

1 **SALES AND USE TAX EXEMPTION AMENDMENTS**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4
5 **LONG TITLE**

6 **General Description:**

7 This bill amends a sales and use tax exemption for certain manufacturing, processing,
8 producing, operating, or research and development activities.

9 **Highlighted Provisions:**

10 This bill:

- 11 ▶ amends a definition;
- 12 ▶ repeals a requirement related to the economic life of certain machinery, equipment,
13 or repair or replacement parts for purposes of a sales and use tax exemption for
14 certain manufacturing, processing, producing, operating, or research and
15 development activities;
- 16 ▶ repeals obsolete language; and
- 17 ▶ makes technical and conforming changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 This bill takes effect on July 1, 2014.

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **59-12-102 (Effective 07/01/14)**, as last amended by Laws of Utah 2013, Chapters 229,
25 234, 266, and 441

26 **59-12-104**, as last amended by Laws of Utah 2013, Chapters 82, 223, 229, 234, and 441

27
28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **59-12-102 (Effective 07/01/14)** is amended to read:

30 **59-12-102 (Effective 07/01/14). Definitions.**

31 As used in this chapter:

32 (1) "800 service" means a telecommunications service that:

- 33 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
34 (b) is typically marketed:
- 35 (i) under the name 800 toll-free calling;
 - 36 (ii) under the name 855 toll-free calling;
 - 37 (iii) under the name 866 toll-free calling;
 - 38 (iv) under the name 877 toll-free calling;
 - 39 (v) under the name 888 toll-free calling; or
 - 40 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
41 Federal Communications Commission.
- 42 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 43 (i) a subscriber purchases;
 - 44 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
45 the subscriber's:
- 46 (A) prerecorded announcement; or
 - 47 (B) live service; and
 - 48 (iii) is typically marketed:
- 49 (A) under the name 900 service; or
 - 50 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
51 Communications Commission.
- 52 (b) "900 service" does not include a charge for:
- 53 (i) a collection service a seller of a telecommunications service provides to a
54 subscriber; or
 - 55 (ii) the following a subscriber sells to the subscriber's customer:
- 56 (A) a product; or
 - 57 (B) a service.
- 58 (3) (a) "Admission or user fees" includes season passes.
- 59 (b) "Admission or user fees" does not include annual membership dues to private
60 organizations.
- 61 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
62 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
63 Agreement after November 12, 2002.

- 64 (5) "Agreement combined tax rate" means the sum of the tax rates:
65 (a) listed under Subsection (6); and
66 (b) that are imposed within a local taxing jurisdiction.
- 67 (6) "Agreement sales and use tax" means a tax imposed under:
68 (a) Subsection 59-12-103(2)(a)(i)(A);
69 (b) Subsection 59-12-103(2)(b)(i);
70 (c) Subsection 59-12-103(2)(c)(i);
71 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
72 (e) Section 59-12-204;
73 (f) Section 59-12-401;
74 (g) Section 59-12-402;
75 (h) Section 59-12-703;
76 (i) Section 59-12-802;
77 (j) Section 59-12-804;
78 (k) Section 59-12-1102;
79 (l) Section 59-12-1302;
80 (m) Section 59-12-1402;
81 (n) Section 59-12-1802;
82 (o) Section 59-12-2003;
83 (p) Section 59-12-2103;
84 (q) Section 59-12-2213;
85 (r) Section 59-12-2214;
86 (s) Section 59-12-2215;
87 (t) Section 59-12-2216;
88 (u) Section 59-12-2217; or
89 (v) Section 59-12-2218.
- 90 (7) "Aircraft" is as defined in Section 72-10-102.
- 91 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
92 (a) except for:
93 (i) an airline as defined in Section 59-2-102; or
94 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"

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

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

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

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

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

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

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

106 (A) an inspection;

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

108 (C) changing landing gear; and

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

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

112 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
113 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
114 authority that certifies the fixed wing turbine powered aircraft.

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

116 (a) is suitable for human consumption; and

117 (b) contains .5% or more alcohol by volume.

118 (10) "Alternative energy" means:

119 (a) biomass energy;

120 (b) geothermal energy;

121 (c) hydroelectric energy;

122 (d) solar energy;

123 (e) wind energy; or

124 (f) energy that is derived from:

125 (i) coal-to-liquids;

- 126 (ii) nuclear fuel;
- 127 (iii) oil-impregnated diatomaceous earth;
- 128 (iv) oil sands;
- 129 (v) oil shale; or
- 130 (vi) petroleum coke.
- 131 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 132 facility" means a facility that:
- 133 (i) uses alternative energy to produce electricity; and
- 134 (ii) has a production capacity of two megawatts or greater.
- 135 (b) A facility is an alternative energy electricity production facility regardless of
- 136 whether the facility is:
- 137 (i) connected to an electric grid; or
- 138 (ii) located on the premises of an electricity consumer.
- 139 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 140 provision of telecommunications service.
- 141 (b) "Ancillary service" includes:
- 142 (i) a conference bridging service;
- 143 (ii) a detailed communications billing service;
- 144 (iii) directory assistance;
- 145 (iv) a vertical service; or
- 146 (v) a voice mail service.
- 147 (13) "Area agency on aging" is as defined in Section 62A-3-101.
- 148 (14) "Assisted amusement device" means an amusement device, skill device, or ride
- 149 device that is started and stopped by an individual:
- 150 (a) who is not the purchaser or renter of the right to use or operate the amusement
- 151 device, skill device, or ride device; and
- 152 (b) at the direction of the seller of the right to use the amusement device, skill device,
- 153 or ride device.
- 154 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
- 155 washing of tangible personal property if the cleaning or washing labor is primarily performed
- 156 by an individual:

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

159 (b) at the direction of the seller of the cleaning or washing of the tangible personal
160 property.

161 (16) "Authorized carrier" means:

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

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

167 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
168 stock, the holder of a certificate issued by the United States Surface Transportation Board.

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

171 (i) material from a plant or tree; or

172 (ii) other organic matter that is available on a renewable basis, including:

173 (A) slash and brush from forests and woodlands;

174 (B) animal waste;

175 (C) methane produced:

176 (I) at landfills; or

177 (II) as a byproduct of the treatment of wastewater residuals;

178 (D) aquatic plants; and

179 (E) agricultural products.

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

181 (i) black liquor;

182 (ii) treated woods; or

183 (iii) biomass from municipal solid waste other than methane produced:

184 (A) at landfills; or

185 (B) as a byproduct of the treatment of wastewater residuals.

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

- 188 (i) distinct and identifiable; and
- 189 (ii) sold for one nonitemized price.
- 190 (b) "Bundled transaction" does not include:
- 191 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 192 the basis of the selection by the purchaser of the items of tangible personal property included in
- 193 the transaction;
- 194 (ii) the sale of real property;
- 195 (iii) the sale of services to real property;
- 196 (iv) the retail sale of tangible personal property and a service if:
- 197 (A) the tangible personal property:
- 198 (I) is essential to the use of the service; and
- 199 (II) is provided exclusively in connection with the service; and
- 200 (B) the service is the true object of the transaction;
- 201 (v) the retail sale of two services if:
- 202 (A) one service is provided that is essential to the use or receipt of a second service;
- 203 (B) the first service is provided exclusively in connection with the second service; and
- 204 (C) the second service is the true object of the transaction;
- 205 (vi) a transaction that includes tangible personal property or a product subject to
- 206 taxation under this chapter and tangible personal property or a product that is not subject to
- 207 taxation under this chapter if the:
- 208 (A) seller's purchase price of the tangible personal property or product subject to
- 209 taxation under this chapter is de minimis; or
- 210 (B) seller's sales price of the tangible personal property or product subject to taxation
- 211 under this chapter is de minimis; and
- 212 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 213 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 214 (A) that retail sale includes:
- 215 (I) food and food ingredients;
- 216 (II) a drug;
- 217 (III) durable medical equipment;
- 218 (IV) mobility enhancing equipment;

- 219 (V) an over-the-counter drug;
- 220 (VI) a prosthetic device; or
- 221 (VII) a medical supply; and
- 222 (B) subject to Subsection (18)(f):
- 223 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 224 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 225 (II) the seller's sales price of the tangible personal property subject to taxation under
- 226 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 227 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
- 228 service that is distinct and identifiable does not include:
- 229 (A) packaging that:
- 230 (I) accompanies the sale of the tangible personal property, product, or service; and
- 231 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
- 232 service;
- 233 (B) tangible personal property, a product, or a service provided free of charge with the
- 234 purchase of another item of tangible personal property, a product, or a service; or
- 235 (C) an item of tangible personal property, a product, or a service included in the
- 236 definition of "purchase price."
- 237 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
- 238 product, or a service is provided free of charge with the purchase of another item of tangible
- 239 personal property, a product, or a service if the sales price of the purchased item of tangible
- 240 personal property, product, or service does not vary depending on the inclusion of the tangible
- 241 personal property, product, or service provided free of charge.
- 242 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
- 243 does not include a price that is separately identified by tangible personal property, product, or
- 244 service on the following, regardless of whether the following is in paper format or electronic
- 245 format:
- 246 (A) a binding sales document; or
- 247 (B) another supporting sales-related document that is available to a purchaser.
- 248 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
- 249 supporting sales-related document that is available to a purchaser includes:

- 250 (A) a bill of sale;
- 251 (B) a contract;
- 252 (C) an invoice;
- 253 (D) a lease agreement;
- 254 (E) a periodic notice of rates and services;
- 255 (F) a price list;
- 256 (G) a rate card;
- 257 (H) a receipt; or
- 258 (I) a service agreement.
- 259 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
- 260 property or a product subject to taxation under this chapter is de minimis if:
- 261 (A) the seller's purchase price of the tangible personal property or product is 10% or
- 262 less of the seller's total purchase price of the bundled transaction; or
- 263 (B) the seller's sales price of the tangible personal property or product is 10% or less of
- 264 the seller's total sales price of the bundled transaction.
- 265 (ii) For purposes of Subsection (18)(b)(vi), a seller:
- 266 (A) shall use the seller's purchase price or the seller's sales price to determine if the
- 267 purchase price or sales price of the tangible personal property or product subject to taxation
- 268 under this chapter is de minimis; and
- 269 (B) may not use a combination of the seller's purchase price and the seller's sales price
- 270 to determine if the purchase price or sales price of the tangible personal property or product
- 271 subject to taxation under this chapter is de minimis.
- 272 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
- 273 contract to determine if the sales price of tangible personal property or a product is de minimis.
- 274 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
- 275 the seller's purchase price and the seller's sales price to determine if tangible personal property
- 276 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
- 277 price of that retail sale.
- 278 (19) "Certified automated system" means software certified by the governing board of
- 279 the agreement that:
- 280 (a) calculates the agreement sales and use tax imposed within a local taxing

281 jurisdiction:

282 (i) on a transaction; and

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

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

286 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

287 (20) "Certified service provider" means an agent certified:

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

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

292 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
293 suitable for general use.

294 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
295 commission shall make rules:

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

297 (ii) that are consistent with the list of items that constitute "clothing" under the
298 agreement.

299 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

300 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
301 fuels that does not constitute industrial use under Subsection (55) or residential use under
302 Subsection (105).

303 (24) (a) "Common carrier" means a person engaged in or transacting the business of
304 transporting passengers, freight, merchandise, or other property for hire within this state.

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

308 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
309 Utah Administrative Rulemaking Act, the commission may make rules defining what
310 constitutes a person's place of employment.

311 (25) "Component part" includes:

312 (a) poultry, dairy, and other livestock feed, and their components;
313 (b) baling ties and twine used in the baling of hay and straw;
314 (c) fuel used for providing temperature control of orchards and commercial
315 greenhouses doing a majority of their business in wholesale sales, and for providing power for
316 off-highway type farm machinery; and

317 (d) feed, seeds, and seedlings.

318 (26) "Computer" means an electronic device that accepts information:

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

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

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

322 (27) "Computer software" means a set of coded instructions designed to cause:

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

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

325 (28) "Computer software maintenance contract" means a contract that obligates a seller
326 of computer software to provide a customer with:

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

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

329 (c) a combination of Subsections (28)(a) and (b).

330 (29) (a) "Conference bridging service" means an ancillary service that links two or
331 more participants of an audio conference call or video conference call.

332 (b) "Conference bridging service" may include providing a telephone number as part of
333 the ancillary service described in Subsection (29)(a).

334 (c) "Conference bridging service" does not include a telecommunications service used
335 to reach the ancillary service described in Subsection (29)(a).

