

1 **SALES AND USE TAX EXEMPTION -**
2 **TELECOMMUNICATIONS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Curtis S. Bramble**

6 House Sponsor: John Dougall

7
8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Sales and Use Tax Act to provide a sales and use tax exemption
11 relating to certain telecommunications equipment, machinery, or software.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ provides definitions;
- 15 ▶ provides a sales and use tax exemption relating to certain telecommunications
16 equipment, machinery, or software; and
- 17 ▶ makes technical changes.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 This bill takes effect on July 1, 2006.

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **59-12-102**, as last amended by Chapters 158 and 246, Laws of Utah 2005

25 **59-12-104**, as last amended by Chapters 158, 203, 209, 240 and 246, Laws of Utah
26 2005



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

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

30 **59-12-102. Definitions.**

31 As used in this chapter:

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

33 (b) "Admission or user fees" does not include annual membership dues to private
34 organizations.

35 (2) "Agreement" means the Streamlined Sales and Use Tax Agreement described in
36 Section 59-12-102.1.

37 (3) "Agreement combined tax rate" means the sum of the tax rates:

38 (a) listed under Subsection (4); and

39 (b) that are imposed within a local taxing jurisdiction.

40 (4) "Agreement sales and use tax" means a tax imposed under:

41 (a) Subsection 59-12-103(2)(a)(i);

42 (b) Section 59-12-204;

43 (c) Section 59-12-401;

44 (d) Section 59-12-402;

45 (e) Section 59-12-501;

46 (f) Section 59-12-502;

47 (g) Section 59-12-703;

48 (h) Section 59-12-802;

49 (i) Section 59-12-804;

50 (j) Section 59-12-1001;

51 (k) Section 59-12-1102;

52 (l) Section 59-12-1302;

53 (m) Section 59-12-1402; or

54 (n) Section 59-12-1503.

55 (5) "Aircraft" is as defined in Section 72-10-102.

56 (6) "Alcoholic beverage" means a beverage that:

57 (a) is suitable for human consumption; and

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

- 59 (7) "Area agency on aging" is as defined in Section 62A-3-101.
- 60 (8) "Authorized carrier" means:
- 61 (a) in the case of vehicles operated over public highways, the holder of credentials
- 62 indicating that the vehicle is or will be operated pursuant to both the International Registration
- 63 Plan and the International Fuel Tax Agreement;
- 64 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
- 65 certificate or air carrier's operating certificate; or
- 66 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
- 67 stock, the holder of a certificate issued by the United States Surface Transportation Board.
- 68 (9) (a) Except as provided in Subsection (9)(b), "biomass energy" means any of the
- 69 following that is used as the primary source of energy to produce fuel or electricity:
- 70 (i) material from a plant or tree; or
- 71 (ii) other organic matter that is available on a renewable basis, including:
- 72 (A) slash and brush from forests and woodlands;
- 73 (B) animal waste;
- 74 (C) methane produced:
- 75 (I) at landfills; or
- 76 (II) as a byproduct of the treatment of wastewater residuals;
- 77 (D) aquatic plants; and
- 78 (E) agricultural products.
- 79 (b) "Biomass energy" does not include:
- 80 (i) black liquor;
- 81 (ii) treated woods; or
- 82 (iii) biomass from municipal solid waste other than methane produced:
- 83 (A) at landfills; or
- 84 (B) as a byproduct of the treatment of wastewater residuals.
- 85 (10) "Certified automated system" means software certified by the governing board of
- 86 the agreement in accordance with Section 59-12-102.1 that:
- 87 (a) calculates the agreement sales and use tax imposed within a local taxing
- 88 jurisdiction:
- 89 (i) on a transaction; and

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

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

93 (c) maintains a record of the transaction described in Subsection (10)(a)(i).

94 (11) "Certified service provider" means an agent certified:

95 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;

96 and

97 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
98 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's
99 own purchases.

100 (12) (a) Subject to Subsection (12)(b), "clothing" means all human wearing apparel
101 suitable for general use.

102 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
103 commission shall make rules:

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

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

107 (13) (a) For purposes of Subsection 59-12-104(42), "coin-operated amusement device"
108 means:

109 (i) a coin-operated amusement, skill, or ride device;

110 (ii) that is not controlled through seller-assisted, over-the-counter, sales of tokens; and

111 (iii) includes a music machine, pinball machine, billiard machine, video game machine,
112 arcade machine, and a mechanical or electronic skill game or ride.

113 (b) For purposes of Subsection 59-12-104(42), "coin-operated amusement device" does
114 not mean a coin-operated amusement device possessing a coinage mechanism that:

115 (i) accepts and registers multiple denominations of coins; and

116 (ii) allows the seller to collect the sales and use tax at the time an amusement device is
117 activated and operated by a person inserting coins into the device.

118 (14) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
119 fuels that does not constitute industrial use under Subsection (34) or residential use under
120 Subsection (68).

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

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

126 (ii) For purposes of Subsection (15)(b)(i), in accordance with Title 63, Chapter 46a,
127 Utah Administrative Rulemaking Act, the commission may make rules defining what
128 constitutes a person's place of employment.

129 (16) "Component part" includes:

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

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

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

135 (d) feed, seeds, and seedlings.

136 (17) "Computer" means an electronic device that accepts information:

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

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

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

140 (18) "Computer software" means a set of coded instructions designed to cause:

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

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

143 (19) "Construction materials" means any tangible personal property that will be
144 converted into real property.

145 (20) "Delivered electronically" means delivered to a purchaser by means other than
146 tangible storage media.

147 (21) (a) "Delivery charge" means a charge:

148 (i) by a seller of:

149 (A) tangible personal property; or

150 (B) services; and

151 (ii) for preparation and delivery of the tangible personal property or services described

152 in Subsection (21)(a)(i) to a location designated by the purchaser.

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

154 (i) transportation;

155 (ii) shipping;

156 (iii) postage;

157 (iv) handling;

158 (v) crating; or

159 (vi) packing.

160 (22) "Dietary supplement" means a product, other than tobacco, that:

161 (a) is intended to supplement the diet;

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

163 (i) a vitamin;

164 (ii) a mineral;

165 (iii) an herb or other botanical;

166 (iv) an amino acid;

167 (v) a dietary substance for use by humans to supplement the diet by increasing the total

168 dietary intake; or

169 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient

170 described in Subsections (22)(b)(i) through (v);

171 (c) (i) except as provided in Subsection (22)(c)(ii), is intended for ingestion in:

172 (A) tablet form;

173 (B) capsule form;

174 (C) powder form;

175 (D) softgel form;

176 (E) gelcap form; or

177 (F) liquid form; or

178 (ii) notwithstanding Subsection (22)(c)(i), if the product is not intended for ingestion in

179 a form described in Subsections (22)(c)(i)(A) through (F), is not represented:

180 (A) as conventional food; and

181 (B) for use as a sole item of:

182 (I) a meal; or

- 183 (II) the diet; and
- 184 (d) is required to be labeled as a dietary supplement:
- 185 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 186 (ii) as required by 21 C.F.R. Sec. 101.36.
- 187 (23) (a) "Direct mail" means printed material delivered or distributed by United States
- 188 mail or other delivery service:
- 189 (i) to:
- 190 (A) a mass audience; or
- 191 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
- 192 (ii) if the cost of the printed material is not billed directly to the recipients.
- 193 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 194 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 195 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 196 single address.
- 197 (24) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 198 compound, substance, or preparation that is:
- 199 (i) recognized in:
- 200 (A) the official United States Pharmacopoeia;
- 201 (B) the official Homeopathic Pharmacopoeia of the United States;
- 202 (C) the official National Formulary; or
- 203 (D) a supplement to a publication listed in Subsections (24)(a)(i)(A) through (C);
- 204 (ii) intended for use in the:
- 205 (A) diagnosis of disease;
- 206 (B) cure of disease;
- 207 (C) mitigation of disease;
- 208 (D) treatment of disease; or
- 209 (E) prevention of disease; or
- 210 (iii) intended to affect:
- 211 (A) the structure of the body; or
- 212 (B) any function of the body.
- 213 (b) "Drug" does not include:

- 214 (i) food and food ingredients;
- 215 (ii) a dietary supplement;
- 216 (iii) an alcoholic beverage; or
- 217 (iv) a prosthetic device.

