

# SB0217S01 compared with SB0217

{Omitted text} shows text that was in SB0217 but was omitted in SB0217S01

inserted text shows text that was not in SB0217 but was inserted into SB0217S01

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1

## Local Food Amendments

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kirk A. Cullimore**

House Sponsor:

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### LONG TITLE

4

#### General Description:

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This bill addresses provisions related to locally-produced foods.

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#### Highlighted Provisions:

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This bill:

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▸ defines and modifies terms;

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▸ { ~~provides that raw milk and a raw milk product are a homemade food product under Title 4, Chapter 5a, Home Consumption and Homemade Food Act;~~ }

11

▸ removes a signage requirement for a direct-to-sale farmers market;

12

▸ clarifies when a producer or producer's designated representative may sell a homemade food product at a direct-to-sale location;

14

▸ provides that a producer retains ownership of a homemade food product distributed, sold, delivered, held, stored, or offered for sale by a designated representative unless otherwise agreed upon by the producer and designated representative;

17

▸

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exempts from state sales tax food and food ingredients or prepared food sold by a home cook, including a homemade food product sold at a direct-to-sale farmers market or direct-to-sale location ~~{from state sales tax}~~ ;and

19       ▶ ~~{repeals provisions related to the regulation of raw milk by the Department of Agriculture and Food; and}~~

21       ▶ makes technical and conforming changes.

## 19 Money Appropriated in this Bill:

20       None

## 21 Other Special Clauses:

22       This bill provides a special effective date.

## 23 Utah Code Sections Affected:

24 AMENDS:

28       ~~{4-3-102, as last amended by Laws of Utah 2023, Chapter 528}~~

29       ~~{4-3-301, as last amended by Laws of Utah 2023, Chapter 528}~~

25       4-5a-102 (Effective 05/06/26), as last amended by Laws of Utah 2023, Chapter 362

26       4-5a-103 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapter 79

27       4-5a-104 (Effective 05/06/26), as last amended by Laws of Utah 2023, Chapter 362

33       ~~{4-5a-105, as enacted by Laws of Utah 2018, Chapter 377}~~

28       **59-12-102 (Effective 07/01/26), as last amended by Laws of Utah 2025, First Special Session, Chapters 9, 12**

30       **59-12-104 (Effective 07/01/26), as last amended by Laws of Utah 2025, First Special Session, Chapter 17**

32 REPEALS:

36       ~~{4-3-503, as last amended by Laws of Utah 2025, Chapter 58}~~

33       **4-5a-101 (Effective 05/06/26)**, as enacted by Laws of Utah 2018, Chapter 377

34

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

40       ~~{Section 1. Section 4-3-102 is amended to read: }~~

## 41 **4-3-102. Definitions.**

As used in this chapter:

43 (1) "Adulterated" means any dairy product that:

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- 44 (a) contains any poisonous or deleterious substance that may render it injurious to health;
- 45 (b) has been produced, prepared, packaged, or held:
- 46 (i) under unsanitary conditions;
- 47 (ii) where it may have become contaminated; or
- 48 (iii) where it may have become diseased or injurious to health;
- 49 (c) contains any food additive that is unsafe within the meaning of 21 U.S.C. Sec. 348;
- 50 (d) contains:
- 51 (i) any filthy, putrid, or decomposed substance;
- 52 (ii) fresh fluid milk with a lactic acid level at or above .0018; or
- 53 (iii) cream with a lactic acid level at or above .008 or that is otherwise unfit for human food;
- 55 (e) is the product of:
- 56 (i) a diseased animal;
- 57 (ii) an animal that died otherwise than by slaughter; or
- 58 (iii) an animal fed upon uncooked offal;
- 59 (f) has intentionally been subjected to radiation, unless the use of the radiation is in conformity with a  
rule or exemption promulgated by the department; or
- 61 (g)
- (i) has any valuable constituent omitted or abstracted;
- 62 (ii) has any substance substituted in whole or in part;
- 63 (iii) has damage or inferiority concealed in any manner; or
- 64 (iv) has any substance added, mixed, or packed with the product to:
- 65 (A) increase its bulk or weight;
- 66 (B) reduce its quality or strength; or
- 67 (C) make it appear better or of greater value.
- 68 (2) "Certificate" means a document allowing a person to market milk.
- 69 (3) "Cow-share program" means a program in which a person acquires an undivided interest in a milk  
producing hoofed mammal through an agreement with a producer that includes:
- 72 (a) a bill of sale for an interest in the mammal;
- 73 (b) a boarding arrangement under which the person boards the mammal with the producer for the care  
and milking of the mammal and the boarding arrangement and bill of sale documents remain with  
the program operator;

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- 76 (c) an arrangement under which the person receives raw milk for personal use not to be sold or  
distributed in a retail environment or for profit; and
- 78 (d) no more than two cows, 10 goats, and 10 sheep per farm in the program.
- 79 (4) "Dairy product" means any product derived from raw or pasteurized milk.
- 80 (5) "Distributor" means any person who distributes a dairy product.
- 81 (6)
- (a) "Filled milk" means any milk, cream, or skimmed milk, whether condensed, evaporated,  
concentrated, powdered, dried, or desiccated, that has fat or oil other than milk fat added, blended,  
or compounded with it so that the resultant product is an imitation or semblance of milk, cream, or  
skimmed milk.
- 85 (b) "Filled milk" does not include any distinctive proprietary food compound:
- 86 (i) that is prepared and designated for feeding infants and young children, which is customarily used  
upon the order of a licensed physician;
- 88 (ii) whose product name and label does not contain the word "milk"; and
- 89 (iii) whose label conforms with the food labeling requirements.
- 90 (7) "Frozen dairy products" mean dairy products normally served to the consumer in a frozen or  
semifrozen state.
- 92 (8) "Grade A milk," "grade A milk products," and "milk" have the same meaning that is accorded the  
terms in the federal standards for grade A milk and grade A milk products unless modified by rules  
of the department.
- 95 (9) "Manufacturer" means any person who processes milk in a way that changes the milk's character.
- 97 (10) "Manufacturing milk" means milk used in the production of non-grade A dairy products.
- 99 (11) "Misbranded" means:
- 100 (a) any dairy product whose label is false or misleading in any particular, or whose label or package  
fails to conform to any federal regulation adopted by the department that pertains to packaging and  
labeling;
- 103 (b) any dairy product in final packaged form manufactured in this state that does not bear:
- 105 (i) the manufacturer's, packer's, or distributor's name, address, and plant number, if applicable;
- 107 (ii) a clear statement of the product's common or usual name, quantity, and ingredients, if applicable;  
and
- 109 (iii) any other information required by rule of the department;

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- 110 (c) any butter in consumer package form that is not at least B grade, or that does not meet the grade  
112 claimed on the package, measured by U.S.D.A. butter grade standards;
- 114 (d) any imitation butter made in whole or in part from material other than wholesome milk or cream,  
except clearly labeled "margarine";
- 116 (e) renovated butter unless the words "renovated butter," in letters not less than 1/2-inch in height  
appear on each package, roll, square, or container of such butter; or
- 118 (f) any dairy product in final packaged form that makes nutritional claims or adds or adjusts nutrients  
that are not so labeled.
- 120 (12) "Pasteurization" means any process that renders dairy products practically free of disease  
organisms and is accepted by federal standards.
- 121 (13) "Permit" means a document allowing a person or plant, as designated in the permit, to:
- 122 (a) process, manufacture, supply, test, haul, or pasteurize milk or milk products; or
- 123 (b) repair equipment used to conduct the activities described in Subsection (13)(a).
- 124 (14) "Plant" means any facility where milk is processed or manufactured.
- 125 (15) "Processor" means any person who subjects milk to a process.
- 128 (16) "Producer" means a person who owns a cow or other milk producing hooved mammal that  
produces milk for consumption by persons other than the producer's family, employees, or  
nonpaying guests.
- 129 (17) "Raw milk" means unpasteurized milk.
- 130 (18) "Raw milk product" means a product:
- 131 (a) produced from raw milk; and
- 133 (b) distributed, sold, delivered, held, or stored in accordance with Chapter 5a, Home Consumption and  
Homemade Food Act.
- 136 [(18)] (19) "Renovated butter" means butter that is reduced to a liquid state by melting and drawing off  
such liquid or butter oil and churning or otherwise manipulating it in connection with milk or any  
product of milk.
- 138 [(19)] (20) "Retailer" means any person who sells or distributes dairy products directly to the consumer.  
{Section 2. ~~Section 4-3-301 is amended to read: }~~
- 139 **4-3-301. Permits or certificates -- Application -- Fee -- Expiration -- Renewal.**
- 140

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- (1) Application for a permit to operate a plant, manufacture butter or cheese, pasteurize milk, test milk for payment, haul milk in bulk, or for the wholesale distribution of dairy products shall be made to the department upon forms prescribed and furnished by the department.
- 144 (2) Upon receipt of a proper application, compliance with the applicable rules, and payment of a permit fee determined by the department according to Subsection 4-2-103(2), the commissioner, if satisfied that the public convenience and necessity and the industry will be served, shall issue an appropriate permit to the applicant subject to suspension or revocation for cause.
- 149 (3) A permit issued under this section expires at midnight on December 31 of each year.
- 150 (4) A permit to operate a plant, manufacture butter or cheese, pasteurize milk, test milk for payment, haul milk in bulk, or for the wholesale distribution of dairy products, is renewable for a period of one year upon the payment of an annual permit renewal fee determined by the department according to Subsection 4-2-103(2) on or before December 31 of each year.
- 155 (5) Notwithstanding the requirements of Subsection (1), ~~[application for a]~~ the department may not require a permit or certificate to produce raw milk or a raw milk product~~[, as that term is defined in Section 4-3-503, shall be made to the department on forms prescribed and furnished by the department]~~.
- 159 (6)
- (a) Upon receipt of a proper application and compliance with applicable rules, the commissioner shall issue a permit entitling the applicant to engage in the business of producer, subject to suspension or revocation for cause.
- 162 (b) A fee may not be charged by the department for issuance of a certificate.
- 36 Section 1. Section **4-5a-102** is amended to read:
- 37 **4-5a-102. (Effective 05/06/26)Definitions.**
- For purposes of this chapter:
- 166 (1)
- (a) "Commercial establishment" means a wholesale or retail business that displays, sells, manufactures, processes, packs, holds, or stores food, drugs, devices, or cosmetics.
- 169 (b) "Commercial establishment" does not include a:
- 170 (i) direct-to-sale location; or
- 171 (ii) direct-to-sale farmers market.
- 172

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- (2) "Designated representative" means a person contracted by a producer to distribute, sell, deliver, hold, store, or offer for sale the producer's homemade food product.
- 174 [(2)] (3) "Direct-to-sale farmers market" means a public or private facility or area where producers gather on a regular basis to sell directly to an informed final consumer fresh food, locally grown products, and other food items that have not been certified, licensed, regulated, or inspected by state or local authorities.
- 178 [(3)] (4) "Direct-to-sale location" means a farm, ranch, direct-to-sale farmers market, home, office, or any location agreed upon by both a producer or a producer's designated representative and the informed final consumer where a producer or group of producers sells a food or food product to an informed final consumer.
- 182 [(4)] (5) "Home consumption" means the use or ingestion of homemade food or a homemade food product within a private home by a family member, an employee, or a nonpaying guest.
- 185 [(5)] (6) ~~{(a)}~~ "Homemade food product" means a food product that is prepared in a private home kitchen that can be used, or prepared for use, as food or nonalcoholic drink, subject to the limitation described in Subsection 4-5a-105(1).
- 188 ~~{(b) "Homemade food product" includes: }~~
- 189 ~~{(i) raw milk, as that term is defined in Section 4-3-102; and }~~
- 190 ~~{(ii) a raw milk product, as that term is defined in Section 4-3-102. }~~
- 191 [(6)] (7) "Informed final consumer" means an individual who:
- 192 (a) purchases the product directly from the producer or the producer's designated representative;
- 194 (b) does not resell the product; and
- 195 (c) has been informed that the product is not certified, licensed, regulated, or inspected by the state.
- 197 [(7)] (8) "Minor-operated business" means a business that is operated by an individual who is:
- 199 (a) under 18 years old; and
- 200 (b) not regularly engaged in selling items.
- 201 [(8)] (9) "Minor producer" means a producer that is:
- 202 (a) an individual; and
- 203 (b) under 18 years old.
- 204 [(9)] (10) "Producer" means a person who harvests or produces homemade food or a homemade food product.

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76 Section 2. Section 4-5a-103 is amended to read:

77 **4-5a-103. (Effective 05/06/26) Regulation of a direct-to-sale farmers market.**

208 ~~[(1) Except as provided in Subsection (4)(3), a direct-to-sale farmers market selling homemade~~  
food under this chapter shall { } :]

80 ~~[(a) { } only include products for sale that have not been certified, licensed, regulated, or inspected by~~  
state or local authorities.

211 ~~{(a)} display signage indicating to an informed final consumer that the homemade food and food~~  
products sold by producers at the market have not been certified, licensed, regulated, or inspected by  
state or local authorities; and]

214 ~~[(b) only include products for sale that have not been certified, licensed, regulated, or inspected by state~~  
or local authorities.]

216 ~~[(2) If the direct-to-sale farmers market is in any way associated with a farmers market as defined in~~  
Section 4-5-102, the direct-to-sale farmers market section selling homemade food under this chapter  
shall { } comply with the following requirements { } :]

219 ~~[(a) { } the direct-to-sale farmers market section shall { } be separated from the farmers market section;~~  
and]

221 ~~[(b) { } the separate direct-to-sale farmers market section shall { } include signs or other markings~~  
clearly indicating which space is the farmers market space offering inspected items for sale and  
which space is the direct-to-sale farmers market space offering items that are uninspected.]

225 ~~[(3) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative~~  
Rulemaking Act, regarding the signage described in Subsection (1).]

227 ~~[(4){ } (3)-] The { } requirements { } requirement described in Subsection (1) { } do { } does not~~  
apply to a direct-to-sale farmers market comprising only minor producers or minor-operated  
businesses.]