336 (30) "Construction materials" means any tangible personal property that will be
337 converted into real property.

338 (31) "Delivered electronically" means delivered to a purchaser by means other than
339 tangible storage media.

340 (32) (a) "Delivery charge" means a charge:

341 (i) by a seller of:

342 (A) tangible personal property;

- 343 (B) a product transferred electronically; or
344 (C) services; and
345 (ii) for preparation and delivery of the tangible personal property, product transferred
346 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
347 purchaser.
- 348 (b) "Delivery charge" includes a charge for the following:
349 (i) transportation;
350 (ii) shipping;
351 (iii) postage;
352 (iv) handling;
353 (v) crating; or
354 (vi) packing.
- 355 (33) "Detailed telecommunications billing service" means an ancillary service of
356 separately stating information pertaining to individual calls on a customer's billing statement.
- 357 (34) "Dietary supplement" means a product, other than tobacco, that:
358 (a) is intended to supplement the diet;
359 (b) contains one or more of the following dietary ingredients:
360 (i) a vitamin;
361 (ii) a mineral;
362 (iii) an herb or other botanical;
363 (iv) an amino acid;
364 (v) a dietary substance for use by humans to supplement the diet by increasing the total
365 dietary intake; or
366 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
367 described in Subsections (34)(b)(i) through (v);
368 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
369 (A) tablet form;
370 (B) capsule form;
371 (C) powder form;
372 (D) softgel form;
373 (E) gelcap form; or

- 374 (F) liquid form; or
- 375 (ii) if the product is not intended for ingestion in a form described in Subsections
- 376 (34)(c)(i)(A) through (F), is not represented:
- 377 (A) as conventional food; and
- 378 (B) for use as a sole item of:
- 379 (I) a meal; or
- 380 (II) the diet; and
- 381 (d) is required to be labeled as a dietary supplement:
- 382 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 383 (ii) as required by 21 C.F.R. Sec. 101.36.
- 384 (35) (a) "Digital audio work" means a work that results from the fixation of a series of
- 385 musical, spoken, or other sounds.
- 386 (b) "Digital audio work" includes a ringtone.
- 387 (36) "Digital audio-visual work" means a series of related images which, when shown
- 388 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 389 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
- 390 sense as a book.
- 391 (38) (a) "Direct mail" means printed material delivered or distributed by United States
- 392 mail or other delivery service:
- 393 (i) to:
- 394 (A) a mass audience; or
- 395 (B) addressees on a mailing list provided:
- 396 (I) by a purchaser of the mailing list; or
- 397 (II) at the discretion of the purchaser of the mailing list; and
- 398 (ii) if the cost of the printed material is not billed directly to the recipients.
- 399 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 400 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 401 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 402 single address.
- 403 (39) "Directory assistance" means an ancillary service of providing:
- 404 (a) address information; or

405 (b) telephone number information.

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

408 (i) cannot withstand repeated use; and

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

410 (A) a health care facility as defined in Section 26-21-2;

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

412 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

413 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

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

415 (i) a drug;

416 (ii) durable medical equipment;

417 (iii) a hearing aid;

418 (iv) a hearing aid accessory;

419 (v) mobility enhancing equipment; or

420 (vi) tangible personal property used to correct impaired vision, including:

421 (A) eyeglasses; or

422 (B) contact lenses.

423 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
424 commission may by rule define what constitutes medical equipment or supplies.

425 (41) (a) "Drug" means a compound, substance, or preparation, or a component of a
426 compound, substance, or preparation that is:

427 (i) recognized in:

428 (A) the official United States Pharmacopoeia;

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

430 (C) the official National Formulary; or

431 (D) a supplement to a publication listed in Subsections (41)(a)(i)(A) through (C);

432 (ii) intended for use in the:

433 (A) diagnosis of disease;

434 (B) cure of disease;

435 (C) mitigation of disease;

- 436 (D) treatment of disease; or
437 (E) prevention of disease; or
438 (iii) intended to affect:
439 (A) the structure of the body; or
440 (B) any function of the body.
441 (b) "Drug" does not include:
442 (i) food and food ingredients;
443 (ii) a dietary supplement;
444 (iii) an alcoholic beverage; or
445 (iv) a prosthetic device.
446 (42) (a) Except as provided in Subsection (42)(c), "durable medical equipment" means
447 equipment that:
448 (i) can withstand repeated use;
449 (ii) is primarily and customarily used to serve a medical purpose;
450 (iii) generally is not useful to a person in the absence of illness or injury; and
451 (iv) is not worn in or on the body.
452 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
453 equipment described in Subsection (42)(a).
454 (c) "Durable medical equipment" does not include mobility enhancing equipment.
455 (43) "Electronic" means:
456 (a) relating to technology; and
457 (b) having:
458 (i) electrical capabilities;
459 (ii) digital capabilities;
460 (iii) magnetic capabilities;
461 (iv) wireless capabilities;
462 (v) optical capabilities;
463 (vi) electromagnetic capabilities; or
464 (vii) capabilities similar to Subsections (43)(b)(i) through (vi).
465 (44) "Electronic financial payment service" means an establishment:
466 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and

- 467 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
468 federal Executive Office of the President, Office of Management and Budget; and
- 469 (b) that performs electronic financial payment services.
- 470 (45) "Employee" is as defined in Section 59-10-401.
- 471 (46) "Fixed guideway" means a public transit facility that uses and occupies:
- 472 (a) rail for the use of public transit; or
- 473 (b) a separate right-of-way for the use of public transit.
- 474 (47) "Fixed wing turbine powered aircraft" means an aircraft that:
- 475 (a) is powered by turbine engines;
- 476 (b) operates on jet fuel; and
- 477 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 478 (48) "Fixed wireless service" means a telecommunications service that provides radio
479 communication between fixed points.
- 480 (49) (a) "Food and food ingredients" means substances:
- 481 (i) regardless of whether the substances are in:
- 482 (A) liquid form;
- 483 (B) concentrated form;
- 484 (C) solid form;
- 485 (D) frozen form;
- 486 (E) dried form; or
- 487 (F) dehydrated form; and
- 488 (ii) that are:
- 489 (A) sold for:
- 490 (I) ingestion by humans; or
- 491 (II) chewing by humans; and
- 492 (B) consumed for the substance's:
- 493 (I) taste; or
- 494 (II) nutritional value.
- 495 (b) "Food and food ingredients" includes an item described in Subsection (90)(b)(iii).
- 496 (c) "Food and food ingredients" does not include:
- 497 (i) an alcoholic beverage;

498 (ii) tobacco; or
499 (iii) prepared food.
500 (50) (a) "Fundraising sales" means sales:
501 (i) (A) made by a school; or
502 (B) made by a school student;
503 (ii) that are for the purpose of raising funds for the school to purchase equipment,
504 materials, or provide transportation; and
505 (iii) that are part of an officially sanctioned school activity.
506 (b) For purposes of Subsection (50)(a)(iii), "officially sanctioned school activity"
507 means a school activity:
508 (i) that is conducted in accordance with a formal policy adopted by the school or school
509 district governing the authorization and supervision of fundraising activities;
510 (ii) that does not directly or indirectly compensate an individual teacher or other
511 educational personnel by direct payment, commissions, or payment in kind; and
512 (iii) the net or gross revenues from which are deposited in a dedicated account
513 controlled by the school or school district.
514 (51) "Geothermal energy" means energy contained in heat that continuously flows
515 outward from the earth that is used as the sole source of energy to produce electricity.
516 (52) "Governing board of the agreement" means the governing board of the agreement
517 that is:
518 (a) authorized to administer the agreement; and
519 (b) established in accordance with the agreement.
520 (53) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
521 (i) the executive branch of the state, including all departments, institutions, boards,
522 divisions, bureaus, offices, commissions, and committees;
523 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
524 Office of the Court Administrator, and similar administrative units in the judicial branch;
525 (iii) the legislative branch of the state, including the House of Representatives, the
526 Senate, the Legislative Printing Office, the Office of Legislative Research and General
527 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
528 Analyst;

- 529 (iv) the National Guard;
- 530 (v) an independent entity as defined in Section 63E-1-102; or
- 531 (vi) a political subdivision as defined in Section 17B-1-102.
- 532 (b) "Governmental entity" does not include the state systems of public and higher
533 education, including:
- 534 (i) a college campus of the Utah College of Applied Technology;
- 535 (ii) a school;
- 536 (iii) the State Board of Education;
- 537 (iv) the State Board of Regents; or
- 538 (v) an institution of higher education.
- 539 (54) "Hydroelectric energy" means water used as the sole source of energy to produce
540 electricity.
- 541 (55) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
542 other fuels:
- 543 (a) in mining or extraction of minerals;
- 544 (b) in agricultural operations to produce an agricultural product up to the time of
545 harvest or placing the agricultural product into a storage facility, including:
- 546 (i) commercial greenhouses;
- 547 (ii) irrigation pumps;
- 548 (iii) farm machinery;
- 549 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
550 under Title 41, Chapter 1a, Part 2, Registration; and
- 551 (v) other farming activities;
- 552 (c) in manufacturing tangible personal property at an establishment described in SIC
553 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
554 Executive Office of the President, Office of Management and Budget;
- 555 (d) by a scrap recycler if:
- 556 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
557 one or more of the following items into prepared grades of processed materials for use in new
558 products:
- 559 (A) iron;

- 560 (B) steel;
- 561 (C) nonferrous metal;
- 562 (D) paper;
- 563 (E) glass;
- 564 (F) plastic;
- 565 (G) textile; or
- 566 (H) rubber; and
- 567 (ii) the new products under Subsection (55)(d)(i) would otherwise be made with
- 568 nonrecycled materials; or
- 569 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
- 570 cogeneration facility as defined in Section 54-2-1.
- 571 (56) (a) Except as provided in Subsection (56)(b), "installation charge" means a charge
- 572 for installing:
- 573 (i) tangible personal property; or
- 574 (ii) a product transferred electronically.
- 575 (b) "Installation charge" does not include a charge for:
- 576 (i) repairs or renovations of:
- 577 (A) tangible personal property; or
- 578 (B) a product transferred electronically; or
- 579 (ii) attaching tangible personal property or a product transferred electronically:
- 580 (A) to other tangible personal property; and
- 581 (B) as part of a manufacturing or fabrication process.
- 582 (57) "Institution of higher education" means an institution of higher education listed in
- 583 Section 53B-2-101.
- 584 (58) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 585 personal property or a product transferred electronically for:
- 586 (i) (A) a fixed term; or
- 587 (B) an indeterminate term; and
- 588 (ii) consideration.
- 589 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 590 amount of consideration may be increased or decreased by reference to the amount realized

591 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
592 Code.

593 (c) "Lease" or "rental" does not include:

594 (i) a transfer of possession or control of property under a security agreement or
595 deferred payment plan that requires the transfer of title upon completion of the required
596 payments;

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

599 (A) upon completion of required payments; and

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

601 (I) \$100; or

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

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

606 (d) For purposes of Subsection (58)(c)(iii), an operator is necessary for equipment to
607 perform as designed if the operator's duties exceed the:

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

609 (ii) maintenance of tangible personal property; or

610 (iii) inspection of tangible personal property.

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

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

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

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

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

621 (61) "Load and leave" means delivery to a purchaser by use of a tangible storage media

622 if the tangible storage media is not physically transferred to the purchaser.

623 (62) "Local taxing jurisdiction" means a:

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

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

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

627 (63) "Manufactured home" is as defined in Section 15A-1-302.

628 (64) [~~For purposes of Section 59-12-104, "manufacturing]~~ "Manufacturing facility"

629 means:

630 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard

631 Industrial Classification Manual of the federal Executive Office of the President, Office of

632 Management and Budget;

633 (b) a scrap recycler if:

634 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

635 one or more of the following items into prepared grades of processed materials for use in new

636 products:

637 (A) iron;

638 (B) steel;

639 (C) nonferrous metal;

640 (D) paper;

641 (E) glass;

642 (F) plastic;

643 (G) textile; or

644 (H) rubber; and

645 (ii) the new products under Subsection (64)(b)(i) would otherwise be made with

646 nonrecycled materials; or

647 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is

648 placed in service on or after May 1, 2006.

