunications service other than mobile telecommunications service,
- 905 means the street address representative of where the customer's use of the
- 906 telecommunications service primarily occurs, which shall be:
- 907 (i) the residential street address of the customer; or
- 908 (ii) the primary business street address of the customer; or
- 909 (b) for mobile telecommunications service, means the same as that term is defined in the
- 910 Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 911 (95)(a) "Postpaid calling service" means a telecommunications service a person obtains
- 912 by making a payment on a call-by-call basis:
- 913 (i) through the use of a:
- 914 (A) bank card;

- 915 (B) credit card;
916 (C) debit card; or
917 (D) travel card; or
918 (ii) by a charge made to a telephone number that is not associated with the origination
919 or termination of the telecommunications service.
- 920 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
921 service, that would be a prepaid wireless calling service if the service were
922 exclusively a telecommunications service.
- 923 (96) "Postproduction" means an activity related to the finishing or duplication of a medium
924 described in Subsection 59-12-104(54)(a).
- 925 (97) "Prepaid calling service" means a telecommunications service:
926 (a) that allows a purchaser access to telecommunications service that is exclusively
927 telecommunications service;
928 (b) that:
929 (i) is paid for in advance; and
930 (ii) enables the origination of a call using an:
931 (A) access number; or
932 (B) authorization code;
933 (c) that is dialed:
934 (i) manually; or
935 (ii) electronically; and
936 (d) sold in predetermined units or dollars that decline:
937 (i) by a known amount; and
938 (ii) with use.
- 939 (98) "Prepaid wireless calling service" means a telecommunications service:
940 (a) that provides the right to utilize:
941 (i) mobile wireless service; and
942 (ii) other service that is not a telecommunications service, including:
943 (A) the download of a product transferred electronically;
944 (B) a content service; or
945 (C) an ancillary service;
946 (b) that:
947 (i) is paid for in advance; and
948 (ii) enables the origination of a call using an:

- 949 (A) access number; or
950 (B) authorization code;
951 (c) that is dialed:
952 (i) manually; or
953 (ii) electronically; and
954 (d) sold in predetermined units or dollars that decline:
955 (i) by a known amount; and
956 (ii) with use.
- 957 (99)(a) "Prepared food" means:
958 (i) food:
959 (A) sold in a heated state; or
960 (B) heated by a seller;
961 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
962 item; or
963 (iii) except as provided in Subsection (99)(c), food sold with an eating utensil
964 provided by the seller, including a:
965 (A) plate;
966 (B) knife;
967 (C) fork;
968 (D) spoon;
969 (E) glass;
970 (F) cup;
971 (G) napkin; or
972 (H) straw.
- 973 (b) "Prepared food" does not include:
974 (i) food that a seller only:
975 (A) cuts;
976 (B) repackages; or
977 (C) pasteurizes;
978 (ii)(A) the following:
979 (I) raw egg;
980 (II) raw fish;
981 (III) raw meat;
982 (IV) raw poultry; or

- 983 (V) a food containing an item described in Subsections (99)(b)(ii)(A)(I)
984 through (IV); and
- 985 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of
986 the Food and Drug Administration's Food Code that a consumer cook the items
987 described in Subsection (99)(b)(ii)(A) to prevent food borne illness; or
- 988 (iii) the following if sold without eating utensils provided by the seller:
- 989 (A) food and food ingredients sold by a seller if the seller's proper primary
990 classification under the 2002 North American Industry Classification System
991 of the federal Executive Office of the President, Office of Management and
992 Budget, is manufacturing in Sector 311, Food Manufacturing, except for
993 Subsector 3118, Bakeries and Tortilla Manufacturing;
- 994 (B) food and food ingredients sold in an unheated state:
- 995 (I) by weight or volume; and
- 996 (II) as a single item; or
- 997 (C) a bakery item, including:
- 998 (I) a bagel;
- 999 (II) a bar;
- 1000 (III) a biscuit;
- 1001 (IV) bread;
- 1002 (V) a bun;
- 1003 (VI) a cake;
- 1004 (VII) a cookie;
- 1005 (VIII) a croissant;
- 1006 (IX) a danish;
- 1007 (X) a donut;
- 1008 (XI) a muffin;
- 1009 (XII) a pastry;
- 1010 (XIII) a pie;
- 1011 (XIV) a roll;
- 1012 (XV) a tart;
- 1013 (XVI) a torte; or
- 1014 (XVII) a tortilla.
- 1015 (c) An eating utensil provided by the seller does not include the following used to
1016 transport the food:

- 1017 (i) a container; or
1018 (ii) packaging.
- 1019 (100) "Prescription" means an order, formula, or recipe that is issued:
1020 (a)(i) orally;
1021 (ii) in writing;
1022 (iii) electronically; or
1023 (iv) by any other manner of transmission; and
1024 (b) by a licensed practitioner authorized by the laws of a state.
- 1025 (101)(a) "Prewritten computer software" means computer software that is not designed
1026 and developed:
1027 (i) by the author or other creator of the computer software; and
1028 (ii) to the specifications of a specific purchaser.
- 1029 (b) "Prewritten computer software" includes:
1030 (i) a prewritten upgrade to computer software if the prewritten upgrade to the
1031 computer software is not designed and developed:
1032 (A) by the author or other creator of the computer software; and
1033 (B) to the specifications of a specific purchaser;
1034 (ii) computer software designed and developed by the author or other creator of the
1035 computer software to the specifications of a specific purchaser if the computer
1036 software is sold to a person other than the purchaser; or
1037 (iii) except as provided in Subsection (101)(c), prewritten computer software or a
1038 prewritten portion of prewritten computer software:
1039 (A) that is modified or enhanced to any degree; and
1040 (B) if the modification or enhancement described in Subsection (101)(b)(iii)(A) is
1041 designed and developed to the specifications of a specific purchaser.
- 1042 (c) "Prewritten computer software" does not include a modification or enhancement
1043 described in Subsection (101)(b)(iii) if the charges for the modification or
1044 enhancement are:
1045 (i) reasonable; and
1046 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the
1047 invoice or other statement of price provided to the purchaser at the time of sale or
1048 later, as demonstrated by:
1049 (A) the books and records the seller keeps at the time of the transaction in the
1050 regular course of business, including books and records the seller keeps at the

- 1051 time of the transaction in the regular course of business for nontax purposes;
1052 (B) a preponderance of the facts and circumstances at the time of the transaction;
1053 and
1054 (C) the understanding of all of the parties to the transaction.
- 1055 (102)(a) "Private communications service" means a telecommunications service:
1056 (i) that entitles a customer to exclusive or priority use of one or more
1057 communications channels between or among termination points; and
1058 (ii) regardless of the manner in which the one or more communications channels are
1059 connected.
- 1060 (b) "Private communications service" includes the following provided in connection
1061 with the use of one or more communications channels:
1062 (i) an extension line;
1063 (ii) a station;
1064 (iii) switching capacity; or
1065 (iv) another associated service that is provided in connection with the use of one or
1066 more communications channels as defined in Section 59-12-215.
- 1067 (103)(a) "Product transferred electronically" means a product transferred electronically
1068 that would be subject to a tax under this chapter if that product was transferred in a
1069 manner other than electronically.
- 1070 (b) "Product transferred electronically" does not include:
1071 (i) an ancillary service;
1072 (ii) computer software; or
1073 (iii) a telecommunications service.
- 1074 (104)(a) "Prosthetic device" means a device that is worn on or in the body to:
1075 (i) artificially replace a missing portion of the body;
1076 (ii) prevent or correct a physical deformity or physical malfunction; or
1077 (iii) support a weak or deformed portion of the body.
- 1078 (b) "Prosthetic device" includes:
1079 (i) parts used in the repairs or renovation of a prosthetic device;
1080 (ii) replacement parts for a prosthetic device;
1081 (iii) a dental prosthesis; or
1082 (iv) a hearing aid.
- 1083 (c) "Prosthetic device" does not include:
1084 (i) corrective eyeglasses; or

- 1085 (ii) contact lenses.
- 1086 (105)(a) "Protective equipment" means an item:
- 1087 (i) for human wear; and
- 1088 (ii) that is:
- 1089 (A) designed as protection:
- 1090 (I) to the wearer against injury or disease; or
- 1091 (II) against damage or injury of other persons or property; and
- 1092 (B) not suitable for general use.
- 1093 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1094 commission shall make rules:
- 1095 (i) listing the items that constitute "protective equipment"; and
- 1096 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1097 under the agreement.
- 1098 (106)(a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 1099 printed matter, other than a photocopy:
- 1100 (i) regardless of:
- 1101 (A) characteristics;
- 1102 (B) copyright;
- 1103 (C) form;
- 1104 (D) format;
- 1105 (E) method of reproduction; or
- 1106 (F) source; and
- 1107 (ii) made available in printed or electronic format.
- 1108 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1109 commission may by rule define the term "photocopy."
- 1110 (107)(a) "Purchase price" and "sales price" mean the total amount of consideration:
- 1111 (i) valued in money; and
- 1112 (ii) for which tangible personal property, a product transferred electronically, or
- 1113 services are:
- 1114 (A) sold;
- 1115 (B) leased; or
- 1116 (C) rented.
- 1117 (b) "Purchase price" and "sales price" include:
- 1118 (i) the seller's cost of the tangible personal property, a product transferred

- 1119 electronically, or services sold;
- 1120 (ii) expenses of the seller, including:
- 1121 (A) the cost of materials used;
- 1122 (B) a labor cost;
- 1123 (C) a service cost;
- 1124 (D) interest;
- 1125 (E) a loss;
- 1126 (F) the cost of transportation to the seller; or
- 1127 (G) a tax imposed on the seller;
- 1128 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1129 (iv) consideration a seller receives from a person other than the purchaser if:
- 1130 (A)(I) the seller actually receives consideration from a person other than the
- 1131 purchaser; and
- 1132 (II) the consideration described in Subsection (107)(b)(iv)(A)(I) is directly
- 1133 related to a price reduction or discount on the sale;
- 1134 (B) the seller has an obligation to pass the price reduction or discount through to
- 1135 the purchaser;
- 1136 (C) the amount of the consideration attributable to the sale is fixed and
- 1137 determinable by the seller at the time of the sale to the purchaser; and
- 1138 (D)(I)(Aa) the purchaser presents a certificate, coupon, or other
- 1139 documentation to the seller to claim a price reduction or discount; and
- 1140 (Bb) a person other than the seller authorizes, distributes, or grants the
- 1141 certificate, coupon, or other documentation with the understanding that
- 1142 the person other than the seller will reimburse any seller to whom the
- 1143 certificate, coupon, or other documentation is presented;
- 1144 (II) the purchaser identifies that purchaser to the seller as a member of a group
- 1145 or organization allowed a price reduction or discount, except that a
- 1146 preferred customer card that is available to any patron of a seller does not
- 1147 constitute membership in a group or organization allowed a price reduction
- 1148 or discount; or
- 1149 (III) the price reduction or discount is identified as a third party price reduction
- 1150 or discount on the:
- 1151 (Aa) invoice the purchaser receives; or
- 1152 (Bb) certificate, coupon, or other documentation the purchaser presents.

