

Senator Peter C. Knudson proposes the following substitute bill:

SALES AND USE TAX - DENTAL

PROSTHESES

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Peter C. Knudson

House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill amends the Sales and Use Tax Act relating to dental prostheses.

Highlighted Provisions:

This bill:

- ▶ defines "dental prosthesis";
- ▶ modifies the definition of "prosthetic device," the sale of which is exempt from sales and use taxation, to include a dental prosthesis; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2007.

Utah Code Sections Affected:

AMENDS:

59-12-102, as last amended by Chapter 1, Laws of Utah 2006, Fourth Special Session

59-12-104, as last amended by Chapters 181, 182, 217, 218, 219, 220, 246, 268 and 346, Laws of Utah 2006



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

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

59-12-102. Definitions.

As used in this chapter:

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

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

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

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

(a) listed under Subsection (4); and

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

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

(a) Subsection 59-12-103(2)(a)(i) or (2)(b)(iii)(A);

(b) Section 59-12-204;

(c) Section 59-12-401;

(d) Section 59-12-402;

(e) Section 59-12-501;

(f) Section 59-12-502;

(g) Section 59-12-703;

(h) Section 59-12-802;

(i) Section 59-12-804;

(j) Section 59-12-1001;

(k) Section 59-12-1102;

(l) Section 59-12-1302;

(m) Section 59-12-1402; or

(n) Section 59-12-1503.

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

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

(a) is suitable for human consumption; and

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

58 (7) "Area agency on aging" is as defined in Section 62A-3-101.

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

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

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

65 (9) "Assisted cleaning or washing of tangible personal property" means cleaning or
66 washing of tangible personal property if the cleaning or washing labor is primarily performed
67 by an individual:

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

70 (b) at the direction of the seller of the cleaning or washing of the tangible personal
71 property.

72 (10) "Authorized carrier" means:

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

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

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

80 (11) (a) Except as provided in Subsection (11)(b), "biomass energy" means any of the
81 following that is used as the primary source of energy to produce fuel or electricity:

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

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

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

85 (B) animal waste;

86 (C) methane produced:

87 (I) at landfills; or

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

89 (D) aquatic plants; and

90 (E) agricultural products.

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

92 (i) black liquor;

93 (ii) treated woods; or

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

95 (A) at landfills; or

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

97 (12) (a) "Bundled transaction" means the sale of two or more items of tangible personal

98 property if:

99 (i) one or more of the items of tangible personal property is food and food ingredients;

100 and

101 (ii) the items of tangible personal property are:

102 (A) distinct and identifiable; and

103 (B) sold for one price that is not itemized.

104 (b) "Bundled transaction" does not include the sale of tangible personal property if the

105 sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of

106 tangible personal property included in the transaction.

107 (c) For purposes of Subsection (12)(a)(ii)(A), tangible personal property that is distinct

108 and identifiable does not include:

109 (i) packaging that:

110 (A) accompanies the sale of the tangible personal property; and

111 (B) is incidental or immaterial to the sale of the tangible personal property;

112 (ii) tangible personal property provided free of charge with the purchase of another

113 item of tangible personal property; or

114 (iii) an item of tangible personal property included in the definition of "purchase

115 price."

116 (d) For purposes of Subsection (12)(c)(ii), an item of tangible personal property is

117 provided free of charge with the purchase of another item of tangible personal property if the

118 sales price of the purchased item of tangible personal property does not vary depending on the

119 inclusion of the tangible personal property provided free of charge.

120 (13) "Certified automated system" means software certified by the governing board of
121 the agreement in accordance with Section 59-12-102.1 that:

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

124 (i) on a transaction; and

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

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

128 (c) maintains a record of the transaction described in Subsection (13)(a)(i).

129 (14) "Certified service provider" means an agent certified:

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

131 and

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

135 (15) (a) Subject to Subsection (15)(b), "clothing" means all human wearing apparel
136 suitable for general use.

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

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

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

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

143 (17) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
144 fuels that does not constitute industrial use under Subsection [~~(39)~~] (40) or residential use
145 under Subsection [~~(76)~~] (77).

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

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

150 passenger's place of employment.