98 (1) Except as provided in Subsection (3), a direct-to-sale farmers market selling a homemade food  
product under this chapter shall only include products for sale that have not been certified, licensed,  
regulated, or inspected by a state or local authority.

101 (2) If a direct-to-sale farmers market is in any way associated with a farmers market, as that term is  
defined in Section 4-5-102, the area designed for the direct-to-sale farmers market shall:

104 (a) be separated from the area designated for the farmers market; and

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(b) include signs or other markings clearly indicating the area designated for the farmers market and the area designated for the direct-to-sale farmers market.

107 (3) The requirement described in Subsection (1) does not apply to a direct-to-sale farmers market  
109 comprising only minor producers or minor-operated businesses.

109 Section 3. Section **4-5a-104** is amended to read:

110 **4-5a-104. (Effective 05/06/26)Home producer direct sales -- Exempt from regulation.**

232 (1) A producer is exempt from state, county, or city licensing, permitting, certification, inspection,  
236 packaging, and labeling requirements, except as described in this section, related to the preparation,  
237 serving, use, consumption, or storage of food and food products if:

236 (a) the producer complies with the requirements of this chapter; and

237 (b) the homemade food or homemade food product is:

238 (i) produced and sold within the state;

239 (ii) sold directly to an informed final consumer;

240 (iii) for personal or home consumption; and

241 (iv) not exempted under Subsection 4-5a-105(1).

242 (2) Notwithstanding Subsection (1), a producer shall comply with business license requirements  
244 [~~pursuant to~~] in accordance with Section 10-1-203.

244 (3) Except as provided in Subsection [~~(6)~~] (7), food or food products sold under this section shall be  
246 labeled with:

246 (a) the producer's name and address;

247 (b) a disclosure statement indicating that the product is:

248 (i) not for resale; and

249 (ii) processed and prepared without state or local inspection; and

250 (c) a statement listing whether the food or food product contains, or was prepared in a location that also  
253 handles, common allergens including milk, soy, wheat, eggs, peanuts or tree nuts, fish, or shellfish.

253 (4)

(a) If a producer meets the requirements of this section, the producer or producer's designated  
representative may distribute, sell, deliver, hold, store, or offer for sale a homemade food or  
homemade food product directly to an informed final consumer at a direct-to-sale location.

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(b) A producer retains ownership for a homemade food or homemade food product distributed, sold, delivered, held, stored, or offered for sale by a designated representative unless the producer and the designated representative agree to share or transfer ownership.

261 [(4)] (5)

(a) Except as provided in Subsection [(4)(b)] (5)(b), homemade food or a homemade food product that is exempt from certain regulations as described in this chapter may not be sold to, or used by, a restaurant or commercial establishment.

264 (b) A producer may sell a raw, unprocessed fruit or vegetable to a restaurant or commercial establishment.

266 [(5)] (6) A producer selling homemade food or homemade food products exempt under this section shall inform the final consumer that the food or food product is not certified, licensed, regulated, or inspected by the state or any county or city.

269 [(6)] (7) The requirements described in Subsection (3) do not apply to a direct sale by a home producer comprising only minor producers.

271 {Section 6. Section 4-5a-105 is amended to read: }

### 272 4-5a-105. Limitations.

273 (1) This chapter does not apply to the sale of[:]

274 [(a) raw dairy or raw dairy products; or]

275 [(b)] meat products, with the following exceptions:

276 [(i)] (a) the sale of poultry and poultry products if the producer:

277 [(A)] (i) slaughters no more than 1,000 birds per year in accordance with the United States Department of Agriculture 1,000 bird exemption; and

279 [(B)] (ii) follows the United States Department of Agriculture's, Food Safety and Inspection Service document titled "Guidance for Determining Whether A Poultry Slaughter or Processing Operation is Exempt from Inspection Requirements of the Poultry Products Inspection Act"; and

283 [(ii)] (b) the sale of domesticated rabbit meat, pending approval from the United States Department of Agriculture that the state's role in meat inspection is preserved.

285 (2) Nothing in this chapter:

286 (a) means that the department relinquishes its authority to administer the state's program at a standard level at least equal to the standards imposed under the Federal Meat and Poultry Products Inspection Act;

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- 289 (b) shall be construed to impede the Department of Health and Human Services, or a local health  
department, in an investigation of foodborne illness;
- 291 (c) prohibits a state agency from providing assistance, consulting, or inspecting when requested by a  
producer; or
- 293 (d) affects the authority of the Department of Health and Human Services or the Department of  
Agriculture and Food to certify, license, regulate, or inspect food or food products that are not  
exempt from certification, licensing, regulation, or inspection as described in this chapter.
- 297 (3) The department may not, by rule, impose an additional limit, requirement, or restriction on a  
producer selling food or a food product under this chapter.

151 Section 4. Section 59-12-102 is amended to read:

152 **59-12-102. Definitions.**

As used in this chapter:

- 154 (1) "800 service" means a telecommunications service that:
- 155 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
- 156 (b) is typically marketed:
- 157 (i) under the name 800 toll-free calling;
- 158 (ii) under the name 855 toll-free calling;
- 159 (iii) under the name 866 toll-free calling;
- 160 (iv) under the name 877 toll-free calling;
- 161 (v) under the name 888 toll-free calling; or
- 162 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal  
Communications Commission.
- 164 (2)
- (a) "900 service" means an inbound toll telecommunications service that:
- 165 (i) a subscriber purchases;
- 166 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the  
subscriber's:
- 168 (A) prerecorded announcement; or
- 169 (B) live service; and
- 170 (iii) is typically marketed:
- 171 (A) under the name 900 service; or

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- 172 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications  
Commission.
- 174 (b) "900 service" does not include a charge for:
- 175 (i) a collection service a seller of a telecommunications service provides to a subscriber; or
- 177 (ii) the following a subscriber sells to the subscriber's customer:
- 178 (A) a product; or
- 179 (B) a service.
- 180 (3)
- (a) "Adaptive driving equipment" means mobility enhancing equipment:
- 181 (i) to be installed in a motor vehicle; and
- 182 (ii) regardless of who provides the equipment or parts.
- 183 (b) "Adaptive driving equipment" includes:
- 184 (i) a wheelchair or scooter lift;
- 185 (ii) equipment to secure a wheelchair;
- 186 (iii) a swivel seat;
- 187 (iv) a hand or foot control; and
- 188 (v) a steering aid.
- 189 (4)
- (a) "Admission or user fees" includes season passes.
- 190 (b) "Admission or user fees" does not include:
- 191 (i) annual membership dues to private organizations; or
- 192 (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).
- 194 (5) "Affiliate" or "affiliated person" means a person that, with respect to another person:
- 195 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or
- 197 (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 than 5%, whether direct or  
indirect, in the related persons.
- 200 (6) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002,  
including amendments made to the Streamlined Sales and Use Tax Agreement after November 12,  
2002.

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- 203 (7) "Agreement combined tax rate" means the sum of the tax rates:  
204 (a) listed under Subsection (8); and  
205 (b) that are imposed within a local taxing jurisdiction.
- 206 (8) "Agreement sales and use tax" means a tax imposed under:  
207 (a) Subsection 59-12-103(2)(a)(i)(A);  
208 (b) Subsection 59-12-103(2)(a)(i)(B);  
209 (c) Subsection 59-12-103(2)(b)(i);  
210 (d) Subsection 59-12-103(2)(c)(i);  
211 (e) Subsection 59-12-103(2)(d);  
212 (f) Subsection 59-12-103(2)(e)(i)(A);  
213 (g) Section 59-12-204;  
214 (h) Section 59-12-401;  
215 (i) Section 59-12-402;  
216 (j) Section 59-12-402.1;  
217 (k) Section 59-12-703;  
218 (l) Section 59-12-802;  
219 (m) Section 59-12-804;  
220 (n) Section 59-12-1102;  
221 (o) Section 59-12-1302;  
222 (p) Section 59-12-1402;  
223 (q) Section 59-12-1802;  
224 (r) Section 59-12-2003;  
225 (s) Section 59-12-2103;  
226 (t) Section 59-12-2213;  
227 (u) Section 59-12-2214;  
228 (v) Section 59-12-2215;  
229 (w) Section 59-12-2216;  
230 (x) Section 59-12-2217;  
231 (y) Section 59-12-2218;  
232 (z) Section 59-12-2219;  
233 (aa) Section 59-12-2220; or

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- 234 (bb) Section 59-12-2402.
- 235 (9) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 236 (10) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 237 (a) except for:
- 238 (i) an airline as defined in Section 59-2-102; or
- 239 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a  
corporation that is qualified to do business but is not otherwise doing business in the state, of an  
airline; and
- 242 (b) that has the workers, expertise, and facilities to perform the following, regardless of whether the  
business entity performs the following in this state:
- 244 (i) check, diagnose, overhaul, and repair:
- 245 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 246 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 248 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;
- 250 (iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:
- 252 (A) an inspection;
- 253 (B) a repair, including a structural repair or modification;
- 254 (C) changing landing gear; and
- 255 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 256 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply  
new paint to the fixed wing turbine powered aircraft; and
- 258 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in  
the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the  
fixed wing turbine powered aircraft.
- 261 (11) "Alcoholic beverage" means a beverage that:
- 262 (a) is suitable for human consumption; and
- 263 (b) contains .5% or more alcohol by volume.
- 264 (12) "Alternative energy" means:
- 265 (a) biomass energy;
- 266 (b) geothermal energy;
- 267 (c) hydroelectric energy;

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- 268 (d) solar energy;
- 269 (e) wind energy; or
- 270 (f) energy that is derived from:
- 271 (i) coal-to-liquids;
- 272 (ii) nuclear fuel;
- 273 (iii) oil-impregnated diatomaceous earth;
- 274 (iv) oil sands;
- 275 (v) oil shale;
- 276 (vi) petroleum coke; or
- 277 (vii) waste heat from:
- 278 (A) an industrial facility; or
- 279 (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.
- 281 (13)
- (a) Subject to Subsection (13)(b), "alternative energy electricity production facility" means a facility  
that:
- 283 (i) uses alternative energy to produce electricity; and
- 284 (ii) has a production capacity of two megawatts or greater.
- 285 (b) A facility is an alternative energy electricity production facility regardless of whether the facility is:
- 287 (i) connected to an electric grid; or
- 288 (ii) located on the premises of an electricity consumer.
- 289 (14)
- (a) "Ancillary service" means a service associated with, or incidental to, the provision of  
telecommunications service.
- 291 (b) "Ancillary service" includes:
- 292 (i) a conference bridging service;
- 293 (ii) a detailed communications billing service;
- 294 (iii) directory assistance;
- 295 (iv) a vertical service; or
- 296 (v) a voice mail service.
- 297 (15) "Area agency on aging" means the same as that term is defined in Section 26B-6-101.

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- 298 (16) "Assisted amusement device" means an amusement device, skill device, or ride device that is  
started and stopped by an individual:
- 300 (a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device,  
or ride device; and
- 302 (b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.
- 304 (17) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of  
tangible personal property if the cleaning or washing labor is primarily performed by an individual:
- 307 (a) who is not the purchaser of the cleaning or washing of the tangible personal property; and
- 309 (b) at the direction of the seller of the cleaning or washing of the tangible personal property.
- 311 (18) "Authorized carrier" means:
- 312 (a) in the case of vehicles operated over public highways, the holder of credentials indicating that  
the vehicle is or will be operated pursuant to both the International Registration Plan and the  
International Fuel Tax Agreement;
- 315 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air  
carrier's operating certificate; or
- 317 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person  
who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one  
state.
- 320 (19)
- (a) "Biomass energy" means any of the following that is used as the primary source of energy to  
produce fuel or electricity:
- 322 (i) material from a plant or tree; or
- 323 (ii) other organic matter that is available on a renewable basis, including:
- 324 (A) slash and brush from forests and woodlands;
- 325 (B) animal waste;
- 326 (C) waste vegetable oil;
- 327 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater  
residuals, or through the conversion of a waste material through a nonincineration, thermal  
conversion process;
- 330 (E) aquatic plants; and
- 331 (F) agricultural products.

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- 332 (b) "Biomass energy" does not include:
- 333 (i) black liquor; or
- 334 (ii) treated woods.
- 335 (20)
- (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:
- 338 (i) distinct and identifiable; and
- 339 (ii) sold for one nonitemized price.
- 340 (b) "Bundled transaction" does not include:
- 341 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;
- 344 (ii) the sale of real property;
- 345 (iii) the sale of services to real property;
- 346 (iv) the retail sale of tangible personal property and a service if:
- 347 (A) the tangible personal property:
- 348 (I) is essential to the use of the service; and
- 349 (II) is provided exclusively in connection with the service; and
- 350 (B) the service is the true object of the transaction;
- 351 (v) the retail sale of two services if:
- 352 (A) one service is provided that is essential to the use or receipt of a second service;
- 354 (B) the first service is provided exclusively in connection with the second service; and
- 356 (C) the second service is the true object of the transaction;
- 357 (vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:
- 360 (A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or
- 362 (B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and
- 364 (vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

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- 367 (A) that retail sale includes:
- 368 (I) food and food ingredients;
- 369 (II) a drug;
- 370 (III) durable medical equipment;
- 371 (IV) mobility enhancing equipment;
- 372 (V) an over-the-counter drug;
- 373 (VI) a prosthetic device; or
- 374 (VII) a medical supply; and
- 375 (B) subject to Subsection (20)(f):
- 376 (I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is
- 50% or less of the seller's total purchase price of that retail sale; or
- 379 (II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50%
- or less of the seller's total sales price of that retail sale.
- 382 (c)
- (i) For purposes of Subsection (20)(a)(i), tangible personal property, a product, or a service that is
- distinct and identifiable does not include:
- 384 (A) packaging that:
- 385 (I) accompanies the sale of the tangible personal property, product, or service; and
- 387 (II) is incidental or immaterial to the sale of the tangible personal property, product, or service;
- 389 (B) tangible personal property, a product, or a service provided free of charge with the purchase of
- another item of tangible personal property, a product, or a service; or
- 392 (C) an item of tangible personal property, a product, or a service included in the definition of
- "purchase price."
- 394 (ii) For purposes of Subsection (20)(c)(i)(B), an item of tangible personal property, a product, or a
- service is provided free of charge with the purchase of another item of tangible personal property, a
- product, or a service if the sales price of the purchased item of tangible personal property, product,
- or service does not vary depending on the inclusion of the tangible personal property, product, or
- service provided free of charge.
- 400 (d)

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(i) For purposes of Subsection (20)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

404 (A) a binding sales document; or

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

406 (ii) For purposes of Subsection (20)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

408 (A) a bill of sale;

409 (B) a contract;

410 (C) an invoice;

411 (D) a lease agreement;

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

413 (F) a price list;

414 (G) a rate card;

415 (H) a receipt; or

416 (I) a service agreement.