218 (25) (a) Except as provided in Subsection (25)(c), "durable medical equipment" means
219 equipment that:

- 220 (i) can withstand repeated use;
- 221 (ii) is primarily and customarily used to serve a medical purpose;
- 222 (iii) generally is not useful to a person in the absence of illness or injury; and
- 223 (iv) is not worn in or on the body.

224 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
225 equipment described in Subsection (25)(a).

226 (c) Notwithstanding Subsection (25)(a), "durable medical equipment" does not include
227 mobility enhancing equipment.

228 (26) "Electronic" means:

- 229 (a) relating to technology; and
- 230 (b) having:
 - 231 (i) electrical capabilities;
 - 232 (ii) digital capabilities;
 - 233 (iii) magnetic capabilities;
 - 234 (iv) wireless capabilities;
 - 235 (v) optical capabilities;
 - 236 (vi) electromagnetic capabilities; or
 - 237 (vii) capabilities similar to Subsections (26)(b)(i) through (vi).

238 (27) (a) "Food and food ingredients" means substances:

- 239 (i) regardless of whether the substances are in:
 - 240 (A) liquid form;
 - 241 (B) concentrated form;
 - 242 (C) solid form;
 - 243 (D) frozen form;
 - 244 (E) dried form; or

- 245 (F) dehydrated form; and
- 246 (ii) that are:
- 247 (A) sold for:
- 248 (I) ingestion by humans; or
- 249 (II) chewing by humans; and
- 250 (B) consumed for the substance's:
- 251 (I) taste; or
- 252 (II) nutritional value.
- 253 (b) "Food and food ingredients" does not include:
- 254 (i) an alcoholic beverage;
- 255 (ii) tobacco; or
- 256 (iii) prepared food.
- 257 (28) (a) "Fundraising sales" means sales:
- 258 (i) (A) made by a school; or
- 259 (B) made by a school student;
- 260 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 261 materials, or provide transportation; and
- 262 (iii) that are part of an officially sanctioned school activity.
- 263 (b) For purposes of Subsection (28)(a)(iii), "officially sanctioned school activity"
- 264 means a school activity:
- 265 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 266 district governing the authorization and supervision of fundraising activities;
- 267 (ii) that does not directly or indirectly compensate an individual teacher or other
- 268 educational personnel by direct payment, commissions, or payment in kind; and
- 269 (iii) the net or gross revenues from which are deposited in a dedicated account
- 270 controlled by the school or school district.
- 271 (29) "Geothermal energy" means energy contained in heat that continuously flows
- 272 outward from the earth that is used as the sole source of energy to produce electricity.
- 273 (30) "Governing board of the agreement" means the governing board of the agreement
- 274 that is:
- 275 (a) authorized to administer the agreement; and

276 (b) established in accordance with the agreement.
277 (31) (a) "Hearing aid" means:
278 (i) an instrument or device having an electronic component that is designed to:
279 (A) (I) improve impaired human hearing; or
280 (II) correct impaired human hearing; and
281 (B) (I) be worn in the human ear; or
282 (II) affixed behind the human ear;
283 (ii) an instrument or device that is surgically implanted into the cochlea; or
284 (iii) a telephone amplifying device.
285 (b) "Hearing aid" does not include:
286 (i) except as provided in Subsection (31)(a)(i)(B) or (31)(a)(ii), an instrument or device
287 having an electronic component that is designed to be worn on the body;
288 (ii) except as provided in Subsection (31)(a)(iii), an assistive listening device or system
289 designed to be used by one individual, including:
290 (A) a personal amplifying system;
291 (B) a personal FM system;
292 (C) a television listening system; or
293 (D) a device or system similar to a device or system described in Subsections
294 (31)(b)(ii)(A) through (C); or
295 (iii) an assistive listening device or system designed to be used by more than one
296 individual, including:
297 (A) a device or system installed in:
298 (I) an auditorium;
299 (II) a church;
300 (III) a conference room;
301 (IV) a synagogue; or
302 (V) a theater; or
303 (B) a device or system similar to a device or system described in Subsections
304 (31)(b)(iii)(A)(I) through (V).
305 (32) (a) "Hearing aid accessory" means a hearing aid:
306 (i) component;

- 307 (ii) attachment; or
308 (iii) accessory.
309 (b) "Hearing aid accessory" includes:
310 (i) a hearing aid neck loop;
311 (ii) a hearing aid cord;
312 (iii) a hearing aid ear mold;
313 (iv) hearing aid tubing;
314 (v) a hearing aid ear hook; or
315 (vi) a hearing aid remote control.
316 (c) "Hearing aid accessory" does not include:
317 (i) a component, attachment, or accessory designed to be used only with an:
318 (A) instrument or device described in Subsection (31)(b)(i); or
319 (B) assistive listening device or system described in Subsection (31)(b)(ii) or (iii); or
320 (ii) a hearing aid battery.
321 (33) "Hydroelectric energy" means water used as the sole source of energy to produce
322 electricity.
323 (34) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
324 other fuels:
325 (a) in mining or extraction of minerals;
326 (b) in agricultural operations to produce an agricultural product up to the time of
327 harvest or placing the agricultural product into a storage facility, including:
328 (i) commercial greenhouses;
329 (ii) irrigation pumps;
330 (iii) farm machinery;
331 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
332 registered under Title 41, Chapter 1a, Part 2, Registration; and
333 (v) other farming activities;
334 (c) in manufacturing tangible personal property at an establishment described in SIC
335 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
336 Executive Office of the President, Office of Management and Budget; or
337 (d) by a scrap recycler if:

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

- 341 (A) iron;
- 342 (B) steel;
- 343 (C) nonferrous metal;
- 344 (D) paper;
- 345 (E) glass;
- 346 (F) plastic;
- 347 (G) textile; or
- 348 (H) rubber; and

349 (ii) the new products under Subsection (34)(d)(i) would otherwise be made with
350 nonrecycled materials.

351 (35) (a) Except as provided in Subsection (35)(b), "installation charge" means a charge
352 for installing tangible personal property.

353 (b) Notwithstanding Subsection (35)(a), "installation charge" does not include a charge
354 for repairs or renovations of tangible personal property.

355 (36) (a) "Lease" or "rental" means a transfer of possession or control of tangible
356 personal property for:

- 357 (i) (A) a fixed term; or
- 358 (B) an indeterminate term; and
- 359 (ii) consideration.

360 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
361 amount of consideration may be increased or decreased by reference to the amount realized
362 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
363 Code.

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

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

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

369 transfer of title:

370 (A) upon completion of required payments; and

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

372 (I) \$100; or

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

374 (iii) providing tangible personal property along with an operator for a fixed period of

375 time or an indeterminate period of time if the operator is necessary for equipment to perform as

376 designed.

377 (d) For purposes of Subsection (36)(c)(iii), an operator is necessary for equipment to

378 perform as designed if the operator's duties exceed the:

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

380 (ii) maintenance of tangible personal property; or

381 (iii) inspection of tangible personal property.

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

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

384 (38) "Local taxing jurisdiction" means a:

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

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

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

388 (39) "Manufactured home" is as defined in Section 58-56-3.

389 (40) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:

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

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

392 Management and Budget; or

393 (b) a scrap recycler if:

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

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

396 products:

397 (A) iron;

398 (B) steel;

399 (C) nonferrous metal;

400 (D) paper;
401 (E) glass;
402 (F) plastic;
403 (G) textile; or
404 (H) rubber; and
405 (ii) the new products under Subsection (40)(b)(i) would otherwise be made with
406 nonrecycled materials.