- 1153 (c) "Purchase price" and "sales price" do not include:
- 1154 (i) a discount:
- 1155 (A) in a form including:
- 1156 (I) cash;
- 1157 (II) term; or
- 1158 (III) coupon;
- 1159 (B) that is allowed by a seller;
- 1160 (C) taken by a purchaser on a sale; and
- 1161 (D) that is not reimbursed by a third party; or
- 1162 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if
- 1163 separately stated on an invoice, bill of sale, or similar document provided to the
- 1164 purchaser at the time of sale or later, as demonstrated by the books and records the
- 1165 seller keeps at the time of the transaction in the regular course of business,
- 1166 including books and records the seller keeps at the time of the transaction in the
- 1167 regular course of business for nontax purposes, by a preponderance of the facts
- 1168 and circumstances at the time of the transaction, and by the understanding of all of
- 1169 the parties to the transaction:
- 1170 (A) the following from credit extended on the sale of tangible personal property or
- 1171 services:
- 1172 (I) a carrying charge;
- 1173 (II) a financing charge; or
- 1174 (III) an interest charge;
- 1175 (B) a delivery charge;
- 1176 (C) an installation charge;
- 1177 (D) a manufacturer rebate on a motor vehicle; or
- 1178 (E) a tax or fee legally imposed directly on the consumer.
- 1179 (108) "Purchaser" means a person to whom:
- 1180 (a) a sale of tangible personal property is made;
- 1181 (b) a product is transferred electronically; or
- 1182 (c) a service is furnished.
- 1183 (109) "Qualifying data center" means a data center facility that:
- 1184 (a) houses a group of networked server computers in one physical location in order to
- 1185 disseminate, manage, and store data and information;
- 1186 (b) is located in the state;

- 1187 (c) is a new operation constructed on or after July 1, 2016;
- 1188 (d) consists of one or more buildings that total 150,000 or more square feet;
- 1189 (e) is owned or leased by:
- 1190 (i) the operator of the data center facility; or
- 1191 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 1192 operator of the data center facility; and
- 1193 (f) is located on one or more parcels of land that are owned or leased by:
- 1194 (i) the operator of the data center facility; or
- 1195 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 1196 operator of the data center facility.
- 1197 (110) "Qualifying energy storage manufacturing facility" means a facility that
- 1198 manufactures, in the state, equipment or devices that store and discharge energy for the
- 1199 purpose of providing electrical power.
- 1200 ~~[(110)]~~ (111) "Regularly rented" means:
- 1201 (a) rented to a guest for value three or more times during a calendar year; or
- 1202 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1203 value.
- 1204 ~~[(111)]~~ (112) "Rental" means the same as that term is defined in Subsection (63).
- 1205 ~~[(112)]~~ (113)(a) "Repairs or renovations of tangible personal property" means:
- 1206 (i) a repair or renovation of tangible personal property that is not permanently
- 1207 attached to real property; or
- 1208 (ii) attaching tangible personal property or a product transferred electronically to
- 1209 other tangible personal property or detaching tangible personal property or a
- 1210 product transferred electronically from other tangible personal property if:
- 1211 (A) the other tangible personal property to which the tangible personal property or
- 1212 product transferred electronically is attached or from which the tangible
- 1213 personal property or product transferred electronically is detached is not
- 1214 permanently attached to real property; and
- 1215 (B) the attachment of tangible personal property or a product transferred
- 1216 electronically to other tangible personal property or detachment of tangible
- 1217 personal property or a product transferred electronically from other tangible
- 1218 personal property is made in conjunction with a repair or replacement of
- 1219 tangible personal property or a product transferred electronically.
- 1220 (b) "Repairs or renovations of tangible personal property" does not include:

- 1221 (i) attaching prewritten computer software to other tangible personal property if the
1222 other tangible personal property to which the prewritten computer software is
1223 attached is not permanently attached to real property; or
- 1224 (ii) detaching prewritten computer software from other tangible personal property if
1225 the other tangible personal property from which the prewritten computer software
1226 is detached is not permanently attached to real property.
- 1227 ~~[(113)]~~ (114) "Research and development" means the process of inquiry or experimentation
1228 aimed at the discovery of facts, devices, technologies, or applications and the process of
1229 preparing those devices, technologies, or applications for marketing.
- 1230 ~~[(114)]~~ (115)(a) "Residential telecommunications services" means a telecommunications
1231 service or an ancillary service that is provided to an individual for personal use:
- 1232 (i) at a residential address; or
- 1233 (ii) at an institution, including a nursing home or a school, if the telecommunications
1234 service or ancillary service is provided to and paid for by the individual residing at
1235 the institution rather than the institution.
- 1236 (b) For purposes of Subsection ~~[(114)(a)(i)]~~ (115)(a)(i), a residential address includes an:
- 1237 (i) apartment; or
- 1238 (ii) other individual dwelling unit.
- 1239 ~~[(115)]~~ (116) "Residential use" means the use in or around a home, apartment building,
1240 sleeping quarters, and similar facilities or accommodations.
- 1241 ~~[(116)]~~ (117) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1242 than:
- 1243 (a) resale;
- 1244 (b) sublease; or
- 1245 (c) subrent.
- 1246 ~~[(117)]~~ (118)(a) "Retailer" means any person, unless prohibited by the Constitution of the
1247 United States or federal law, that is engaged in a regularly organized business in
1248 tangible personal property or any other taxable transaction under Subsection
1249 59-12-103(1), and who is selling to the user or consumer and not for resale.
- 1250 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1251 engaged in the business of selling to users or consumers within the state.
- 1252 ~~[(118)]~~ (119)(a) "Sale" means any transfer of title, exchange, or barter, conditional or
1253 otherwise, in any manner, of tangible personal property or any other taxable
1254 transaction under Subsection 59-12-103(1), for consideration.

- 1255 (b) "Sale" includes:
- 1256 (i) installment and credit sales;
- 1257 (ii) any closed transaction constituting a sale;
- 1258 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 1259 chapter;
- 1260 (iv) any transaction if the possession of property is transferred but the seller retains
- 1261 the title as security for the payment of the price; and
- 1262 (v) any transaction under which right to possession, operation, or use of any article of
- 1263 tangible personal property is granted under a lease or contract and the transfer of
- 1264 possession would be taxable if an outright sale were made.
- 1265 ~~[(119)]~~ (120) "Sale at retail" means the same as that term is defined in Subsection ~~[(116)]~~
- 1266 (117).
- 1267 ~~[(120)]~~ (121) "Sale-leaseback transaction" means a transaction by which title to tangible
- 1268 personal property or a product transferred electronically that is subject to a tax under this
- 1269 chapter is transferred:
- 1270 (a) by a purchaser-lessee;
- 1271 (b) to a lessor;
- 1272 (c) for consideration; and
- 1273 (d) if:
- 1274 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial
- 1275 purchase of the tangible personal property or product transferred electronically;
- 1276 (ii) the sale of the tangible personal property or product transferred electronically to
- 1277 the lessor is intended as a form of financing:
- 1278 (A) for the tangible personal property or product transferred electronically; and
- 1279 (B) to the purchaser-lessee; and
- 1280 (iii) in accordance with generally accepted accounting principles, the
- 1281 purchaser-lessee is required to:
- 1282 (A) capitalize the tangible personal property or product transferred electronically
- 1283 for financial reporting purposes; and
- 1284 (B) account for the lease payments as payments made under a financing
- 1285 arrangement.
- 1286 ~~[(121)]~~ (122) "Sales price" means the same as that term is defined in Subsection (107).
- 1287 ~~[(122)]~~ (123)(a) "Sales relating to schools" means the following sales by, amounts paid
- 1288 to, or amounts charged by a school:

- 1289 (i) sales that are directly related to the school's educational functions or activities
1290 including:
1291 (A) the sale of:
1292 (I) textbooks;
1293 (II) textbook fees;
1294 (III) laboratory fees;
1295 (IV) laboratory supplies; or
1296 (V) safety equipment;
1297 (B) the sale of a uniform, protective equipment, or sports or recreational
1298 equipment that:
1299 (I) a student is specifically required to wear as a condition of participation in a
1300 school-related event or school-related activity; and
1301 (II) is not readily adaptable to general or continued usage to the extent that it
1302 takes the place of ordinary clothing;
1303 (C) sales of the following if the net or gross revenue generated by the sales is
1304 deposited into a school district fund or school fund dedicated to school meals:
1305 (I) food and food ingredients; or
1306 (II) prepared food; or
1307 (D) transportation charges for official school activities; or
1308 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1309 event or school-related activity.
1310 (b) "Sales relating to schools" does not include:
1311 (i) bookstore sales of items that are not educational materials or supplies;
1312 (ii) except as provided in Subsection [~~(122)(a)(i)(B)~~] (123)(a)(i)(B):
1313 (A) clothing;
1314 (B) clothing accessories or equipment;
1315 (C) protective equipment; or
1316 (D) sports or recreational equipment; or
1317 (iii) amounts paid to or amounts charged by a school for admission to a
1318 school-related event or school-related activity if the amounts paid or charged are
1319 passed through to a person:
1320 (A) other than a:
1321 (I) school;
1322 (II) nonprofit organization authorized by a school board or a governing body of