417 (e)

(i) For purposes of Subsection (20)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

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

421 (B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

423 (ii) For purposes of Subsection (20)(b)(vi), a seller:

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

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

430

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- (iii) For purposes of Subsection (20)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.
- 433 (f) For purposes of Subsection (20)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.
- 437 (21) "Car sharing" means the same as that term is defined in Section 13-48a-101.
- 438 (22) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.
- 439 (23) "Certified automated system" means software certified by the governing board of the agreement that:
- 441 (a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:
- 442 (i) on a transaction; and
- 443 (ii) in the states that are members of the agreement;
- 444 (b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and
- 446 (c) maintains a record of the transaction described in Subsection (23)(a)(i).
- 447 (24) "Certified service provider" means an agent certified:
- 448 (a) by the governing board of the agreement; and
- 449 (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.
- 453 (25)
- (a) Subject to Subsection (25)(b), "clothing" means all human wearing apparel suitable for general use.
- 455 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
- 457 (i) listing the items that constitute "clothing"; and
- 458 (ii) that are consistent with the list of items that constitute "clothing" under the agreement.
- 460 (26) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- 461 (27) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection [~~(61)~~] (62) or residential use under Subsection [~~(117)~~] (118).

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- 464 (28)
- (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.
- 467 (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.
- 470 (ii) For purposes of Subsection (28)(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.
- 473 (c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.
- 475 (29) "Component part" includes:
- 476 (a) poultry, dairy, and other livestock feed, and their components;
- 477 (b) baling ties and twine used in the baling of hay and straw;
- 478 (c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and
- 481 (d) feed, seeds, and seedlings.
- 482 (30) "Computer" means an electronic device that accepts information:
- 483 (a)
- (i) in digital form; or
- 484 (ii) in a form similar to digital form; and
- 485 (b) manipulates that information for a result based on a sequence of instructions.
- 486 (31) "Computer software" means a set of coded instructions designed to cause:
- 487 (a) a computer to perform a task; or
- 488 (b) automatic data processing equipment to perform a task.
- 489 (32) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:
- 491 (a) future updates or upgrades to computer software;
- 492 (b) support services with respect to computer software; or

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- 493 (c) a combination of Subsections (32)(a) and (b).  
494 (33)
- (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.
- 496 (b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (33)(a).
- 498 (c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (33)(a).
- 500 (34) "Construction materials" means any tangible personal property that will be converted into real property.
- 502 (35) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.
- 504 (36)
- (a) "Delivery charge" means a charge:
- 505 (i) by a seller of:
- 506 (A) tangible personal property;
- 507 (B) a product transferred electronically; or
- 508 (C) a service; and
- 509 (ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (36)(a)(i) to a location designated by the purchaser.
- 512 (b) "Delivery charge" includes a charge for the following:
- 513 (i) transportation;
- 514 (ii) shipping;
- 515 (iii) postage;
- 516 (iv) handling;
- 517 (v) crating; or
- 518 (vi) packing.
- 519 (37) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.
- 521 (38) "Dietary supplement" means a product, other than tobacco, that:
- 522 (a) is intended to supplement the diet;

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- 523 (b) contains one or more of the following dietary ingredients:
- 524 (i) a vitamin;
- 525 (ii) a mineral;
- 526 (iii) an herb or other botanical;
- 527 (iv) an amino acid;
- 528 (v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake;
- or
- 530 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (38)(b)(i) through (v);
- 532 (c)
- (i) except as provided in Subsection (38)(c)(ii), is intended for ingestion in:
- 533 (A) tablet form;
- 534 (B) capsule form;
- 535 (C) powder form;
- 536 (D) softgel form;
- 537 (E) gelcap form; or
- 538 (F) liquid form; or
- 539 (ii) if the product is not intended for ingestion in a form described in Subsections (38)(c)(i)(A) through (F), is not represented:
- 541 (A) as conventional food; and
- 542 (B) for use as a sole item of:
- 543 (I) a meal; or
- 544 (II) the diet; and
- 545 (d) is required to be labeled as a dietary supplement:
- 546 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 547 (ii) as required by 21 C.F.R. Sec. 101.36.
- 548 (39)
- (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.
- 550 (b) "Digital audio work" includes a ringtone.
- 551

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(40) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

553 (41) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

555 (42)

(a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

557 (i) to:

558 (A) a mass audience; or

559 (B) addressees on a mailing list provided:

560 (I) by a purchaser of the mailing list; or

561 (II) at the discretion of the purchaser of the mailing list; and

562 (ii) if the cost of the printed material is not billed directly to the recipients.

563 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

566 (c) "Direct mail" does not include multiple items of printed material delivered to a single address.

568 (43) "Directory assistance" means an ancillary service of providing:

569 (a) address information; or

570 (b) telephone number information.

571 (44)

(a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

573 (i) cannot withstand repeated use; and

574 (ii) are purchased by, for, or on behalf of a person other than:

575 (A) a health care facility as defined in Section 26B-2-201;

576 (B) a health care provider as defined in Section 78B-3-403;

577 (C) an office of a health care provider described in Subsection (44)(a)(ii)(B); or

578 (D) a person similar to a person described in Subsections (44)(a)(ii)(A) through (C).

580 (b) "Disposable home medical equipment or supplies" does not include:

581 (i) a drug;

582 (ii) durable medical equipment;

583 (iii) a hearing aid;

584 (iv) a hearing aid accessory;

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- 585 (v) mobility enhancing equipment; or
- 586 (vi) tangible personal property used to correct impaired vision, including:
- 587 (A) eyeglasses; or
- 588 (B) contact lenses.
- 589 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission  
may by rule define what constitutes medical equipment or supplies.
- 591 (45) "Drilling equipment manufacturer" means a facility:
- 592 (a) located in the state;
- 593 (b) with respect to which 51% or more of the manufacturing activities of the facility consist of  
manufacturing component parts of drilling equipment;
- 595 (c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process;  
and
- 597 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.
- 599 (46)
- (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or  
preparation that is:
- 601 (i) recognized in:
- 602 (A) the official United States Pharmacopoeia;
- 603 (B) the official Homeopathic Pharmacopoeia of the United States;
- 604 (C) the official National Formulary; or
- 605 (D) a supplement to a publication listed in Subsections (46)(a)(i)(A) through (C);
- 606 (ii) intended for use in the:
- 607 (A) diagnosis of disease;
- 608 (B) cure of disease;
- 609 (C) mitigation of disease;
- 610 (D) treatment of disease; or
- 611 (E) prevention of disease; or
- 612 (iii) intended to affect:
- 613 (A) the structure of the body; or
- 614 (B) any function of the body.
- 615 (b) "Drug" does not include:

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- 616 (i) food and food ingredients;  
617 (ii) a dietary supplement;  
618 (iii) an alcoholic beverage; or  
619 (iv) a prosthetic device.  
620 (47)  
(a) "Durable medical equipment" means equipment that:  
621 (i) can withstand repeated use;  
622 (ii) is primarily and customarily used to serve a medical purpose;  
623 (iii) generally is not useful to a person in the absence of illness or injury; and  
624 (iv) is not worn in or on the body.  
625 (b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment  
described in Subsection (47)(a).  
627 (c) "Durable medical equipment" does not include mobility enhancing equipment.  
628 (48) "Electronic" means:  
629 (a) relating to technology; and  
630 (b) having:  
631 (i) electrical capabilities;  
632 (ii) digital capabilities;  
633 (iii) magnetic capabilities;  
634 (iv) wireless capabilities;  
635 (v) optical capabilities;  
636 (vi) electromagnetic capabilities; or  
637 (vii) capabilities similar to Subsections (48)(b)(i) through (vi).  
638 (49) "Electronic financial payment service" means an establishment:  
639 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse  
Activities, of the 2012 North American Industry Classification System of the federal Executive  
Office of the President, Office of Management and Budget; and  
643 (b) that performs electronic financial payment services.  
644 (50) "Employee" means the same as that term is defined in Section 59-10-401.  
645 (51) "Fixed guideway" means a public transit facility that uses and occupies:  
646 (a) rail for the use of public transit; or

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- 647 (b) a separate right-of-way for the use of public transit.
- 648 (52) "Fixed wing turbine powered aircraft" means an aircraft that:
- 649 (a) is powered by turbine engines;
- 650 (b) operates on jet fuel; and
- 651 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 652 (53) "Fixed wireless service" means a telecommunications service that provides radio communication  
between fixed points.
- 654 (54)
- (a) "Food and food ingredients" means substances:
- 655 (i) regardless of whether the substances are in:
- 656 (A) liquid form;
- 657 (B) concentrated form;
- 658 (C) solid form;
- 659 (D) frozen form;
- 660 (E) dried form; or
- 661 (F) dehydrated form; and
- 662 (ii) that are:
- 663 (A) sold for:
- 664 (I) ingestion by humans; or
- 665 (II) chewing by humans; and
- 666 (B) consumed for the substance's:
- 667 (I) taste; or
- 668 (II) nutritional value.
- 669 (b) "Food and food ingredients" includes an item described in Subsection [~~(100)(b)(iii)~~] (101)(b)(iii).
- 671 (c) "Food and food ingredients" does not include:
- 672 (i) an alcoholic beverage;
- 673 (ii) tobacco; or
- 674 (iii) prepared food.
- 675 (55)
- (a) "Fundraising sales" means sales:
- 676 (i)

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- (A) made by a school; or
- 677 (B) made by a school student;
- 678 (ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or  
provide transportation; and
- 680 (iii) that are part of an officially sanctioned school activity.
- 681 (b) For purposes of Subsection (55)(a)(iii), "officially sanctioned school activity" means a school  
activity:
- 683 (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;
- 686 (ii) that does not directly or indirectly compensate an individual teacher or other educational personnel  
by direct payment, commissions, or payment in kind; and
- 688 (iii) the net or gross revenue from which is deposited in a dedicated account controlled by the school or  
school district.
- 690 (56) "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.
- 692 (57) "Governing board of the agreement" means the governing board of the agreement that is:
- 694 (a) authorized to administer the agreement; and
- 695 (b) established in accordance with the agreement.
- 696 (58)
- (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
- 697 (i) the executive branch of the state, including all departments, institutions, boards, divisions,  
bureaus, offices, commissions, and committees;
- 699 (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;
- 702 (iii) the legislative branch of the state, including the House of Representatives, the Senate, the  
Office of Legislative Services, the Office of Legislative Research and General Counsel, the  
Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;
- 706 (iv) the National Guard;
- 707 (v) an independent entity as defined in Section 63E-1-102; or
- 708 (vi) a political subdivision as defined in Section 17B-1-102.
- 709 (b) "Governmental entity" does not include the state systems of public and higher education, including:

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- 711 (i) a school;
- 712 (ii) the State Board of Education;
- 713 (iii) the Utah Board of Higher Education; or
- 714 (iv) an institution of higher education listed in Section 53H-1-102.
- 715 (59) "Home cook" means an individual who prepares food and food ingredients or prepared food  
exclusively in a private, noncommercial home kitchen.
- 717 [~~(59)~~] (60) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.
- 719 [~~(60)~~] (61) "Individual-owned shared vehicle" means the same as that term is defined in Section  
13-48a-101.
- 721 [~~(61)~~] (62) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:
- 723 (a) in mining or extraction of minerals;
- 724 (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:
- 726 (i) commercial greenhouses;
- 727 (ii) irrigation pumps;
- 728 (iii) farm machinery;
- 729 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41,  
Chapter 1a, Part 2, Registration; and
- 731 (v) other farming activities;
- 732 (c) in manufacturing tangible personal property at an establishment described in:
- 733 (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
- 736 (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;
- 739 (d) by a scrap recycler if:
- 740 (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:
- 743 (A) iron;
- 744 (B) steel;
- 745 (C) nonferrous metal;

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- 746 (D) paper;
- 747 (E) glass;
- 748 (F) plastic;
- 749 (G) textile; or
- 750 (H) rubber; and
- 751 (ii) the new products under Subsection [~~(61)~~(d)(i)] (62)(d)(i) would otherwise be made with  
nonrecycled materials; or
- 753 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration  
facility as defined in Section 54-2-1.
- 755 [~~(62)~~] (63)
- (a) "Installation charge" means a charge for installing:
- 756 (i) tangible personal property; or
- 757 (ii) a product transferred electronically.
- 758 (b) "Installation charge" does not include a charge for:
- 759 (i) repairs or renovations of:
- 760 (A) tangible personal property; or
- 761 (B) a product transferred electronically; or
- 762 (ii) attaching tangible personal property or a product transferred electronically:
- 763 (A) to other tangible personal property; and
- 764 (B) as part of a manufacturing or fabrication process.
- 765 [~~(63)~~] (64) "Institution of higher education" means an institution of higher education listed in Section  
53H-1-102.
- 767 [~~(64)~~] (65)
- (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a  
product transferred electronically for:
- 769 (i)
- (A) a fixed term; or
- 770 (B) an indeterminate term; and
- 771 (ii) consideration.
- 772 (b) "Lease" or "rental" includes:
- 773

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- (i) an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code; and
- 777 (ii) car sharing.
- 778 (c) "Lease" or "rental" does not include:
- 779 (i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
- 782 (ii) a transfer of possession or control of property under an agreement that requires the transfer of title:
- 784 (A) upon completion of required payments; and
- 785 (B) if the payment of an option price does not exceed the greater of:
- 786 (I) \$100; or
- 787 (II) 1% of the total required payments; or
- 788 (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.
- 791 (d) For purposes of Subsection [~~(64)(e)(iii)~~] (65)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:
- 793 (i) set-up of tangible personal property;
- 794 (ii) maintenance of tangible personal property; or
- 795 (iii) inspection of tangible personal property.
- 796 [~~(65)~~] (66) "Lesson" means a fixed period of time for the duration of which a trained instructor:
- 798 (a) is present with a student in person or by video; and
- 799 (b) actively instructs the student, including by providing observation or feedback.
- 800 [~~(66)~~] (67) "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:
- 804 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 805 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or
- 807 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 808 [~~(67)~~] (68) "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.