649 (65) "Member of the immediate family of the producer" means a person who is related

650 to a producer described in Subsection 59-12-104(20)(a) as a:

651 (a) child or stepchild, regardless of whether the child or stepchild is:

652 (i) an adopted child or adopted stepchild; or

- 653 (ii) a foster child or foster stepchild;
654 (b) grandchild or stepgrandchild;
655 (c) grandparent or stepgrandparent;
656 (d) nephew or stepnephew;
657 (e) niece or stepniece;
658 (f) parent or stepparent;
659 (g) sibling or stepsibling;
660 (h) spouse;
661 (i) person who is the spouse of a person described in Subsections (65)(a) through (g);

662 or

- 663 (j) person similar to a person described in Subsections (65)(a) through (i) as
664 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
665 Administrative Rulemaking Act.

666 (66) "Mobile home" is as defined in Section 15A-1-302.

667 (67) "Mobile telecommunications service" is as defined in the Mobile
668 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

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

- 671 (i) the origination point of the conveyance, routing, or transmission is not fixed;
672 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
673 (iii) the origination point described in Subsection (68)(a)(i) and the termination point
674 described in Subsection (68)(a)(ii) are not fixed.

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

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

679 (69) (a) Except as provided in Subsection (69)(c), "mobility enhancing equipment"
680 means equipment that is:

681 (i) primarily and customarily used to provide or increase the ability to move from one
682 place to another;

683 (ii) appropriate for use in a:

- 684 (A) home; or
- 685 (B) motor vehicle; and
- 686 (iii) not generally used by persons with normal mobility.
- 687 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
- 688 the equipment described in Subsection (69)(a).
- 689 (c) "Mobility enhancing equipment" does not include:
- 690 (i) a motor vehicle;
- 691 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
- 692 vehicle manufacturer;
- 693 (iii) durable medical equipment; or
- 694 (iv) a prosthetic device.
- 695 (70) "Model 1 seller" means a seller registered under the agreement that has selected a
- 696 certified service provider as the seller's agent to perform all of the seller's sales and use tax
- 697 functions for agreement sales and use taxes other than the seller's obligation under Section
- 698 59-12-124 to remit a tax on the seller's own purchases.
- 699 (71) "Model 2 seller" means a seller registered under the agreement that:
- 700 (a) except as provided in Subsection (71)(b), has selected a certified automated system
- 701 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 702 (b) retains responsibility for remitting all of the sales tax:
- 703 (i) collected by the seller; and
- 704 (ii) to the appropriate local taxing jurisdiction.
- 705 (72) (a) Subject to Subsection (72)(b), "model 3 seller" means a seller registered under
- 706 the agreement that has:
- 707 (i) sales in at least five states that are members of the agreement;
- 708 (ii) total annual sales revenues of at least \$500,000,000;
- 709 (iii) a proprietary system that calculates the amount of tax:
- 710 (A) for an agreement sales and use tax; and
- 711 (B) due to each local taxing jurisdiction; and
- 712 (iv) entered into a performance agreement with the governing board of the agreement.
- 713 (b) For purposes of Subsection (72)(a), "model 3 seller" includes an affiliated group of
- 714 sellers using the same proprietary system.

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

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

718 (75) "Motor vehicle" is as defined in Section 41-1a-102.

719 (76) "Oil sands" means impregnated bituminous sands that:

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

722 (b) yield mixtures of liquid hydrocarbon; and

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

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

727 (78) "Optional computer software maintenance contract" means a computer software
728 maintenance contract that a customer is not obligated to purchase as a condition to the retail
729 sale of computer software.

730 (79) (a) "Other fuels" means products that burn independently to produce heat or
731 energy.

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

734 (80) (a) "Paging service" means a telecommunications service that provides
735 transmission of a coded radio signal for the purpose of activating a specific pager.

736 (b) For purposes of Subsection (80)(a), the transmission of a coded radio signal
737 includes a transmission by message or sound.

738 (81) "Pawnbroker" is as defined in Section 13-32a-102.

739 (82) "Pawn transaction" is as defined in Section 13-32a-102.

740 (83) (a) "Permanently attached to real property" means that for tangible personal
741 property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

758 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
759 Subsection (83)(c)(iii) or (iv).

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

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

763 (A) convenience;

764 (B) stability; or

765 (C) for an obvious temporary purpose;

766 (ii) the detachment of tangible personal property from real property except for the
767 detachment described in Subsection (83)(b)(ii);

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

772 (A) a computer;

773 (B) a telephone;

774 (C) a television; or

775 (D) tangible personal property similar to Subsections (83)(c)(iii)(A) through (C) as
776 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

777 Administrative Rulemaking Act; or

778 (iv) an item listed in Subsection (123)(c).

779 (84) "Person" includes any individual, firm, partnership, joint venture, association,
780 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
781 municipality, district, or other local governmental entity of the state, or any group or
782 combination acting as a unit.

783 (85) "Place of primary use":

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

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

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

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

791 (86) (a) "Postpaid calling service" means a telecommunications service a person
792 obtains by making a payment on a call-by-call basis:

793 (i) through the use of a:

794 (A) bank card;

795 (B) credit card;

796 (C) debit card; or

797 (D) travel card; or

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

800 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
801 service, that would be a prepaid wireless calling service if the service were exclusively a
802 telecommunications service.

803 (87) "Postproduction" means an activity related to the finishing or duplication of a
804 medium described in Subsection 59-12-104(54)(a).

805 (88) "Prepaid calling service" means a telecommunications service:

806 (a) that allows a purchaser access to telecommunications service that is exclusively
807 telecommunications service;

- 808 (b) that:
- 809 (i) is paid for in advance; and
- 810 (ii) enables the origination of a call using an:
- 811 (A) access number; or
- 812 (B) authorization code;
- 813 (c) that is dialed:
- 814 (i) manually; or
- 815 (ii) electronically; and
- 816 (d) sold in predetermined units or dollars that decline:
- 817 (i) by a known amount; and
- 818 (ii) with use.
- 819 (89) "Prepaid wireless calling service" means a telecommunications service:
- 820 (a) that provides the right to utilize:
- 821 (i) mobile wireless service; and
- 822 (ii) other service that is not a telecommunications service, including:
- 823 (A) the download of a product transferred electronically;
- 824 (B) a content service; or
- 825 (C) an ancillary service;
- 826 (b) that:
- 827 (i) is paid for in advance; and
- 828 (ii) enables the origination of a call using an:
- 829 (A) access number; or
- 830 (B) authorization code;
- 831 (c) that is dialed:
- 832 (i) manually; or
- 833 (ii) electronically; and
- 834 (d) sold in predetermined units or dollars that decline:
- 835 (i) by a known amount; and
- 836 (ii) with use.
- 837 (90) (a) "Prepared food" means:
- 838 (i) food:

- 839 (A) sold in a heated state; or
840 (B) heated by a seller;
841 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
842 item; or
843 (iii) except as provided in Subsection (90)(c), food sold with an eating utensil provided
844 by the seller, including a:
845 (A) plate;
846 (B) knife;
847 (C) fork;
848 (D) spoon;
849 (E) glass;
850 (F) cup;
851 (G) napkin; or
852 (H) straw.
853 (b) "Prepared food" does not include:
854 (i) food that a seller only:
855 (A) cuts;
856 (B) repackages; or
857 (C) pasteurizes; or
858 (ii) (A) the following:
859 (I) raw egg;
860 (II) raw fish;
861 (III) raw meat;
862 (IV) raw poultry; or
863 (V) a food containing an item described in Subsections (90)(b)(ii)(A)(I) through (IV);
864 and
865 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
866 Food and Drug Administration's Food Code that a consumer cook the items described in
867 Subsection (90)(b)(ii)(A) to prevent food borne illness; or
868 (iii) the following if sold without eating utensils provided by the seller:
869 (A) food and food ingredients sold by a seller if the seller's proper primary

870 classification under the 2002 North American Industry Classification System of the federal
871 Executive Office of the President, Office of Management and Budget, is manufacturing in
872 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla

873 Manufacturing;

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

875 (I) by weight or volume; and

876 (II) as a single item; or

877 (C) a bakery item, including:

878 (I) a bagel;

879 (II) a bar;

880 (III) a biscuit;

881 (IV) bread;

882 (V) a bun;

883 (VI) a cake;

884 (VII) a cookie;

885 (VIII) a croissant;

886 (IX) a danish;

887 (X) a donut;

888 (XI) a muffin;

889 (XII) a pastry;

890 (XIII) a pie;

891 (XIV) a roll;

892 (XV) a tart;

893 (XVI) a torte; or

894 (XVII) a tortilla.

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

897 (i) a container; or

898 (ii) packaging.

899 (91) "Prescription" means an order, formula, or recipe that is issued:

900 (a) (i) orally;

- 901 (ii) in writing;
- 902 (iii) electronically; or
- 903 (iv) by any other manner of transmission; and
- 904 (b) by a licensed practitioner authorized by the laws of a state.
- 905 (92) (a) Except as provided in Subsection (92)(b)(ii) or (iii), "prewritten computer
- 906 software" means computer software that is not designed and developed:
- 907 (i) by the author or other creator of the computer software; and
- 908 (ii) to the specifications of a specific purchaser.
- 909 (b) "Prewritten computer software" includes:
- 910 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 911 software is not designed and developed:
- 912 (A) by the author or other creator of the computer software; and
- 913 (B) to the specifications of a specific purchaser;
- 914 (ii) computer software designed and developed by the author or other creator of the
- 915 computer software to the specifications of a specific purchaser if the computer software is sold
- 916 to a person other than the purchaser; or
- 917 (iii) except as provided in Subsection (92)(c), prewritten computer software or a
- 918 prewritten portion of prewritten computer software:
- 919 (A) that is modified or enhanced to any degree; and
- 920 (B) if the modification or enhancement described in Subsection (92)(b)(iii)(A) is
- 921 designed and developed to the specifications of a specific purchaser.
- 922 (c) "Prewritten computer software" does not include a modification or enhancement
- 923 described in Subsection (92)(b)(iii) if the charges for the modification or enhancement are:
- 924 (i) reasonable; and
- 925 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
- 926 invoice or other statement of price provided to the purchaser at the time of sale or later, as
- 927 demonstrated by:
- 928 (A) the books and records the seller keeps at the time of the transaction in the regular
- 929 course of business, including books and records the seller keeps at the time of the transaction in
- 930 the regular course of business for nontax purposes;
- 931 (B) a preponderance of the facts and circumstances at the time of the transaction; and

- 932 (C) the understanding of all of the parties to the transaction.
- 933 (93) (a) "Private communication service" means a telecommunications service:
- 934 (i) that entitles a customer to exclusive or priority use of one or more communications
- 935 channels between or among termination points; and
- 936 (ii) regardless of the manner in which the one or more communications channels are
- 937 connected.
- 938 (b) "Private communications service" includes the following provided in connection
- 939 with the use of one or more communications channels:
- 940 (i) an extension line;
- 941 (ii) a station;
- 942 (iii) switching capacity; or
- 943 (iv) another associated service that is provided in connection with the use of one or
- 944 more communications channels as defined in Section 59-12-215.
- 945 (94) (a) Except as provided in Subsection (94)(b), "product transferred electronically"
- 946 means a product transferred electronically that would be subject to a tax under this chapter if
- 947 that product was transferred in a manner other than electronically.
- 948 (b) "Product transferred electronically" does not include:
- 949 (i) an ancillary service;
- 950 (ii) computer software; or
- 951 (iii) a telecommunications service.
- 952 (95) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 953 (i) artificially replace a missing portion of the body;
- 954 (ii) prevent or correct a physical deformity or physical malfunction; or
- 955 (iii) support a weak or deformed portion of the body.
- 956 (b) "Prosthetic device" includes:
- 957 (i) parts used in the repairs or renovation of a prosthetic device;
- 958 (ii) replacement parts for a prosthetic device;
- 959 (iii) a dental prosthesis; or
- 960 (iv) a hearing aid.
- 961 (c) "Prosthetic device" does not include:
- 962 (i) corrective eyeglasses; or

- 963 (ii) contact lenses.
- 964 (96) (a) "Protective equipment" means an item:
- 965 (i) for human wear; and
- 966 (ii) that is:
- 967 (A) designed as protection:
- 968 (I) to the wearer against injury or disease; or
- 969 (II) against damage or injury of other persons or property; and
- 970 (B) not suitable for general use.
- 971 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 972 commission shall make rules:
- 973 (i) listing the items that constitute "protective equipment"; and
- 974 (ii) that are consistent with the list of items that constitute "protective equipment"
- 975 under the agreement.
- 976 (97) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 977 printed matter, other than a photocopy:
- 978 (i) regardless of:
- 979 (A) characteristics;
- 980 (B) copyright;
- 981 (C) form;
- 982 (D) format;
- 983 (E) method of reproduction; or
- 984 (F) source; and
- 985 (ii) made available in printed or electronic format.
- 986 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 987 commission may by rule define the term "photocopy."
- 988 (98) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 989 (i) valued in money; and
- 990 (ii) for which tangible personal property, a product transferred electronically, or
- 991 services are:
- 992 (A) sold;
- 993 (B) leased; or