- 1323 a private school to organize and direct a competitive secondary school
1324 activity; or
- 1325 (III) nonprofit association authorized by a school board or a governing body of
1326 a private school to organize and direct a competitive secondary school
1327 activity; and
- 1328 (B) that is required to collect sales and use taxes under this chapter.
- 1329 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1330 commission may make rules defining the term "passed through."
- 1331 ~~[(123)]~~ (124) For purposes of this section and Section 59-12-104, "school" means:
- 1332 (a) an elementary school or a secondary school that:
- 1333 (i) is a:
- 1334 (A) public school; or
- 1335 (B) private school; and
- 1336 (ii) provides instruction for one or more grades kindergarten through 12; or
- 1337 (b) a public school district.
- 1338 ~~[(124)]~~ (125)(a) "Seller" means a person that makes a sale, lease, or rental of:
- 1339 (i) tangible personal property;
- 1340 (ii) a product transferred electronically; or
- 1341 (iii) a service.
- 1342 (b) "Seller" includes a marketplace facilitator.
- 1343 ~~[(125)]~~ (126)(a) "Semiconductor fabricating, processing, research, or development
1344 materials" means tangible personal property or a product transferred electronically if
1345 the tangible personal property or product transferred electronically is:
- 1346 (i) used primarily in the process of:
- 1347 (A)(I) manufacturing a semiconductor;
- 1348 (II) fabricating a semiconductor; or
- 1349 (III) research or development of a:
- 1350 (Aa) semiconductor; or
- 1351 (Bb) semiconductor manufacturing process; or
- 1352 (B) maintaining an environment suitable for a semiconductor; or
- 1353 (ii) consumed primarily in the process of:
- 1354 (A)(I) manufacturing a semiconductor;
- 1355 (II) fabricating a semiconductor; or
- 1356 (III) research or development of a:

- 1357 (Aa) semiconductor; or
- 1358 (Bb) semiconductor manufacturing process; or
- 1359 (B) maintaining an environment suitable for a semiconductor.
- 1360 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1361 includes:
- 1362 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1363 transferred electronically described in Subsection ~~[(125)(a)]~~ (126)(a); or
- 1364 (ii) a chemical, catalyst, or other material used to:
- 1365 (A) produce or induce in a semiconductor a:
- 1366 (I) chemical change; or
- 1367 (II) physical change;
- 1368 (B) remove impurities from a semiconductor; or
- 1369 (C) improve the marketable condition of a semiconductor.
- 1370 ~~[(126)]~~ (127) "Senior citizen center" means a facility having the primary purpose of
- 1371 providing services to the aged as defined in Section 26B-6-101.
- 1372 ~~[(127)]~~ (128) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.
- 1373 ~~[(128)]~~ (129) "Shared vehicle driver" means the same as that term is defined in Section
- 1374 13-48a-101.
- 1375 ~~[(129)]~~ (130) "Shared vehicle owner" means the same as that term is defined in Section
- 1376 13-48a-101.
- 1377 ~~[(130)]~~ (131)(a) Subject to Subsections ~~[(130)(b)]~~ (131)(b) and (c), "short-term lodging
- 1378 consumable" means tangible personal property that:
- 1379 (i) a business that provides accommodations and services described in Subsection
- 1380 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations
- 1381 and services to a purchaser;
- 1382 (ii) is intended to be consumed by the purchaser; and
- 1383 (iii) is:
- 1384 (A) included in the purchase price of the accommodations and services; and
- 1385 (B) not separately stated on an invoice, bill of sale, or other similar document
- 1386 provided to the purchaser.
- 1387 (b) "Short-term lodging consumable" includes:
- 1388 (i) a beverage;
- 1389 (ii) a brush or comb;
- 1390 (iii) a cosmetic;

- 1391 (iv) a hair care product;
1392 (v) lotion;
1393 (vi) a magazine;
1394 (vii) makeup;
1395 (viii) a meal;
1396 (ix) mouthwash;
1397 (x) nail polish remover;
1398 (xi) a newspaper;
1399 (xii) a notepad;
1400 (xiii) a pen;
1401 (xiv) a pencil;
1402 (xv) a razor;
1403 (xvi) saline solution;
1404 (xvii) a sewing kit;
1405 (xviii) shaving cream;
1406 (xix) a shoe shine kit;
1407 (xx) a shower cap;
1408 (xxi) a snack item;
1409 (xxii) soap;
1410 (xxiii) toilet paper;
1411 (xxiv) a toothbrush;
1412 (xxv) toothpaste; or
1413 (xxvi) an item similar to Subsections ~~[(130)(b)(i)]~~ (131)(b)(i) through (xxv) as the
1414 commission may provide by rule made in accordance with Title 63G, Chapter 3,
1415 Utah Administrative Rulemaking Act.
- 1416 (c) "Short-term lodging consumable" does not include:
1417 (i) tangible personal property that is cleaned or washed to allow the tangible personal
1418 property to be reused; or
1419 (ii) a product transferred electronically.
- 1420 ~~[(131)]~~ (132)(a) "Short-term rental" means a lease or rental for less than 30 consecutive
1421 days.
- 1422 (b) "Short-term rental" does not include car sharing.
- 1423 ~~[(132)]~~ (133) "Simplified electronic return" means the electronic return:
1424 (a) described in Section 318(C) of the agreement; and

- 1425 (b) approved by the governing board of the agreement.
- 1426 ~~[(133)]~~ (134) "Solar energy" means the sun used as the sole source of energy for producing
- 1427 electricity.
- 1428 ~~[(134)]~~ (135)(a) "Sports or recreational equipment" means an item:
- 1429 (i) designed for human use; and
- 1430 (ii) that is:
- 1431 (A) worn in conjunction with:
- 1432 (I) an athletic activity; or
- 1433 (II) a recreational activity; and
- 1434 (B) not suitable for general use.
- 1435 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1436 commission shall make rules:
- 1437 (i) listing the items that constitute "sports or recreational equipment"; and
- 1438 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1439 equipment" under the agreement.
- 1440 ~~[(135)]~~ (136) "State" means the state of Utah, its departments, and agencies.
- 1441 ~~[(136)]~~ (137) "Storage" means any keeping or retention of tangible personal property or any
- 1442 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 1443 except sale in the regular course of business.
- 1444 ~~[(137)]~~ (138)(a) "Tangible personal property" means personal property that:
- 1445 (i) may be:
- 1446 (A) seen;
- 1447 (B) weighed;
- 1448 (C) measured;
- 1449 (D) felt; or
- 1450 (E) touched; or
- 1451 (ii) is in any manner perceptible to the senses.
- 1452 (b) "Tangible personal property" includes:
- 1453 (i) electricity;
- 1454 (ii) water;
- 1455 (iii) gas;
- 1456 (iv) steam; or
- 1457 (v) prewritten computer software, regardless of the manner in which the prewritten
- 1458 computer software is transferred.

- 1459 (c) "Tangible personal property" includes the following regardless of whether the item is
1460 attached to real property:
- 1461 (i) a dishwasher;
 - 1462 (ii) a dryer;
 - 1463 (iii) a freezer;
 - 1464 (iv) a microwave;
 - 1465 (v) a refrigerator;
 - 1466 (vi) a stove;
 - 1467 (vii) a washer; or
 - 1468 (viii) an item similar to Subsections [~~(137)(c)(i)~~] (138)(c)(i) through (vii) as
1469 determined by the commission by rule made in accordance with Title 63G,
1470 Chapter 3, Utah Administrative Rulemaking Act.
- 1471 (d) "Tangible personal property" does not include a product that is transferred
1472 electronically.
- 1473 (e) "Tangible personal property" does not include the following if attached to real
1474 property, regardless of whether the attachment to real property is only through a line
1475 that supplies water, electricity, gas, telephone, cable, or supplies a similar item as
1476 determined by the commission by rule made in accordance with Title 63G, Chapter 3,
1477 Utah Administrative Rulemaking Act:
- 1478 (i) a hot water heater;
 - 1479 (ii) a water filtration system; or
 - 1480 (iii) a water softener system.
- 1481 [~~(138)~~] (139)(a) "Telecommunications enabling or facilitating equipment, machinery, or
1482 software" means an item listed in Subsection [~~(138)(b)~~] (139)(b) if that item is
1483 purchased or leased primarily to enable or facilitate one or more of the following to
1484 function:
- 1485 (i) telecommunications switching or routing equipment, machinery, or software; or
 - 1486 (ii) telecommunications transmission equipment, machinery, or software.
- 1487 (b) The following apply to Subsection [~~(138)(a)~~] (139)(a):
- 1488 (i) a pole;
 - 1489 (ii) software;
 - 1490 (iii) a supplementary power supply;
 - 1491 (iv) temperature or environmental equipment or machinery;
 - 1492 (v) test equipment;

- 1493 (vi) a tower; or
- 1494 (vii) equipment, machinery, or software that functions similarly to an item listed in
- 1495 Subsections ~~[(138)(b)(i)]~~ (139)(b)(i) through (vi) as determined by the commission
- 1496 by rule made in accordance with Subsection ~~[(138)(e)]~~ (139)(c).
- 1497 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1498 commission may by rule define what constitutes equipment, machinery, or software
- 1499 that functions similarly to an item listed in Subsections ~~[(138)(b)(i)]~~ (139)(b)(i)
- 1500 through (vi).
- 1501 ~~[(139)]~~ (140) "Telecommunications equipment, machinery, or software required for 911
- 1502 service" means equipment, machinery, or software that is required to comply with 47
- 1503 C.F.R. Sec. 20.18.
- 1504 ~~[(140)]~~ (141) "Telecommunications maintenance or repair equipment, machinery, or
- 1505 software" means equipment, machinery, or software purchased or leased primarily to
- 1506 maintain or repair one or more of the following, regardless of whether the equipment,
- 1507 machinery, or software is purchased or leased as a spare part or as an upgrade or
- 1508 modification to one or more of the following:
- 1509 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1510 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1511 (c) telecommunications transmission equipment, machinery, or software.
- 1512 ~~[(141)]~~ (142)(a) "Telecommunications service" means the electronic conveyance,
- 1513 routing, or transmission of audio, data, video, voice, or any other information or
- 1514 signal to a point, or among or between points.
- 1515 (b) "Telecommunications service" includes:
- 1516 (i) an electronic conveyance, routing, or transmission with respect to which a
- 1517 computer processing application is used to act:
- 1518 (A) on the code, form, or protocol of the content;
- 1519 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 1520 (C) regardless of whether the service:
- 1521 (I) is referred to as voice over Internet protocol service; or
- 1522 (II) is classified by the Federal Communications Commission as enhanced or
- 1523 value added;
- 1524 (ii) an 800 service;
- 1525 (iii) a 900 service;
- 1526 (iv) a fixed wireless service;