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- 811 [~~(68)~~] (69) "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.
- 813 [~~(69)~~] (70) "Local taxing jurisdiction" means a:
- 814 (a) county that is authorized to impose an agreement sales and use tax;
- 815 (b) city that is authorized to impose an agreement sales and use tax; or
- 816 (c) town that is authorized to impose an agreement sales and use tax.
- 817 [~~(70)~~] (71) "Manufactured home" means the same as that term is defined in Section 15A-1-302.
- 819 [~~(71)~~] (72) "Manufacturing facility" means:
- 820 (a) an establishment described in:
- 821 (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
- 824 (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;
- 827 (b) a scrap recycler if:
- 828 (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:
- 831 (A) iron;
- 832 (B) steel;
- 833 (C) nonferrous metal;
- 834 (D) paper;
- 835 (E) glass;
- 836 (F) plastic;
- 837 (G) textile; or
- 838 (H) rubber; and
- 839 (ii) the new products under Subsection [~~(71)(b)(i)~~] (72)(b)(i) would otherwise be made with  
nonrecycled materials; or
- 841 (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.
- 843 [~~(72)~~] (73)

## SB0217 compared with SB0217S01

(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.

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

848 [~~(73)~~] (74)

(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:

852 (i) does any of the following:

853 (A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

856 (B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

860 (C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

865 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

870 (E) provides software development or research and development activities related to any activity described in this Subsection [~~(73)(a)(i)~~] (74)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

874 (F) provides or offers fulfillment or storage services for a marketplace seller;

875 (G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

877

## SB0217 compared with SB0217S01

- (H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or
- 881 (I) brands or otherwise identifies sales as those of the person; and
- 882 (ii) does any of the following:
- 883 (A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;
- 885 (B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;
- 887 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;
- 894 (D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or
- 900 (E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.
- 902 (b) "Marketplace facilitator" does not include:
- 903 (i) a person that only provides payment processing services; or
- 904 (ii) a person described in Subsection [~~(73)~~(a)] (74)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.
- 906 [~~(74)~~] (75) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.
- 909 [~~(75)~~] (76) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

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- 911 (a) child or stepchild, regardless of whether the child or stepchild is:  
912 (i) an adopted child or adopted stepchild; or  
913 (ii) a foster child or foster stepchild;  
914 (b) grandchild or stepgrandchild;  
915 (c) grandparent or stepgrandparent;  
916 (d) nephew or stepnephew;  
917 (e) niece or stepniece;  
918 (f) parent or stepparent;  
919 (g) sibling or stepsibling;  
920 (h) spouse;  
921 (i) person who is the spouse of a person described in Subsections ~~[(75)(a)]~~ (76)(a) through (g); or  
923 (j) person similar to a person described in Subsections ~~[(75)(a)]~~ (76)(a) through (i) as determined  
by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
Rulemaking Act.
- 926 ~~[(76)]~~ (77) "Mobile home" means the same as that term is defined in Section 15A-1-302.  
927 ~~[(77)]~~ (78) "Mobile telecommunications service" means the same as that term is defined in the Mobile  
Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 929 ~~[(78)]~~ (79)  
(a) "Mobile wireless service" means a telecommunications service, regardless of the technology used,  
if:  
931 (i) the origination point of the conveyance, routing, or transmission is not fixed;  
932 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or  
933 (iii) the origination point described in Subsection ~~[(78)(a)(i)]~~ (79)(a)(i) and the termination point  
described in Subsection ~~[(78)(a)(ii)]~~ (79)(a)(ii) are not fixed.
- 935 (b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial  
mobile radio service provider.
- 937 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission  
may by rule define "commercial mobile radio service provider."
- 939 ~~[(79)]~~ (80)  
(a) "Mobility enhancing equipment" means equipment that is:  
940

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- (i) primarily and customarily used to provide or increase the ability to move from one place to another;
- 942 (ii) appropriate for use in a:
- 943 (A) home; or
- 944 (B) motor vehicle; and
- 945 (iii) not generally used by persons with normal mobility.
- 946 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection [~~(79)~~(a)] (80)(a).
- 948 (c) "Mobility enhancing equipment" does not include:
- 949 (i) a motor vehicle;
- 950 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;
- 952 (iii) durable medical equipment; or
- 953 (iv) a prosthetic device.
- 954 [~~(80)~~] (81) "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.
- 959 [~~(81)~~] (82) "Model 2 seller" means a seller registered under the agreement that:
- 960 (a) except as provided in Subsection [~~(81)~~(b)] (82)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and
- 963 (b) retains responsibility for remitting all of the sales tax:
- 964 (i) collected by the seller; and
- 965 (ii) to the appropriate local taxing jurisdiction.
- 966 [~~(82)~~] (83)
- (a) Subject to Subsection [~~(82)~~(b)] (83)(b), "model 3 seller" means a seller registered under the agreement that has:
- 968 (i) sales in at least five states that are members of the agreement;
- 969 (ii) total annual sales revenue of at least \$500,000,000;
- 970 (iii) a proprietary system that calculates the amount of tax:

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- 971 (A) for an agreement sales and use tax; and  
972 (B) due to each local taxing jurisdiction; and  
973 (iv) entered into a performance agreement with the governing board of the agreement.
- 974 (b) For purposes of Subsection [~~(82)~~(a)] (83)(a), "model 3 seller" includes an affiliated group of sellers  
using the same proprietary system.
- 976 [~~(83)~~] (84) "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.
- 978 [~~(84)~~] (85) "Modular home" means a modular unit as defined in Section 15A-1-302.
- 979 [~~(85)~~] (86) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.
- 980 [~~(86)~~] (87) "Oil sands" means impregnated bituminous sands that:
- 981 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with other  
hydrocarbons, or otherwise treated;
- 983 (b) yield mixtures of liquid hydrocarbon; and
- 984 (c) require further processing other than mechanical blending before becoming finished petroleum  
products.
- 986 [~~(87)~~] (88) "Oil shale" means a group of fine black to dark brown shales containing kerogen material  
that yields petroleum upon heating and distillation.
- 988 [~~(88)~~] (89) "Optional computer software maintenance contract" means a computer software  
maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of  
computer software.
- 991 [~~(89)~~] (90)
- (a) "Other fuels" means products that burn independently to produce heat or energy.
- 993 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.
- 995 [~~(90)~~] (91)
- (a) "Paging service" means a telecommunications service that provides transmission of a coded radio  
signal for the purpose of activating a specific pager.
- 997 (b) For purposes of Subsection [~~(90)~~(a)] (91)(a), the transmission of a coded radio signal includes a  
transmission by message or sound.
- 999 [~~(91)~~] (92) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.
- 1000 [~~(92)~~] (93) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.
- 1001 [~~(93)~~] (94)

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- (a) "Permanently attached to real property" means that for tangible personal property attached to real property:
- 1003 (i) the attachment of the tangible personal property to the real property:
- 1004 (A) is essential to the use of the tangible personal property; and
- 1005 (B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or
- 1008 (ii) if the tangible personal property is detached from the real property, the detachment would:
- 1010 (A) cause substantial damage to the tangible personal property; or
- 1011 (B) require substantial alteration or repair of the real property to which the tangible personal property is attached.
- 1013 (b) "Permanently attached to real property" includes:
- 1014 (i) the attachment of an accessory to the tangible personal property if the accessory is:
- 1015 (A) essential to the operation of the tangible personal property; and
- 1016 (B) attached only to facilitate the operation of the tangible personal property;
- 1017 (ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or
- 1020 (iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection [~~(93)(e)~~ ~~(iii)~~] (94)(c)(iii) or (iv).
- 1022 (c) "Permanently attached to real property" does not include:
- 1023 (i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:
- 1026 (A) convenience;
- 1027 (B) stability; or
- 1028 (C) for an obvious temporary purpose;
- 1029 (ii) the detachment of tangible personal property from real property except for the detachment described in Subsection [~~(93)(b)(ii)~~] (94)(b)(ii);
- 1031 (iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

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- 1036 (A) a computer;
- 1037 (B) a telephone;
- 1038 (C) a television; or
- 1039 (D) tangible personal property similar to Subsections [~~(93)(e)(iii)(A)~~] (94)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
- 1042 (iv) an item listed in Subsection [~~(139)(e)~~] (140)(c).
- 1043 [~~(94)~~] (95) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.
- 1047 [~~(95)~~] (96) "Place of primary use":
- 1048 (a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:
- 1051 (i) the residential street address of the customer; or
- 1052 (ii) the primary business street address of the customer; or
- 1053 (b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 1055 [~~(96)~~] (97)
- (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:
- 1057 (i) through the use of a:
- 1058 (A) bank card;
- 1059 (B) credit card;
- 1060 (C) debit card; or
- 1061 (D) travel card; or
- 1062 (ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.
- 1064 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

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- 1067 [~~(97)~~] (98) "Postproduction" means an activity related to the finishing or duplication of a medium  
described in Subsection 59-12-104(54)(a).
- 1069 [~~(98)~~] (99) "Prepaid calling service" means a telecommunications service:
- 1070 (a) that allows a purchaser access to telecommunications service that is exclusively telecommunications  
service;
- 1072 (b) that:
- 1073 (i) is paid for in advance; and
- 1074 (ii) enables the origination of a call using an:
- 1075 (A) access number; or
- 1076 (B) authorization code;
- 1077 (c) that is dialed:
- 1078 (i) manually; or
- 1079 (ii) electronically; and
- 1080 (d) sold in predetermined units or dollars that decline:
- 1081 (i) by a known amount; and
- 1082 (ii) with use.
- 1083 [~~(99)~~] (100) "Prepaid wireless calling service" means a telecommunications service:
- 1084 (a) that provides the right to utilize:
- 1085 (i) mobile wireless service; and
- 1086 (ii) other service that is not a telecommunications service, including:
- 1087 (A) the download of a product transferred electronically;
- 1088 (B) a content service; or
- 1089 (C) an ancillary service;
- 1090 (b) that:
- 1091 (i) is paid for in advance; and
- 1092 (ii) enables the origination of a call using an:
- 1093 (A) access number; or
- 1094 (B) authorization code;
- 1095 (c) that is dialed:
- 1096 (i) manually; or
- 1097 (ii) electronically; and

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- 1098 (d) sold in predetermined units or dollars that decline:
- 1099 (i) by a known amount; and
- 1100 (ii) with use.
- 1101 [~~(100)~~] (101)
- (a) "Prepared food" means:
- 1102 (i) food:
- 1103 (A) sold in a heated state; or
- 1104 (B) heated by a seller;
- 1105 (ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or
- 1107 (iii) except as provided in Subsection [~~(100)(e)~~] (101)(c), food sold with an eating utensil provided by the seller, including a:
- 1109 (A) plate;
- 1110 (B) knife;
- 1111 (C) fork;
- 1112 (D) spoon;
- 1113 (E) glass;
- 1114 (F) cup;
- 1115 (G) napkin; or
- 1116 (H) straw.
- 1117 (b) "Prepared food" does not include:
- 1118 (i) food that a seller only:
- 1119 (A) cuts;
- 1120 (B) repackages; or
- 1121 (C) pasteurizes;
- 1122 (ii)
- (A) the following:
- 1123 (I) raw egg;
- 1124 (II) raw fish;
- 1125 (III) raw meat;
- 1126 (IV) raw poultry; or
- 1127

## SB0217 compared with SB0217S01

- (V) a food containing an item described in Subsections [~~(100)(b)(ii)(A)(I)~~] (101)(b)(ii)(A)(I) through (IV); and
- 1129 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection [~~(100)(b)(ii)(A)~~] (101)(b)(ii)(A) to prevent food borne illness; or
- 1133 (iii) the following if sold without eating utensils provided by the seller:
- 1134 (A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;
- 1139 (B) food and food ingredients sold in an unheated state:
- 1140 (I) by weight or volume; and
- 1141 (II) as a single item; or
- 1142 (C) a bakery item, including:
- 1143 (I) a bagel;
- 1144 (II) a bar;
- 1145 (III) a biscuit;
- 1146 (IV) bread;
- 1147 (V) a bun;
- 1148 (VI) a cake;
- 1149 (VII) a cookie;
- 1150 (VIII) a croissant;
- 1151 (IX) a danish;
- 1152 (X) a donut;
- 1153 (XI) a muffin;
- 1154 (XII) a pastry;
- 1155 (XIII) a pie;
- 1156 (XIV) a roll;
- 1157 (XV) a tart;
- 1158 (XVI) a torte; or
- 1159 (XVII) a tortilla.