407 (41) "Mobile home" is as defined in Section 58-56-3.

408 (42) "Mobile telecommunications service" is as defined in the Mobile
409 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

410 (43) (a) Except as provided in Subsection (43)(c), "mobility enhancing equipment"
411 means equipment that is:

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

414 (ii) appropriate for use in a:

415 (A) home; or

416 (B) motor vehicle; and

417 (iii) not generally used by persons with normal mobility.

418 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
419 the equipment described in Subsection (43)(a).

420 (c) Notwithstanding Subsection (43)(a), "mobility enhancing equipment" does not
421 include:

422 (i) a motor vehicle;

423 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
424 vehicle manufacturer;

425 (iii) durable medical equipment; or

426 (iv) a prosthetic device.

427 (44) "Model 1 seller" means a seller that has selected a certified service provider as the
428 seller's agent to perform all of the seller's sales and use tax functions for agreement sales and
429 use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the
430 seller's own purchases.

- 431 (45) "Model 2 seller" means a seller that:
- 432 (a) except as provided in Subsection (45)(b), has selected a certified automated system
- 433 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 434 (b) notwithstanding Subsection (45)(a), retains responsibility for remitting all of the
- 435 sales tax:
- 436 (i) collected by the seller; and
- 437 (ii) to the appropriate local taxing jurisdiction.
- 438 (46) (a) Subject to Subsection (46)(b), "model 3 seller" means a seller that has:
- 439 (i) sales in at least five states that are members of the agreement;
- 440 (ii) total annual sales revenues of at least \$500,000,000;
- 441 (iii) a proprietary system that calculates the amount of tax:
- 442 (A) for an agreement sales and use tax; and
- 443 (B) due to each local taxing jurisdiction; and
- 444 (iv) entered into a performance agreement with the governing board of the agreement.
- 445 (b) For purposes of Subsection (46)(a), "model 3 seller" includes an affiliated group of
- 446 sellers using the same proprietary system.
- 447 (47) "Modular home" means a modular unit as defined in Section 58-56-3.
- 448 (48) "Motor vehicle" is as defined in Section 41-1a-102.
- 449 (49) (a) "Other fuels" means products that burn independently to produce heat or
- 450 energy.
- 451 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 452 personal property.
- 453 (50) "Pawnbroker" is as defined in Section 13-32a-102.
- 454 (51) "Pawn transaction" is as defined in Section 13-32a-102.
- 455 (52) (a) "Permanently attached to real property" means that for tangible personal
- 456 property attached to real property:
- 457 (i) the attachment of the tangible personal property to the real property:
- 458 (A) is essential to the use of the tangible personal property; and
- 459 (B) suggests that the tangible personal property will remain attached to the real
- 460 property in the same place over the useful life of the tangible personal property; or
- 461 (ii) if the tangible personal property is detached from the real property, the detachment

462 would:

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

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

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

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

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

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

470 (ii) a temporary detachment of tangible personal property from real property for a
471 repair or renovation if the repair or renovation is performed where the tangible personal
472 property and real property are located.

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

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

476 (A) convenience;

477 (B) stability; or

478 (C) for an obvious temporary purpose; or

479 (ii) the detachment of tangible personal property from real property other than the
480 detachment described in Subsection (52)(b)(ii).

481 (53) "Person" includes any individual, firm, partnership, joint venture, association,
482 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
483 municipality, district, or other local governmental entity of the state, or any group or
484 combination acting as a unit.

485 (54) "Place of primary use":

486 (a) for telephone service other than mobile telecommunications service, means the
487 street address representative of where the purchaser's use of the telephone service primarily
488 occurs, which shall be:

489 (i) the residential street address of the purchaser; or

490 (ii) the primary business street address of the purchaser; or

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

493 (55) "Postproduction" means an activity related to the finishing or duplication of a
494 medium described in Subsection 59-12-104(60)(a).
495 (56) (a) "Prepared food" means:
496 (i) food:
497 (A) sold in a heated state; or
498 (B) heated by a seller;
499 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
500 item; or
501 (iii) except as provided in Subsection (56)(c), food sold with an eating utensil provided
502 by the seller, including a:
503 (A) plate;
504 (B) knife;
505 (C) fork;
506 (D) spoon;
507 (E) glass;
508 (F) cup;
509 (G) napkin; or
510 (H) straw.
511 (b) "Prepared food" does not include:
512 (i) food that a seller only:
513 (A) cuts;
514 (B) repackages; or
515 (C) pasteurizes; or
516 (ii) (A) the following:
517 (I) raw egg;
518 (II) raw fish;
519 (III) raw meat;
520 (IV) raw poultry; or
521 (V) a food containing an item described in Subsections (56)(b)(ii)(A)(I) through (IV);
522 and
523 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the

524 Food and Drug Administration's Food Code that a consumer cook the items described in
525 Subsection (56)(b)(ii)(A) to prevent food borne illness.

526 (c) Notwithstanding Subsection (56)(a)(iii), an eating utensil provided by the seller
527 does not include the following used to transport the food:

- 528 (i) a container; or
- 529 (ii) packaging.

530 (57) "Prescription" means an order, formula, or recipe that is issued:

- 531 (a) (i) orally;
- 532 (ii) in writing;
- 533 (iii) electronically; or
- 534 (iv) by any other manner of transmission; and

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

536 (58) (a) Except as provided in Subsection (58)(b)(ii) or (iii), "prewritten computer
537 software" means computer software that is not designed and developed:

- 538 (i) by the author or other creator of the computer software; and
- 539 (ii) to the specifications of a specific purchaser.

540 (b) "Prewritten computer software" includes:

541 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
542 software is not designed and developed:

- 543 (A) by the author or other creator of the computer software; and
- 544 (B) to the specifications of a specific purchaser;

545 (ii) notwithstanding Subsection (58)(a), computer software designed and developed by
546 the author or other creator of the computer software to the specifications of a specific purchaser
547 if the computer software is sold to a person other than the purchaser; or

548 (iii) notwithstanding Subsection (58)(a) and except as provided in Subsection (58)(c),
549 prewritten computer software or a prewritten portion of prewritten computer software:

- 550 (A) that is modified or enhanced to any degree; and
- 551 (B) if the modification or enhancement described in Subsection (58)(b)(iii)(A) is
552 designed and developed to the specifications of a specific purchaser.

553 (c) Notwithstanding Subsection (58)(b)(iii), "prewritten computer software" does not
554 include a modification or enhancement described in Subsection (58)(b)(iii) if the charges for

555 the modification or enhancement are:

556 (i) reasonable; and

557 (ii) separately stated on the invoice or other statement of price provided to the
558 purchaser.

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

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

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

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

563 (b) "Prosthetic device" includes:

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

565 (ii) replacement parts for a prosthetic device.

566 (c) "Prosthetic device" does not include:

567 (i) corrective eyeglasses;

568 (ii) contact lenses;

569 (iii) hearing aids; or

570 (iv) dental prostheses.

571 (60) (a) "Protective equipment" means an item:

572 (i) for human wear; and

573 (ii) that is:

574 (A) designed as protection:

575 (I) to the wearer against injury or disease; or

576 (II) against damage or injury of other persons or property; and

577 (B) not suitable for general use.

578 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
579 commission shall make rules:

580 (i) listing the items that constitute "protective equipment"; and

581 (ii) that are consistent with the list of items that constitute "protective equipment"

582 under the agreement.