- 1527 (v) a mobile wireless service;
- 1528 (vi) a postpaid calling service;
- 1529 (vii) a prepaid calling service;
- 1530 (viii) a prepaid wireless calling service; or
- 1531 (ix) a private communications service.
- 1532 (c) "Telecommunications service" does not include:
- 1533 (i) advertising, including directory advertising;
- 1534 (ii) an ancillary service;
- 1535 (iii) a billing and collection service provided to a third party;
- 1536 (iv) a data processing and information service if:
- 1537 (A) the data processing and information service allows data to be:
- 1538 (I)(Aa) acquired;
- 1539 (Bb) generated;
- 1540 (Cc) processed;
- 1541 (Dd) retrieved; or
- 1542 (Ee) stored; and
- 1543 (II) delivered by an electronic transmission to a purchaser; and
- 1544 (B) the purchaser's primary purpose for the underlying transaction is the processed
- 1545 data or information;
- 1546 (v) installation or maintenance of the following on a customer's premises:
- 1547 (A) equipment; or
- 1548 (B) wiring;
- 1549 (vi) Internet access service;
- 1550 (vii) a paging service;
- 1551 (viii) a product transferred electronically, including:
- 1552 (A) music;
- 1553 (B) reading material;
- 1554 (C) a ring tone;
- 1555 (D) software; or
- 1556 (E) video;
- 1557 (ix) a radio and television audio and video programming service:
- 1558 (A) regardless of the medium; and
- 1559 (B) including:
- 1560 (I) furnishing conveyance, routing, or transmission of a television audio and

1561 video programming service by a programming service provider;
1562 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
1563 (III) audio and video programming services delivered by a commercial mobile
1564 radio service provider as defined in 47 C.F.R. Sec. 20.3;
1565 (x) a value-added nonvoice data service; or
1566 (xi) tangible personal property.

1567 ~~[(142)]~~ (143)(a) "Telecommunications service provider" means a person that:
1568 (i) owns, controls, operates, or manages a telecommunications service; and
1569 (ii) engages in an activity described in Subsection ~~[(142)(a)(i)]~~ (143)(a)(i) for the
1570 shared use with or resale to any person of the telecommunications service.

1571 (b) A person described in Subsection ~~[(142)(a)]~~ (143)(a) is a telecommunications service
1572 provider whether or not the Public Service Commission of Utah regulates:
1573 (i) that person; or
1574 (ii) the telecommunications service that the person owns, controls, operates, or
1575 manages.

1576 ~~[(143)]~~ (144)(a) "Telecommunications switching or routing equipment, machinery, or
1577 software" means an item listed in Subsection ~~[(143)(b)]~~ (144)(b) if that item is
1578 purchased or leased primarily for switching or routing:
1579 (i) an ancillary service;
1580 (ii) data communications;
1581 (iii) voice communications; or
1582 (iv) telecommunications service.

1583 (b) The following apply to Subsection ~~[(143)(a)]~~ (144)(a):
1584 (i) a bridge;
1585 (ii) a computer;
1586 (iii) a cross connect;
1587 (iv) a modem;
1588 (v) a multiplexer;
1589 (vi) plug in circuitry;
1590 (vii) a router;
1591 (viii) software;
1592 (ix) a switch; or
1593 (x) equipment, machinery, or software that functions similarly to an item listed in
1594 Subsections ~~[(143)(b)(i)]~~ (144)(b)(i) through (ix) as determined by the commission

1595 by rule made in accordance with Subsection [~~(143)(e)~~] (144)(c).

1596 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1597 commission may by rule define what constitutes equipment, machinery, or software
1598 that functions similarly to an item listed in Subsections [~~(143)(b)(i)~~] (143)(b)(i)
1599 through (ix).

1600 [~~(144)~~] (145)(a) "Telecommunications transmission equipment, machinery, or software"
1601 means an item listed in Subsection [~~(144)(b)~~] (145)(b) if that item is purchased or
1602 leased primarily for sending, receiving, or transporting:

1603 (i) an ancillary service;
1604 (ii) data communications;
1605 (iii) voice communications; or
1606 (iv) telecommunications service.

1607 (b) The following apply to Subsection [~~(144)(a)~~] (145)(a):

1608 (i) an amplifier;
1609 (ii) a cable;
1610 (iii) a closure;
1611 (iv) a conduit;
1612 (v) a controller;
1613 (vi) a duplexer;
1614 (vii) a filter;
1615 (viii) an input device;
1616 (ix) an input/output device;
1617 (x) an insulator;
1618 (xi) microwave machinery or equipment;
1619 (xii) an oscillator;
1620 (xiii) an output device;
1621 (xiv) a pedestal;
1622 (xv) a power converter;
1623 (xvi) a power supply;
1624 (xvii) a radio channel;
1625 (xviii) a radio receiver;
1626 (xix) a radio transmitter;
1627 (xx) a repeater;
1628 (xxi) software;

1629 (xxii) a terminal;
 1630 (xxiii) a timing unit;
 1631 (xxiv) a transformer;
 1632 (xxv) a wire; or
 1633 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
 1634 Subsections ~~[(144)(b)(i)]~~ (145)(b)(i) through (xxv) as ~~[determined by]~~ the
 1635 commission determines by rule made in accordance with Subsection ~~[(144)(c)]~~
 1636 (145)(c).

1637 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 1638 commission may by rule define what constitutes equipment, machinery, or software
 1639 that functions similarly to an item listed in Subsections ~~[(144)(b)(i)]~~ (145)(b)(i)
 1640 through (xxv).

1641 ~~[(145)]~~ (146)(a) "Textbook for a higher education course" means a textbook or other
 1642 printed material that is required for a course:

1643 (i) offered by an institution of higher education; and
 1644 (ii) that the purchaser of the textbook or other printed material attends or will attend.

1645 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1646 ~~[(146)]~~ (147) "Tobacco" means:

1647 (a) a cigarette;
 1648 (b) a cigar;
 1649 (c) chewing tobacco;
 1650 (d) pipe tobacco; or
 1651 (e) any other item that contains tobacco.

1652 ~~[(147)]~~ (148) "Unassisted amusement device" means an amusement device, skill device, or
 1653 ride device that is started and stopped by the purchaser or renter of the right to use or
 1654 operate the amusement device, skill device, or ride device.

1655 ~~[(148)]~~ (149)(a) "Use" means the exercise of any right or power over tangible personal
 1656 property, a product transferred electronically, or a service under Subsection 59-12-103
 1657 (1), incident to the ownership or the leasing of that tangible personal property,
 1658 product transferred electronically, or service.

1659 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
 1660 property, a product transferred electronically, or a service in the regular course of
 1661 business and held for resale.

1662 ~~[(149)]~~ (150) "Value-added nonvoice data service" means a service:

- 1663 (a) that otherwise meets the definition of a telecommunications service except that a
1664 computer processing application is used to act primarily for a purpose other than
1665 conveyance, routing, or transmission; and
- 1666 (b) with respect to which a computer processing application is used to act on data or
1667 information:
- 1668 (i) code;
1669 (ii) content;
1670 (iii) form; or
1671 (iv) protocol.
- 1672 ~~[(150)]~~ (151)(a) Subject to Subsection ~~[(150)(b)]~~ (151)(b), "vehicle" means the following
1673 that are required to be titled, registered, or titled and registered:
- 1674 (i) an aircraft as defined in Section 72-10-102;
1675 (ii) a vehicle as defined in Section 41-1a-102;
1676 (iii) an off-highway vehicle as defined in Section 41-22-2; or
1677 (iv) a vessel as defined in Section 41-1a-102.
- 1678 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1679 (i) a vehicle described in Subsection ~~[(150)(a)]~~ (151)(a); or
1680 (ii)(A) a locomotive;
1681 (B) a freight car;
1682 (C) railroad work equipment; or
1683 (D) other railroad rolling stock.
- 1684 ~~[(151)]~~ (152) "Vehicle dealer" means a person engaged in the business of buying, selling, or
1685 exchanging a vehicle as defined in Subsection ~~[(150)]~~ (151).
- 1686 ~~[(152)]~~ (153)(a) "Vertical service" means an ancillary service that:
- 1687 (i) is offered in connection with one or more telecommunications services; and
1688 (ii) offers an advanced calling feature that allows a customer to:
- 1689 (A) identify a caller; and
1690 (B) manage multiple calls and call connections.
- 1691 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1692 conference bridging service.
- 1693 ~~[(153)]~~ (154)(a) "Voice mail service" means an ancillary service that enables a customer
1694 to receive, send, or store a recorded message.
- 1695 (b) "Voice mail service" does not include a vertical service that a customer is required to
1696 have in order to utilize a voice mail service.