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- 1160 (c) An eating utensil provided by the seller does not include the following used to transport the food:
- 1162 (i) a container; or
- 1163 (ii) packaging.
- 1164 [(101)] (102) "Prescription" means an order, formula, or recipe that is issued:
- 1165 (a)
- 1166 (i) orally;
- 1167 (ii) in writing;
- 1168 (iii) electronically; or
- 1169 (iv) by any other manner of transmission; and
- 1170 (b) by a licensed practitioner authorized by the laws of a state.
- 1170 [(102)] (103)
- 1171 (a) "Prewritten computer software" means computer software that is not designed and developed:
- 1172 (i) by the author or other creator of the computer software; and
- 1173 (ii) to the specifications of a specific purchaser.
- 1174 (b) "Prewritten computer software" includes:
- 1175 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not  
designed and developed:
- 1177 (A) by the author or other creator of the computer software; and
- 1178 (B) to the specifications of a specific purchaser;
- 1179 (ii) computer software designed and developed by the author or other creator of the computer software  
to the specifications of a specific purchaser if the computer software is sold to a person other than  
the purchaser; or
- 1182 (iii) except as provided in Subsection [(102)(e)] (103)(c), prewritten computer software or a prewritten  
portion of prewritten computer software:
- 1184 (A) that is modified or enhanced to any degree; and
- 1185 (B) if the modification or enhancement described in Subsection [(102)(b)(iii)(A)] (103)(b)(iii)(A) is  
designed and developed to the specifications of a specific purchaser.
- 1188 (c) "Prewritten computer software" does not include a modification or enhancement described in  
Subsection [(102)(b)(iii)] (103)(b)(iii) if the charges for the modification or enhancement are:
- 1191 (i) reasonable; and
- 1192

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(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

1195 (A) the books and records the seller keeps at the time of the transaction in the regular course of  
business, including books and records the seller keeps at the time of the transaction in the regular  
course of business for nontax purposes;

1198 (B) a preponderance of the facts and circumstances at the time of the transaction; and

1200 (C) the understanding of all of the parties to the transaction.

1201 [~~(103)~~] (104)

(a) "Private communications service" means a telecommunications service:

1202 (i) that entitles a customer to exclusive or priority use of one or more communications channels  
between or among termination points; and

1204 (ii) regardless of the manner in which the one or more communications channels are connected.

1206 (b) "Private communications service" includes the following provided in connection with the use of one  
or more communications channels:

1208 (i) an extension line;

1209 (ii) a station;

1210 (iii) switching capacity; or

1211 (iv) another associated service that is provided in connection with the use of one or more  
communications channels as defined in Section 59-12-215.

1213 [~~(104)~~] (105)

(a) "Product transferred electronically" means a product transferred electronically that would be subject  
to a tax under this chapter if that product was transferred in a manner other than electronically.

1216 (b) "Product transferred electronically" does not include:

1217 (i) an ancillary service;

1218 (ii) computer software; or

1219 (iii) a telecommunications service.

1220 [~~(105)~~] (106)

(a) "Prosthetic device" means a device that is worn on or in the body to:

1221 (i) artificially replace a missing portion of the body;

1222 (ii) prevent or correct a physical deformity or physical malfunction; or

1223 (iii) support a weak or deformed portion of the body.

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- 1224 (b) "Prosthetic device" includes:
- 1225 (i) parts used in the repairs or renovation of a prosthetic device;
- 1226 (ii) replacement parts for a prosthetic device;
- 1227 (iii) a dental prosthesis; or
- 1228 (iv) a hearing aid.
- 1229 (c) "Prosthetic device" does not include:
- 1230 (i) corrective eyeglasses; or
- 1231 (ii) contact lenses.
- 1232 [~~106~~] (107)
- (a) "Protective equipment" means an item:
- 1233 (i) for human wear; and
- 1234 (ii) that is:
- 1235 (A) designed as protection:
- 1236 (I) to the wearer against injury or disease; or
- 1237 (II) against damage or injury of other persons or property; and
- 1238 (B) not suitable for general use.
- 1239 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
- 1241 (i) listing the items that constitute "protective equipment"; and
- 1242 (ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.
- 1244 [~~107~~] (108)
- (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:
- 1246 (i) regardless of:
- 1247 (A) characteristics;
- 1248 (B) copyright;
- 1249 (C) form;
- 1250 (D) format;
- 1251 (E) method of reproduction; or
- 1252 (F) source; and
- 1253 (ii) made available in printed or electronic format.

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- 1254 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission  
may by rule define the term "photocopy."
- 1256 ~~[(108)]~~ (109)
- (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 1258 (i) valued in money; and
- 1259 (ii) for which tangible personal property, a product transferred electronically, or services are:
- 1261 (A) sold;
- 1262 (B) leased; or
- 1263 (C) rented.
- 1264 (b) "Purchase price" and "sales price" include:
- 1265 (i) the seller's cost of the tangible personal property, a product transferred electronically, or services  
sold;
- 1267 (ii) expenses of the seller, including:
- 1268 (A) the cost of materials used;
- 1269 (B) a labor cost;
- 1270 (C) a service cost;
- 1271 (D) interest;
- 1272 (E) a loss;
- 1273 (F) the cost of transportation to the seller; or
- 1274 (G) a tax imposed on the seller;
- 1275 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1276 (iv) consideration a seller receives from a person other than the purchaser if:
- 1277 (A)
- (I) the seller actually receives consideration from a person other than the purchaser; and
- 1279 (II) the consideration described in Subsection ~~[(108)(b)(iv)(A)(I)]~~ (109)(b)(iv)(A)(I) is directly related  
to a price reduction or discount on the sale;
- 1282 (B) the seller has an obligation to pass the price reduction or discount through to the purchaser;
- 1284 (C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the  
time of the sale to the purchaser; and
- 1286 (D)
- (I)

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- (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and
- 1288 (Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 1292 (II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or
- 1297 (III) the price reduction or discount is identified as a third party price reduction or discount on the:
- 1299 (Aa) invoice the purchaser receives; or
- 1300 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1301 (c) "Purchase price" and "sales price" do not include:
- 1302 (i) a discount:
- 1303 (A) in a form including:
- 1304 (I) cash;
- 1305 (II) term; or
- 1306 (III) coupon;
- 1307 (B) that is allowed by a seller;
- 1308 (C) taken by a purchaser on a sale; and
- 1309 (D) that is not reimbursed by a third party; or
- 1310 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:
- 1318 (A) the following from credit extended on the sale of tangible personal property or services:
- 1320 (I) a carrying charge;
- 1321 (II) a financing charge; or
- 1322 (III) an interest charge;

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- 1323 (B) a delivery charge;
- 1324 (C) an installation charge;
- 1325 (D) a manufacturer rebate on a motor vehicle; or
- 1326 (E) a tax or fee legally imposed directly on the consumer.
- 1327 [~~(109)~~] (110) "Purchaser" means a person to whom:
- 1328 (a) a sale of tangible personal property is made;
- 1329 (b) a product is transferred electronically; or
- 1330 (c) a service is furnished.
- 1331 [~~(110)~~] (111) "Qualifying data center" means a data center facility that:
- 1332 (a) houses a group of networked server computers in one physical location in order to disseminate, manage, and store data and information;
- 1334 (b) is located in the state;
- 1335 (c) is a new operation constructed on or after July 1, 2016;
- 1336 (d) consists of one or more buildings that total 150,000 or more square feet;
- 1337 (e) is owned or leased by:
- 1338 (i) the operator of the data center facility; or
- 1339 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and
- 1341 (f) is located on one or more parcels of land that are owned or leased by:
- 1342 (i) the operator of the data center facility; or
- 1343 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility.
- 1345 [~~(111)~~] (112) "Qualifying energy storage manufacturing facility" means a facility that manufactures, in the state, equipment or devices that store and discharge energy for the purpose of providing electrical power.
- 1348 [~~(112)~~] (113) "Regularly rented" means:
- 1349 (a) rented to a guest for value three or more times during a calendar year; or
- 1350 (b) advertised or held out to the public as a place that is regularly rented to guests for value.
- 1352 [~~(113)~~] (114) "Rental" means the same as that term is defined in Subsection [~~(64)~~] (65).
- 1353 [~~(114)~~] (115)
- (a) "Repairs or renovations of tangible personal property" means:

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- 1354 (i) a repair or renovation of tangible personal property that is not permanently attached to real property; or
- 1356 (ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:
- 1359 (A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and
- 1363 (B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.
- 1368 (b) "Repairs or renovations of tangible personal property" does not include:
- 1369 (i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or
- 1372 (ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.
- 1375 [~~(115)~~] (116) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.
- 1378 [~~(116)~~] (117)
- (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:
- 1380 (i) at a residential address; or
- 1381 (ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.
- 1384 (b) For purposes of Subsection [~~(116)(a)(i)~~] (117)(a)(i), a residential address includes an:
- 1385 (i) apartment; or

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- 1386 (ii) other individual dwelling unit.
- 1387 [~~(117)~~] (118) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.
- 1389 [~~(118)~~] (119) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:
- 1391 (a) resale;
- 1392 (b) sublease; or
- 1393 (c) subrent.
- 1394 [~~(119)~~] (120)
- (a) "Retailer" means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.
- 1398 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.
- 1400 [~~(120)~~] (121)
- (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.
- 1403 (b) "Sale" includes:
- 1404 (i) installment and credit sales;
- 1405 (ii) any closed transaction constituting a sale;
- 1406 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;
- 1408 (iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and
- 1410 (v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.
- 1413 [~~(121)~~] (122) "Sale at retail" means the same as that term is defined in Subsection [~~(118)~~] (119).
- 1415 [~~(122)~~] (123) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

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- 1418 (a) by a purchaser-lessee;
- 1419 (b) to a lessor;
- 1420 (c) for consideration; and
- 1421 (d) if:
- 1422 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible  
personal property or product transferred electronically;
- 1424 (ii) the sale of the tangible personal property or product transferred electronically to the lessor is  
intended as a form of financing:
- 1426 (A) for the tangible personal property or product transferred electronically; and
- 1427 (B) to the purchaser-lessee; and
- 1428 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:
- 1430 (A) capitalize the tangible personal property or product transferred electronically for financial reporting  
purposes; and
- 1432 (B) account for the lease payments as payments made under a financing arrangement.
- 1434 [~~(123)~~] (124) "Sales price" means the same as that term is defined in Subsection [~~(108)~~] (109).
- 1435 [~~(124)~~] (125)
- (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a  
school:
- 1437 (i) sales that are directly related to the school's educational functions or activities including:
- 1439 (A) the sale of:
- 1440 (I) textbooks;
- 1441 (II) textbook fees;
- 1442 (III) laboratory fees;
- 1443 (IV) laboratory supplies; or
- 1444 (V) safety equipment;
- 1445 (B) the sale of a uniform, protective equipment, or sports or recreational equipment that:
- 1447 (I) a student is specifically required to wear as a condition of participation in a school-related event or  
school-related activity; and
- 1449 (II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary  
clothing;
- 1451

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(C) sales of the following if the net or gross revenue generated by the sales is deposited into a school district fund or school fund dedicated to school meals:

1453 (I) food and food ingredients; or

1454 (II) prepared food; or

1455 (D) transportation charges for official school activities; or

1456 (ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

1458 (b) "Sales relating to schools" does not include:

1459 (i) bookstore sales of items that are not educational materials or supplies;

1460 (ii) except as provided in Subsection [~~(124)(a)(i)(B)~~] (125)(a)(i)(B):

1461 (A) clothing;

1462 (B) clothing accessories or equipment;

1463 (C) protective equipment; or

1464 (D) sports or recreational equipment; or

1465 (iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

1468 (A) other than a:

1469 (I) school;

1470 (II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

1473 (III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

1476 (B) that is required to collect sales and use taxes under this chapter.

1477 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

1479 [~~(125)~~] (126) For purposes of this section and Section 59-12-104, "school" means:

1480 (a) an elementary school or a secondary school that:

1481 (i) is a:

1482 (A) public school; or

1483 (B) private school; and

1484 (ii) provides instruction for one or more grades kindergarten through 12; or

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- 1485 (b) a public school district.
- 1486 [~~(126)~~] (127)
- (a) "Seller" means a person that makes a sale, lease, or rental of:
- 1487 (i) tangible personal property;
- 1488 (ii) a product transferred electronically; or
- 1489 (iii) a service.
- 1490 (b) "Seller" includes a marketplace facilitator.
- 1491 [~~(127)~~] (128)
- (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:
- 1494 (i) used primarily in the process of:
- 1495 (A)
- (I) manufacturing a semiconductor;
- 1496 (II) fabricating a semiconductor; or
- 1497 (III) research or development of a:
- 1498 (Aa) semiconductor; or
- 1499 (Bb) semiconductor manufacturing process; or
- 1500 (B) maintaining an environment suitable for a semiconductor; or
- 1501 (ii) consumed primarily in the process of:
- 1502 (A)
- (I) manufacturing a semiconductor;
- 1503 (II) fabricating a semiconductor; or
- 1504 (III) research or development of a:
- 1505 (Aa) semiconductor; or
- 1506 (Bb) semiconductor manufacturing process; or
- 1507 (B) maintaining an environment suitable for a semiconductor.
- 1508 (b) "Semiconductor fabricating, processing, research, or development materials" includes:
- 1510 (i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection [~~(127)(a)~~] (128)(a); or
- 1512 (ii) a chemical, catalyst, or other material used to:

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- 1513 (A) produce or induce in a semiconductor a:
- 1514 (I) chemical change; or
- 1515 (II) physical change;
- 1516 (B) remove impurities from a semiconductor; or
- 1517 (C) improve the marketable condition of a semiconductor.
- 1518 [~~(128)~~] (129) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 26B-6-101.
- 1520 [~~(129)~~] (130) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.
- 1521 [~~(130)~~] (131) "Shared vehicle driver" means the same as that term is defined in Section 13-48a-101.
- 1523 [~~(131)~~] (132) "Shared vehicle owner" means the same as that term is defined in Section 13-48a-101.
- 1525 [~~(132)~~] (133)
- (a) Subject to Subsections [~~(132)(b)~~] (133)(b) and (c), "short-term lodging consumable" means tangible personal property that:
- 1527 (i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;
- 1530 (ii) is intended to be consumed by the purchaser; and
- 1531 (iii) is:
- 1532 (A) included in the purchase price of the accommodations and services; and
- 1533 (B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.
- 1535 (b) "Short-term lodging consumable" includes:
- 1536 (i) a beverage;
- 1537 (ii) a brush or comb;
- 1538 (iii) a cosmetic;
- 1539 (iv) a hair care product;
- 1540 (v) lotion;
- 1541 (vi) a magazine;
- 1542 (vii) makeup;
- 1543 (viii) a meal;
- 1544 (ix) mouthwash;
- 1545 (x) nail polish remover;
- 1546 (xi) a newspaper;