583 (61) (a) "Purchase price" and "sales price" mean the total amount of consideration:

584 (i) valued in money; and

585 (ii) for which tangible personal property or services are:

- 586 (A) sold;
- 587 (B) leased; or
- 588 (C) rented.
- 589 (b) "Purchase price" and "sales price" include:
- 590 (i) the seller's cost of the tangible personal property or services sold;
- 591 (ii) expenses of the seller, including:
- 592 (A) the cost of materials used;
- 593 (B) a labor cost;
- 594 (C) a service cost;
- 595 (D) interest;
- 596 (E) a loss;
- 597 (F) the cost of transportation to the seller; or
- 598 (G) a tax imposed on the seller; or
- 599 (iii) a charge by the seller for any service necessary to complete the sale.
- 600 (c) "Purchase price" and "sales price" do not include:
- 601 (i) a discount:
- 602 (A) in a form including:
- 603 (I) cash;
- 604 (II) term; or
- 605 (III) coupon;
- 606 (B) that is allowed by a seller;
- 607 (C) taken by a purchaser on a sale; and
- 608 (D) that is not reimbursed by a third party; or
- 609 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 610 provided to the purchaser:
- 611 (A) the amount of a trade-in;
- 612 (B) the following from credit extended on the sale of tangible personal property or
- 613 services:
- 614 (I) interest charges;
- 615 (II) financing charges; or
- 616 (III) carrying charges;

- 617 (C) a tax or fee legally imposed directly on the consumer;
- 618 (D) a delivery charge; or
- 619 (E) an installation charge.
- 620 (62) "Purchaser" means a person to whom:
 - 621 (a) a sale of tangible personal property is made; or
 - 622 (b) a service is furnished.
- 623 (63) "Regularly rented" means:
 - 624 (a) rented to a guest for value three or more times during a calendar year; or
 - 625 (b) advertised or held out to the public as a place that is regularly rented to guests for
 - 626 value.
- 627 (64) "Renewable energy" means:
 - 628 (a) biomass energy;
 - 629 (b) hydroelectric energy;
 - 630 (c) geothermal energy;
 - 631 (d) solar energy; or
 - 632 (e) wind energy.
- 633 (65) (a) "Renewable energy production facility" means a facility that:
 - 634 (i) uses renewable energy to produce electricity; and
 - 635 (ii) has a production capacity of 20 kilowatts or greater.
- 636 (b) A facility is a renewable energy production facility regardless of whether the
- 637 facility is:
 - 638 (i) connected to an electric grid; or
 - 639 (ii) located on the premises of an electricity consumer.
- 640 (66) "Rental" is as defined in Subsection (36).
- 641 (67) "Repairs or renovations of tangible personal property" means:
 - 642 (a) a repair or renovation of tangible personal property that is not permanently attached
 - 643 to real property; or
 - 644 (b) attaching tangible personal property to other tangible personal property if the other
 - 645 tangible personal property to which the tangible personal property is attached is not
 - 646 permanently attached to real property.
- 647 (68) "Residential use" means the use in or around a home, apartment building, sleeping

648 quarters, and similar facilities or accommodations.

649 (69) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
650 than:

- 651 (a) resale;
- 652 (b) sublease; or
- 653 (c) subrent.

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

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

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

662 (b) "Sale" includes:

- 663 (i) installment and credit sales;
- 664 (ii) any closed transaction constituting a sale;
- 665 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
666 chapter;

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

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

672 (72) "Sale at retail" is as defined in Subsection (69).

673 (73) "Sale-leaseback transaction" means a transaction by which title to tangible
674 personal property that is subject to a tax under this chapter is transferred:

- 675 (a) by a purchaser-lessee;
- 676 (b) to a lessor;
- 677 (c) for consideration; and
- 678 (d) if:

679 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
680 of the tangible personal property;

681 (ii) the sale of the tangible personal property to the lessor is intended as a form of
682 financing:

683 (A) for the property; and

684 (B) to the purchaser-lessee; and

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

687 (A) capitalize the property for financial reporting purposes; and

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

689 (74) "Sales price" is as defined in Subsection (61).

690 (75) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
691 amounts charged by a school:

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

694 (A) the sale of:

695 (I) textbooks;

696 (II) textbook fees;

697 (III) laboratory fees;

698 (IV) laboratory supplies; or

699 (V) safety equipment;

700 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

701 that:

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

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

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

708 (I) food and food ingredients; or

709 (II) prepared food; or

710 (D) transportation charges for official school activities; or
711 (ii) amounts paid to or amounts charged by a school for admission to a school-related
712 event or school-related activity.

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

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

715 (ii) except as provided in Subsection (75)(a)(i)(B):

716 (A) clothing;

717 (B) clothing accessories or equipment;

718 (C) protective equipment; or

719 (D) sports or recreational equipment; or

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

722 (A) other than a:

723 (I) school;

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

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

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

729 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
730 commission may make rules defining the term "passed through."

731 (76) For purposes of this section and Section 59-12-104, "school" means:

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

733 (i) is a:

734 (A) public school; or

735 (B) private school; and

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

737 (b) a public school district.

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

739 (a) tangible personal property; or

740 (b) a service.

741 (78) (a) "Semiconductor fabricating or processing materials" means tangible personal
742 property:

743 (i) used primarily in the process of:

744 (A) (I) manufacturing a semiconductor; or

745 (II) fabricating a semiconductor; or

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

747 (ii) consumed primarily in the process of:

748 (A) (I) manufacturing a semiconductor; or

749 (II) fabricating a semiconductor; or

750 (B) maintaining an environment suitable for a semiconductor.

751 (b) "Semiconductor fabricating or processing materials" includes:

752 (i) parts used in the repairs or renovations of tangible personal property described in

753 Subsection (78)(a); or

754 (ii) a chemical, catalyst, or other material used to:

755 (A) produce or induce in a semiconductor a:

756 (I) chemical change; or

757 (II) physical change;

758 (B) remove impurities from a semiconductor; or

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

760 (79) "Senior citizen center" means a facility having the primary purpose of providing

761 services to the aged as defined in Section 62A-3-101.

762 (80) "Simplified electronic return" means the electronic return:

763 (a) described in Section 318(C) of the agreement; and

764 (b) approved by the governing board of the agreement.

765 (81) "Solar energy" means the sun used as the sole source of energy for producing
766 electricity.

767 (82) (a) "Sports or recreational equipment" means an item:

768 (i) designed for human use; and

769 (ii) that is:

770 (A) worn in conjunction with:

771 (I) an athletic activity; or

772 (II) a recreational activity; and
773 (B) not suitable for general use.
774 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
775 commission shall make rules:
776 (i) listing the items that constitute "sports or recreational equipment"; and
777 (ii) that are consistent with the list of items that constitute "sports or recreational
778 equipment" under the agreement.
779 (83) "State" means the state of Utah, its departments, and agencies.
780 (84) "Storage" means any keeping or retention of tangible personal property or any
781 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
782 sale in the regular course of business.
783 (85) (a) "Tangible personal property" means personal property that:
784 (i) may be:
785 (A) seen;
786 (B) weighed;
787 (C) measured;
788 (D) felt; or
789 (E) touched; or
790 (ii) is in any manner perceptible to the senses.
791 (b) "Tangible personal property" includes:
792 (i) electricity;
793 (ii) water;
794 (iii) gas;
795 (iv) steam; or
796 (v) prewritten computer software.
797 (86) (a) "Telecommunications enabling or facilitating equipment, machinery, or
798 software" means an item listed in Subsection (86)(b) if that item is purchased or leased
799 primarily to enable or facilitate one or more of the following to function:
800 (i) telecommunications switching or routing equipment, machinery, or software; or
801 (ii) telecommunications transmission equipment, machinery, or software.
802 (b) The following apply to Subsection (86)(a):

803 (i) a pole;
804 (ii) software;
805 (iii) a supplementary power supply;
806 (iv) temperature or environmental equipment or machinery;
807 (v) test equipment;
808 (vi) a tower; or
809 (vii) equipment, machinery, or software that functions similarly to an item listed in
810 Subsections (86)(b)(i) through (vi) as determined by the commission by rule made in
811 accordance with Subsection (86)(c).

812 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
813 commission may by rule define what constitutes equipment, machinery, or software that
814 functions similarly to an item listed in Subsections (86)(b)(i) through (vi).

815 (87) "Telecommunications equipment, machinery, or software required for 911
816 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
817 Sec. 20.18.