- 1697 ~~[(154)]~~ (155)(a) "Waste energy facility" means a facility that generates electricity:
- 1698 (i) using as the primary source of energy waste materials that would be placed in a
- 1699 landfill or refuse pit if it were not used to generate electricity, including:
- 1700 (A) tires;
- 1701 (B) waste coal;
- 1702 (C) oil shale; or
- 1703 (D) municipal solid waste; and
- 1704 (ii) in amounts greater than actually required for the operation of the facility.
- 1705 (b) "Waste energy facility" does not include a facility that incinerates:
- 1706 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1707 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1708 ~~[(155)]~~ (156) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1709 ~~[(156)]~~ (157) "Wind energy" means wind used as the sole source of energy to produce
- 1710 electricity.
- 1711 ~~[(157)]~~ (158) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
- 1712 location by the United States Postal Service.
- 1713 Section 2. Section **59-12-104** is amended to read:
- 1714 **59-12-104 . Exemptions.**
- 1715 Exemptions from the taxes imposed by this chapter are as follows:
- 1716 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
- 1717 under Chapter 13, Motor and Special Fuel Tax Act;
- 1718 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
- 1719 subdivisions; however, this exemption does not apply to sales of:
- 1720 (a) construction materials except:
- 1721 (i) construction materials purchased by or on behalf of institutions of the public
- 1722 education system as defined in Utah Constitution, Article X, Section 2, provided
- 1723 the construction materials are clearly identified and segregated and installed or
- 1724 converted to real property which is owned by institutions of the public education
- 1725 system; and
- 1726 (ii) construction materials purchased by the state, its institutions, or its political
- 1727 subdivisions which are installed or converted to real property by employees of the
- 1728 state, its institutions, or its political subdivisions; or
- 1729 (b) tangible personal property in connection with the construction, operation,
- 1730 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or

- 1731 facilities providing additional project capacity, as defined in Section 11-13-103;
- 1732 (3)(a) sales of an item described in Subsection (3)(b) from a vending machine if:
- 1733 (i) the proceeds of each sale do not exceed \$1; and
- 1734 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
- 1735 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 1736 (b) Subsection (3)(a) applies to:
- 1737 (i) food and food ingredients; or
- 1738 (ii) prepared food;
- 1739 (4)(a) sales of the following to a commercial airline carrier for in-flight consumption:
- 1740 (i) alcoholic beverages;
- 1741 (ii) food and food ingredients; or
- 1742 (iii) prepared food;
- 1743 (b) sales of tangible personal property or a product transferred electronically:
- 1744 (i) to a passenger;
- 1745 (ii) by a commercial airline carrier; and
- 1746 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 1747 (c) services related to Subsection (4)(a) or (b);
- 1748 (5) sales of parts and equipment for installation in an aircraft operated by a common carrier
- 1749 in interstate or foreign commerce;
- 1750 (6) sales of commercials, motion picture films, prerecorded audio program tapes or records,
- 1751 and prerecorded video tapes by a producer, distributor, or studio to a motion picture
- 1752 exhibitor, distributor, or commercial television or radio broadcaster;
- 1753 (7)(a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of
- 1754 cleaning or washing of tangible personal property if the cleaning or washing of the
- 1755 tangible personal property is not assisted cleaning or washing of tangible personal
- 1756 property;
- 1757 (b) if a seller that sells at the same business location assisted cleaning or washing of
- 1758 tangible personal property and cleaning or washing of tangible personal property that
- 1759 is not assisted cleaning or washing of tangible personal property, the exemption
- 1760 described in Subsection (7)(a) applies if the seller separately accounts for the sales of
- 1761 the assisted cleaning or washing of the tangible personal property; and
- 1762 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah
- 1763 Administrative Rulemaking Act, the commission may make rules:
- 1764 (i) governing the circumstances under which sales are at the same business location;

- 1765 and
- 1766 (ii) establishing the procedures and requirements for a seller to separately account for
- 1767 sales of assisted cleaning or washing of tangible personal property;
- 1768 (8) sales made to or by religious or charitable institutions in the conduct of their regular
- 1769 religious or charitable functions and activities, if the requirements of Section 59-12-104.1
- 1770 are fulfilled;
- 1771 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this
- 1772 state if:
- 1773 (a) the sale is not from the vehicle's lessor to the vehicle's lessee;
- 1774 (b) the vehicle is not registered in this state; and
- 1775 (c)(i) the vehicle is not used in this state; or
- 1776 (ii) the vehicle is used in this state:
- 1777 (A) if the vehicle is not used to conduct business, for a time period that does not
- 1778 exceed the longer of:
- 1779 (I) 30 days in any calendar year; or
- 1780 (II) the time period necessary to transport the vehicle to the borders of this
- 1781 state; or
- 1782 (B) if the vehicle is used to conduct business, for the time period necessary to
- 1783 transport the vehicle to the borders of this state;
- 1784 (10)(a) amounts paid for an item described in Subsection (10)(b) if:
- 1785 (i) the item is intended for human use; and
- 1786 (ii)(A) a prescription was issued for the item; or
- 1787 (B) the item was purchased by a hospital or other medical facility; and
- 1788 (b)(i) Subsection (10)(a) applies to:
- 1789 (A) a drug;
- 1790 (B) a syringe; or
- 1791 (C) a stoma supply; and
- 1792 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 1793 the commission may by rule define the terms:
- 1794 (A) "syringe"; or
- 1795 (B) "stoma supply";
- 1796 (11) purchases or leases exempt under Section 19-12-201;
- 1797 (12)(a) sales of an item described in Subsection (12)(c) served by:
- 1798 (i) the following if the item described in Subsection (12)(c) is not available to the

1799 general public:

1800 (A) a church; or

1801 (B) a charitable institution; or

1802 (ii) an institution of higher education if:

1803 (A) the item described in Subsection (12)(c) is not available to the general public;

1804 or

1805 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal

1806 plan offered by the institution of higher education; or

1807 (b) sales of an item described in Subsection (12)(c) provided for a patient by:

1808 (i) a medical facility; or

1809 (ii) a nursing facility; and

1810 (c) Subsections (12)(a) and (b) apply to:

1811 (i) food and food ingredients;

1812 (ii) prepared food; or

1813 (iii) alcoholic beverages;

1814 (13)(a) except as provided in Subsection (13)(b), the sale of tangible personal property

1815 or a product transferred electronically by a person:

1816 (i) regardless of the number of transactions involving the sale of that tangible

1817 personal property or product transferred electronically by that person; and

1818 (ii) not regularly engaged in the business of selling that type of tangible personal

1819 property or product transferred electronically;

1820 (b) this Subsection (13) does not apply if:

1821 (i) the sale is one of a series of sales of a character to indicate that the person is

1822 regularly engaged in the business of selling that type of tangible personal property

1823 or product transferred electronically;

1824 (ii) the person holds that person out as regularly engaged in the business of selling

1825 that type of tangible personal property or product transferred electronically;

1826 (iii) the person sells an item of tangible personal property or product transferred

1827 electronically that the person purchased as a sale that is exempt under Subsection

1828 (25); or

1829 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws

1830 of this state in which case the tax is based upon:

1831 (A) the bill of sale, lease agreement, or other written evidence of value of the

1832 vehicle or vessel being sold; or

- 1833 (B) in the absence of a bill of sale, lease agreement, or other written evidence of
1834 value, the fair market value of the vehicle or vessel being sold at the time of the
1835 sale as determined by the commission; and
- 1836 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1837 commission shall make rules establishing the circumstances under which:
- 1838 (i) a person is regularly engaged in the business of selling a type of tangible personal
1839 property or product transferred electronically;
- 1840 (ii) a sale of tangible personal property or a product transferred electronically is one
1841 of a series of sales of a character to indicate that a person is regularly engaged in
1842 the business of selling that type of tangible personal property or product
1843 transferred electronically; or
- 1844 (iii) a person holds that person out as regularly engaged in the business of selling a
1845 type of tangible personal property or product transferred electronically;
- 1846 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal
1847 operating repair or replacement parts, or materials, except for office equipment or office
1848 supplies, by:
- 1849 (a) a manufacturing facility that:
- 1850 (i) is located in the state; and
- 1851 (ii) uses or consumes the machinery, equipment, normal operating repair or
1852 replacement parts, or materials:
- 1853 (A) in the manufacturing process to manufacture an item sold as tangible personal
1854 property, as the commission may define that phrase in accordance with Title
1855 63G, Chapter 3, Utah Administrative Rulemaking Act; or
- 1856 (B) for a scrap recycler, to process an item sold as tangible personal property, as
1857 the commission may define that phrase in accordance with Title 63G, Chapter
1858 3, Utah Administrative Rulemaking Act;
- 1859 (b) an establishment, as the commission defines that term in accordance with Title 63G,
1860 Chapter 3, Utah Administrative Rulemaking Act, that:
- 1861 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
1862 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
1863 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except
1864 Fuels) Mining, of the 2002 North American Industry Classification System of the
1865 federal Executive Office of the President, Office of Management and Budget;
- 1866 (ii) is located in the state; and

- 1867 (iii) uses or consumes the machinery, equipment, normal operating repair or
1868 replacement parts, or materials in:
- 1869 (A) the production process to produce an item sold as tangible personal property,
1870 as the commission may define that phrase in accordance with Title 63G,
1871 Chapter 3, Utah Administrative Rulemaking Act;
- 1872 (B) research and development, as the commission may define that phrase in
1873 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 1874 (C) transporting, storing, or managing tailings, overburden, or similar waste
1875 materials produced from mining;
- 1876 (D) developing or maintaining a road, tunnel, excavation, or similar feature used
1877 in mining; or
- 1878 (E) preventing, controlling, or reducing dust or other pollutants from mining; or
- 1879 (c) an establishment, as the commission defines that term in accordance with Title 63G,
1880 Chapter 3, Utah Administrative Rulemaking Act, that:
- 1881 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
1882 American Industry Classification System of the federal Executive Office of the
1883 President, Office of Management and Budget;
- 1884 (ii) is located in the state; and
- 1885 (iii) uses or consumes the machinery, equipment, normal operating repair or
1886 replacement parts, or materials in the operation of the web search portal;
- 1887 (15)(a) sales of the following if the requirements of Subsection (15)(b) are met:
- 1888 (i) tooling;
- 1889 (ii) special tooling;
- 1890 (iii) support equipment;
- 1891 (iv) special test equipment; or
- 1892 (v) parts used in the repairs or renovations of tooling or equipment described in
1893 Subsections (15)(a)(i) through (iv); and
- 1894 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
- 1895 (i) the tooling, equipment, or parts are used or consumed exclusively in the
1896 performance of any aerospace or electronics industry contract with the United
1897 States government or any subcontract under that contract; and
- 1898 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
1899 title to the tooling, equipment, or parts is vested in the United States government
1900 as evidenced by:

- 1901 (A) a government identification tag placed on the tooling, equipment, or parts; or
1902 (B) listing on a government-approved property record if placing a government
1903 identification tag on the tooling, equipment, or parts is impractical;
- 1904 (16) sales of newspapers or newspaper subscriptions;
- 1905 (17)(a) except as provided in Subsection (17)(b), tangible personal property or a product
1906 transferred electronically traded in as full or part payment of the purchase price,
1907 except that for purposes of calculating sales or use tax upon vehicles not sold by a
1908 vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:
- 1909 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
1910 vehicle being traded in; or
- 1911 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
1912 fair market value of the vehicle being sold and the vehicle being traded in, as
1913 determined by the commission; and
- 1914 (b) Subsection (17)(a) does not apply to the following items of tangible personal
1915 property or products transferred electronically traded in as full or part payment of the
1916 purchase price:
- 1917 (i) money;
- 1918 (ii) electricity;
- 1919 (iii) water;
- 1920 (iv) gas; or
- 1921 (v) steam;
- 1922 (18)(a)(i) except as provided in Subsection (18)(b), sales of tangible personal
1923 property or a product transferred electronically used or consumed primarily and
1924 directly in farming operations, regardless of whether the tangible personal
1925 property or product transferred electronically:
- 1926 (A) becomes part of real estate; or
- 1927 (B) is installed by a farmer, contractor, or subcontractor; or
- 1928 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
1929 product transferred electronically if the tangible personal property or product
1930 transferred electronically is exempt under Subsection (18)(a)(i); and
- 1931 (b) amounts paid or charged for the following are subject to the taxes imposed by this
1932 chapter:
- 1933 (i)(A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
1934 supplies if used in a manner that is incidental to farming; and