- 994 (C) rented.
- 995 (b) "Purchase price" and "sales price" include:
- 996 (i) the seller's cost of the tangible personal property, a product transferred
- 997 electronically, or services sold;
- 998 (ii) expenses of the seller, including:
- 999 (A) the cost of materials used;
- 1000 (B) a labor cost;
- 1001 (C) a service cost;
- 1002 (D) interest;
- 1003 (E) a loss;
- 1004 (F) the cost of transportation to the seller; or
- 1005 (G) a tax imposed on the seller;
- 1006 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1007 (iv) consideration a seller receives from a person other than the purchaser if:
- 1008 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 1009 and
- 1010 (II) the consideration described in Subsection (98)(b)(iv)(A)(I) is directly related to a
- 1011 price reduction or discount on the sale;
- 1012 (B) the seller has an obligation to pass the price reduction or discount through to the
- 1013 purchaser;
- 1014 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 1015 the seller at the time of the sale to the purchaser; and
- 1016 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 1017 seller to claim a price reduction or discount; and
- 1018 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 1019 coupon, or other documentation with the understanding that the person other than the seller
- 1020 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 1021 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 1022 organization allowed a price reduction or discount, except that a preferred customer card that is
- 1023 available to any patron of a seller does not constitute membership in a group or organization
- 1024 allowed a price reduction or discount; or

- 1025 (III) the price reduction or discount is identified as a third party price reduction or
1026 discount on the:
- 1027 (Aa) invoice the purchaser receives; or
1028 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1029 (c) "Purchase price" and "sales price" do not include:
- 1030 (i) a discount:
- 1031 (A) in a form including:
- 1032 (I) cash;
1033 (II) term; or
1034 (III) coupon;
- 1035 (B) that is allowed by a seller;
1036 (C) taken by a purchaser on a sale; and
1037 (D) that is not reimbursed by a third party; or
- 1038 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
1039 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
1040 sale or later, as demonstrated by the books and records the seller keeps at the time of the
1041 transaction in the regular course of business, including books and records the seller keeps at the
1042 time of the transaction in the regular course of business for nontax purposes, by a
1043 preponderance of the facts and circumstances at the time of the transaction, and by the
1044 understanding of all of the parties to the transaction:
- 1045 (A) the following from credit extended on the sale of tangible personal property or
1046 services:
- 1047 (I) a carrying charge;
1048 (II) a financing charge; or
1049 (III) an interest charge;
- 1050 (B) a delivery charge;
1051 (C) an installation charge;
1052 (D) a manufacturer rebate on a motor vehicle; or
1053 (E) a tax or fee legally imposed directly on the consumer.
- 1054 (99) "Purchaser" means a person to whom:
- 1055 (a) a sale of tangible personal property is made;

- 1056 (b) a product is transferred electronically; or
1057 (c) a service is furnished.
- 1058 (100) "Regularly rented" means:
1059 (a) rented to a guest for value three or more times during a calendar year; or
1060 (b) advertised or held out to the public as a place that is regularly rented to guests for
1061 value.
- 1062 (101) "Rental" is as defined in Subsection (58).
- 1063 (102) (a) Except as provided in Subsection (102)(b), "repairs or renovations of tangible
1064 personal property" means:
1065 (i) a repair or renovation of tangible personal property that is not permanently attached
1066 to real property; or
1067 (ii) attaching tangible personal property or a product transferred electronically to other
1068 tangible personal property or detaching tangible personal property or a product transferred
1069 electronically from other tangible personal property if:
1070 (A) the other tangible personal property to which the tangible personal property or
1071 product transferred electronically is attached or from which the tangible personal property or
1072 product transferred electronically is detached is not permanently attached to real property; and
1073 (B) the attachment of tangible personal property or a product transferred electronically
1074 to other tangible personal property or detachment of tangible personal property or a product
1075 transferred electronically from other tangible personal property is made in conjunction with a
1076 repair or replacement of tangible personal property or a product transferred electronically.
- 1077 (b) "Repairs or renovations of tangible personal property" does not include:
1078 (i) attaching prewritten computer software to other tangible personal property if the
1079 other tangible personal property to which the prewritten computer software is attached is not
1080 permanently attached to real property; or
1081 (ii) detaching prewritten computer software from other tangible personal property if the
1082 other tangible personal property from which the prewritten computer software is detached is
1083 not permanently attached to real property.
- 1084 (103) "Research and development" means the process of inquiry or experimentation
1085 aimed at the discovery of facts, devices, technologies, or applications and the process of
1086 preparing those devices, technologies, or applications for marketing.

1087 (104) (a) "Residential telecommunications services" means a telecommunications
1088 service or an ancillary service that is provided to an individual for personal use:

1089 (i) at a residential address; or

1090 (ii) at an institution, including a nursing home or a school, if the telecommunications
1091 service or ancillary service is provided to and paid for by the individual residing at the
1092 institution rather than the institution.

1093 (b) For purposes of Subsection (104)(a)(i), a residential address includes an:

1094 (i) apartment; or

1095 (ii) other individual dwelling unit.

1096 (105) "Residential use" means the use in or around a home, apartment building,
1097 sleeping quarters, and similar facilities or accommodations.

1098 (106) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1099 than:

1100 (a) resale;

1101 (b) sublease; or

1102 (c) subrent.

1103 (107) (a) "Retailer" means any person engaged in a regularly organized business in
1104 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1105 who is selling to the user or consumer and not for resale.

1106 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1107 engaged in the business of selling to users or consumers within the state.

1108 (108) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1109 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1110 Subsection 59-12-103(1), for consideration.

1111 (b) "Sale" includes:

1112 (i) installment and credit sales;

1113 (ii) any closed transaction constituting a sale;

1114 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1115 chapter;

1116 (iv) any transaction if the possession of property is transferred but the seller retains the
1117 title as security for the payment of the price; and

1118 (v) any transaction under which right to possession, operation, or use of any article of
1119 tangible personal property is granted under a lease or contract and the transfer of possession
1120 would be taxable if an outright sale were made.

1121 (109) "Sale at retail" is as defined in Subsection (106).

1122 (110) "Sale-leaseback transaction" means a transaction by which title to tangible
1123 personal property or a product transferred electronically that is subject to a tax under this
1124 chapter is transferred:

1125 (a) by a purchaser-lessee;

1126 (b) to a lessor;

1127 (c) for consideration; and

1128 (d) if:

1129 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1130 of the tangible personal property or product transferred electronically;

1131 (ii) the sale of the tangible personal property or product transferred electronically to the
1132 lessor is intended as a form of financing:

1133 (A) for the tangible personal property or product transferred electronically; and

1134 (B) to the purchaser-lessee; and

1135 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1136 is required to:

1137 (A) capitalize the tangible personal property or product transferred electronically for
1138 financial reporting purposes; and

1139 (B) account for the lease payments as payments made under a financing arrangement.

1140 (111) "Sales price" is as defined in Subsection (98).

1141 (112) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
1142 amounts charged by a school:

1143 (i) sales that are directly related to the school's educational functions or activities
1144 including:

1145 (A) the sale of:

1146 (I) textbooks;

1147 (II) textbook fees;

1148 (III) laboratory fees;

- 1149 (IV) laboratory supplies; or
1150 (V) safety equipment;
1151 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
1152 that:
- 1153 (I) a student is specifically required to wear as a condition of participation in a
1154 school-related event or school-related activity; and
- 1155 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1156 place of ordinary clothing;
- 1157 (C) sales of the following if the net or gross revenues generated by the sales are
1158 deposited into a school district fund or school fund dedicated to school meals:
- 1159 (I) food and food ingredients; or
1160 (II) prepared food; or
1161 (D) transportation charges for official school activities; or
1162 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1163 event or school-related activity.
- 1164 (b) "Sales relating to schools" does not include:
- 1165 (i) bookstore sales of items that are not educational materials or supplies;
1166 (ii) except as provided in Subsection (112)(a)(i)(B):
- 1167 (A) clothing;
1168 (B) clothing accessories or equipment;
1169 (C) protective equipment; or
1170 (D) sports or recreational equipment; or
- 1171 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1172 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1173 (A) other than a:
- 1174 (I) school;
1175 (II) nonprofit organization authorized by a school board or a governing body of a
1176 private school to organize and direct a competitive secondary school activity; or
1177 (III) nonprofit association authorized by a school board or a governing body of a
1178 private school to organize and direct a competitive secondary school activity; and
1179 (B) that is required to collect sales and use taxes under this chapter.

1180 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1181 commission may make rules defining the term "passed through."

1182 (113) For purposes of this section and Section 59-12-104, "school":

1183 (a) means:

1184 (i) an elementary school or a secondary school that:

1185 (A) is a:

1186 (I) public school; or

1187 (II) private school; and

1188 (B) provides instruction for one or more grades kindergarten through 12; or

1189 (ii) a public school district; and

1190 (b) includes the Electronic High School as defined in Section 53A-15-1002.

1191 (114) "Seller" means a person that makes a sale, lease, or rental of:

1192 (a) tangible personal property;

1193 (b) a product transferred electronically; or

1194 (c) a service.

1195 (115) (a) "Semiconductor fabricating, processing, research, or development materials"

1196 means tangible personal property or a product transferred electronically if the tangible personal

1197 property or product transferred electronically is:

1198 (i) used primarily in the process of:

1199 (A) (I) manufacturing a semiconductor;

1200 (II) fabricating a semiconductor; or

1201 (III) research or development of a:

1202 (Aa) semiconductor; or

1203 (Bb) semiconductor manufacturing process; or

1204 (B) maintaining an environment suitable for a semiconductor; or

1205 (ii) consumed primarily in the process of:

1206 (A) (I) manufacturing a semiconductor;

1207 (II) fabricating a semiconductor; or

1208 (III) research or development of a:

1209 (Aa) semiconductor; or

1210 (Bb) semiconductor manufacturing process; or

- 1211 (B) maintaining an environment suitable for a semiconductor.
- 1212 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1213 includes:
- 1214 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1215 transferred electronically described in Subsection (115)(a); or
- 1216 (ii) a chemical, catalyst, or other material used to:
- 1217 (A) produce or induce in a semiconductor a:
- 1218 (I) chemical change; or
- 1219 (II) physical change;
- 1220 (B) remove impurities from a semiconductor; or
- 1221 (C) improve the marketable condition of a semiconductor.
- 1222 (116) "Senior citizen center" means a facility having the primary purpose of providing
- 1223 services to the aged as defined in Section 62A-3-101.
- 1224 (117) (a) Subject to Subsections (117)(b) and (c), "short-term lodging consumable"
- 1225 means tangible personal property that:
- 1226 (i) a business that provides accommodations and services described in Subsection
- 1227 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
- 1228 to a purchaser;
- 1229 (ii) is intended to be consumed by the purchaser; and
- 1230 (iii) is:
- 1231 (A) included in the purchase price of the accommodations and services; and
- 1232 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 1233 to the purchaser.
- 1234 (b) "Short-term lodging consumable" includes:
- 1235 (i) a beverage;
- 1236 (ii) a brush or comb;
- 1237 (iii) a cosmetic;
- 1238 (iv) a hair care product;
- 1239 (v) lotion;
- 1240 (vi) a magazine;
- 1241 (vii) makeup;

- 1242 (viii) a meal;
- 1243 (ix) mouthwash;
- 1244 (x) nail polish remover;
- 1245 (xi) a newspaper;
- 1246 (xii) a notepad;
- 1247 (xiii) a pen;
- 1248 (xiv) a pencil;
- 1249 (xv) a razor;
- 1250 (xvi) saline solution;
- 1251 (xvii) a sewing kit;
- 1252 (xviii) shaving cream;
- 1253 (xix) a shoe shine kit;
- 1254 (xx) a shower cap;
- 1255 (xxi) a snack item;
- 1256 (xxii) soap;
- 1257 (xxiii) toilet paper;
- 1258 (xxiv) a toothbrush;
- 1259 (xxv) toothpaste; or
- 1260 (xxvi) an item similar to Subsections (117)(b)(i) through (xxv) as the commission may
- 1261 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1262 Rulemaking Act.
- 1263 (c) "Short-term lodging consumable" does not include:
- 1264 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1265 property to be reused; or
- 1266 (ii) a product transferred electronically.
- 1267 (118) "Simplified electronic return" means the electronic return:
- 1268 (a) described in Section 318(C) of the agreement; and
- 1269 (b) approved by the governing board of the agreement.
- 1270 (119) "Solar energy" means the sun used as the sole source of energy for producing
- 1271 electricity.
- 1272 (120) (a) "Sports or recreational equipment" means an item:

- 1273 (i) designed for human use; and
- 1274 (ii) that is:
- 1275 (A) worn in conjunction with:
- 1276 (I) an athletic activity; or
- 1277 (II) a recreational activity; and
- 1278 (B) not suitable for general use.
- 1279 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1280 commission shall make rules:
- 1281 (i) listing the items that constitute "sports or recreational equipment"; and
- 1282 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1283 equipment" under the agreement.
- 1284 (121) "State" means the state of Utah, its departments, and agencies.
- 1285 (122) "Storage" means any keeping or retention of tangible personal property or any
- 1286 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
- 1287 sale in the regular course of business.
- 1288 (123) (a) Except as provided in Subsection (123)(d) or (e), "tangible personal property"
- 1289 means personal property that:
- 1290 (i) may be:
- 1291 (A) seen;
- 1292 (B) weighed;
- 1293 (C) measured;
- 1294 (D) felt; or
- 1295 (E) touched; or
- 1296 (ii) is in any manner perceptible to the senses.
- 1297 (b) "Tangible personal property" includes:
- 1298 (i) electricity;
- 1299 (ii) water;
- 1300 (iii) gas;
- 1301 (iv) steam; or
- 1302 (v) prewritten computer software, regardless of the manner in which the prewritten
- 1303 computer software is transferred.