818 (88) "Telecommunications maintenance or repair equipment, machinery, or software"
819 means equipment, machinery, or software purchased or leased primarily to maintain or repair
820 one or more of the following, regardless of whether the equipment, machinery, or software is
821 purchased or leased as a spare part or as an upgrade or modification to one or more of the
822 following:

823 (a) telecommunications enabling or facilitating equipment, machinery, or software;
824 (b) telecommunications switching or routing equipment, machinery, or software; or
825 (c) telecommunications transmission equipment, machinery, or software.

826 (89) (a) "Telecommunications switching or routing equipment, machinery, or software"
827 means an item listed in Subsection (89)(b) if that item is purchased or leased primarily for
828 switching or routing:

829 (i) voice communications;
830 (ii) data communications; or
831 (iii) telephone service.
832 (b) The following apply to Subsection (89)(a):
833 (i) a bridge;

834 (ii) a computer;
835 (iii) a cross connect;
836 (iv) a modem;
837 (v) a multiplexer;
838 (vi) plug in circuitry;
839 (vii) a router;
840 (viii) software;
841 (ix) a switch; or
842 (x) equipment, machinery, or software that functions similarly to an item listed in
843 Subsections (89)(b)(i) through (ix) as determined by the commission by rule made in
844 accordance with Subsection (89)(c).

845 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
846 commission may by rule define what constitutes equipment, machinery, or software that
847 functions similarly to an item listed in Subsections (89)(b)(i) through (ix).

848 (90) (a) "Telecommunications transmission equipment, machinery, or software" means
849 an item listed in Subsection (90)(b) if that item is purchased or leased primarily for sending,
850 receiving, or transporting:

851 (i) voice communications;
852 (ii) data communications; or
853 (iii) telephone service.

854 (b) The following apply to Subsection (90)(a):

855 (i) an amplifier;
856 (ii) a cable;
857 (iii) a closure;
858 (iv) a conduit;
859 (v) a controller;
860 (vi) a duplexer;
861 (vii) a filter;
862 (viii) an input device;
863 (ix) an input/output device;
864 (x) an insulator;

865 (xi) microwave machinery or equipment;
866 (xii) an oscillator;
867 (xiii) an output device;
868 (xiv) a pedestal;
869 (xv) a power converter;
870 (xvi) a power supply;
871 (xvii) a radio channel;
872 (xviii) a radio receiver;
873 (xix) a radio transmitter;
874 (xx) a repeater;
875 (xxi) software;
876 (xxii) a terminal;
877 (xxiii) a timing unit;
878 (xxiv) a transformer;
879 (xxv) a wire; or
880 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
881 Subsections (90)(b)(i) through (xxv) as determined by the commission by rule made in
882 accordance with Subsection (90)(c).

883 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
884 commission may by rule define what constitutes equipment, machinery, or software that
885 functions similarly to an item listed in Subsections (90)(b)(i) through (xxv).

886 ~~[(86)]~~ (91) (a) "Telephone service" means a two-way transmission:
887 (i) by:
888 (A) wire;
889 (B) radio;
890 (C) lightwave; or
891 (D) other electromagnetic means; and
892 (ii) of one or more of the following:
893 (A) a sign;
894 (B) a signal;
895 (C) writing;

- 896 (D) an image;
- 897 (E) sound;
- 898 (F) a message;
- 899 (G) data; or
- 900 (H) other information of any nature.
- 901 (b) "Telephone service" includes:
- 902 (i) mobile telecommunications service;
- 903 (ii) private communications service; or
- 904 (iii) automated digital telephone answering service.
- 905 (c) "Telephone service" does not include a service or a transaction that a state or a
- 906 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
- 907 Tax Freedom Act, Pub. L. No. 105-277.
- 908 ~~[(87)]~~ (92) Notwithstanding where a call is billed or paid, "telephone service address"
- 909 means:
- 910 (a) if the location described in this Subsection ~~[(87)]~~ (92)(a) is known, the location of
- 911 the telephone service equipment:
- 912 (i) to which a call is charged; and
- 913 (ii) from which the call originates or terminates;
- 914 (b) if the location described in Subsection ~~[(87)]~~ (92)(a) is not known but the location
- 915 described in this Subsection ~~[(87)]~~ (92)(b) is known, the location of the origination point of the
- 916 signal of the telephone service first identified by:
- 917 (i) the telecommunications system of the seller; or
- 918 (ii) if the system used to transport the signal is not that of the seller, information
- 919 received by the seller from its service provider; or
- 920 (c) if the locations described in Subsection ~~[(87)]~~ (92)(a) or (b) are not known, the
- 921 location of a purchaser's primary place of use.
- 922 ~~[(88)]~~ (93) (a) "Telephone service provider" means a person that:
- 923 (i) owns, controls, operates, or manages a telephone service; and
- 924 (ii) engages in an activity described in Subsection ~~[(88)]~~ (93)(a)(i) for the shared use
- 925 with or resale to any person of the telephone service.
- 926 (b) A person described in Subsection ~~[(88)]~~ (93)(a) is a telephone service provider

927 whether or not the Public Service Commission of Utah regulates:

928 (i) that person; or

929 (ii) the telephone service that the person owns, controls, operates, or manages.

930 [~~89~~] (94) "Tobacco" means:

931 (a) a cigarette;

932 (b) a cigar;

933 (c) chewing tobacco;

934 (d) pipe tobacco; or

935 (e) any other item that contains tobacco.

936 [~~90~~] (95) (a) "Use" means the exercise of any right or power over tangible personal
937 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
938 property, item, or service.

939 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
940 the regular course of business and held for resale.

941 [~~91~~] (96) (a) Subject to Subsection [~~91~~] (96)(b), "vehicle" means the following that
942 are required to be titled, registered, or titled and registered:

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

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

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

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

947 (b) For purposes of Subsection 59-12-104(35) only, "vehicle" includes:

948 (i) a vehicle described in Subsection [~~91~~] (96)(a); or

949 (ii) (A) a locomotive;

950 (B) a freight car;

951 (C) railroad work equipment; or

952 (D) other railroad rolling stock.

953 [~~92~~] (97) "Vehicle dealer" means a person engaged in the business of buying, selling,
954 or exchanging a vehicle as defined in Subsection [~~91~~] (96).

955 [~~93~~] (98) (a) Except as provided in Subsection [~~93~~] (98)(b), "waste energy facility"
956 means a facility that generates electricity:

957 (i) using as the primary source of energy waste materials that would be placed in a

958 landfill or refuse pit if it were not used to generate electricity, including:

959 (A) tires;

960 (B) waste coal; or

961 (C) oil shale; and

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

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

964 (i) municipal solid waste;

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

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

967 [~~94~~] (99) "Watercraft" means a vessel as defined in Section 73-18-2.

968 [~~95~~] (100) "Wind energy" means wind used as the sole source of energy to produce
969 electricity.

970 [~~96~~] (101) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
971 geographic location by the United States Postal Service.