- 1935 (B) tangible personal property that is considered to be used in a manner that is
1936 incidental to farming includes:
- 1937 (I) hand tools; or
- 1938 (II) maintenance and janitorial equipment and supplies;
- 1939 (ii)(A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
1940 transferred electronically if the tangible personal property or product
1941 transferred electronically is used in an activity other than farming; and
- 1942 (B) tangible personal property or a product transferred electronically that is
1943 considered to be used in an activity other than farming includes:
- 1944 (I) office equipment and supplies; or
- 1945 (II) equipment and supplies used in:
- 1946 (Aa) the sale or distribution of farm products;
- 1947 (Bb) research; or
- 1948 (Cc) transportation; or
- 1949 (iii) a vehicle required to be registered by the laws of this state during the period
1950 ending two years after the date of the vehicle's purchase;
- 1951 (19) sales of hay;
- 1952 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden,
1953 farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
1954 garden, farm, or other agricultural produce is sold by:
- 1955 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
1956 agricultural produce;
- 1957 (b) an employee of the producer described in Subsection (20)(a); or
- 1958 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 1959 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under
1960 the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 1961 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
1962 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
1963 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
1964 manufacturer, processor, wholesaler, or retailer;
- 1965 (23) a product stored in the state for resale;
- 1966 (24)(a) purchases of a product if:
- 1967 (i) the product is:
- 1968 (A) purchased outside of this state;

1969 (B) brought into this state:
1970 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
1971 (II) by a nonresident person who is not living or working in this state at the
1972 time of the purchase;
1973 (C) used for the personal use or enjoyment of the nonresident person described in
1974 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state;
1975 and
1976 (D) not used in conducting business in this state; and
1977 (ii) for:
1978 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use
1979 of the product for a purpose for which the product is designed occurs outside of
1980 this state;
1981 (B) a boat, the boat is registered outside of this state; or
1982 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is
1983 registered outside of this state;
1984 (b) the exemption provided for in Subsection (24)(a) does not apply to:
1985 (i) a lease or rental of a product; or
1986 (ii) a sale of a vehicle exempt under Subsection (33); and
1987 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
1988 purposes of Subsection (24)(a), the commission may by rule define what constitutes
1989 the following:
1990 (i) conducting business in this state if that phrase has the same meaning in this
1991 Subsection (24) as in Subsection (63);
1992 (ii) the first use of a product if that phrase has the same meaning in this Subsection
1993 (24) as in Subsection (63); or
1994 (iii) a purpose for which a product is designed if that phrase has the same meaning in
1995 this Subsection (24) as in Subsection (63);
1996 (25) a product purchased for resale in the regular course of business, either in its original
1997 form or as an ingredient or component part of a manufactured or compounded product;
1998 (26) a product upon which a sales or use tax was paid to some other state, or one of its
1999 subdivisions, except that the state shall be paid any difference between the tax paid and
2000 the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment
2001 is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local
2002 Sales and Use Tax Act;

- 2003 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person
2004 for use in compounding a service taxable under the subsections;
- 2005 (28) purchases made in accordance with the special supplemental nutrition program for
2006 women, infants, and children established in 42 U.S.C. Sec. 1786;
- 2007 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement
2008 parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of
2009 the 1987 Standard Industrial Classification Manual of the federal Executive Office of the
2010 President, Office of Management and Budget;
- 2011 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
2012 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard
2013 motor is:
- 2014 (a) not registered in this state; and
- 2015 (b)(i) not used in this state; or
- 2016 (ii) used in this state:
- 2017 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for
2018 a time period that does not exceed the longer of:
- 2019 (I) 30 days in any calendar year; or
- 2020 (II) the time period necessary to transport the boat, boat trailer, or outboard
2021 motor to the borders of this state; or
- 2022 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the
2023 time period necessary to transport the boat, boat trailer, or outboard motor to
2024 the borders of this state;
- 2025 (31) sales of aircraft manufactured in Utah;
- 2026 (32) amounts paid for the purchase of telecommunications service for purposes of
2027 providing telecommunications service;
- 2028 (33) sales, leases, or uses of the following:
- 2029 (a) a vehicle by an authorized carrier; or
- 2030 (b) tangible personal property that is installed on a vehicle:
- 2031 (i) sold or leased to or used by an authorized carrier; and
- 2032 (ii) before the vehicle is placed in service for the first time;
- 2033 (34)(a) 45% of the sales price of any new manufactured home; and
- 2034 (b) 100% of the sales price of any used manufactured home;
- 2035 (35) sales relating to schools and fundraising sales;
- 2036 (36) sales or rentals of durable medical equipment if:

- 2037 (a) a person presents a prescription for the durable medical equipment; and
2038 (b) the durable medical equipment is used for home use only;
- 2039 (37)(a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
2040 Section 72-11-102; and
- 2041 (b) the commission shall by rule determine the method for calculating sales exempt
2042 under Subsection (37)(a) that are not separately metered and accounted for in utility
2043 billings;
- 2044 (38) sales to a ski resort of:
- 2045 (a) snowmaking equipment;
- 2046 (b) ski slope grooming equipment;
- 2047 (c) passenger ropeways as defined in Section 72-11-102; or
- 2048 (d) parts used in the repairs or renovations of equipment or passenger ropeways
2049 described in Subsections (38)(a) through (c);
- 2050 (39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel
2051 oil, or other fuels for industrial use;
- 2052 (40)(a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
2053 amusement, entertainment, or recreation an unassisted amusement device as defined
2054 in Section 59-12-102;
- 2055 (b) if a seller that sells or rents at the same business location the right to use or operate
2056 for amusement, entertainment, or recreation one or more unassisted amusement
2057 devices and one or more assisted amusement devices, the exemption described in
2058 Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of
2059 the right to use or operate for amusement, entertainment, or recreation for the assisted
2060 amusement devices; and
- 2061 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah
2062 Administrative Rulemaking Act, the commission may make rules:
- 2063 (i) governing the circumstances under which sales are at the same business location;
2064 and
- 2065 (ii) establishing the procedures and requirements for a seller to separately account for
2066 the sales or rentals of the right to use or operate for amusement, entertainment, or
2067 recreation for assisted amusement devices;
- 2068 (41)(a) sales of photocopies by:
- 2069 (i) a governmental entity; or
- 2070 (ii) an entity within the state system of public education, including:

2071 (A) a school; or
2072 (B) the State Board of Education; or
2073 (b) sales of publications by a governmental entity;
2074 (42) amounts paid for admission to an athletic event at an institution of higher education
2075 that is subject to the provisions of Title IX of the Education Amendments of 1972, 20
2076 U.S.C. Sec. 1681 et seq.;
2077 (43)(a) sales made to or by:
2078 (i) an area agency on aging; or
2079 (ii) a senior citizen center owned by a county, city, or town; or
2080 (b) sales made by a senior citizen center that contracts with an area agency on aging;
2081 (44) sales or leases of semiconductor fabricating, processing, research, or development
2082 materials regardless of whether the semiconductor fabricating, processing, research, or
2083 development materials:
2084 (a) actually come into contact with a semiconductor; or
2085 (b) ultimately become incorporated into real property;
2086 (45) an amount paid by or charged to a purchaser for accommodations and services
2087 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under
2088 Section 59-12-104.2;
2089 (46) the lease or use of a vehicle issued a temporary sports event registration certificate in
2090 accordance with Section 41-3-306 for the event period specified on the temporary sports
2091 event registration certificate;
2092 (47)(a) sales or uses of electricity, if the sales or uses are made under a retail tariff
2093 adopted by the Public Service Commission only for purchase of electricity produced
2094 from a new alternative energy source built after January 1, 2016, as designated in the
2095 tariff by the Public Service Commission; and
2096 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
2097 only to the portion of the tariff rate a customer pays under the tariff described in
2098 Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection
2099 (47)(a) that the customer would have paid absent the tariff;
2100 (48) sales or rentals of mobility enhancing equipment if a person presents a prescription for
2101 the mobility enhancing equipment;
2102 (49) sales of water in a:
2103 (a) pipe;
2104 (b) conduit;

- 2105 (c) ditch; or
2106 (d) reservoir;
- 2107 (50) sales of currency or coins that constitute legal tender of a state, the United States, or a
2108 foreign nation;
- 2109 (51)(a) sales of an item described in Subsection (51)(b) if the item:
2110 (i) does not constitute legal tender of a state, the United States, or a foreign nation;
2111 and
2112 (ii) has a gold, silver, or platinum content of 50% or more; and
- 2113 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
2114 (i) ingot;
2115 (ii) bar;
2116 (iii) medallion; or
2117 (iv) decorative coin;
- 2118 (52) amounts paid on a sale-leaseback transaction;
- 2119 (53) sales of a prosthetic device:
2120 (a) for use on or in a human; and
2121 (b)(i) for which a prescription is required; or
2122 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 2123 (54)(a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
2124 machinery or equipment by an establishment described in Subsection (54)(c) if the
2125 machinery or equipment is primarily used in the production or postproduction of the
2126 following media for commercial distribution:
2127 (i) a motion picture;
2128 (ii) a television program;
2129 (iii) a movie made for television;
2130 (iv) a music video;
2131 (v) a commercial;
2132 (vi) a documentary; or
2133 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
2134 commission by administrative rule made in accordance with Subsection (54)(d); or
- 2135 (b) purchases, leases, or rentals of machinery or equipment by an establishment
2136 described in Subsection (54)(c) that is used for the production or postproduction of
2137 the following are subject to the taxes imposed by this chapter:
2138 (i) a live musical performance;