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- 1547 (xii) a notepad;
- 1548 (xiii) a pen;
- 1549 (xiv) a pencil;
- 1550 (xv) a razor;
- 1551 (xvi) saline solution;
- 1552 (xvii) a sewing kit;
- 1553 (xviii) shaving cream;
- 1554 (xix) a shoe shine kit;
- 1555 (xx) a shower cap;
- 1556 (xxi) a snack item;
- 1557 (xxii) soap;
- 1558 (xxiii) toilet paper;
- 1559 (xxiv) a toothbrush;
- 1560 (xxv) toothpaste; or
- 1561 (xxvi) an item similar to Subsections [~~(132)(b)(i)~~] (133)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1564 (c) "Short-term lodging consumable" does not include:
- 1565 (i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or
- 1567 (ii) a product transferred electronically.
- 1568 [~~(133)~~] (134)
- (a) "Short-term rental" means a lease or rental for less than 30 consecutive days.
- 1570 (b) "Short-term rental" does not include car sharing.
- 1571 [~~(134)~~] (135) "Simplified electronic return" means the electronic return:
- 1572 (a) described in Section 318(C) of the agreement; and
- 1573 (b) approved by the governing board of the agreement.
- 1574 [~~(135)~~] (136) "Solar energy" means the sun used as the sole source of energy for producing electricity.
- 1576 [~~(136)~~] (137)
- (a) "Sports or recreational equipment" means an item:
- 1577 (i) designed for human use; and

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- 1578 (ii) that is:
- 1579 (A) worn in conjunction with:
- 1580 (I) an athletic activity; or
- 1581 (II) a recreational activity; and
- 1582 (B) not suitable for general use.
- 1583 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
- 1585 (i) listing the items that constitute "sports or recreational equipment"; and
- 1586 (ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.
- 1588 [~~(137)~~] (138) "State" means the state of Utah, its departments, and agencies.
- 1589 [~~(138)~~] (139) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.
- 1592 [~~(139)~~] (140)
- (a) "Tangible personal property" means personal property that:
- 1593 (i) may be:
- 1594 (A) seen;
- 1595 (B) weighed;
- 1596 (C) measured;
- 1597 (D) felt; or
- 1598 (E) touched; or
- 1599 (ii) is in any manner perceptible to the senses.
- 1600 (b) "Tangible personal property" includes:
- 1601 (i) electricity;
- 1602 (ii) water;
- 1603 (iii) gas;
- 1604 (iv) steam; or
- 1605 (v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.
- 1607

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(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

1609 (i) a dishwasher;

1610 (ii) a dryer;

1611 (iii) a freezer;

1612 (iv) a microwave;

1613 (v) a refrigerator;

1614 (vi) a stove;

1615 (vii) a washer; or

1616 (viii) an item similar to Subsections [~~(139)(e)(i)~~] (140)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1619 (d) "Tangible personal property" does not include a product that is transferred electronically.

1621 (e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

1626 (i) a hot water heater;

1627 (ii) a water filtration system; or

1628 (iii) a water softener system.

1629 [~~(140)~~] (141)

(a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection [~~(140)(b)~~] (141)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

1633 (i) telecommunications switching or routing equipment, machinery, or software; or

1634 (ii) telecommunications transmission equipment, machinery, or software.

1635 (b) The following apply to Subsection [~~(140)(a)~~] (141)(a):

1636 (i) a pole;

1637 (ii) software;

1638 (iii) a supplementary power supply;

1639 (iv) temperature or environmental equipment or machinery;

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- 1640 (v) test equipment;
- 1641 (vi) a tower; or
- 1642 (vii) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(140)~~  
~~(b)(i)~~] (141)(b)(i) through (vi) as determined by the commission by rule made in accordance with  
Subsection [~~(140)(e)~~] (141)(c).
- 1645 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission  
may by rule define what constitutes equipment, machinery, or software that functions similarly to an  
item listed in Subsections [~~(140)(b)(i)~~] (141)(b)(i) through (vi).
- 1649 [~~(141)~~] (142) "Telecommunications equipment, machinery, or software required for 911 service" means  
equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.
- 1652 [~~(142)~~] (143) "Telecommunications maintenance or repair equipment, machinery, or software" means  
equipment, machinery, or software purchased or leased primarily to maintain or repair one or more  
of the following, regardless of whether the equipment, machinery, or software is purchased or leased  
as a spare part or as an upgrade or modification to one or more of the following:
- 1657 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1658 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1659 (c) telecommunications transmission equipment, machinery, or software.
- 1660 [~~(143)~~] (144)
- (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio,  
data, video, voice, or any other information or signal to a point, or among or between points.
- 1663 (b) "Telecommunications service" includes:
- 1664 (i) an electronic conveyance, routing, or transmission with respect to which a computer processing  
application is used to act:
- 1666 (A) on the code, form, or protocol of the content;
- 1667 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 1668 (C) regardless of whether the service:
- 1669 (I) is referred to as voice over [~~Internet~~] internet protocol service; or
- 1670 (II) is classified by the Federal Communications Commission as enhanced or value added;
- 1672 (ii) an 800 service;
- 1673 (iii) a 900 service;
- 1674 (iv) a fixed wireless service;

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- 1675 (v) a mobile wireless service;
- 1676 (vi) a postpaid calling service;
- 1677 (vii) a prepaid calling service;
- 1678 (viii) a prepaid wireless calling service; or
- 1679 (ix) a private communications service.
- 1680 (c) "Telecommunications service" does not include:
- 1681 (i) advertising, including directory advertising;
- 1682 (ii) an ancillary service;
- 1683 (iii) a billing and collection service provided to a third party;
- 1684 (iv) a data processing and information service if:
- 1685 (A) the data processing and information service allows data to be:
- 1686 (I)
- (Aa) acquired;
- 1687 (Bb) generated;
- 1688 (Cc) processed;
- 1689 (Dd) retrieved; or
- 1690 (Ee) stored; and
- 1691 (II) delivered by an electronic transmission to a purchaser; and
- 1692 (B) the purchaser's primary purpose for the underlying transaction is the processed data or information;
- 1694 (v) installation or maintenance of the following on a customer's premises:
- 1695 (A) equipment; or
- 1696 (B) wiring;
- 1697 (vi) [~~Internet~~] internet access service;
- 1698 (vii) a paging service;
- 1699 (viii) a product transferred electronically, including:
- 1700 (A) music;
- 1701 (B) reading material;
- 1702 (C) a ring tone;
- 1703 (D) software; or
- 1704 (E) video;
- 1705 (ix) a radio and television audio and video programming service:

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- 1706 (A) regardless of the medium; and
- 1707 (B) including:
- 1708 (I) furnishing conveyance, routing, or transmission of a television audio and video programming service  
by a programming service provider;
- 1710 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1711 (III) audio and video programming services delivered by a commercial mobile radio service provider as  
defined in 47 C.F.R. Sec. 20.3;
- 1713 (x) a value-added nonvoice data service; or
- 1714 (xi) tangible personal property.
- 1715 [~~(144)~~] (145)
- (a) "Telecommunications service provider" means a person that:
- 1716 (i) owns, controls, operates, or manages a telecommunications service; and
- 1717 (ii) engages in an activity described in Subsection [~~(144)(a)(i)~~] (145)(a)(i) for the shared use with or  
resale to any person of the telecommunications service.
- 1719 (b) A person described in Subsection [~~(144)(a)~~] (145)(a) is a telecommunications service provider  
whether or not the Public Service Commission of Utah regulates:
- 1721 (i) that person; or
- 1722 (ii) the telecommunications service that the person owns, controls, operates, or manages.
- 1724 [~~(145)~~] (146)
- (a) "Telecommunications switching or routing equipment, machinery, or software" means an item  
listed in Subsection [~~(145)(b)~~] (146)(b) if that item is purchased or leased primarily for switching or  
routing:
- 1727 (i) an ancillary service;
- 1728 (ii) data communications;
- 1729 (iii) voice communications; or
- 1730 (iv) telecommunications service.
- 1731 (b) The following apply to Subsection [~~(145)(a)~~] (146)(a):
- 1732 (i) a bridge;
- 1733 (ii) a computer;
- 1734 (iii) a cross connect;
- 1735 (iv) a modem;

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- 1736 (v) a multiplexer;
- 1737 (vi) plug in circuitry;
- 1738 (vii) a router;
- 1739 (viii) software;
- 1740 (ix) a switch; or
- 1741 (x) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(145)(b)(i)~~] (146)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection [~~(145)(e)~~] (146)(c).
- 1744 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(145)(b)(i)~~] (146)(b)(i) through (ix).
- 1748 [~~(146)~~] (147)
- (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection [~~(146)(b)~~] (147)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:
- 1751 (i) an ancillary service;
- 1752 (ii) data communications;
- 1753 (iii) voice communications; or
- 1754 (iv) telecommunications service.
- 1755 (b) The following apply to Subsection [~~(146)(a)~~] (147)(a):
- 1756 (i) an amplifier;
- 1757 (ii) a cable;
- 1758 (iii) a closure;
- 1759 (iv) a conduit;
- 1760 (v) a controller;
- 1761 (vi) a duplexer;
- 1762 (vii) a filter;
- 1763 (viii) an input device;
- 1764 (ix) an input/output device;
- 1765 (x) an insulator;
- 1766 (xi) microwave machinery or equipment;

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- 1767 (xii) an oscillator;
- 1768 (xiii) an output device;
- 1769 (xiv) a pedestal;
- 1770 (xv) a power converter;
- 1771 (xvi) a power supply;
- 1772 (xvii) a radio channel;
- 1773 (xviii) a radio receiver;
- 1774 (xix) a radio transmitter;
- 1775 (xx) a repeater;
- 1776 (xxi) software;
- 1777 (xxii) a terminal;
- 1778 (xxiii) a timing unit;
- 1779 (xxiv) a transformer;
- 1780 (xxv) a wire; or
- 1781 (xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(146)~~  
(b)(i)] (147)(b)(i) through (xxv) as the commission determines by rule made in accordance with  
Subsection [~~(146)~~(e)] (147)(c).
- 1784 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission  
may by rule define what constitutes equipment, machinery, or software that functions similarly to an  
item listed in Subsections [~~(146)~~(b)(i)] (147)(b)(i) through (xxv).
- 1788 [~~(147)~~] (148)
- (a) "Textbook for a higher education course" means a textbook or other printed material that is required  
for a course:
- 1790 (i) offered by an institution of higher education; and
- 1791 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1792 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 1793 [~~(148)~~] (149) "Tobacco" means:
- 1794 (a) a cigarette;
- 1795 (b) a cigar;
- 1796 (c) chewing tobacco;
- 1797 (d) pipe tobacco; or

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- 1798 (e) any other item that contains tobacco.
- 1799 ~~[(149)]~~ (150) "Unassisted amusement device" means an amusement device, skill device, or ride device  
that is started and stopped by the purchaser or renter of the right to use or operate the amusement  
device, skill device, or ride device.
- 1802 ~~[(150)]~~ (151)
- (a) "Use" means the exercise of any right or power over tangible personal property, a product  
transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or  
the leasing of that tangible personal property, product transferred electronically, or service.
- 1806 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a  
product transferred electronically, or a service in the regular course of business and held for resale.
- 1809 ~~[(151)]~~ (152) "Value-added nonvoice data service" means a service:
- 1810 (a) that otherwise meets the definition of a telecommunications service except that a computer  
processing application is used to act primarily for a purpose other than conveyance, routing, or  
transmission; and
- 1813 (b) with respect to which a computer processing application is used to act on data or information:
- 1815 (i) code;
- 1816 (ii) content;
- 1817 (iii) form; or
- 1818 (iv) protocol.
- 1819 ~~[(152)]~~ (153)
- (a) Subject to Subsection ~~[(152)(b)]~~ (153)(b), "vehicle" means the following that are required to be  
titled, registered, or titled and registered:
- 1821 (i) an aircraft as defined in Section 72-10-102;
- 1822 (ii) a vehicle as defined in Section 41-1a-102;
- 1823 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1824 (iv) a vessel as defined in Section 41-1a-102.
- 1825 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1826 (i) a vehicle described in Subsection ~~[(152)(a)]~~ (153)(a); or
- 1827 (ii)
- (A) a locomotive;
- 1828 (B) a freight car;

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- 1829 (C) railroad work equipment; or
- 1830 (D) other railroad rolling stock.
- 1831 [~~(153)~~] (154) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging  
a vehicle as defined in Subsection [~~(152)~~] (153).
- 1833 [~~(154)~~] (155)
- (a) "Vertical service" means an ancillary service that:
- 1834 (i) is offered in connection with one or more telecommunications services; and
- 1835 (ii) offers an advanced calling feature that allows a customer to:
- 1836 (A) identify a caller; and
- 1837 (B) manage multiple calls and call connections.
- 1838 (b) "Vertical service" includes an ancillary service that allows a customer to manage a conference  
bridging service.
- 1840 [~~(155)~~] (156)
- (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a  
recorded message.
- 1842 (b) "Voice mail service" does not include a vertical service that a customer is required to have in order  
to utilize a voice mail service.
- 1844 [~~(156)~~] (157)
- (a) "Waste energy facility" means a facility that generates electricity:
- 1845 (i) using as the primary source of energy waste materials that would be placed in a landfill or refuse  
pit if it were not used to generate electricity, including:
- 1847 (A) tires;
- 1848 (B) waste coal;
- 1849 (C) oil shale; or
- 1850 (D) municipal solid waste; and
- 1851 (ii) in amounts greater than actually required for the operation of the facility.
- 1852 (b) "Waste energy facility" does not include a facility that incinerates:
- 1853 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1854 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1855 [~~(157)~~] (158) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1856 [~~(158)~~] (159) "Wind energy" means wind used as the sole source of energy to produce electricity.

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1858 [(159)] (160) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by  
the United States Postal Service.