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

973 **59-12-104. Exemptions.**

974 The following sales and uses are exempt from the taxes imposed by this chapter:

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

977 (2) sales to the state, its institutions, and its political subdivisions; however, this
978 exemption does not apply to sales of:

979 (a) construction materials except:

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

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

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

- 989 providing additional project capacity, as defined in Section 11-13-103;
- 990 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
- 991 (i) the proceeds of each sale do not exceed \$1; and
- 992 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
- 993 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 994 (b) Subsection (3)(a) applies to:
- 995 (i) food and food ingredients; or
- 996 (ii) prepared food;
- 997 (4) sales of the following to a commercial airline carrier for in-flight consumption:
- 998 (a) food and food ingredients;
- 999 (b) prepared food; or
- 1000 (c) services related to Subsection (4)(a) or (b);
- 1001 (5) sales of parts and equipment for installation in aircraft operated by common carriers
- 1002 in interstate or foreign commerce;
- 1003 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
- 1004 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
- 1005 exhibitor, distributor, or commercial television or radio broadcaster;
- 1006 (7) sales of cleaning or washing of tangible personal property by a coin-operated
- 1007 laundry or dry cleaning machine;
- 1008 (8) sales made to or by religious or charitable institutions in the conduct of their regular
- 1009 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
- 1010 fulfilled;
- 1011 (9) sales of vehicles of a type required to be registered under the motor vehicle laws of
- 1012 this state which are made to bona fide nonresidents of this state and are not afterwards
- 1013 registered or used in this state except as necessary to transport them to the borders of this state;
- 1014 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 1015 (i) the item is intended for human use; and
- 1016 (ii) (A) a prescription was issued for the item; or
- 1017 (B) the item was purchased by a hospital or other medical facility; and
- 1018 (b) (i) Subsection (10)(a) applies to:
- 1019 (A) a drug;

1020 (B) a syringe; or
1021 (C) a stoma supply; and
1022 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1023 commission may by rule define the terms:
1024 (A) "syringe"; or
1025 (B) "stoma supply";
1026 (11) sales or use of property, materials, or services used in the construction of or
1027 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
1028 (12) (a) sales of an item described in Subsection (12)(c) served by:
1029 (i) the following if the item described in Subsection (12)(c) is not available to the
1030 general public:
1031 (A) a church; or
1032 (B) a charitable institution;
1033 (ii) an institution of higher education if:
1034 (A) the item described in Subsection (12)(c) is not available to the general public; or
1035 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
1036 offered by the institution of higher education; or
1037 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
1038 (i) a medical facility; or
1039 (ii) a nursing facility; and
1040 (c) Subsections (12)(a) and (b) apply to:
1041 (i) food and food ingredients;
1042 (ii) prepared food; or
1043 (iii) alcoholic beverages;
1044 (13) isolated or occasional sales by persons not regularly engaged in business, except
1045 the sale of vehicles or vessels required to be titled or registered under the laws of this state in
1046 which case the tax is based upon:
1047 (a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;
1048 or
1049 (b) in the absence of a bill of sale or other written evidence of value, the then existing
1050 fair market value of the vehicle or vessel being sold as determined by the commission;

- 1051 (14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:
- 1052 (i) machinery and equipment:
- 1053 (A) used in the manufacturing process;
- 1054 (B) having an economic life of three or more years; and
- 1055 (C) used:
- 1056 (I) to manufacture an item sold as tangible personal property; and
- 1057 (II) in new or expanding operations in a manufacturing facility in the state; and
- 1058 (ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:
- 1059 (A) have an economic life of three or more years;
- 1060 (B) are used in the manufacturing process in a manufacturing facility in the state;
- 1061 (C) are used to replace or adapt an existing machine to extend the normal estimated
- 1062 useful life of the machine; and
- 1063 (D) do not include repairs and maintenance;
- 1064 (b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:
- 1065 (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in
- 1066 Subsection (14)(a)(ii) is exempt;
- 1067 (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described
- 1068 in Subsection (14)(a)(ii) is exempt; and
- 1069 (iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection
- 1070 (14)(a)(ii) is exempt;
- 1071 (c) for purposes of this Subsection (14), the commission shall by rule define the terms
- 1072 "new or expanding operations" and "establishment"; and
- 1073 (d) on or before October 1, 1991, and every five years after October 1, 1991, the
- 1074 commission shall:
- 1075 (i) review the exemptions described in Subsection (14)(a) and make recommendations
- 1076 to the Revenue and Taxation Interim Committee concerning whether the exemptions should be
- 1077 continued, modified, or repealed; and
- 1078 (ii) include in its report:
- 1079 (A) the cost of the exemptions;
- 1080 (B) the purpose and effectiveness of the exemptions; and
- 1081 (C) the benefits of the exemptions to the state;

1082 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

1083 (i) tooling;

1084 (ii) special tooling;

1085 (iii) support equipment;

1086 (iv) special test equipment; or

1087 (v) parts used in the repairs or renovations of tooling or equipment described in

1088 Subsections (15)(a)(i) through (iv); and

1089 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

1090 (i) the tooling, equipment, or parts are used or consumed exclusively in the

1091 performance of any aerospace or electronics industry contract with the United States

1092 government or any subcontract under that contract; and

1093 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),

1094 title to the tooling, equipment, or parts is vested in the United States government as evidenced

1095 by:

1096 (A) a government identification tag placed on the tooling, equipment, or parts; or

1097 (B) listing on a government-approved property record if placing a government

1098 identification tag on the tooling, equipment, or parts is impractical;

1099 (16) intrastate movements of:

1100 (a) freight by common carriers; or

1101 (b) passengers:

1102 (i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial

1103 Classification Manual of the federal Executive Office of the President, Office of Management

1104 and Budget;

1105 (ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard

1106 Industrial Classification Manual of the federal Executive Office of the President, Office of

1107 Management and Budget, if the transportation originates and terminates within a county of the

1108 first, second, or third class; or

1109 (iii) transported by the following described in SIC Code 4789 of the 1987 Standard

1110 Industrial Classification Manual of the federal Executive Office of the President, Office of

1111 Management and Budget:

1112 (A) a horse-drawn cab; or

1113 (B) a horse-drawn carriage;
1114 (17) sales of newspapers or newspaper subscriptions;
1115 (18) (a) except as provided in Subsection (18)(b), tangible personal property traded in
1116 as full or part payment of the purchase price, except that for purposes of calculating sales or use
1117 tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and
1118 the tax is based upon:
1119 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
1120 vehicle being traded in; or
1121 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
1122 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
1123 commission; and
1124 (b) notwithstanding Subsection (18)(a), Subsection (18)(a) does not apply to the
1125 following items of tangible personal property traded in as full or part payment of the purchase
1126 price:
1127 (i) money;
1128 (ii) electricity;
1129 (iii) water;
1130 (iv) gas; or
1131 (v) steam;
1132 (19) (a) (i) except as provided in Subsection (19)(b), sales of tangible personal property
1133 used or consumed primarily and directly in farming operations, regardless of whether the
1134 tangible personal property:
1135 (A) becomes part of real estate; or
1136 (B) is installed by a:
1137 (I) farmer;
1138 (II) contractor; or
1139 (III) subcontractor; or
1140 (ii) sales of parts used in the repairs or renovations of tangible personal property if the
1141 tangible personal property is exempt under Subsection (19)(a)(i); and
1142 (b) notwithstanding Subsection (19)(a), amounts paid or charged for the following
1143 tangible personal property are subject to the taxes imposed by this chapter:

1144 (i) (A) subject to Subsection (19)(b)(i)(B), the following tangible personal property if
1145 the tangible personal property is used in a manner that is incidental to farming:

1146 (I) machinery;

1147 (II) equipment;

1148 (III) materials; or

1149 (IV) supplies; and

1150 (B) tangible personal property that is considered to be used in a manner that is
1151 incidental to farming includes:

1152 (I) hand tools; or

1153 (II) maintenance and janitorial equipment and supplies;

1154 (ii) (A) subject to Subsection (19)(b)(ii)(B), tangible personal property if the tangible
1155 personal property is used in an activity other than farming; and

1156 (B) tangible personal property that is considered to be used in an activity other than
1157 farming includes:

1158 (I) office equipment and supplies; or

1159 (II) equipment and supplies used in:

1160 (Aa) the sale or distribution of farm products;

1161 (Bb) research; or

1162 (Cc) transportation; or

1163 (iii) a vehicle required to be registered by the laws of this state during the period ending
1164 two years after the date of the vehicle's purchase;

1165 (20) sales of hay;

1166 (21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm, or
1167 other agricultural produce if sold by a producer during the harvest season;

1168 (22) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
1169 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

1170 (23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
1171 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
1172 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
1173 manufacturer, processor, wholesaler, or retailer;

1174 (24) property stored in the state for resale;

1175 (25) property brought into the state by a nonresident for his or her own personal use or
1176 enjoyment while within the state, except property purchased for use in Utah by a nonresident
1177 living and working in Utah at the time of purchase;