- 2139 (ii) a live news program; or
2140 (iii) a live sporting event;
- 2141 (c) the following establishments listed in the 1997 North American Industry
2142 Classification System of the federal Executive Office of the President, Office of
2143 Management and Budget, apply to Subsections (54)(a) and (b):
- 2144 (i) NAICS Code 512110; or
2145 (ii) NAICS Code 51219; and
- 2146 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2147 commission may by rule:
- 2148 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
2149 or
- 2150 (ii) define:
- 2151 (A) "commercial distribution";
2152 (B) "live musical performance";
2153 (C) "live news program"; or
2154 (D) "live sporting event";
- 2155 (55)(a) leases of seven or more years or purchases made on or after July 1, 2004, but on
2156 or before June 30, 2027, of tangible personal property that:
- 2157 (i) is leased or purchased for or by a facility that:
- 2158 (A) is an alternative energy electricity production facility;
2159 (B) is located in the state; and
2160 (C)(I) becomes operational on or after July 1, 2004; or
2161 (II) has its generation capacity increased by one or more megawatts on or after
2162 July 1, 2004, as a result of the use of the tangible personal property;
- 2163 (ii) has an economic life of five or more years; and
- 2164 (iii) is used to make the facility or the increase in capacity of the facility described in
2165 Subsection (55)(a)(i) operational up to the point of interconnection with an
2166 existing transmission grid including:
- 2167 (A) a wind turbine;
2168 (B) generating equipment;
2169 (C) a control and monitoring system;
2170 (D) a power line;
2171 (E) substation equipment;
2172 (F) lighting;

- 2173 (G) fencing;
- 2174 (H) pipes; or
- 2175 (I) other equipment used for locating a power line or pole; and
- 2176 (b) this Subsection (55) does not apply to:
- 2177 (i) tangible personal property used in construction of:
- 2178 (A) a new alternative energy electricity production facility; or
- 2179 (B) the increase in the capacity of an alternative energy electricity production
- 2180 facility;
- 2181 (ii) contracted services required for construction and routine maintenance activities;
- 2182 and
- 2183 (iii) unless the tangible personal property is used or acquired for an increase in
- 2184 capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal
- 2185 property used or acquired after:
- 2186 (A) the alternative energy electricity production facility described in Subsection
- 2187 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
- 2188 (B) the increased capacity described in Subsection (55)(a)(i) is operational as
- 2189 described in Subsection (55)(a)(iii);
- 2190 (56)(a) leases of seven or more years or purchases made on or after July 1, 2004, but on
- 2191 or before June 30, 2027, of tangible personal property that:
- 2192 (i) is leased or purchased for or by a facility that:
- 2193 (A) is a waste energy production facility;
- 2194 (B) is located in the state; and
- 2195 (C)(I) becomes operational on or after July 1, 2004; or
- 2196 (II) has its generation capacity increased by one or more megawatts on or after
- 2197 July 1, 2004, as a result of the use of the tangible personal property;
- 2198 (ii) has an economic life of five or more years; and
- 2199 (iii) is used to make the facility or the increase in capacity of the facility described in
- 2200 Subsection (56)(a)(i) operational up to the point of interconnection with an
- 2201 existing transmission grid including:
- 2202 (A) generating equipment;
- 2203 (B) a control and monitoring system;
- 2204 (C) a power line;
- 2205 (D) substation equipment;
- 2206 (E) lighting;

- 2207 (F) fencing;
- 2208 (G) pipes; or
- 2209 (H) other equipment used for locating a power line or pole; and
- 2210 (b) this Subsection (56) does not apply to:
- 2211 (i) tangible personal property used in construction of:
- 2212 (A) a new waste energy facility; or
- 2213 (B) the increase in the capacity of a waste energy facility;
- 2214 (ii) contracted services required for construction and routine maintenance activities;
- 2215 and
- 2216 (iii) unless the tangible personal property is used or acquired for an increase in
- 2217 capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used
- 2218 or acquired after:
- 2219 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
- 2220 described in Subsection (56)(a)(iii); or
- 2221 (B) the increased capacity described in Subsection (56)(a)(i) is operational as
- 2222 described in Subsection (56)(a)(iii);
- 2223 (57)(a) leases of five or more years or purchases made on or after July 1, 2004, but on or
- 2224 before June 30, 2027, of tangible personal property that:
- 2225 (i) is leased or purchased for or by a facility that:
- 2226 (A) is located in the state;
- 2227 (B) produces fuel from alternative energy, including:
- 2228 (I) methanol; or
- 2229 (II) ethanol; and
- 2230 (C)(I) becomes operational on or after July 1, 2004; or
- 2231 (II) has its capacity to produce fuel increase by 25% or more on or after July 1,
- 2232 2004, as a result of the installation of the tangible personal property;
- 2233 (ii) has an economic life of five or more years; and
- 2234 (iii) is installed on the facility described in Subsection (57)(a)(i);
- 2235 (b) this Subsection (57) does not apply to:
- 2236 (i) tangible personal property used in construction of:
- 2237 (A) a new facility described in Subsection (57)(a)(i); or
- 2238 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
- 2239 (ii) contracted services required for construction and routine maintenance activities;
- 2240 and

- 2241 (iii) unless the tangible personal property is used or acquired for an increase in
2242 capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used
2243 or acquired after:
- 2244 (A) the facility described in Subsection (57)(a)(i) is operational; or
2245 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
- 2246 (58)(a) subject to Subsection (58)(b), sales of tangible personal property or a product
2247 transferred electronically to a person within this state if that tangible personal
2248 property or product transferred electronically is subsequently shipped outside the
2249 state and incorporated pursuant to contract into and becomes a part of real property
2250 located outside of this state; and
- 2251 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
2252 state or political entity to which the tangible personal property is shipped imposes a
2253 sales, use, gross receipts, or other similar transaction excise tax on the transaction
2254 against which the other state or political entity allows a credit for sales and use taxes
2255 imposed by this chapter;
- 2256 (59) purchases:
- 2257 (a) of one or more of the following items in printed or electronic format:
- 2258 (i) a list containing information that includes one or more:
- 2259 (A) names; or
2260 (B) addresses; or
- 2261 (ii) a database containing information that includes one or more:
- 2262 (A) names; or
2263 (B) addresses; and
- 2264 (b) used to send direct mail;
- 2265 (60) redemptions or repurchases of a product by a person if that product was:
- 2266 (a) delivered to a pawnbroker as part of a pawn transaction; and
2267 (b) redeemed or repurchased within the time period established in a written agreement
2268 between the person and the pawnbroker for redeeming or repurchasing the product;
- 2269 (61)(a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 2270 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
2271 and
2272 (ii) has a useful economic life of one or more years; and
- 2273 (b) the following apply to Subsection (61)(a):
- 2274 (i) telecommunications enabling or facilitating equipment, machinery, or software;

2275 (ii) telecommunications equipment, machinery, or software required for 911 service;
2276 (iii) telecommunications maintenance or repair equipment, machinery, or software;
2277 (iv) telecommunications switching or routing equipment, machinery, or software; or
2278 (v) telecommunications transmission equipment, machinery, or software;
2279 (62)(a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
2280 personal property or a product transferred electronically that are used in the research
2281 and development of alternative energy technology; and
2282 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2283 commission may, for purposes of Subsection (62)(a), make rules defining what
2284 constitutes purchases of tangible personal property or a product transferred
2285 electronically that are used in the research and development of alternative energy
2286 technology;
2287 (63)(a) purchases of tangible personal property or a product transferred electronically if:
2288 (i) the tangible personal property or product transferred electronically is:
2289 (A) purchased outside of this state;
2290 (B) brought into this state at any time after the purchase described in Subsection
2291 (63)(a)(i)(A); and
2292 (C) used in conducting business in this state; and
2293 (ii) for:
2294 (A) tangible personal property or a product transferred electronically other than
2295 the tangible personal property described in Subsection (63)(a)(ii)(B), the first
2296 use of the property for a purpose for which the property is designed occurs
2297 outside of this state; or
2298 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is
2299 registered outside of this state and not required to be registered in this state
2300 under Section 41-1a-202 or 73-18-9 based on residency;
2301 (b) the exemption provided for in Subsection (63)(a) does not apply to:
2302 (i) a lease or rental of tangible personal property or a product transferred
2303 electronically; or
2304 (ii) a sale of a vehicle exempt under Subsection (33); and
2305 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2306 purposes of Subsection (63)(a), the commission may by rule define what constitutes
2307 the following:
2308 (i) conducting business in this state if that phrase has the same meaning in this

2309 Subsection (63) as in Subsection (24);
 2310 (ii) the first use of tangible personal property or a product transferred electronically if
 2311 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
 2312 (iii) a purpose for which tangible personal property or a product transferred
 2313 electronically is designed if that phrase has the same meaning in this Subsection
 2314 (63) as in Subsection (24);
 2315 (64) sales of disposable home medical equipment or supplies if:
 2316 (a) a person presents a prescription for the disposable home medical equipment or
 2317 supplies;
 2318 (b) the disposable home medical equipment or supplies are used exclusively by the
 2319 person to whom the prescription described in Subsection (64)(a) is issued; and
 2320 (c) the disposable home medical equipment and supplies are listed as eligible for
 2321 payment under:
 2322 (i) Title XVIII, federal Social Security Act; or
 2323 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
 2324 (65) sales:
 2325 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District
 2326 Act; or
 2327 (b) of tangible personal property to a subcontractor of a public transit district, if the
 2328 tangible personal property is:
 2329 (i) clearly identified; and
 2330 (ii) installed or converted to real property owned by the public transit district;
 2331 (66) sales of construction materials:
 2332 (a) purchased on or after July 1, 2010;
 2333 (b) purchased by, on behalf of, or for the benefit of an international airport:
 2334 (i) located within a county of the first class; and
 2335 (ii) that has a United States customs office on its premises; and
 2336 (c) if the construction materials are:
 2337 (i) clearly identified;
 2338 (ii) segregated; and
 2339 (iii) installed or converted to real property:
 2340 (A) owned or operated by the international airport described in Subsection
 2340a (66)(b);
 2341 and