1860 Section 5. Section **59-12-104** is amended to read:

1861 **59-12-104. (Effective 07/01/26)Exemptions.**

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

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

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

306 (a) construction materials except:

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

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

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

318 (3)

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

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

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

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

323 (i) food and food ingredients; or

324 (ii) prepared food;

325 (4)

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

326 (i) alcoholic beverages;

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- 327 (ii) food and food ingredients; or  
328 (iii) prepared food;
- 329 (b) sales of tangible personal property or a product transferred electronically:  
330 (i) to a passenger;  
331 (ii) by a commercial airline carrier; and  
332 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or  
333 (c) services related to Subsection (4)(a) or (b);  
334 (5) sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate  
or foreign commerce;
- 336 (6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and  
prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor,  
distributor, or commercial television or radio broadcaster;
- 339 (7)  
(a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing  
of tangible personal property if the cleaning or washing of the tangible personal property is not  
assisted cleaning or washing of tangible personal property;
- 343 (b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal  
property and cleaning or washing of tangible personal property that is not assisted cleaning or  
washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the  
seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal  
property; and
- 348 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative  
Rulemaking Act, the commission may make rules:  
350 (i) governing the circumstances under which sales are at the same business location; and  
352 (ii) establishing the procedures and requirements for a seller to separately account for sales of assisted  
cleaning or washing of tangible personal property;
- 354 (8) sales made to or by religious or charitable institutions in the conduct of their regular religious or  
charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;
- 357 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if:  
359 (a) the sale is not from the vehicle's lessor to the vehicle's lessee;  
360 (b) the vehicle is not registered in this state; and

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- 361 (c)
- 362 (i) the vehicle is not used in this state; or
  - 363 (ii) the vehicle is used in this state:
    - 364 (A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:
      - 365 (I) 30 days in any calendar year; or
      - 366 (II) the time period necessary to transport the vehicle to the borders of this state; or
    - 367 (B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;
- 370 (10)
- 371 (a) amounts paid for an item described in Subsection (10)(b) if:
    - 372 (i) the item is intended for human use; and
    - 373 (ii)
      - 374 (A) a prescription was issued for the item; or
      - 375 (B) the item was purchased by a hospital or other medical facility; and
  - 376 (b)
    - 377 (i) Subsection (10)(a) applies to:
      - 378 (A) a drug;
      - 379 (B) a syringe; or
      - 380 (C) a stoma supply; and
    - 381 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:
      - 382 (A) "syringe"; or
      - 383 (B) "stoma supply";
- 384 (11) purchases or leases exempt under Section 19-12-201;
- 385 (12)
- 386 (a) sales of an item described in Subsection (12)(c) served by:
    - 387 (i) the following if the item described in Subsection (12)(c) is not available to the general public:
      - 388 (A) a church; or
      - 389 (B) a charitable institution; or
    - 390 (ii) an institution of higher education if:
      - 391 (A) the item described in Subsection (12)(c) is not available to the general public; or

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- 391 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the  
institution of higher education;
- 393 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 394 (i) a medical facility; or
- 395 (ii) a nursing facility; and
- 396 (c) Subsections (12)(a) and (b) apply to:
- 397 (i) food and food ingredients;
- 398 (ii) prepared food; or
- 399 (iii) alcoholic beverages;
- 400 (13)
- (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product  
transferred electronically by a person:
- 402 (i) regardless of the number of transactions involving the sale of that tangible personal property or  
product transferred electronically by that person; and
- 404 (ii) not regularly engaged in the business of selling that type of tangible personal property or  
product transferred electronically;
- 406 (b) this Subsection (13) does not apply if:
- 407 (i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the  
business of selling that type of tangible personal property or product transferred electronically;
- 410 (ii) the person holds that person out as regularly engaged in the business of selling that type of tangible  
personal property or product transferred electronically;
- 412 (iii) the person sells an item of tangible personal property or product transferred electronically that the  
person purchased as a sale that is exempt under Subsection (25); or
- 415 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in  
which case the tax is based upon:
- 417 (A) the bill of sale, lease agreement, or other written evidence of value of the vehicle or vessel being  
sold; or
- 419 (B) in the absence of a bill of sale, lease agreement, or other written evidence of value, the fair market  
value of the vehicle or vessel being sold at the time of the sale as determined by the commission;  
and
- 422

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- (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:
- 424 (i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;
- 426 (ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or
- 430 (iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;
- 432 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:
- 435 (a) a manufacturing facility that:
- 436 (i) is located in the state; and
- 437 (ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:
- 439 (A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
- 442 (B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 445 (b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
- 447 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
- 452 (ii) is located in the state; and
- 453 (iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:
- 455

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- (A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 458 (B) research and development, as the commission may define that phrase in accordance with Title 63G,  
Chapter 3, Utah Administrative Rulemaking Act;
- 460 (C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from  
mining;
- 462 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or
- 464 (E) preventing, controlling, or reducing dust or other pollutants from mining; or
- 465 (c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah  
Administrative Rulemaking Act, that:
- 467 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry  
Classification System of the federal Executive Office of the President, Office of Management and  
Budget;
- 470 (ii) is located in the state; and
- 471 (iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or  
materials in the operation of the web search portal;
- 473 (15)
- (a) sales of the following if the requirements of Subsection (15)(b) are met:
- 474 (i) tooling;
- 475 (ii) special tooling;
- 476 (iii) support equipment;
- 477 (iv) special test equipment; or
- 478 (v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)  
(i) through (iv); and
- 480 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
- 481 (i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any  
aerospace or electronics industry contract with the United States government or any subcontract  
under that contract; and
- 484 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling,  
equipment, or parts is vested in the United States government as evidenced by:

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- 487 (A) a government identification tag placed on the tooling, equipment, or parts; or  
488 (B) listing on a government-approved property record if placing a government identification tag on the  
tooling, equipment, or parts is impractical;
- 490 (16) sales of newspapers or newspaper subscriptions;  
491 (17)
- (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred  
electronically traded in as full or part payment of the purchase price, except that for purposes of  
calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other  
vehicles only, and the tax is based upon:
- 495 (i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being  
traded in; or  
497 (ii) in the absence of a bill of sale or other written evidence of value, the then existing fair  
market value of the vehicle being sold and the vehicle being traded in, as determined by the  
commission; and
- 500 (b) Subsection (17)(a) does not apply to the following items of tangible personal property or products  
transferred electronically traded in as full or part payment of the purchase price:
- 503 (i) money;  
504 (ii) electricity;  
505 (iii) water;  
506 (iv) gas; or  
507 (v) steam;  
508 (18)
- (a)
- (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product  
transferred electronically used or consumed primarily and directly in farming operations,  
regardless of whether the tangible personal property or product transferred electronically:
- 512 (A) becomes part of real estate; or  
513 (B) is installed by a farmer, contractor, or subcontractor; or  
514 (ii) sales of parts used in the repairs or renovations of tangible personal property or a product  
transferred electronically if the tangible personal property or product transferred electronically  
is exempt under Subsection (18)(a)(i); and

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- 517 (b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:  
519 (i)  
(A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a  
manner that is incidental to farming; and  
521 (B) tangible personal property that is considered to be used in a manner that is incidental to farming  
includes:  
523 (I) hand tools; or  
524 (II) maintenance and janitorial equipment and supplies;  
525 (ii)  
(A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred  
electronically if the tangible personal property or product transferred electronically is used in an  
activity other than farming; and  
528 (B) tangible personal property or a product transferred electronically that is considered to be used in an  
activity other than farming includes:  
530 (I) office equipment and supplies; or  
531 (II) equipment and supplies used in:  
532 (Aa) the sale or distribution of farm products;  
533 (Bb) research; or  
534 (Cc) transportation; or  
535 (iii) a vehicle required to be registered by the laws of this state during the period ending two years after  
the date of the vehicle's purchase;  
537 (19) sales of hay;  
538 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or  
other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other  
agricultural produce is sold by:  
541 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;  
543 (b) an employee of the producer described in Subsection (20)(a); or  
544 (c) a member of the immediate family of the producer described in Subsection (20)(a);  
545 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food  
Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

547

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

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

552 (24)

(a) purchases of a product if:

553 (i) the product is:

554 (A) purchased outside of this state;

555 (B) brought into this state:

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

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

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

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

563 (ii) for:

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

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

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

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

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

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

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

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

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

580

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- (iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);
- 582 (25) a product purchased for resale in the regular course of business, either in the product's original form or as an ingredient or component part of a manufactured or compounded product;
- 585 (26) a product upon which a sales or use tax was paid to some other state, or one of another state's subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;
- 590 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;
- 592 (28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;
- 594 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;
- 598 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
- 601 (a) not registered in this state; and
- 602 (b)
- (i) not used in this state; or
- 603 (ii) used in this state:
- 604 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:
- 606 (I) 30 days in any calendar year; or
- 607 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or
- 609 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;
- 612 (31) sales of aircraft manufactured in Utah;
- 613

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- (32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;
- 615 (33) sales, leases, or uses of the following:
- 616 (a) a vehicle by an authorized carrier; or
- 617 (b) tangible personal property that is installed on a vehicle:
- 618 (i) sold or leased to or used by an authorized carrier; and
- 619 (ii) before the vehicle is placed in service for the first time;
- 620 (34)
- (a) 45% of the sales price of any new manufactured home; and
- 621 (b) 100% of the sales price of any used manufactured home;
- 622 (35) sales relating to schools and fundraising sales;
- 623 (36) sales or rentals of durable medical equipment if:
- 624 (a) a person presents a prescription for the durable medical equipment; and
- 625 (b) the durable medical equipment is used for home use only;
- 626 (37)
- (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and
- 628 (b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 631 (38) sales to a ski resort of:
- 632 (a) snowmaking equipment;
- 633 (b) ski slope grooming equipment;
- 634 (c) passenger ropeways as defined in Section 72-11-102; or
- 635 (d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);
- 637 (39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 639 (40)
- (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;
- 642

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- (b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and
- 648 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah  
Administrative Rulemaking Act, the commission may make rules:
- 650 (i) governing the circumstances under which sales are at the same business location; and
- 652 (ii) establishing the procedures and requirements for a seller to separately account for the sales or  
rentals of the right to use or operate for amusement, entertainment, or recreation for assisted  
amusement devices;
- 655 (41)
- (a) sales of photocopies by:
- 656 (i) a governmental entity; or
- 657 (ii) an entity within the state system of public education, including:
- 658 (A) a school; or
- 659 (B) the State Board of Education; or
- 660 (b) sales of publications by a governmental entity;
- 661 (42) amounts paid for admission to an athletic event at an institution of higher education that is subject  
to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;
- 664 (43)
- (a) sales made to or by:
- 665 (i) an area agency on aging; or
- 666 (ii) a senior citizen center owned by a county, city, or town; or
- 667 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 668 (44) sales or leases of semiconductor fabricating, processing, research, or development materials  
regardless of whether the semiconductor fabricating, processing, research, or development  
materials:
- 671 (a) actually come into contact with a semiconductor; or
- 672 (b) ultimately become incorporated into real property;
- 673

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- (45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;
- 676 (46) the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;
- 679 (47)
- (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and
- 683 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;
- 687 (48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;
- 689 (49) sales of water in a:
- 690 (a) pipe;
- 691 (b) conduit;
- 692 (c) ditch; or
- 693 (d) reservoir;
- 694 (50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;
- 696 (51)
- (a) sales of an item described in Subsection (51)(b) if the item:
- 697 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 699 (ii) has a gold, silver, or platinum content of 50% or more; and
- 700 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 701 (i) ingot;
- 702 (ii) bar;
- 703 (iii) medallion; or
- 704 (iv) decorative coin;

## SB0217 compared with SB0217S01

- 705 (52) amounts paid on a sale-leaseback transaction;
- 706 (53) sales of a prosthetic device:
- 707 (a) for use on or in a human; and
- 708 (b)
- (i) for which a prescription is required; or
- 709 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 710 (54)
- (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:
- 714 (i) a motion picture;
- 715 (ii) a television program;
- 716 (iii) a movie made for television;
- 717 (iv) a music video;
- 718 (v) a commercial;
- 719 (vi) a documentary; or
- 720 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d);
- 722 (b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:
- 725 (i) a live musical performance;
- 726 (ii) a live news program; or
- 727 (iii) a live sporting event;
- 728 (c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):
- 731 (i) NAICS Code 512110; or
- 732 (ii) NAICS Code 51219; and
- 733 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

## SB0217 compared with SB0217S01

- 735 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or  
737 (ii) define:
- 738 (A) "commercial distribution";  
739 (B) "live musical performance";  
740 (C) "live news program"; or  
741 (D) "live sporting event";  
742 (55)
- (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:
- 744 (i) is leased or purchased for or by a facility that:
- 745 (A) is an alternative energy electricity production facility;  
746 (B) is located in the state; and  
747 (C)  
(I) becomes operational on or after July 1, 2004; or  
748 (II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;
- 750 (ii) has an economic life of five or more years; and  
751 (iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:
- 754 (A) a wind turbine;  
755 (B) generating equipment;  
756 (C) a control and monitoring system;  
757 (D) a power line;  
758 (E) substation equipment;  
759 (F) lighting;  
760 (G) fencing;  
761 (H) pipes; or  
762 (I) other equipment used for locating a power line or pole; and  
763 (b) this Subsection (55) does not apply to:  
764 (i) tangible personal property used in construction of:

## SB0217 compared with SB0217S01

- 765 (A) a new alternative energy electricity production facility; or  
766 (B) the increase in the capacity of an alternative energy electricity production facility;  
768 (ii) contracted services required for construction and routine maintenance activities; and  
770 (iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility  
described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:  
773 (A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational  
as described in Subsection (55)(a)(iii); or  
775 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection  
(55)(a)(iii);  
777 (56)  
(a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30,  
2027, of tangible personal property that:  
779 (i) is leased or purchased for or by a facility that:  
780 (A) is a waste energy production facility;  
781 (B) is located in the state; and  
782 (C)  
(I) becomes operational on or after July 1, 2004; or  
783 (II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result  
of the use of the tangible personal property;  
785 (ii) has an economic life of five or more years; and  
786 (iii) is used to make the facility or the increase in capacity of the facility described in Subsection  
(56)(a)(i) operational up to the point of interconnection with an existing transmission grid  
including:  
789 (A) generating equipment;  
790 (B) a control and monitoring system;  
791 (C) a power line;  
792 (D) substation equipment;  
793 (E) lighting;  
794 (F) fencing;  
795 (G) pipes; or  
796 (H) other equipment used for locating a power line or pole; and