1304 (c) "Tangible personal property" includes the following regardless of whether the item
1305 is attached to real property:

1306 (i) a dishwasher;

1307 (ii) a dryer;

1308 (iii) a freezer;

1309 (iv) a microwave;

1310 (v) a refrigerator;

1311 (vi) a stove;

1312 (vii) a washer; or

1313 (viii) an item similar to Subsections (123)(c)(i) through (vii) as determined by the
1314 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1315 Rulemaking Act.

1316 (d) "Tangible personal property" does not include a product that is transferred
1317 electronically.

1318 (e) "Tangible personal property" does not include the following if attached to real
1319 property, regardless of whether the attachment to real property is only through a line that
1320 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1321 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1322 Rulemaking Act:

1323 (i) a hot water heater;

1324 (ii) a water filtration system; or

1325 (iii) a water softener system.

1326 (124) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1327 software" means an item listed in Subsection (124)(b) if that item is purchased or leased
1328 primarily to enable or facilitate one or more of the following to function:

1329 (i) telecommunications switching or routing equipment, machinery, or software; or

1330 (ii) telecommunications transmission equipment, machinery, or software.

1331 (b) The following apply to Subsection (124)(a):

1332 (i) a pole;

1333 (ii) software;

1334 (iii) a supplementary power supply;

1335 (iv) temperature or environmental equipment or machinery;

1336 (v) test equipment;

1337 (vi) a tower; or

1338 (vii) equipment, machinery, or software that functions similarly to an item listed in

1339 Subsections (124)(b)(i) through (vi) as determined by the commission by rule made in

1340 accordance with Subsection (124)(c).

1341 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1342 commission may by rule define what constitutes equipment, machinery, or software that

1343 functions similarly to an item listed in Subsections (124)(b)(i) through (vi).

1344 (125) "Telecommunications equipment, machinery, or software required for 911

1345 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.

1346 Sec. 20.18.

1347 (126) "Telecommunications maintenance or repair equipment, machinery, or software"

1348 means equipment, machinery, or software purchased or leased primarily to maintain or repair

1349 one or more of the following, regardless of whether the equipment, machinery, or software is

1350 purchased or leased as a spare part or as an upgrade or modification to one or more of the

1351 following:

1352 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1353 (b) telecommunications switching or routing equipment, machinery, or software; or

1354 (c) telecommunications transmission equipment, machinery, or software.

1355 (127) (a) "Telecommunications service" means the electronic conveyance, routing, or

1356 transmission of audio, data, video, voice, or any other information or signal to a point, or

1357 among or between points.

1358 (b) "Telecommunications service" includes:

1359 (i) an electronic conveyance, routing, or transmission with respect to which a computer

1360 processing application is used to act:

1361 (A) on the code, form, or protocol of the content;

1362 (B) for the purpose of electronic conveyance, routing, or transmission; and

1363 (C) regardless of whether the service:

1364 (I) is referred to as voice over Internet protocol service; or

1365 (II) is classified by the Federal Communications Commission as enhanced or value

- 1366 added;
- 1367 (ii) an 800 service;
- 1368 (iii) a 900 service;
- 1369 (iv) a fixed wireless service;
- 1370 (v) a mobile wireless service;
- 1371 (vi) a postpaid calling service;
- 1372 (vii) a prepaid calling service;
- 1373 (viii) a prepaid wireless calling service; or
- 1374 (ix) a private communications service.
- 1375 (c) "Telecommunications service" does not include:
- 1376 (i) advertising, including directory advertising;
- 1377 (ii) an ancillary service;
- 1378 (iii) a billing and collection service provided to a third party;
- 1379 (iv) a data processing and information service if:
- 1380 (A) the data processing and information service allows data to be:
- 1381 (I) (Aa) acquired;
- 1382 (Bb) generated;
- 1383 (Cc) processed;
- 1384 (Dd) retrieved; or
- 1385 (Ee) stored; and
- 1386 (II) delivered by an electronic transmission to a purchaser; and
- 1387 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1388 or information;
- 1389 (v) installation or maintenance of the following on a customer's premises:
- 1390 (A) equipment; or
- 1391 (B) wiring;
- 1392 (vi) Internet access service;
- 1393 (vii) a paging service;
- 1394 (viii) a product transferred electronically, including:
- 1395 (A) music;
- 1396 (B) reading material;

- 1397 (C) a ring tone;
- 1398 (D) software; or
- 1399 (E) video;
- 1400 (ix) a radio and television audio and video programming service:
- 1401 (A) regardless of the medium; and
- 1402 (B) including:
- 1403 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1404 programming service by a programming service provider;
- 1405 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1406 (III) audio and video programming services delivered by a commercial mobile radio
- 1407 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1408 (x) a value-added nonvoice data service; or
- 1409 (xi) tangible personal property.
- 1410 (128) (a) "Telecommunications service provider" means a person that:
- 1411 (i) owns, controls, operates, or manages a telecommunications service; and
- 1412 (ii) engages in an activity described in Subsection (128)(a)(i) for the shared use with or
- 1413 resale to any person of the telecommunications service.
- 1414 (b) A person described in Subsection (128)(a) is a telecommunications service provider
- 1415 whether or not the Public Service Commission of Utah regulates:
- 1416 (i) that person; or
- 1417 (ii) the telecommunications service that the person owns, controls, operates, or
- 1418 manages.
- 1419 (129) (a) "Telecommunications switching or routing equipment, machinery, or
- 1420 software" means an item listed in Subsection (129)(b) if that item is purchased or leased
- 1421 primarily for switching or routing:
- 1422 (i) an ancillary service;
- 1423 (ii) data communications;
- 1424 (iii) voice communications; or
- 1425 (iv) telecommunications service.
- 1426 (b) The following apply to Subsection (129)(a):
- 1427 (i) a bridge;

1428 (ii) a computer;
1429 (iii) a cross connect;
1430 (iv) a modem;
1431 (v) a multiplexer;
1432 (vi) plug in circuitry;
1433 (vii) a router;
1434 (viii) software;
1435 (ix) a switch; or
1436 (x) equipment, machinery, or software that functions similarly to an item listed in
1437 Subsections (129)(b)(i) through (ix) as determined by the commission by rule made in
1438 accordance with Subsection (129)(c).

1439 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1440 commission may by rule define what constitutes equipment, machinery, or software that
1441 functions similarly to an item listed in Subsections (129)(b)(i) through (ix).

1442 (130) (a) "Telecommunications transmission equipment, machinery, or software"
1443 means an item listed in Subsection (130)(b) if that item is purchased or leased primarily for
1444 sending, receiving, or transporting:

1445 (i) an ancillary service;
1446 (ii) data communications;
1447 (iii) voice communications; or
1448 (iv) telecommunications service.

1449 (b) The following apply to Subsection (130)(a):

1450 (i) an amplifier;
1451 (ii) a cable;
1452 (iii) a closure;
1453 (iv) a conduit;
1454 (v) a controller;
1455 (vi) a duplexer;
1456 (vii) a filter;
1457 (viii) an input device;
1458 (ix) an input/output device;

- 1459 (x) an insulator;
1460 (xi) microwave machinery or equipment;
1461 (xii) an oscillator;
1462 (xiii) an output device;
1463 (xiv) a pedestal;
1464 (xv) a power converter;
1465 (xvi) a power supply;
1466 (xvii) a radio channel;
1467 (xviii) a radio receiver;
1468 (xix) a radio transmitter;
1469 (xx) a repeater;
1470 (xxi) software;
1471 (xxii) a terminal;
1472 (xxiii) a timing unit;
1473 (xxiv) a transformer;
1474 (xxv) a wire; or
1475 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
1476 Subsections (130)(b)(i) through (xxv) as determined by the commission by rule made in
1477 accordance with Subsection (130)(c).

1478 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1479 commission may by rule define what constitutes equipment, machinery, or software that
1480 functions similarly to an item listed in Subsections (130)(b)(i) through (xxv).

1481 (131) (a) "Textbook for a higher education course" means a textbook or other printed
1482 material that is required for a course:

- 1483 (i) offered by an institution of higher education; and
1484 (ii) that the purchaser of the textbook or other printed material attends or will attend.
1485 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1486 (132) "Tobacco" means:

- 1487 (a) a cigarette;
1488 (b) a cigar;
1489 (c) chewing tobacco;

1490 (d) pipe tobacco; or

1491 (e) any other item that contains tobacco.

1492 (133) "Unassisted amusement device" means an amusement device, skill device, or
1493 ride device that is started and stopped by the purchaser or renter of the right to use or operate
1494 the amusement device, skill device, or ride device.

1495 (134) (a) "Use" means the exercise of any right or power over tangible personal
1496 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1497 incident to the ownership or the leasing of that tangible personal property, product transferred
1498 electronically, or service.

1499 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1500 property, a product transferred electronically, or a service in the regular course of business and
1501 held for resale.

1502 (135) "Value-added nonvoice data service" means a service:

1503 (a) that otherwise meets the definition of a telecommunications service except that a
1504 computer processing application is used to act primarily for a purpose other than conveyance,
1505 routing, or transmission; and

1506 (b) with respect to which a computer processing application is used to act on data or
1507 information:

1508 (i) code;

1509 (ii) content;

1510 (iii) form; or

1511 (iv) protocol.

1512 (136) (a) Subject to Subsection (136)(b), "vehicle" means the following that are
1513 required to be titled, registered, or titled and registered:

1514 (i) an aircraft as defined in Section 72-10-102;

1515 (ii) a vehicle as defined in Section 41-1a-102;

1516 (iii) an off-highway vehicle as defined in Section 41-22-2; or

1517 (iv) a vessel as defined in Section 41-1a-102.

1518 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

1519 (i) a vehicle described in Subsection (136)(a); or

1520 (ii) (A) a locomotive;

- 1521 (B) a freight car;
- 1522 (C) railroad work equipment; or
- 1523 (D) other railroad rolling stock.
- 1524 (137) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 1525 exchanging a vehicle as defined in Subsection (136).
- 1526 (138) (a) "Vertical service" means an ancillary service that:
- 1527 (i) is offered in connection with one or more telecommunications services; and
- 1528 (ii) offers an advanced calling feature that allows a customer to:
- 1529 (A) identify a caller; and
- 1530 (B) manage multiple calls and call connections.
- 1531 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 1532 conference bridging service.
- 1533 (139) (a) "Voice mail service" means an ancillary service that enables a customer to
- 1534 receive, send, or store a recorded message.
- 1535 (b) "Voice mail service" does not include a vertical service that a customer is required
- 1536 to have in order to utilize a voice mail service.
- 1537 (140) (a) Except as provided in Subsection (140)(b), "waste energy facility" means a
- 1538 facility that generates electricity:
- 1539 (i) using as the primary source of energy waste materials that would be placed in a
- 1540 landfill or refuse pit if it were not used to generate electricity, including:
- 1541 (A) tires;
- 1542 (B) waste coal;
- 1543 (C) oil shale; or
- 1544 (D) municipal solid waste; and
- 1545 (ii) in amounts greater than actually required for the operation of the facility.
- 1546 (b) "Waste energy facility" does not include a facility that incinerates:
- 1547 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1548 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1549 (141) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1550 (142) "Wind energy" means wind used as the sole source of energy to produce
- 1551 electricity.