- 2342 (B) located at the international airport described in Subsection (66)(b);
- 2343 (67) sales of construction materials:
- 2344 (a) purchased on or after July 1, 2008;
- 2345 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 2346 (i) located within a county of the second class; and
- 2347 (ii) that is owned or operated by a city in which an airline as defined in Section
- 2348 59-2-102 is headquartered; and
- 2349 (c) if the construction materials are:
- 2350 (i) clearly identified;
- 2351 (ii) segregated; and
- 2352 (iii) installed or converted to real property:
- 2353 (A) owned or operated by the new airport described in Subsection (67)(b);
- 2354 (B) located at the new airport described in Subsection (67)(b); and
- 2355 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 2356 (68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a common
- 2357 carrier that is a railroad for use in a locomotive engine;
- 2358 (69) purchases and sales described in Section 63H-4-111;
- 2359 (70)(a) sales of tangible personal property to an aircraft maintenance, repair, and
- 2360 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in
- 2361 this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered
- 2362 aircraft's registration lists a state or country other than this state as the location of
- 2363 registry of the fixed wing turbine powered aircraft; or
- 2364 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 2365 provider in connection with the maintenance, repair, overhaul, or refurbishment in
- 2366 this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered
- 2367 aircraft's registration lists a state or country other than this state as the location of
- 2368 registry of the fixed wing turbine powered aircraft;
- 2369 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
- 2370 (a) to a person admitted to an institution of higher education; and
- 2371 (b) by a seller, other than a bookstore owned by an institution of higher education, if
- 2372 51% or more of that seller's sales revenue for the previous calendar quarter are sales
- 2373 of a textbook for a higher education course;
- 2374 (72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5)
- 2375 on a purchaser from a business for which the municipality provides an enhanced level of

2376 municipal services;

2377 (73) amounts paid or charged for construction materials used in the construction of a new or

2378 expanding life science research and development facility in the state, if the construction

2379 materials are:

2380 (a) clearly identified;

2381 (b) segregated; and

2382 (c) installed or converted to real property;

2383 (74) amounts paid or charged for:

2384 (a) a purchase or lease of machinery and equipment that:

2385 (i) are used in performing qualified research:

2386 (A) as defined in Section 41(d), Internal Revenue Code; and

2387 (B) in the state; and

2388 (ii) have an economic life of three or more years; and

2389 (b) normal operating repair or replacement parts:

2390 (i) for the machinery and equipment described in Subsection (74)(a); and

2391 (ii) that have an economic life of three or more years;

2392 (75) a sale or lease of tangible personal property used in the preparation of prepared food if:

2393 (a) for a sale:

2394 (i) the ownership of the seller and the ownership of the purchaser are identical; and

2395 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that

2396 tangible personal property prior to making the sale; or

2397 (b) for a lease:

2398 (i) the ownership of the lessor and the ownership of the lessee are identical; and

2399 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that

2400 tangible personal property prior to making the lease;

2401 (76)(a) purchases of machinery or equipment if:

2402 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,

2403 Gambling, and Recreation Industries, of the 2012 North American Industry

2404 Classification System of the federal Executive Office of the President, Office of

2405 Management and Budget;

2406 (ii) the machinery or equipment:

2407 (A) has an economic life of three or more years; and

2408 (B) is used by one or more persons who pay admission or user fees described in

2409 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment;

- 2410 and
- 2411 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 2412 (A) amounts paid or charged as admission or user fees described in Subsection
- 2413 59-12-103(1)(f); and
- 2414 (B) subject to taxation under this chapter; and
- 2415 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2416 commission may make rules for verifying that 51% of a purchaser's sales revenue for
- 2417 the previous calendar quarter is:
- 2418 (i) amounts paid or charged as admission or user fees described in Subsection
- 2419 59-12-103(1)(f); and
- 2420 (ii) subject to taxation under this chapter;
- 2421 (77) purchases of a short-term lodging consumable by a business that provides
- 2422 accommodations and services described in Subsection 59-12-103(1)(i);
- 2423 (78) amounts paid or charged to access a database:
- 2424 (a) if the primary purpose for accessing the database is to view or retrieve information
- 2425 from the database; and
- 2426 (b) not including amounts paid or charged for a:
- 2427 (i) digital audio work;
- 2428 (ii) digital audio-visual work; or
- 2429 (iii) digital book;
- 2430 (79) amounts paid or charged for a purchase or lease made by an electronic financial
- 2431 payment service, of:
- 2432 (a) machinery and equipment that:
- 2433 (i) are used in the operation of the electronic financial payment service; and
- 2434 (ii) have an economic life of three or more years; and
- 2435 (b) normal operating repair or replacement parts that:
- 2436 (i) are used in the operation of the electronic financial payment service; and
- 2437 (ii) have an economic life of three or more years;
- 2438 (80) sales of a fuel cell as defined in Section 54-15-102;
- 2439 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
- 2440 product transferred electronically if the tangible personal property or product transferred
- 2441 electronically:
- 2442 (a) is stored, used, or consumed in the state; and
- 2443 (b) is temporarily brought into the state from another state:

- 2444 (i) during a disaster period as defined in Section 53-2a-1202;
- 2445 (ii) by an out-of-state business as defined in Section 53-2a-1202;
- 2446 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- 2447 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- 2448 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined in
- 2449 Section 39A-7-102, made pursuant to Title 39A, Chapter 7, Morale, Welfare, and
- 2450 Recreation Program;
- 2451 (83) amounts paid or charged for a purchase or lease of molten magnesium;
- 2452 (84) amounts paid or charged for a purchase or lease made by a qualifying data center or an
- 2453 occupant of a qualifying data center of machinery, equipment, or normal operating
- 2454 repair or replacement parts, if the machinery, equipment, or normal operating repair or
- 2455 replacement parts:
- 2456 (a) are used in:
- 2457 (i) the operation of the qualifying data center; or
- 2458 (ii) the occupant's operations in the qualifying data center; and
- 2459 (b) have an economic life of one or more years;
- 2460 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle
- 2461 that includes cleaning or washing of the interior of the vehicle;
- 2462 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
- 2463 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or
- 2464 supplies used or consumed:
- 2465 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
- 2466 in Section 79-6-701 located in the state;
- 2467 (b) if the machinery, equipment, normal operating repair or replacement parts, catalysts,
- 2468 chemicals, reagents, solutions, or supplies are used or consumed in:
- 2469 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
- 2470 added to gasoline or diesel fuel;
- 2471 (ii) research and development;
- 2472 (iii) transporting, storing, or managing raw materials, work in process, finished
- 2473 products, and waste materials produced from refining gasoline or diesel fuel, or
- 2474 adding blendstock to gasoline or diesel fuel;
- 2475 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
- 2476 refining; or
- 2477 (v) preventing, controlling, or reducing pollutants from refining; and

- 2478 (c) if the person holds a valid refiner tax exemption certification as defined in Section
2479 79-6-701;
- 2480 (87) amounts paid to or charged by a proprietor for accommodations and services, as
2481 defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations
2482 tax imposed under Section 63H-1-205;
- 2483 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
2484 operating repair or replacement parts, or materials, except for office equipment or office
2485 supplies, by an establishment, as the commission defines that term in accordance with
2486 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
- 2487 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
2488 American Industry Classification System of the federal Executive Office of the
2489 President, Office of Management and Budget;
- 2490 (b) is located in this state; and
- 2491 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
2492 materials in the operation of the establishment;
- 2493 (89) amounts paid or charged for an item exempt under Section 59-12-104.10;
- 2494 (90) sales of a note, leaf, foil, or film, if the item:
- 2495 (a) is used as currency;
- 2496 (b) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 2497 (c) has a gold, silver, or platinum metallic content of 50% or more, exclusive of any
2498 transparent polymer holder, coating, or encasement;
- 2499 (91) amounts paid or charged for admission to an indoor skydiving, rock climbing, or
2500 surfing facility, if a trained instructor:
- 2501 (a) is present with the participant, in person or by video, for the duration of the activity;
2502 and
- 2503 (b) actively instructs the participant, including providing observation or feedback;
- 2504 (92) amounts paid or charged in connection with the construction, operation, maintenance,
2505 repair, or replacement of facilities owned by or constructed for:
- 2506 (a) a distribution electrical cooperative, as defined in Section 54-2-1; or
2507 (b) a wholesale electrical cooperative, as defined in Section 54-2-1;
- 2508 (93) amounts paid by the service provider for tangible personal property, other than
2509 machinery, equipment, parts, office supplies, electricity, gas, heat, steam, or other fuels,
2510 that:
- 2511 (a) is consumed in the performance of a service that is subject to tax under Subsection

2512 59-12-103(1)(b), (f), (g), (h), (i), or (j);
 2513 (b) has to be consumed for the service provider to provide the service described in
 2514 Subsection (93)(a); and
 2515 (c) will be consumed in the performance of the service described in Subsection (93)(a),
 2516 to one or more customers, to the point that the tangible personal property disappears
 2517 or cannot be used for any other purpose;
 2518 (94) sales of rail rolling stock manufactured in Utah;
 2519 (95) amounts paid or charged for sales of sand, gravel, rock aggregate, cement products, or
 2520 construction materials between establishments, as the commission defines that term in
 2521 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if:
 2522 (a) the establishments are related directly or indirectly through 100% common
 2523 ownership or control; and
 2524 (b) each establishment is described in one of the following subsectors of the 2022 North
 2525 American Industry Classification System of the federal Executive Office of the
 2526 President, Office of Management and Budget:
 2527 (i) NAICS Subsector 237, Heavy and Civil Engineering Construction; or
 2528 (ii) NAICS Subsector 327, Nonmetallic Mineral Product Manufacturing;
 2529 (96) sales of construction materials used for the construction of a qualified stadium, as
 2530 defined in Section 11-70-101; ~~and~~
 2531 (97) amounts paid or charged for sales of a cannabinoid product as that term is defined in
 2532 Section 4-41-102[-] ; and
 2533 (98) amounts paid or charged by an operator of a qualifying energy storage manufacturing
 2534 facility for:
 2535 (a) a purchase of tangible personal property if the tangible personal property is
 2536 incorporated into equipment or a device that stores and discharges energy at the
 2537 qualifying energy storage manufacturing facility; and
 2538 (b) a purchase or lease of machinery, equipment, or normal operating repair or
 2539 replacement parts if the machinery, equipment, or normal operating repair or
 2540 replacement parts are used exclusively in the operation of the qualifying energy
 2541 storage manufacturing facility.
 2542 **Section 5. Effective Date.**
 2543 This bill takes effect on July 1, 2025.