151 (ii) For purposes of Subsection (18)(b)(i), in accordance with Title 63, Chapter 46a,
152 Utah Administrative Rulemaking Act, the commission may make rules defining what
153 constitutes a person's place of employment.

154 (19) "Component part" includes:

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

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

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

160 (d) feed, seeds, and seedlings.

161 (20) "Computer" means an electronic device that accepts information:

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

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

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

165 (21) "Computer software" means a set of coded instructions designed to cause:

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

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

168 (22) "Construction materials" means any tangible personal property that will be
169 converted into real property.

170 (23) "Delivered electronically" means delivered to a purchaser by means other than
171 tangible storage media.

172 (24) (a) "Delivery charge" means a charge:

173 (i) by a seller of:

174 (A) tangible personal property; or

175 (B) services; and

176 (ii) for preparation and delivery of the tangible personal property or services described
177 in Subsection (24)(a)(i) to a location designated by the purchaser.

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

179 (i) transportation;

180 (ii) shipping;

- 181 (iii) postage;
- 182 (iv) handling;
- 183 (v) crating; or
- 184 (vi) packing.

185 (25) (a) "Dental prosthesis" means the following if fabricated in a laboratory:

- 186 (i) a bridge;
- 187 (ii) a crown if that crown covers at least 75% of a tooth structure;
- 188 (iii) a denture;
- 189 (iv) an implant;
- 190 (v) an orthodontic device designed to:
 - 191 (A) retain the position or spacing of teeth; and
 - 192 (B) replace a missing tooth;
- 193 (vi) a partial denture; or
- 194 (vii) a device similar to Subsections (25)(a)(i) through (vi).

195 (b) "Dental prosthesis" does not include an appliance or device, other than a device
196 described in Subsection (25)(a), if that appliance or device is used in orthodontic therapy to
197 apply force to the teeth and their supporting structures to:

- 198 (i) produce changes in their relationship to each other; and
- 199 (ii) control their growth and development.

200 [~~25~~] (26) "Dietary supplement" means a product, other than tobacco, that:

- 201 (a) is intended to supplement the diet;
- 202 (b) contains one or more of the following dietary ingredients:
 - 203 (i) a vitamin;
 - 204 (ii) a mineral;
 - 205 (iii) an herb or other botanical;
 - 206 (iv) an amino acid;
 - 207 (v) a dietary substance for use by humans to supplement the diet by increasing the total
 - 208 dietary intake; or
 - 209 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
 - 210 described in Subsections [~~25~~] (26)(b)(i) through (v);
 - 211 (c) (i) except as provided in Subsection [~~25~~] (26)(c)(ii), is intended for ingestion in:

- 212 (A) tablet form;
- 213 (B) capsule form;
- 214 (C) powder form;
- 215 (D) softgel form;
- 216 (E) gelcap form; or
- 217 (F) liquid form; or
- 218 (ii) notwithstanding Subsection [~~(25)~~] (26)(c)(i), if the product is not intended for
- 219 ingestion in a form described in Subsections [~~(25)~~] (26)(c)(i)(A) through (F), is not
- 220 represented:
 - 221 (A) as conventional food; and
 - 222 (B) for use as a sole item of:
 - 223 (I) a meal; or
 - 224 (II) the diet; and
 - 225 (d) is required to be labeled as a dietary supplement:
 - 226 (i) identifiable by the "Supplemental Facts" box found on the label; and
 - 227 (ii) as required by 21 C.F.R. Sec. 101.36.
- 228 [~~(26)~~] (27) (a) "Direct mail" means printed material delivered or distributed by United
- 229 States mail or other delivery service:
 - 230 (i) to:
 - 231 (A) a mass audience; or
 - 232 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
 - 233 (ii) if the cost of the printed material is not billed directly to the recipients.
 - 234 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
 - 235 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
 - 236 (c) "Direct mail" does not include multiple items of printed material delivered to a
 - 237 single address.
- 238 [~~(27)~~] (28) (a) "Drug" means a compound, substance, or preparation, or a component of
- 239 a compound, substance, or preparation that is:
 - 240 (i) recognized in:
 - 241 (A) the official United States Pharmacopoeia;
 - 242 (B) the official Homeopathic Pharmacopoeia of the United States;