1178 (26) property purchased for resale in this state, in the regular course of business, either
1179 in its original form or as an ingredient or component part of a manufactured or compounded
1180 product;

1181 (27) property upon which a sales or use tax was paid to some other state, or one of its
1182 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
1183 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
1184 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
1185 Act;

1186 (28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
1187 person for use in compounding a service taxable under the subsections;

1188 (29) purchases made in accordance with the special supplemental nutrition program for
1189 women, infants, and children established in 42 U.S.C. Sec. 1786;

1190 (30) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
1191 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
1192 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
1193 Manual of the federal Executive Office of the President, Office of Management and Budget;

1194 (31) sales of boats of a type required to be registered under Title 73, Chapter 18, State
1195 Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents of
1196 this state and are not thereafter registered or used in this state except as necessary to transport
1197 them to the borders of this state;

1198 (32) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah
1199 where a sales or use tax is not imposed, even if the title is passed in Utah;

1200 (33) amounts paid for the purchase of telephone service for purposes of providing
1201 telephone service;

1202 (34) fares charged to persons transported directly by a public transit district created
1203 under the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

1204 (35) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

1205 (36) (a) 45% of the sales price of any new manufactured home; and

- 1206 (b) 100% of the sales price of any used manufactured home;
- 1207 (37) sales relating to schools and fundraising sales;
- 1208 (38) sales or rentals of durable medical equipment if:
- 1209 (a) a person presents a prescription for the durable medical equipment; and
- 1210 (b) the durable medical equipment is used for home use only;
- 1211 (39) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 1212 Section 72-11-102; and
- 1213 (b) the commission shall by rule determine the method for calculating sales exempt
- 1214 under Subsection (39)(a) that are not separately metered and accounted for in utility billings;
- 1215 (40) sales to a ski resort of:
- 1216 (a) snowmaking equipment;
- 1217 (b) ski slope grooming equipment;
- 1218 (c) passenger ropeways as defined in Section 72-11-102; or
- 1219 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 1220 described in Subsections (40)(a) through (c);
- 1221 (41) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 1222 (42) sales or rentals of the right to use or operate for amusement, entertainment, or
- 1223 recreation a coin-operated amusement device as defined in Section 59-12-102;
- 1224 (43) sales of cleaning or washing of tangible personal property by a coin-operated car
- 1225 wash machine;
- 1226 (44) sales by the state or a political subdivision of the state, except state institutions of
- 1227 higher education as defined in Section 53B-3-102, of:
- 1228 (a) photocopies; or
- 1229 (b) other copies of records held or maintained by the state or a political subdivision of
- 1230 the state;
- 1231 (45) (a) amounts paid:
- 1232 (i) to a person providing intrastate transportation to an employer's employee to or from
- 1233 the employee's primary place of employment;
- 1234 (ii) by an:
- 1235 (A) employee; or
- 1236 (B) employer; and

1237 (iii) pursuant to a written contract between:
1238 (A) the employer; and
1239 (B) (I) the employee; or
1240 (II) a person providing transportation to the employer's employee; and
1241 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1242 commission may for purposes of Subsection (45)(a) make rules defining what constitutes an
1243 employee's primary place of employment;
1244 (46) amounts paid for admission to an athletic event at an institution of higher
1245 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
1246 20 U.S.C. Sec. 1681 et seq.;

1247 (47) sales of telephone service charged to a prepaid telephone calling card;
1248 (48) (a) sales of:
1249 (i) hearing aids;
1250 (ii) hearing aid accessories; or
1251 (iii) except as provided in Subsection (48)(b), parts used in the repairs or renovations
1252 of hearing aids or hearing aid accessories; and
1253 (b) for purposes of this Subsection (48), notwithstanding Subsection (48)(a)(iii),
1254 "parts" does not include batteries;

1255 (49) (a) sales made to or by:
1256 (i) an area agency on aging; or
1257 (ii) a senior citizen center owned by a county, city, or town; or
1258 (b) sales made by a senior citizen center that contracts with an area agency on aging;

1259 (50) (a) beginning on July 1, 2001, through June 30, 2007, and subject to Subsection
1260 (50)(b), a sale or lease of semiconductor fabricating or processing materials regardless of
1261 whether the semiconductor fabricating or processing materials:
1262 (i) actually come into contact with a semiconductor; or
1263 (ii) ultimately become incorporated into real property;

1264 (b) (i) beginning on July 1, 2001, through June 30, 2002, 10% of the sale or lease
1265 described in Subsection (50)(a) is exempt;
1266 (ii) beginning on July 1, 2002, through June 30, 2003, 50% of the sale or lease
1267 described in Subsection (50)(a) is exempt; and

1268 (iii) beginning on July 1, 2003, through June 30, 2007, the entire amount of the sale or
1269 lease described in Subsection (50)(a) is exempt; and

1270 (c) each year on or before the November interim meeting, the Revenue and Taxation
1271 Interim Committee shall:

1272 (i) review the exemption described in this Subsection (50) and make recommendations
1273 concerning whether the exemption should be continued, modified, or repealed; and

1274 (ii) include in the review under this Subsection (50)(c):

1275 (A) the cost of the exemption;

1276 (B) the purpose and effectiveness of the exemption; and

1277 (C) the benefits of the exemption to the state;

1278 (51) an amount paid by or charged to a purchaser for accommodations and services
1279 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
1280 59-12-104.2;

1281 (52) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
1282 sports event registration certificate in accordance with Section 41-3-306 for the event period
1283 specified on the temporary sports event registration certificate;

1284 (53) sales or uses of electricity, if the sales or uses are:

1285 (a) made under a tariff adopted by the Public Service Commission of Utah only for
1286 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
1287 source, as designated in the tariff by the Public Service Commission of Utah; and

1288 (b) for an amount of electricity that is:

1289 (i) unrelated to the amount of electricity used by the person purchasing the electricity
1290 under the tariff described in Subsection (53)(a); and

1291 (ii) equivalent to the number of kilowatthours specified in the tariff described in
1292 Subsection (53)(a) that may be purchased under the tariff described in Subsection (53)(a);

1293 (54) sales or rentals of mobility enhancing equipment if a person presents a
1294 prescription for the mobility enhancing equipment;

1295 (55) sales of water in a:

1296 (a) pipe;

1297 (b) conduit;

1298 (c) ditch; or

- 1299 (d) reservoir;
- 1300 (56) sales of currency or coinage that constitute legal tender of the United States or of a
1301 foreign nation;
- 1302 (57) (a) sales of an item described in Subsection (57)(b) if the item:
- 1303 (i) does not constitute legal tender of any nation; and
- 1304 (ii) has a gold, silver, or platinum content of 80% or more; and
- 1305 (b) Subsection (57)(a) applies to a gold, silver, or platinum:
- 1306 (i) ingot;
- 1307 (ii) bar;
- 1308 (iii) medallion; or
- 1309 (iv) decorative coin;
- 1310 (58) amounts paid on a sale-leaseback transaction;
- 1311 (59) sales of a prosthetic device:
- 1312 (a) for use on or in a human;
- 1313 (b) for which a prescription is issued; and
- 1314 (c) to a person that presents a prescription for the prosthetic device;
- 1315 (60) (a) except as provided in Subsection (60)(b), purchases, leases, or rentals of
1316 machinery or equipment by an establishment described in Subsection (60)(c) if the machinery
1317 or equipment is primarily used in the production or postproduction of the following media for
1318 commercial distribution:
- 1319 (i) a motion picture;
- 1320 (ii) a television program;
- 1321 (iii) a movie made for television;
- 1322 (iv) a music video;
- 1323 (v) a commercial;
- 1324 (vi) a documentary; or
- 1325 (vii) a medium similar to Subsections (60)(a)(i) through (vi) as determined by the
1326 commission by administrative rule made in accordance with Subsection (60)(d); or
- 1327 (b) notwithstanding Subsection (60)(a), purchases, leases, or rentals of machinery or
1328 equipment by an establishment described in Subsection (60)(c) that is used for the production
1329 or postproduction of the following are subject to the taxes imposed by this chapter:

- 1330 (i) a live musical performance;
- 1331 (ii) a live news program; or
- 1332 (iii) a live sporting event;
- 1333 (c) the following establishments listed in the 1997 North American Industry
- 1334 Classification System of the federal Executive Office of the President, Office of Management
- 1335 and Budget, apply to Subsections (60)(a) and (b):
- 1336 (i) NAICS Code 512110; or
- 1337 (ii) NAICS Code 51219; and
- 1338 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1339 commission may by rule:
- 1340 (i) prescribe what constitutes a medium similar to Subsections (60)(a)(i) through (vi);
- 1341 or
- 1342 (ii) define:
- 1343 (A) "commercial distribution";
- 1344 (B) "live musical performance";
- 1345 (C) "live news program"; or
- 1346 (D) "live sporting event";
- 1347 (61) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
- 1348 or before June 30, 2009, of machinery or equipment that:
- 1349 (i) is leased or purchased for or by a facility that:
- 1350 (A) is a renewable energy production facility;
- 1351 (B) is located in the state; and
- 1352 (C) (I) becomes operational on or after July 1, 2004; or
- 1353 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 1354 2004 as a result of the use of the machinery or equipment;
- 1355 (ii) has an economic life of five or more years; and
- 1356 (iii) is used to make the facility or the increase in capacity of the facility described in
- 1357 Subsection (61)(a)(i) operational up to the point of interconnection with an existing
- 1358 transmission grid including:
- 1359 (A) a wind turbine;
- 1360 (B) generating equipment;

- 1361 (C) a control and monitoring system;
- 1362 (D) a power line;
- 1363 (E) substation equipment;
- 1364 (F) lighting;
- 1365 (G) fencing;
- 1366 (H) pipes; or
- 1367 (I) other equipment used for locating a power line or pole; and
- 1368 (b) this Subsection (61) does not apply to:
- 1369 (i) machinery or equipment used in construction of:
- 1370 (A) a new renewable energy production facility; or
- 1371 (B) the increase in the capacity of a renewable energy production facility;
- 1372 (ii) contracted services required for construction and routine maintenance activities;
- 1373 and
- 1374 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
- 1375 of the facility described in Subsection (61)(a)(i)(C)(II), machinery or equipment used or
- 1376 acquired after:
- 1377 (A) the renewable energy production facility described in Subsection (61)(a)(i) is
- 1378 operational as described in Subsection (61)(a)(iii); or
- 1379 (B) the increased capacity described in Subsection (61)(a)(i) is operational as described
- 1380 in Subsection (61)(a)(iii);
- 1381 (62) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
- 1382 or before June 30, 2009, of machinery or equipment that:
- 1383 (i) is leased or purchased for or by a facility that:
- 1384 (A) is a waste energy production facility;
- 1385 (B) is located in the state; and
- 1386 (C) (I) becomes operational on or after July 1, 2004; or
- 1387 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 1388 2004 as a result of the use of the machinery or equipment;
- 1389 (ii) has an economic life of five or more years; and
- 1390 (iii) is used to make the facility or the increase in capacity of the facility described in
- 1391 Subsection (62)(a)(i) operational up to the point of interconnection with an existing

1392 transmission grid including:

1393 (A) generating equipment;

1394 (B) a control and monitoring system;

1395 (C) a power line;

1396 (D) substation equipment;

1397 (E) lighting;

1398 (F) fencing;

1399 (G) pipes; or

1400 (H) other equipment used for locating a power line or pole; and

1401 (b) this Subsection (62) does not apply to:

1402 (i) machinery or equipment used in construction of:

1403 (A) a new waste energy facility; or

1404 (B) the increase in the capacity of a waste energy facility;

1405 (ii) contracted services required for construction and routine maintenance activities;

1406 and

1407 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

1408 described in Subsection (62)(a)(i)(C)(II), machinery or equipment used or acquired after:

1409 (A) the waste energy facility described in Subsection (62)(a)(i) is operational as

1410 described in Subsection (62)(a)(iii); or

1411 (B) the increased capacity described in Subsection (62)(a)(i) is operational as described

1412 in Subsection (62)(a)(iii);

1413 (63) (a) leases of five or more years or purchases made on or after July 1, 2004 but on

1414 or before June 30, 2009, of machinery or equipment that:

1415 (i) is leased or purchased for or by a facility that:

1416 (A) is located in the state;

1417 (B) produces fuel from biomass energy including:

1418 (I) methanol; or

1419 (II) ethanol; and

1420 (C) (I) becomes operational on or after July 1, 2004; or

1421 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as

1422 a result of the installation of the machinery or equipment;

- 1423 (ii) has an economic life of five or more years; and
1424 (iii) is installed on the facility described in Subsection (63)(a)(i);
1425 (b) this Subsection (63) does not apply to:
1426 (i) machinery or equipment used in construction of:
1427 (A) a new facility described in Subsection (63)(a)(i); or
1428 (B) the increase in capacity of the facility described in Subsection (63)(a)(i); or
1429 (ii) contracted services required for construction and routine maintenance activities;
1430 and
1431 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
1432 described in Subsection (63)(a)(i)(C)(II), machinery or equipment used or acquired after:
1433 (A) the facility described in Subsection (63)(a)(i) is operational; or
1434 (B) the increased capacity described in Subsection (63)(a)(i) is operational;
1435 (64) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle
1436 for purchasing the new vehicle;
1437 (65) (a) subject to Subsection (65)(b), sales of tangible personal property to persons
1438 within this state that is subsequently shipped outside the state and incorporated pursuant to
1439 contract into and becomes a part of real property located outside of this state, except to the
1440 extent that the other state or political entity imposes a sales, use, gross receipts, or other similar
1441 transaction excise tax on it against which the other state or political entity allows a credit for
1442 taxes imposed by this chapter; and
1443 (b) the exemption provided for in Subsection (65)(a):
1444 (i) is allowed only if the exemption is applied:
1445 (A) in calculating the purchase price of the tangible personal property; and
1446 (B) to a written contract that is in effect on July 1, 2004; and
1447 (ii) (A) does not apply beginning on the day on which the contract described in
1448 Subsection (65)(b)(i):
1449 (I) is substantially modified; or
1450 (II) terminates; and
1451 (B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
1452 the commission may by rule prescribe the circumstances under which a contract is substantially
1453 modified;

- 1454 (66) purchases:
- 1455 (a) of one or more of the following items in printed or electronic format:
- 1456 (i) a list containing information that includes one or more:
- 1457 (A) names; or
- 1458 (B) addresses; or
- 1459 (ii) a database containing information that includes one or more:
- 1460 (A) names; or
- 1461 (B) addresses; and
- 1462 (b) used to send direct mail; [~~and~~]
- 1463 (67) redemptions or repurchases of property by a person if that property was:
- 1464 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 1465 (b) redeemed or repurchased within the time period established in a written agreement
- 1466 between the person and the pawnbroker for redeeming or repurchasing the property[-]; and
- 1467 (68) (a) purchases or leases of an item described in Subsection (68)(b) if the item:
- 1468 (i) is purchased or leased by, or on behalf of, a telephone service provider; and
- 1469 (ii) has a useful economic life of one or more years; and
- 1470 (b) the following apply to Subsection (68)(a):
- 1471 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 1472 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 1473 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 1474 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 1475 (v) telecommunications transmission equipment, machinery, or software.
- 1476 Section 3. **Effective date.**
- 1477 This bill takes effect on July 1, 2006.

Legislative Review Note
as of 11-16-05 6:59 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-21-05 6:52 AM

The Revenue and Taxation Interim Committee recommended this bill.

Mixed Membership Committee Note
as of 12-21-05 6:52 AM

The Tax Reform Task Force recommended this bill.

Membership:	13 legislators	2 non-legislators	
Legislative Vote:	9 voting for	2 voting against	2 absent