1552 (143) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
1553 location by the United States Postal Service.

1554 Section 2. Section **59-12-104** is amended to read:

1555 **59-12-104. Exemptions.**

1556 [~~The following sales and uses are exempt~~] Exemptions from the taxes imposed by this
1557 chapter are as follows:

1558 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
1559 under Chapter 13, Motor and Special Fuel Tax Act;

1560 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
1561 subdivisions; however, this exemption does not apply to sales of:

1562 (a) construction materials except:

1563 (i) construction materials purchased by or on behalf of institutions of the public
1564 education system as defined in Utah Constitution Article X, Section 2, provided the
1565 construction materials are clearly identified and segregated and installed or converted to real
1566 property which is owned by institutions of the public education system; and

1567 (ii) construction materials purchased by the state, its institutions, or its political
1568 subdivisions which are installed or converted to real property by employees of the state, its
1569 institutions, or its political subdivisions; or

1570 (b) tangible personal property in connection with the construction, operation,
1571 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
1572 providing additional project capacity, as defined in Section 11-13-103;

1573 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

1574 (i) the proceeds of each sale do not exceed \$1; and

1575 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
1576 the cost of the item described in Subsection (3)(b) as goods consumed; and

1577 (b) Subsection (3)(a) applies to:

1578 (i) food and food ingredients; or

1579 (ii) prepared food;

1580 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

1581 (i) alcoholic beverages;

1582 (ii) food and food ingredients; or

1583 (iii) prepared food;

1584 (b) sales of tangible personal property or a product transferred electronically:

1585 (i) to a passenger;

1586 (ii) by a commercial airline carrier; and

1587 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

1588 (c) services related to Subsection (4)(a) or (b);

1589 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts

1590 and equipment:

1591 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002

1592 North American Industry Classification System of the federal Executive Office of the

1593 President, Office of Management and Budget; and

1594 (II) for:

1595 (Aa) installation in an aircraft, including services relating to the installation of parts or

1596 equipment in the aircraft;

1597 (Bb) renovation of an aircraft; or

1598 (Cc) repair of an aircraft; or

1599 (B) for installation in an aircraft operated by a common carrier in interstate or foreign

1600 commerce; or

1601 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an

1602 aircraft operated by a common carrier in interstate or foreign commerce; and

1603 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,

1604 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a

1605 refund:

1606 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

1607 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

1608 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for

1609 the sale prior to filing for the refund;

1610 (iv) for sales and use taxes paid under this chapter on the sale;

1611 (v) in accordance with Section 59-1-1410; and

1612 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if

1613 the person files for the refund on or before September 30, 2011;

1614 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
1615 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
1616 exhibitor, distributor, or commercial television or radio broadcaster;

1617 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
1618 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
1619 washing of tangible personal property;

1620 (b) if a seller that sells at the same business location assisted cleaning or washing of
1621 tangible personal property and cleaning or washing of tangible personal property that is not
1622 assisted cleaning or washing of tangible personal property, the exemption described in
1623 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
1624 or washing of the tangible personal property; and

1625 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
1626 Utah Administrative Rulemaking Act, the commission may make rules:

1627 (i) governing the circumstances under which sales are at the same business location;
1628 and

1629 (ii) establishing the procedures and requirements for a seller to separately account for
1630 sales of assisted cleaning or washing of tangible personal property;

1631 (8) sales made to or by religious or charitable institutions in the conduct of their regular
1632 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
1633 fulfilled;

1634 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
1635 this state if the vehicle is:

1636 (a) not registered in this state; and

1637 (b) (i) not used in this state; or

1638 (ii) used in this state:

1639 (A) if the vehicle is not used to conduct business, for a time period that does not
1640 exceed the longer of:

1641 (I) 30 days in any calendar year; or

1642 (II) the time period necessary to transport the vehicle to the borders of this state; or

1643 (B) if the vehicle is used to conduct business, for the time period necessary to transport
1644 the vehicle to the borders of this state;

- 1645 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 1646 (i) the item is intended for human use; and
- 1647 (ii) (A) a prescription was issued for the item; or
- 1648 (B) the item was purchased by a hospital or other medical facility; and
- 1649 (b) (i) Subsection (10)(a) applies to:
- 1650 (A) a drug;
- 1651 (B) a syringe; or
- 1652 (C) a stoma supply; and
- 1653 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1654 commission may by rule define the terms:
- 1655 (A) "syringe"; or
- 1656 (B) "stoma supply";
- 1657 (11) sales or use of property, materials, or services used in the construction of or
- 1658 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
- 1659 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 1660 (i) the following if the item described in Subsection (12)(c) is not available to the
- 1661 general public:
- 1662 (A) a church; or
- 1663 (B) a charitable institution;
- 1664 (ii) an institution of higher education if:
- 1665 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 1666 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 1667 offered by the institution of higher education; or
- 1668 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 1669 (i) a medical facility; or
- 1670 (ii) a nursing facility; and
- 1671 (c) Subsections (12)(a) and (b) apply to:
- 1672 (i) food and food ingredients;
- 1673 (ii) prepared food; or
- 1674 (iii) alcoholic beverages;
- 1675 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property

1676 or a product transferred electronically by a person:

1677 (i) regardless of the number of transactions involving the sale of that tangible personal
1678 property or product transferred electronically by that person; and

1679 (ii) not regularly engaged in the business of selling that type of tangible personal
1680 property or product transferred electronically;

1681 (b) this Subsection (13) does not apply if:

1682 (i) the sale is one of a series of sales of a character to indicate that the person is
1683 regularly engaged in the business of selling that type of tangible personal property or product
1684 transferred electronically;

1685 (ii) the person holds that person out as regularly engaged in the business of selling that
1686 type of tangible personal property or product transferred electronically;

1687 (iii) the person sells an item of tangible personal property or product transferred
1688 electronically that the person purchased as a sale that is exempt under Subsection (25); or

1689 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
1690 this state in which case the tax is based upon:

1691 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
1692 sold; or

1693 (B) in the absence of a bill of sale or other written evidence of value, the fair market
1694 value of the vehicle or vessel being sold at the time of the sale as determined by the
1695 commission; and

1696 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1697 commission shall make rules establishing the circumstances under which:

1698 (i) a person is regularly engaged in the business of selling a type of tangible personal
1699 property or product transferred electronically;

1700 (ii) a sale of tangible personal property or a product transferred electronically is one of
1701 a series of sales of a character to indicate that a person is regularly engaged in the business of
1702 selling that type of tangible personal property or product transferred electronically; or

1703 (iii) a person holds that person out as regularly engaged in the business of selling a type
1704 of tangible personal property or product transferred electronically;

1705 ~~[(14)(a) except as provided in Subsection (14)(b), amounts paid or charged on or after~~
1706 ~~July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration~~

1707 ~~facility, of the following:]~~

1708 ~~[(i) machinery and equipment that:]~~

1709 ~~[(A) are used:]~~

1710 ~~[(I) for a manufacturing facility except for a manufacturing facility that is a scrap~~

1711 ~~recycler described in Subsection 59-12-102(64)(b):]~~

1712 ~~[(Aa) in the manufacturing process;]~~

1713 ~~[(Bb) to manufacture an item sold as tangible personal property; and]~~

1714 ~~[(Cc) beginning on July 1, 2009, in a manufacturing facility described in this~~

1715 ~~Subsection (14)(a)(i)(A)(I) in the state; or]~~

1716 ~~[(H) for a manufacturing facility that is a scrap recycler described in Subsection~~

1717 ~~59-12-102(64)(b):]~~

1718 ~~[(Aa) to process an item sold as tangible personal property; and]~~

1719 ~~[(Bb) beginning on July 1, 2009, in a manufacturing facility described in this~~

1720 ~~Subsection (14)(a)(i)(A)(II) in the state; and]~~

1721 ~~[(B) have an economic life of three or more years; and]~~

1722 ~~[(ii) normal operating repair or replacement parts that:]~~

1723 ~~[(A) have an economic life of three or more years; and]~~

1724 ~~[(B) are used:]~~

1725 ~~[(I) for a manufacturing facility except for a manufacturing facility that is a scrap~~

1726 ~~recycler described in Subsection 59-12-102(64)(b):]~~

1727 ~~[(Aa) in the manufacturing process; and]~~

1728 ~~[(Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the~~

1729 ~~state; or]~~

1730 ~~[(H) for a manufacturing facility that is a scrap recycler described in Subsection~~

1731 ~~59-12-102(64)(b):]~~

1732 ~~[(Aa) to process an item sold as tangible personal property; and]~~

1733 ~~[(Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the~~

1734 ~~state;]~~

1735 ~~[(b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a~~

1736 ~~manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,~~

1737 ~~of the following:]~~

1738 ~~[(i) machinery and equipment that:]~~
 1739 ~~[(A) are used:]~~
 1740 ~~[(f) in the manufacturing process;]~~
 1741 ~~[(H) to manufacture an item sold as tangible personal property; and]~~
 1742 ~~[(HH) beginning on July 1, 2009, in a manufacturing facility described in this~~
 1743 ~~Subsection (14)(b) in the state; and]~~
 1744 ~~[(B) have an economic life of three or more years; and]~~
 1745 ~~[(ii) normal operating repair or replacement parts that:]~~
 1746 ~~[(A) are used:]~~
 1747 ~~[(f) in the manufacturing process; and]~~
 1748 ~~[(H) in a manufacturing facility described in this Subsection (14)(b) in the state; and]~~
 1749 ~~[(B) have an economic life of three or more years;]~~
 1750 (14) (a) amounts paid or charged for a purchase or lease:
 1751 (i) by a manufacturing facility located in the state; and
 1752 (ii) of:
 1753 (A) machinery or equipment used to manufacture or process an item sold as tangible
 1754 personal property; or
 1755 (B) normal operating repair or replacement parts used to manufacture of process an
 1756 item sold as tangible personal property;
 1757 ~~[(e)]~~ (b) amounts paid or charged for a purchase or lease [made on or after January 1,
 1758 2008;];
 1759 (i) by an establishment;
 1760 (A) described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code
 1761 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or
 1762 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North
 1763 American Industry Classification System of the federal Executive Office of the President,
 1764 Office of Management and Budget[~~, of the following:~~]; and
 1765 (B) located in the state; and
 1766 (ii) of:
 1767 ~~[(f)]~~ (A) machinery [and] or equipment [that: (A) are] used[: (f) (Aa)] in the
 1768 production process, other than the production of real property[:]; or [(Bb)] in research and

1769 development; ~~[and] or~~
1770 ~~[(H) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)~~
1771 ~~in the state; and]~~
1772 ~~[(B) have an economic life of three or more years; and]~~
1773 ~~[(ii) (B) normal operating repair or replacement parts [that: (A) have an economic life~~
1774 ~~of three or more years; and (B) are] used in[:-(I) (Aa)] the production process, [except for]~~
1775 ~~other than the production of real property[; and (Bb) an establishment described in this~~
1776 ~~Subsection (14)(c) in the state; or (H) (Aa)], or in research and development; [and]~~
1777 ~~[(Bb) in an establishment described in this Subsection (14)(c) in the state;]~~
1778 ~~[(d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010;~~
1779 ~~but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web~~
1780 ~~Search Portals, of the 2002 North American Industry Classification System of the federal~~
1781 ~~Executive Office of the President, Office of Management and Budget, of the following:]~~
1782 ~~[(A) machinery and equipment that:]~~
1783 ~~[(I) are used in the operation of the web search portal;]~~
1784 ~~[(H) have an economic life of three or more years; and]~~
1785 ~~[(HH) are used in a new or expanding establishment described in this Subsection (14)(d)~~
1786 ~~in the state; and]~~
1787 ~~[(B) normal operating repair or replacement parts that:]~~
1788 ~~[(I) are used in the operation of the web search portal;]~~
1789 ~~[(H) have an economic life of three or more years; and]~~
1790 ~~[(HH) are used in a new or expanding establishment described in this Subsection (14)(d)~~
1791 ~~in the state; or]~~
1792 ~~[(ii) (c) amounts paid or charged for a purchase or lease [made on or after July 1,~~
1793 ~~2014;]:~~
1794 ~~(i) by an establishment:~~
1795 ~~(A) described in NAICS Code 518112, Web Search Portals, of the 2002 North~~
1796 ~~American Industry Classification System of the federal Executive Office of the President,~~
1797 ~~Office of Management and Budget[, of the following]; and~~
1798 ~~(B) located in the state; and~~
1799 ~~(ii) of:~~