- 243 (C) the official National Formulary; or
- 244 (D) a supplement to a publication listed in Subsections [~~(27)~~] (28)(a)(i)(A) through
- 245 (C);
- 246 (ii) intended for use in the:
 - 247 (A) diagnosis of disease;
 - 248 (B) cure of disease;
 - 249 (C) mitigation of disease;
 - 250 (D) treatment of disease; or
 - 251 (E) prevention of disease; or
- 252 (iii) intended to affect:
 - 253 (A) the structure of the body; or
 - 254 (B) any function of the body.
- 255 (b) "Drug" does not include:
 - 256 (i) food and food ingredients;
 - 257 (ii) a dietary supplement;
 - 258 (iii) an alcoholic beverage; or
 - 259 (iv) a prosthetic device.
- 260 [~~(28)~~] (29) (a) Except as provided in Subsection [~~(28)~~] (29)(c), "durable medical
- 261 equipment" means equipment that:
 - 262 (i) can withstand repeated use;
 - 263 (ii) is primarily and customarily used to serve a medical purpose;
 - 264 (iii) generally is not useful to a person in the absence of illness or injury; and
 - 265 (iv) is not worn in or on the body.
- 266 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 267 equipment described in Subsection [~~(28)~~] (29)(a).
- 268 (c) Notwithstanding Subsection [~~(28)~~] (29)(a), "durable medical equipment" does not
- 269 include mobility enhancing equipment.
- 270 [~~(29)~~] (30) "Electronic" means:
 - 271 (a) relating to technology; and
 - 272 (b) having:
 - 273 (i) electrical capabilities;

- 274 (ii) digital capabilities;
- 275 (iii) magnetic capabilities;
- 276 (iv) wireless capabilities;
- 277 (v) optical capabilities;
- 278 (vi) electromagnetic capabilities; or
- 279 (vii) capabilities similar to Subsections [~~(29)~~] (30)(b)(i) through (vi).
- 280 [~~(30)~~] (31) "Employee" is as defined in Section 59-10-401.
- 281 [~~(31)~~] (32) "Fixed guideway" means a public transit facility that uses and occupies:
- 282 (a) rail for the use of public transit; or
- 283 (b) a separate right-of-way for the use of public transit.
- 284 [~~(32)~~] (33) (a) "Food and food ingredients" means substances:
- 285 (i) regardless of whether the substances are in:
- 286 (A) liquid form;
- 287 (B) concentrated form;
- 288 (C) solid form;
- 289 (D) frozen form;
- 290 (E) dried form; or
- 291 (F) dehydrated form; and
- 292 (ii) that are:
- 293 (A) sold for:
- 294 (I) ingestion by humans; or
- 295 (II) chewing by humans; and
- 296 (B) consumed for the substance's:
- 297 (I) taste; or
- 298 (II) nutritional value.
- 299 (b) "Food and food ingredients" includes an item described in Subsection [~~(63)~~]
- 300 (64)(b)(iii).
- 301 (c) "Food and food ingredients" does not include:
- 302 (i) an alcoholic beverage;
- 303 (ii) tobacco; or
- 304 (iii) prepared food.

305 [~~(33)~~] (34) (a) "Fundraising sales" means sales:

306 (i) (A) made by a school; or

307 (B) made by a school student;

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

309 materials, or provide transportation; and

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

311 (b) For purposes of Subsection [~~(33)~~] (34)(a)(iii), "officially sanctioned school activity"
312 means a school activity:

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

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

317 (iii) the net or gross revenues from which are deposited in a dedicated account
318 controlled by the school or school district.

319 [~~(34)~~] (35) "Geothermal energy" means energy contained in heat that continuously
320 flows outward from the earth that is used as the sole source of energy to produce electricity.

321 [~~(35)~~] (36) "Governing board of the agreement" means the governing board of the
322 agreement that is:

323 (a) authorized to administer the agreement; and

324 (b) established in accordance with the agreement.

325 [~~(36)~~] (37) (a) "Hearing aid" means:

326 (i) an instrument or device having an electronic component that is designed to:

327 (A) (I) improve impaired human hearing; or

328 (II) correct impaired human hearing; and

329 (B) (I) be worn in the human ear; or

330 (II) affixed behind the human ear;

331 (ii) an instrument or device that is surgically implanted into the cochlea; or

332 (iii) a telephone amplifying device.