## SB0217 compared with SB0217S01

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

## SB0217 compared with SB0217S01

- (iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
- 831 (A) the facility described in Subsection (57)(a)(i) is operational; or
- 832 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
- 833 (58)
- (a) subject to Subsection (58)(b), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state; and
- 838 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter;
- 843 (59) purchases:
- 844 (a) of one or more of the following items in printed or electronic format:
- 845 (i) a list containing information that includes one or more:
- 846 (A) names; or
- 847 (B) addresses; or
- 848 (ii) a database containing information that includes one or more:
- 849 (A) names; or
- 850 (B) addresses; and
- 851 (b) used to send direct mail;
- 852 (60) redemptions or repurchases of a product by a person if that product was:
- 853 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 854 (b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;
- 856 (61)
- (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 857 (i) is purchased or leased by, or on behalf of, a telecommunications service provider; and
- 859 (ii) has a useful economic life of one or more years; and
- 860 (b) the following apply to Subsection (61)(a):

## SB0217 compared with SB0217S01

- 861 (i) telecommunications enabling or facilitating equipment, machinery, or software;  
862 (ii) telecommunications equipment, machinery, or software required for 911 service;  
863 (iii) telecommunications maintenance or repair equipment, machinery, or software;  
864 (iv) telecommunications switching or routing equipment, machinery, or software; or  
865 (v) telecommunications transmission equipment, machinery, or software;  
866 (62)  
(a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property  
or a product transferred electronically that are used in the research and development of alternative  
energy technology; and  
869 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission  
may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of  
tangible personal property or a product transferred electronically that are used in the research and  
development of alternative energy technology;
- 874 (63)  
(a) purchases of tangible personal property or a product transferred electronically if:  
875 (i) the tangible personal property or product transferred electronically is:  
876 (A) purchased outside of this state;  
877 (B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and  
879 (C) used in conducting business in this state; and  
880 (ii) for:  
881 (A) tangible personal property or a product transferred electronically other than the tangible personal  
property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which  
the property is designed occurs outside of this state; or  
885 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this  
state and not required to be registered in this state under Section 41-1a-202 or 73-18-9 based on  
residency;
- 888 (b) the exemption provided for in Subsection (63)(a) does not apply to:  
889 (i) a lease or rental of tangible personal property or a product transferred electronically; or  
891 (ii) a sale of a vehicle exempt under Subsection (33); and  
892 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of  
Subsection (63)(a), the commission may by rule define what constitutes the following:

## SB0217 compared with SB0217S01

- 895 (i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in  
Subsection (24);
- 897 (ii) the first use of tangible personal property or a product transferred electronically if that phrase has  
the same meaning in this Subsection (63) as in Subsection (24); or
- 899 (iii) a purpose for which tangible personal property or a product transferred electronically is designed if  
that phrase has the same meaning in this Subsection (63) as in Subsection (24);
- 902 (64) sales of disposable home medical equipment or supplies if:
- 903 (a) a person presents a prescription for the disposable home medical equipment or supplies;
- 905 (b) the disposable home medical equipment or supplies are used exclusively by the person to whom the  
prescription described in Subsection (64)(a) is issued; and
- 907 (c) the disposable home medical equipment and supplies are listed as eligible for payment under:
- 909 (i) Title XVIII, federal Social Security Act; or
- 910 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 911 (65) sales:
- 912 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or
- 914 (b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal  
property is:
- 916 (i) clearly identified; and
- 917 (ii) installed or converted to real property owned by the public transit district;
- 918 (66) sales of construction materials:
- 919 (a) purchased on or after July 1, 2010;
- 920 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 921 (i) located within a county of the first class; and
- 922 (ii) that has a United States customs office on its premises; and
- 923 (c) if the construction materials are:
- 924 (i) clearly identified;
- 925 (ii) segregated; and
- 926 (iii) installed or converted to real property:
- 927 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 929 (B) located at the international airport described in Subsection (66)(b);
- 930 (67) sales of construction materials:

## SB0217 compared with SB0217S01

- 931 (a) purchased on or after July 1, 2008;
- 932 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 933 (i) located within a county of the second or third class, as classified in Section 17-60-104; and
- 935 (ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is  
headquartered; and
- 937 (c) if the construction materials are:
- 938 (i) clearly identified;
- 939 (ii) segregated; and
- 940 (iii) installed or converted to real property:
- 941 (A) owned or operated by the new airport described in Subsection (67)(b);
- 942 (B) located at the new airport described in Subsection (67)(b); and
- 943 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 944 (68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a common carrier that is  
a railroad for use in a locomotive engine;
- 946 (69) purchases and sales described in Section 63H-4-111;
- 947 (70)
- (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use  
in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered  
aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than  
this state as the location of registry of the fixed wing turbine powered aircraft; or
- 952 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in  
connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing  
turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or  
country other than this state as the location of registry of the fixed wing turbine powered aircraft;
- 957 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
- 958 (a) to a person admitted to an institution of higher education; and
- 959 (b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more  
of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher  
education course;
- 962

## SB0217 compared with SB0217S01

- (72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;
- 965 (73) amounts paid or charged for construction materials used in the construction of a new or expanding  
life science research and development facility in the state, if the construction materials are:
- 968 (a) clearly identified;
- 969 (b) segregated; and
- 970 (c) installed or converted to real property;
- 971 (74) amounts paid or charged for:
- 972 (a) a purchase or lease of machinery and equipment that:
- 973 (i) are used in performing qualified research:
- 974 (A) as defined in Section 41(d), Internal Revenue Code; and
- 975 (B) in the state; and
- 976 (ii) have an economic life of three or more years; and
- 977 (b) normal operating repair or replacement parts:
- 978 (i) for the machinery and equipment described in Subsection (74)(a); and
- 979 (ii) that have an economic life of three or more years;
- 980 (75) a sale or lease of tangible personal property used in the preparation of prepared food if:
- 981 (a) for a sale:
- 982 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 983 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal  
property prior to making the sale; or
- 985 (b) for a lease:
- 986 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 987 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal  
property prior to making the lease;
- 989 (76)
- (a) purchases of machinery or equipment if:
- 990 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling,  
and Recreation Industries, of the 2012 North American Industry Classification System of the  
federal Executive Office of the President, Office of Management and Budget;

## SB0217 compared with SB0217S01

- 994 (ii) the machinery or equipment:
- 995 (A) has an economic life of three or more years; and
- 996 (B) is used by one or more persons who pay admission or user fees described in Subsection  
59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- 999 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 1000 (A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
- 1002 (B) subject to taxation under this chapter; and
- 1003 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission  
may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar  
quarter is:
- 1006 (i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
- 1008 (ii) subject to taxation under this chapter;
- 1009 (77) purchases of a short-term lodging consumable by a business that provides accommodations and  
services described in Subsection 59-12-103(1)(i);
- 1011 (78) amounts paid or charged to access a database:
- 1012 (a) if the primary purpose for accessing the database is to view or retrieve information from the  
database; and
- 1014 (b) not including amounts paid or charged for a:
- 1015 (i) digital audio work;
- 1016 (ii) digital audio-visual work; or
- 1017 (iii) digital book;
- 1018 (79) amounts paid or charged for a purchase or lease made by an electronic financial payment service,  
of:
- 1020 (a) machinery and equipment that:
- 1021 (i) are used in the operation of the electronic financial payment service; and
- 1022 (ii) have an economic life of three or more years; and
- 1023 (b) normal operating repair or replacement parts that:
- 1024 (i) are used in the operation of the electronic financial payment service; and
- 1025 (ii) have an economic life of three or more years;
- 1026 (80) sales of a fuel cell as defined in Section 54-15-102;
- 1027

## SB0217 compared with SB0217S01

- (81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:
- 1030 (a) is stored, used, or consumed in the state; and
- 1031 (b) is temporarily brought into the state from another state:
- 1032 (i) during a disaster period as defined in Section 53-2a-1202;
- 1033 (ii) by an out-of-state business as defined in Section 53-2a-1202;
- 1034 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- 1035 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- 1036 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39A-7-102, made ~~[pursuant to]~~ in accordance with Title 39A, Chapter 7, Morale, Welfare, and Recreation Program;
- 1039 (83) amounts paid or charged for a purchase or lease of molten magnesium;
- 1040 (84) amounts paid or charged for a purchase or lease made by a qualifying data center or an occupant of a qualifying data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:
- 1044 (a) are used in:
- 1045 (i) the operation of the qualifying data center; or
- 1046 (ii) the occupant's operations in the qualifying data center; and
- 1047 (b) have an economic life of one or more years;
- 1048 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;
- 1050 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:
- 1053 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 79-6-701 located in the state;
- 1055 (b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:
- 1057 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;
- 1059 (ii) research and development;
- 1060

## SB0217 compared with SB0217S01

- (iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;
- 1063 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or
- 1065 (v) preventing, controlling, or reducing pollutants from refining; and
- 1066 (c) if the person holds a valid refiner tax exemption certification as defined in Section 79-6-701;
- 1068 (87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;
- 1071 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
  - 1075 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
  - 1078 (b) is located in this state; and
  - 1079 (c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment;
- 1081 (89) amounts paid or charged for an item exempt under Section 59-12-104.10;
- 1082 (90) sales of a note, leaf, foil, or film, if the item:
  - 1083 (a) is used as currency;
  - 1084 (b) does not constitute legal tender of a state, the United States, or a foreign nation; and
  - 1085 (c) has a gold, silver, or platinum metallic content of 50% or more, exclusive of any transparent polymer holder, coating, or encasement;
- 1087 (91) amounts paid or charged for admission to an indoor skydiving, rock climbing, or surfing facility, if a trained instructor:
  - 1089 (a) is present with the participant, in person or by video, for the duration of the activity; and
  - 1091 (b) actively instructs the participant, including providing observation or feedback;
- 1092 (92) amounts paid or charged in connection with the construction, operation, maintenance, repair, or replacement of facilities owned by or constructed for:

## SB0217 compared with SB0217S01

- 1094 (a) a distribution electrical cooperative, as defined in Section 54-2-1; or
- 1095 (b) a wholesale electrical cooperative, as defined in Section 54-2-1;
- 1096 (93) amounts paid by the service provider for tangible personal property, other than machinery,  
equipment, parts, office supplies, electricity, gas, heat, steam, or other fuels, that:
- 1099 (a) is consumed in the performance of a service that is subject to tax under Subsection 59-12-103(1)(b),  
(f), (g), (h), (i), or (j);
- 1101 (b) has to be consumed for the service provider to provide the service described in Subsection (93)(a);  
and
- 1103 (c) will be consumed in the performance of the service described in Subsection (93)(a), to one or more  
customers, to the point that the tangible personal property disappears or cannot be used for any other  
purpose;
- 1106 (94) sales of rail rolling stock manufactured in Utah;
- 1107 (95) amounts paid or charged for sales of sand, gravel, rock aggregate, cement products, or construction  
materials between establishments, as the commission defines that term in accordance with Title  
63G, Chapter 3, Utah Administrative Rulemaking Act, if:
- 1110 (a) the establishments are related directly or indirectly through 100% common ownership or control;  
and
- 1112 (b) each establishment is described in one of the following subsectors of the 2022 North American  
Industry Classification System of the federal Executive Office of the President, Office of  
Management and Budget:
- 1115 (i) NAICS Subsector 237, Heavy and Civil Engineering Construction; or
- 1116 (ii) NAICS Subsector 327, Nonmetallic Mineral Product Manufacturing;
- 1117 (96) sales of construction materials used for the construction of a qualified stadium, as defined in  
Section 11-70-101;
- 1119 (97) amounts paid or charged for sales of a cannabinoid product as that term is defined in Section  
4-41-102;
- 1121 (98) amounts paid or charged by an operator of a qualifying energy storage manufacturing facility for:
- 1123 (a) a purchase of tangible personal property if the tangible personal property is incorporated  
into equipment or a device that stores and discharges energy at the qualifying energy storage  
manufacturing facility; and
- 1126

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(b) a purchase or lease of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts are used exclusively in the operation of the qualifying energy storage manufacturing facility;

1130 (99) amounts paid or charged for sales of adaptive driving equipment if the adaptive driving equipment is not yet installed in a motor vehicle;

1132 (100) amounts paid or charged for sales of adaptive driving equipment if the adaptive driving equipment is installed in a motor vehicle by a previous owner and the requirements of Section 59-12-104.11 are met;[-and]

1135 (101) sales of construction materials used for the construction, remodeling, or refurbishing of a major sporting event venue, as defined in Section 63N-3-1701, within an approved major sporting event venue zone[-]; and

1138 ~~{(102) {sales of a homemade food product at a direct-to-sale farmers market or direct-to-sale location, as defined in Section 4-5a-102.}}~~

2699 (102) sales of food and food ingredients or prepared food by a home cook.

2700 Section 6. **Repealer.**

This Bill Repeals:

1142 Section **4-3-503, Sale of raw milk products -- Suspension of producer's permit --**

1143 **Severability not permitted.**

2701 This bill repeals:

2702 Section **4-5a-101, Title.**

2703 Section 7. **Effective date.**

Effective Date.

~~{This}~~ Except as provided in Subsection (2), this bill takes effect ~~{on}~~ May 6, 2026.

2705 (2) The actions affecting the following sections take effect on July 1, 2026:

2706 (a) Section 59-12-102 (Effective 07/01/26); and

2707 (b) Section 59-12-104 (Effective 07/01/26).

2-22-26 5:31 PM