1800 (A) machinery ~~[and]~~ or equipment ~~[that: (f) are]~~ used in the operation of the web
1801 search portal; ~~[and]~~ or
1802 ~~[(H) have an economic life of three or more years; and]~~
1803 (B) normal operating repair or replacement parts ~~[that: (f) are]~~ used in the operation of
1804 the web search portal; ~~[and]~~
1805 ~~[(H) have an economic life of three or more years;]~~
1806 ~~[(e)]~~ (d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter
1807 3, Utah Administrative Rulemaking Act, the commission:
1808 (i) shall by rule define the term "establishment"; and
1809 (ii) may by rule define what constitutes:
1810 (A) processing an item sold as tangible personal property;
1811 (B) the production process, ~~[except for]~~ other than the production of real property; or
1812 (C) research and development; ~~[or]~~ and
1813 ~~[(D) a new or expanding establishment described in Subsection (14)(d) in the state;~~
1814 and]
1815 ~~[(f)]~~ (e) on or before October 1, ~~[2011]~~ 2016, and every five years after October 1,
1816 ~~[2011]~~ 2016, the commission shall:
1817 (i) review the exemptions described in this Subsection (14) and make
1818 recommendations to the Revenue and Taxation Interim Committee concerning whether the
1819 exemptions should be continued, modified, or repealed; and
1820 (ii) include in its report:
1821 (A) an estimate of the cost of the exemptions;
1822 (B) the purpose and effectiveness of the exemptions; and
1823 (C) the benefits of the exemptions to the state;
1824 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
1825 (i) tooling;
1826 (ii) special tooling;
1827 (iii) support equipment;
1828 (iv) special test equipment; or
1829 (v) parts used in the repairs or renovations of tooling or equipment described in
1830 Subsections (15)(a)(i) through (iv); and

1831 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

1832 (i) the tooling, equipment, or parts are used or consumed exclusively in the
1833 performance of any aerospace or electronics industry contract with the United States
1834 government or any subcontract under that contract; and

1835 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
1836 title to the tooling, equipment, or parts is vested in the United States government as evidenced
1837 by:

1838 (A) a government identification tag placed on the tooling, equipment, or parts; or

1839 (B) listing on a government-approved property record if placing a government
1840 identification tag on the tooling, equipment, or parts is impractical;

1841 (16) sales of newspapers or newspaper subscriptions;

1842 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
1843 product transferred electronically traded in as full or part payment of the purchase price, except
1844 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
1845 trade-ins are limited to other vehicles only, and the tax is based upon:

1846 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
1847 vehicle being traded in; or

1848 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
1849 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
1850 commission; and

1851 (b) Subsection (17)(a) does not apply to the following items of tangible personal
1852 property or products transferred electronically traded in as full or part payment of the purchase
1853 price:

1854 (i) money;

1855 (ii) electricity;

1856 (iii) water;

1857 (iv) gas; or

1858 (v) steam;

1859 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
1860 or a product transferred electronically used or consumed primarily and directly in farming

1861 operations, regardless of whether the tangible personal property or product transferred

1862 electronically:

1863 (A) becomes part of real estate; or

1864 (B) is installed by a:

1865 (I) farmer;

1866 (II) contractor; or

1867 (III) subcontractor; or

1868 (ii) sales of parts used in the repairs or renovations of tangible personal property or a

1869 product transferred electronically if the tangible personal property or product transferred

1870 electronically is exempt under Subsection (18)(a)(i); and

1871 (b) amounts paid or charged for the following are subject to the taxes imposed by this

1872 chapter:

1873 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is

1874 incidental to farming:

1875 (I) machinery;

1876 (II) equipment;

1877 (III) materials; or

1878 (IV) supplies; and

1879 (B) tangible personal property that is considered to be used in a manner that is

1880 incidental to farming includes:

1881 (I) hand tools; or

1882 (II) maintenance and janitorial equipment and supplies;

1883 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product

1884 transferred electronically if the tangible personal property or product transferred electronically

1885 is used in an activity other than farming; and

1886 (B) tangible personal property or a product transferred electronically that is considered

1887 to be used in an activity other than farming includes:

1888 (I) office equipment and supplies; or

1889 (II) equipment and supplies used in:

1890 (Aa) the sale or distribution of farm products;

1891 (Bb) research; or

1892 (Cc) transportation; or

1893 (iii) a vehicle required to be registered by the laws of this state during the period
1894 ending two years after the date of the vehicle's purchase;

1895 (19) sales of hay;

1896 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
1897 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
1898 garden, farm, or other agricultural produce is sold by:

1899 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
1900 agricultural produce;

1901 (b) an employee of the producer described in Subsection (20)(a); or

1902 (c) a member of the immediate family of the producer described in Subsection (20)(a);

1903 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
1904 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

1905 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
1906 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
1907 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
1908 manufacturer, processor, wholesaler, or retailer;

1909 (23) a product stored in the state for resale;

1910 (24) (a) purchases of a product if:

1911 (i) the product is:

1912 (A) purchased outside of this state;

1913 (B) brought into this state:

1914 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

1915 (II) by a nonresident person who is not living or working in this state at the time of the
1916 purchase;

1917 (C) used for the personal use or enjoyment of the nonresident person described in
1918 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

1919 (D) not used in conducting business in this state; and

1920 (ii) for:

1921 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
1922 the product for a purpose for which the product is designed occurs outside of this state;

1923 (B) a boat, the boat is registered outside of this state; or

1924 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
1925 outside of this state;

1926 (b) the exemption provided for in Subsection (24)(a) does not apply to:

1927 (i) a lease or rental of a product; or

1928 (ii) a sale of a vehicle exempt under Subsection (33); and

1929 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
1930 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
1931 following:

1932 (i) conducting business in this state if that phrase has the same meaning in this
1933 Subsection (24) as in Subsection (63);

1934 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
1935 as in Subsection (63); or

1936 (iii) a purpose for which a product is designed if that phrase has the same meaning in
1937 this Subsection (24) as in Subsection (63);

1938 (25) a product purchased for resale in this state, in the regular course of business, either
1939 in its original form or as an ingredient or component part of a manufactured or compounded
1940 product;

1941 (26) a product upon which a sales or use tax was paid to some other state, or one of its
1942 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
1943 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
1944 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
1945 Act;

1946 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
1947 person for use in compounding a service taxable under the subsections;

1948 (28) purchases made in accordance with the special supplemental nutrition program for
1949 women, infants, and children established in 42 U.S.C. Sec. 1786;

1950 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
1951 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
1952 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
1953 Manual of the federal Executive Office of the President, Office of Management and Budget;

1954 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State

1955 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
1956 (a) not registered in this state; and
1957 (b) (i) not used in this state; or
1958 (ii) used in this state:
1959 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
1960 time period that does not exceed the longer of:
1961 (I) 30 days in any calendar year; or
1962 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
1963 the borders of this state; or
1964 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
1965 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
1966 state;
1967 (31) sales of aircraft manufactured in Utah;
1968 (32) amounts paid for the purchase of telecommunications service for purposes of
1969 providing telecommunications service;
1970 (33) sales, leases, or uses of the following:
1971 (a) a vehicle by an authorized carrier; or
1972 (b) tangible personal property that is installed on a vehicle:
1973 (i) sold or leased to or used by an authorized carrier; and
1974 (ii) before the vehicle is placed in service for the first time;
1975 (34) (a) 45% of the sales price of any new manufactured home; and
1976 (b) 100% of the sales price of any used manufactured home;
1977 (35) sales relating to schools and fundraising sales;
1978 (36) sales or rentals of durable medical equipment if:
1979 (a) a person presents a prescription for the durable medical equipment; and
1980 (b) the durable medical equipment is used for home use only;
1981 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
1982 Section 72-11-102; and
1983 (b) the commission shall by rule determine the method for calculating sales exempt
1984 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
1985 (38) sales to a ski resort of:

- 1986 (a) snowmaking equipment;
- 1987 (b) ski slope grooming equipment;
- 1988 (c) passenger ropeways as defined in Section 72-11-102; or
- 1989 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 1990 described in Subsections (38)(a) through (c);
- 1991 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 1992 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 1993 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 1994 59-12-102;
- 1995 (b) if a seller that sells or rents at the same business location the right to use or operate
- 1996 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 1997 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 1998 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 1999 amusement, entertainment, or recreation for the assisted amusement devices; and
- 2000 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
- 2001 Utah Administrative Rulemaking Act, the commission may make rules:
- 2002 (i) governing the circumstances under which sales are at the same business location;
- 2003 and
- 2004 (ii) establishing the procedures and requirements for a seller to separately account for
- 2005 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
- 2006 assisted amusement devices;
- 2007 (41) (a) sales of photocopies by:
- 2008 (i) a governmental entity; or
- 2009 (ii) an entity within the state system of public education, including:
- 2010 (A) a school; or
- 2011 (B) the State Board of Education; or
- 2012 (b) sales of publications by a governmental entity;
- 2013 (42) amounts paid for admission to an athletic event at an institution of higher
- 2014 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 2015 20 U.S.C. Sec. 1681 et seq.;
- 2016 (43) (a) sales made to or by:

- 2017 (i) an area agency on aging; or
- 2018 (ii) a senior citizen center owned by a county, city, or town; or
- 2019 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 2020 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 2021 materials regardless of whether the semiconductor fabricating, processing, research, or
- 2022 development materials:
- 2023 (a) actually come into contact with a semiconductor; or
- 2024 (b) ultimately become incorporated into real property;
- 2025 (45) an amount paid by or charged to a purchaser for accommodations and services
- 2026 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
- 2027 59-12-104.2;
- 2028 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
- 2029 sports event registration certificate in accordance with Section 41-3-306 for the event period
- 2030 specified on the temporary sports event registration certificate;
- 2031 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted
- 2032 by the Public Service Commission of Utah only for purchase of electricity produced from a
- 2033 new alternative energy source, as designated in the tariff by the Public Service Commission of
- 2034 Utah; and
- 2035 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a
- 2036 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under
- 2037 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;
- 2038 (48) sales or rentals of mobility enhancing equipment if a person presents a
- 2039 prescription for the mobility enhancing equipment;
- 2040 (49) sales of water in a:
- 2041 (a) pipe;
- 2042 (b) conduit;
- 2043 (c) ditch; or
- 2044 (d) reservoir;
- 2045 (50) sales of currency or coins that constitute legal tender of a state, the United States,
- 2046 or a foreign nation;
- 2047 (51) (a) sales of an item described in Subsection (51)(b) if the item:

- 2048 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
2049 (ii) has a gold, silver, or platinum content of 50% or more; and
2050 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
2051 (i) ingot;
2052 (ii) bar;
2053 (iii) medallion; or
2054 (iv) decorative coin;
2055 (52) amounts paid on a sale-leaseback transaction;
2056 (53) sales of a prosthetic device:
2057 (a) for use on or in a human; and
2058 (b) (i) for which a prescription is required; or
2059 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
2060 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
2061 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
2062 or equipment is primarily used in the production or postproduction of the following media for
2063 commercial distribution:
2064 (i) a motion picture;
2065 (ii) a television program;
2066 (iii) a movie made for television;
2067 (iv) a music video;
2068 (v) a commercial;
2069 (vi) a documentary; or
2070 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
2071 commission by administrative rule made in accordance with Subsection (54)(d); or
2072 (b) purchases, leases, or rentals of machinery or equipment by an establishment
2073 described in Subsection (54)(c) that is used for the production or postproduction of the
2074 following are subject to the taxes imposed by this chapter:
2075 (i) a live musical performance;
2076 (ii) a live news program; or
2077 (iii) a live sporting event;
2078 (c) the following establishments listed in the 1997 North American Industry

2079 Classification System of the federal Executive Office of the President, Office of Management
2080 and Budget, apply to Subsections (54)(a) and (b):

2081 (i) NAICS Code 512110; or
2082 (ii) NAICS Code 51219; and
2083 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2084 commission may by rule:

2085 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
2086 or

2087 (ii) define:

2088 (A) "commercial distribution";
2089 (B) "live musical performance";
2090 (C) "live news program"; or
2091 (D) "live sporting event";

2092 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
2093 on or before June 30, 2027, of tangible personal property that:

2094 (i) is leased or purchased for or by a facility that:

2095 (A) is an alternative energy electricity production facility;
2096 (B) is located in the state; and
2097 (C) (I) becomes operational on or after July 1, 2004; or
2098 (II) has its generation capacity increased by one or more megawatts on or after July 1,
2099 2004, as a result of the use of the tangible personal property;

2100 (ii) has an economic life of five or more years; and
2101 (iii) is used to make the facility or the increase in capacity of the facility described in
2102 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
2103 transmission grid including:

2104 (A) a wind turbine;
2105 (B) generating equipment;
2106 (C) a control and monitoring system;
2107 (D) a power line;
2108 (E) substation equipment;
2109 (F) lighting;

- 2110 (G) fencing;
- 2111 (H) pipes; or
- 2112 (I) other equipment used for locating a power line or pole; and
- 2113 (b) this Subsection (55) does not apply to:
- 2114 (i) tangible personal property used in construction of:
- 2115 (A) a new alternative energy electricity production facility; or
- 2116 (B) the increase in the capacity of an alternative energy electricity production facility;
- 2117 (ii) contracted services required for construction and routine maintenance activities;
- 2118 and
- 2119 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 2120 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
- 2121 acquired after:
- 2122 (A) the alternative energy electricity production facility described in Subsection
- 2123 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
- 2124 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
- 2125 in Subsection (55)(a)(iii);
- 2126 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 2127 on or before June 30, 2027, of tangible personal property that:
- 2128 (i) is leased or purchased for or by a facility that:
- 2129 (A) is a waste energy production facility;
- 2130 (B) is located in the state; and
- 2131 (C) (I) becomes operational on or after July 1, 2004; or
- 2132 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 2133 2004, as a result of the use of the tangible personal property;
- 2134 (ii) has an economic life of five or more years; and
- 2135 (iii) is used to make the facility or the increase in capacity of the facility described in
- 2136 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
- 2137 transmission grid including:
- 2138 (A) generating equipment;
- 2139 (B) a control and monitoring system;
- 2140 (C) a power line;

- 2141 (D) substation equipment;
- 2142 (E) lighting;
- 2143 (F) fencing;
- 2144 (G) pipes; or
- 2145 (H) other equipment used for locating a power line or pole; and
- 2146 (b) this Subsection (56) does not apply to:
- 2147 (i) tangible personal property used in construction of:
- 2148 (A) a new waste energy facility; or
- 2149 (B) the increase in the capacity of a waste energy facility;
- 2150 (ii) contracted services required for construction and routine maintenance activities;
- 2151 and
- 2152 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 2153 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
- 2154 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
- 2155 described in Subsection (56)(a)(iii); or
- 2156 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
- 2157 in Subsection (56)(a)(iii);
- 2158 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
- 2159 or before June 30, 2027, of tangible personal property that:
- 2160 (i) is leased or purchased for or by a facility that:
- 2161 (A) is located in the state;
- 2162 (B) produces fuel from alternative energy, including:
- 2163 (I) methanol; or
- 2164 (II) ethanol; and
- 2165 (C) (I) becomes operational on or after July 1, 2004; or
- 2166 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
- 2167 a result of the installation of the tangible personal property;
- 2168 (ii) has an economic life of five or more years; and
- 2169 (iii) is installed on the facility described in Subsection (57)(a)(i);
- 2170 (b) this Subsection (57) does not apply to:
- 2171 (i) tangible personal property used in construction of:

- 2172 (A) a new facility described in Subsection (57)(a)(i); or
2173 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
2174 (ii) contracted services required for construction and routine maintenance activities;
2175 and
2176 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2177 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
2178 (A) the facility described in Subsection (57)(a)(i) is operational; or
2179 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
- 2180 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
2181 product transferred electronically to a person within this state if that tangible personal property
2182 or product transferred electronically is subsequently shipped outside the state and incorporated
2183 pursuant to contract into and becomes a part of real property located outside of this state;
- 2184 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
2185 state or political entity to which the tangible personal property is shipped imposes a sales, use,
2186 gross receipts, or other similar transaction excise tax on the transaction against which the other
2187 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
- 2188 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
2189 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
2190 refund:
- 2191 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
2192 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
2193 which the sale is made;
- 2194 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
2195 sale prior to filing for the refund;
- 2196 (iv) for sales and use taxes paid under this chapter on the sale;
2197 (v) in accordance with Section 59-1-1410; and
2198 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
2199 the person files for the refund on or before June 30, 2011;
- 2200 (59) purchases:
2201 (a) of one or more of the following items in printed or electronic format:
2202 (i) a list containing information that includes one or more:

- 2203 (A) names; or
- 2204 (B) addresses; or
- 2205 (ii) a database containing information that includes one or more:
- 2206 (A) names; or
- 2207 (B) addresses; and
- 2208 (b) used to send direct mail;
- 2209 (60) redemptions or repurchases of a product by a person if that product was:
- 2210 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 2211 (b) redeemed or repurchased within the time period established in a written agreement
- 2212 between the person and the pawnbroker for redeeming or repurchasing the product;
- 2213 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 2214 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 2215 and
- 2216 (ii) has a useful economic life of one or more years; and
- 2217 (b) the following apply to Subsection (61)(a):
- 2218 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 2219 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 2220 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 2221 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 2222 (v) telecommunications transmission equipment, machinery, or software;
- 2223 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
- 2224 personal property or a product transferred electronically that are used in the research and
- 2225 development of alternative energy technology; and
- 2226 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2227 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
- 2228 purchases of tangible personal property or a product transferred electronically that are used in
- 2229 the research and development of alternative energy technology;
- 2230 (63) (a) purchases of tangible personal property or a product transferred electronically
- 2231 if:
- 2232 (i) the tangible personal property or product transferred electronically is:
- 2233 (A) purchased outside of this state;

2234 (B) brought into this state at any time after the purchase described in Subsection
2235 (63)(a)(i)(A); and

2236 (C) used in conducting business in this state; and

2237 (ii) for:

2238 (A) tangible personal property or a product transferred electronically other than the
2239 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
2240 for a purpose for which the property is designed occurs outside of this state; or

2241 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
2242 outside of this state;

2243 (b) the exemption provided for in Subsection (63)(a) does not apply to:

2244 (i) a lease or rental of tangible personal property or a product transferred electronically;
2245 or

2246 (ii) a sale of a vehicle exempt under Subsection (33); and

2247 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2248 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
2249 following:

2250 (i) conducting business in this state if that phrase has the same meaning in this
2251 Subsection (63) as in Subsection (24);

2252 (ii) the first use of tangible personal property or a product transferred electronically if
2253 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

2254 (iii) a purpose for which tangible personal property or a product transferred
2255 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
2256 Subsection (24);

2257 (64) sales of disposable home medical equipment or supplies if:

2258 (a) a person presents a prescription for the disposable home medical equipment or
2259 supplies;

2260 (b) the disposable home medical equipment or supplies are used exclusively by the
2261 person to whom the prescription described in Subsection (64)(a) is issued; and

2262 (c) the disposable home medical equipment and supplies are listed as eligible for
2263 payment under:

2264 (i) Title XVIII, federal Social Security Act; or

- 2265 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
2266 (65) sales:
- 2267 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
2268 District Act; or
- 2269 (b) of tangible personal property to a subcontractor of a public transit district, if the
2270 tangible personal property is:
- 2271 (i) clearly identified; and
2272 (ii) installed or converted to real property owned by the public transit district;
- 2273 (66) sales of construction materials:
- 2274 (a) purchased on or after July 1, 2010;
2275 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 2276 (i) located within a county of the first class; and
2277 (ii) that has a United States customs office on its premises; and
- 2278 (c) if the construction materials are:
- 2279 (i) clearly identified;
2280 (ii) segregated; and
2281 (iii) installed or converted to real property:
- 2282 (A) owned or operated by the international airport described in Subsection (66)(b); and
2283 (B) located at the international airport described in Subsection (66)(b);
- 2284 (67) sales of construction materials:
- 2285 (a) purchased on or after July 1, 2008;
2286 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 2287 (i) located within a county of the second class; and
2288 (ii) that is owned or operated by a city in which an airline as defined in Section
2289 59-2-102 is headquartered; and
- 2290 (c) if the construction materials are:
- 2291 (i) clearly identified;
2292 (ii) segregated; and
2293 (iii) installed or converted to real property:
- 2294 (A) owned or operated by the new airport described in Subsection (67)(b);
2295 (B) located at the new airport described in Subsection (67)(b); and

- 2296 (C) as part of the construction of the new airport described in Subsection (67)(b);
2297 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
2298 (69) purchases and sales described in Section 63H-4-111;
2299 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
2300 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
2301 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
2302 lists a state or country other than this state as the location of registry of the fixed wing turbine
2303 powered aircraft; or
2304 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
2305 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
2306 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
2307 lists a state or country other than this state as the location of registry of the fixed wing turbine
2308 powered aircraft;
2309 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
2310 (a) to a person admitted to an institution of higher education; and
2311 (b) by a seller, other than a bookstore owned by an institution of higher education, if
2312 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
2313 textbook for a higher education course;
2314 (72) a license fee or tax a municipality imposes in accordance with Subsection
2315 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
2316 level of municipal services;
2317 (73) amounts paid or charged for construction materials used in the construction of a
2318 new or expanding life science research and development facility in the state, if the construction
2319 materials are:
2320 (a) clearly identified;
2321 (b) segregated; and
2322 (c) installed or converted to real property;
2323 (74) amounts paid or charged for:
2324 (a) a purchase or lease of machinery and equipment that:
2325 (i) are used in performing qualified research:
2326 (A) as defined in Section 59-7-612;

2327 (B) in the state; and
2328 (C) with respect to which the purchaser pays or incurs a qualified research expense as
2329 defined in Section 59-7-612; and
2330 (ii) have an economic life of three or more years; and
2331 (b) normal operating repair or replacement parts:
2332 (i) for the machinery and equipment described in Subsection (74)(a); and
2333 (ii) that have an economic life of three or more years;
2334 (75) a sale or lease of tangible personal property used in the preparation of prepared
2335 food if:
2336 (a) for a sale:
2337 (i) the ownership of the seller and the ownership of the purchaser are identical; and
2338 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
2339 tangible personal property prior to making the sale; or
2340 (b) for a lease:
2341 (i) the ownership of the lessor and the ownership of the lessee are identical; and
2342 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
2343 personal property prior to making the lease;
2344 (76) (a) purchases of machinery or equipment if:
2345 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
2346 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
2347 System of the federal Executive Office of the President, Office of Management and Budget;
2348 (ii) the machinery or equipment:
2349 (A) has an economic life of three or more years; and
2350 (B) is used by one or more persons who pay admission or user fees described in
2351 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
2352 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
2353 (A) amounts paid or charged as admission or user fees described in Subsection
2354 59-12-103(1)(f); and
2355 (B) subject to taxation under this chapter;
2356 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2357 commission may make rules for verifying that 51% of a purchaser's sales revenue for the

2358 previous calendar quarter is:

2359 (i) amounts paid or charged as admission or user fees described in Subsection

2360 59-12-103(1)(f); and

2361 (ii) subject to taxation under this chapter; and

2362 (c) on or before the November 2018 interim meeting, and every five years after the

2363 November 2018 interim meeting, the commission shall review the exemption provided in this

2364 Subsection (76) and report to the Revenue and Taxation Interim Committee on:

2365 (i) the revenue lost to the state and local taxing jurisdictions as a result of the

2366 exemption;

2367 (ii) the purpose and effectiveness of the exemption; and

2368 (iii) whether the exemption benefits the state;

2369 (77) purchases of a short-term lodging consumable by a business that provides

2370 accommodations and services described in Subsection 59-12-103(1)(i);

2371 (78) amounts paid or charged to access a database:

2372 (a) if the primary purpose for accessing the database is to view or retrieve information

2373 from the database; and

2374 (b) not including amounts paid or charged for a:

2375 (i) digital audiowork;

2376 (ii) digital audio-visual work; or

2377 (iii) digital book;

2378 (79) amounts paid or charged for a purchase or lease made by an electronic financial

2379 payment service, of:

2380 (a) machinery and equipment that:

2381 (i) are used in the operation of the electronic financial payment service; and

2382 (ii) have an economic life of three or more years; and

2383 (b) normal operating repair or replacement parts that:

2384 (i) are used in the operation of the electronic financial payment service; and

2385 (ii) have an economic life of three or more years; and

2386 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102.

2387 Section 3. **Effective date.**

2388 This bill takes effect on July 1, 2014.