333 (b) "Hearing aid" does not include:

334 (i) except as provided in Subsection [~~(36)~~] (37)(a)(i)(B) or [~~(36)~~] (37)(a)(ii), an

335 instrument or device having an electronic component that is designed to be worn on the body;

336 (ii) except as provided in Subsection [~~(36)~~] (37)(a)(iii), an assistive listening device or
337 system designed to be used by one individual, including:

338 (A) a personal amplifying system;

339 (B) a personal FM system;

340 (C) a television listening system; or

341 (D) a device or system similar to a device or system described in Subsections [~~(36)~~]
342 (37)(b)(ii)(A) through (C); or

343 (iii) an assistive listening device or system designed to be used by more than one
344 individual, including:

345 (A) a device or system installed in:

346 (I) an auditorium;

347 (II) a church;

348 (III) a conference room;

349 (IV) a synagogue; or

350 (V) a theater; or

351 (B) a device or system similar to a device or system described in Subsections [~~(36)~~]
352 (37)(b)(iii)(A)(I) through (V).

353 [~~(37)~~] (38) (a) "Hearing aid accessory" means a hearing aid:

354 (i) component;

355 (ii) attachment; or

356 (iii) accessory.

357 (b) "Hearing aid accessory" includes:

358 (i) a hearing aid neck loop;

359 (ii) a hearing aid cord;

360 (iii) a hearing aid ear mold;

361 (iv) hearing aid tubing;

362 (v) a hearing aid ear hook; or

363 (vi) a hearing aid remote control.

364 (c) "Hearing aid accessory" does not include:

365 (i) a component, attachment, or accessory designed to be used only with an:

366 (A) instrument or device described in Subsection [~~(36)~~] (37)(b)(i); or

367 (B) assistive listening device or system described in Subsection [~~(36)~~] (37)(b)(ii) or
368 (iii); or

369 (ii) a hearing aid battery.

370 [~~(38)~~] (39) "Hydroelectric energy" means water used as the sole source of energy to
371 produce electricity.

372 [~~(39)~~] (40) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
373 or other fuels:

374 (a) in mining or extraction of minerals;

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

377 (i) commercial greenhouses;

378 (ii) irrigation pumps;

379 (iii) farm machinery;

380 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
381 registered under Title 41, Chapter 1a, Part 2, Registration; and

382 (v) other farming activities;

383 (c) in manufacturing tangible personal property at an establishment described in SIC
384 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
385 Executive Office of the President, Office of Management and Budget;

386 (d) by a scrap recycler if:

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

390 (A) iron;

391 (B) steel;

392 (C) nonferrous metal;

393 (D) paper;

394 (E) glass;

395 (F) plastic;

396 (G) textile; or

397 (H) rubber; and

398 (ii) the new products under Subsection [~~(39)~~ (40)(d)(i) would otherwise be made with
399 nonrecycled materials; or

400 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
401 cogeneration facility as defined in Section 54-2-1.

402 [~~(40)~~ (41) (a) Except as provided in Subsection [~~(40)~~ (41)(b), "installation charge"
403 means a charge for installing tangible personal property.

404 (b) Notwithstanding Subsection [~~(40)~~ (41)(a), "installation charge" does not include a
405 charge for repairs or renovations of tangible personal property.

406 [~~(41)~~ (42) (a) "Lease" or "rental" means a transfer of possession or control of tangible
407 personal property for:

- 408 (i) (A) a fixed term; or
- 409 (B) an indeterminate term; and
- 410 (ii) consideration.

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

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

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

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

- 421 (A) upon completion of required payments; and
- 422 (B) if the payment of an option price does not exceed the greater of:
 - 423 (I) \$100; or
 - 424 (II) 1% of the total required payments; or

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

428 (d) For purposes of Subsection [~~(41)~~ (42)(c)(iii), an operator is necessary for

429 equipment to perform as designed if the operator's duties exceed the:

- 430 (i) set-up of tangible personal property;
- 431 (ii) maintenance of tangible personal property; or
- 432 (iii) inspection of tangible personal property.

433 [~~42~~] (43) "Load and leave" means delivery to a purchaser by use of a tangible storage
434 media if the tangible storage media is not physically transferred to the purchaser.

435 [~~43~~] (44) "Local taxing jurisdiction" means a:

- 436 (a) county that is authorized to impose an agreement sales and use tax;
- 437 (b) city that is authorized to impose an agreement sales and use tax; or
- 438 (c) town that is authorized to impose an agreement sales and use tax.

439 [~~44~~] (45) "Manufactured home" is as defined in Section 58-56-3.

440 [~~45~~] (46) For purposes of Section 59-12-104, "manufacturing facility" means:

441 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
442 Industrial Classification Manual of the federal Executive Office of the President, Office of
443 Management and Budget;

444 (b) a scrap recycler if:

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

- 448 (A) iron;
- 449 (B) steel;
- 450 (C) nonferrous metal;
- 451 (D) paper;
- 452 (E) glass;
- 453 (F) plastic;
- 454 (G) textile; or
- 455 (H) rubber; and

456 (ii) the new products under Subsection [~~45~~] (46)(b)(i) would otherwise be made with
457 nonrecycled materials; or

458 (c) a cogeneration facility as defined in Section 54-2-1.

459 [~~46~~] (47) "Member of the immediate family of the producer" means a person who is

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

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

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

463 (ii) a foster child or foster stepchild;

464 (b) grandchild or stepgrandchild;

465 (c) grandparent or stepgrandparent;

466 (d) nephew or stepnephew;

467 (e) niece or stepniece;

468 (f) parent or stepparent;

469 (g) sibling or stepsibling;

470 (h) spouse;

471 (i) person who is the spouse of a person described in Subsections [~~(46)~~ (47)(a) through

472 (g); or

473 (j) person similar to a person described in Subsections [~~(46)~~ (47)(a) through (i) as

474 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah

475 Administrative Rulemaking Act.

476 [~~(47)~~ (48) "Mobile home" is as defined in Section 58-56-3.

477 [~~(48)~~ (49) "Mobile telecommunications service" is as defined in the Mobile

478 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

479 [~~(49)~~ (50) (a) Except as provided in Subsection [~~(49)~~ (50)(c), "mobility enhancing

480 equipment" means equipment that is:

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

483 (ii) appropriate for use in a:

484 (A) home; or

485 (B) motor vehicle; and

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

487 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
488 the equipment described in Subsection [~~(49)~~ (50)(a).

489 (c) Notwithstanding Subsection [~~(49)~~ (50)(a), "mobility enhancing equipment" does
490 not include:

491 (i) a motor vehicle;

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

494 (iii) durable medical equipment; or

495 (iv) a prosthetic device.

496 [~~(50)~~] (51) "Model 1 seller" means a seller that has selected a certified service provider
497 as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales
498 and use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the
499 seller's own purchases.

500 [~~(51)~~] (52) "Model 2 seller" means a seller that:

501 (a) except as provided in Subsection [~~(51)~~] (52)(b), has selected a certified automated
502 system to perform the seller's sales tax functions for agreement sales and use taxes; and

503 (b) notwithstanding Subsection [~~(51)~~] (52)(a), retains responsibility for remitting all of
504 the sales tax:

505 (i) collected by the seller; and

506 (ii) to the appropriate local taxing jurisdiction.

507 [~~(52)~~] (53) (a) Subject to Subsection [~~(52)~~] (53)(b), "model 3 seller" means a seller that
508 has:

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

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

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

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

513 (B) due to each local taxing jurisdiction; and

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

515 (b) For purposes of Subsection [~~(52)~~] (53)(a), "model 3 seller" includes an affiliated
516 group of sellers using the same proprietary system.

517 [~~(53)~~] (54) "Modular home" means a modular unit as defined in Section 58-56-3.

518 [~~(54)~~] (55) "Motor vehicle" is as defined in Section 41-1a-102.

519 [~~(55)~~] (56) "Oil shale" means a group of fine black to dark brown shales containing
520 bituminous material that yields petroleum upon distillation.

521 [~~(56)~~] (57) (a) "Other fuels" means products that burn independently to produce heat or

522 energy.

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

525 [~~57~~] 58 "Pawnbroker" is as defined in Section 13-32a-102.

526 [~~58~~] 59 "Pawn transaction" is as defined in Section 13-32a-102.

527 [~~59~~] 60 (a) "Permanently attached to real property" means that for tangible personal
528 property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

545 (iii) an attachment of the following tangible personal property to real property,
546 regardless of whether the attachment to real property is only through a line that supplies water,
547 electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by
548 rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

549 (A) property attached to oil, gas, or water pipelines, other than the property listed in
550 Subsection [~~59~~] 60(c)(iii);

551 (B) a hot water heater;

552 (C) a water softener system; or

553 (D) a water filtration system, other than a water filtration system manufactured as part
554 of a refrigerator.

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

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

558 (A) convenience;

559 (B) stability; or

560 (C) for an obvious temporary purpose;

561 (ii) the detachment of tangible personal property from real property other than the
562 detachment described in Subsection [~~59~~] (60)(b)(ii); or

563 (iii) an attachment of the following tangible personal property to real property if the
564 attachment to real property is only through a line that supplies water, electricity, gas, telephone,
565 cable, or supplies a similar item as determined by the commission by rule made in accordance
566 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

567 (A) a refrigerator;

568 (B) a washer;

569 (C) a dryer;

570 (D) a stove;

571 (E) a television;

572 (F) a computer;

573 (G) a telephone; or

574 (H) tangible personal property similar to Subsections [~~59~~] (60)(c)(iii)(A) through (G)
575 as determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
576 Administrative Rulemaking Act.

577 [~~60~~] (61) "Person" includes any individual, firm, partnership, joint venture,
578 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
579 city, municipality, district, or other local governmental entity of the state, or any group or
580 combination acting as a unit.

581 [~~61~~] (62) "Place of primary use":

582 (a) for telephone service other than mobile telecommunications service, means the
583 street address representative of where the purchaser's use of the telephone service primarily

584 occurs, which shall be:

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

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

587 (b) for mobile telecommunications service, is as defined in the Mobile

588 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

589 ~~[(62)]~~ (63) "Postproduction" means an activity related to the finishing or duplication of

590 a medium described in Subsection 59-12-104(56)(a).

591 ~~[(63)]~~ (64) (a) "Prepared food" means:

592 (i) food:

593 (A) sold in a heated state; or

594 (B) heated by a seller;

595 (ii) two or more food ingredients mixed or combined by the seller for sale as a single

596 item; or

597 (iii) except as provided in Subsection ~~[(63)]~~ (64)(c), food sold with an eating utensil

598 provided by the seller, including a:

599 (A) plate;

600 (B) knife;

601 (C) fork;

602 (D) spoon;

603 (E) glass;

604 (F) cup;

605 (G) napkin; or

606 (H) straw.

607 (b) "Prepared food" does not include:

608 (i) food that a seller only:

609 (A) cuts;

610 (B) repackages; or

611 (C) pasteurizes; or

612 (ii) (A) the following:

613 (I) raw egg;

614 (II) raw fish;

- 615 (III) raw meat;
- 616 (IV) raw poultry; or
- 617 (V) a food containing an item described in Subsections [~~(63)~~] (64)(b)(ii)(A)(I) through
- 618 (IV); and
- 619 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 620 Food and Drug Administration's Food Code that a consumer cook the items described in
- 621 Subsection [~~(63)~~] (64)(b)(ii)(A) to prevent food borne illness; or
- 622 (iii) the following if sold without eating utensils provided by the seller:
- 623 (A) food and food ingredients sold by a seller if the seller's proper primary
- 624 classification under the 2002 North American Industry Classification System of the federal
- 625 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 626 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 627 Manufacturing;
- 628 (B) food and food ingredients sold in an unheated state:
- 629 (I) by weight or volume; and
- 630 (II) as a single item; or
- 631 (C) a bakery item, including:
- 632 (I) a bagel;
- 633 (II) a bar;
- 634 (III) a biscuit;
- 635 (IV) bread;
- 636 (V) a bun;
- 637 (VI) a cake;
- 638 (VII) a cookie;
- 639 (VIII) a croissant;
- 640 (IX) a danish;
- 641 (X) a donut;
- 642 (XI) a muffin;
- 643 (XII) a pastry;
- 644 (XIII) a pie;
- 645 (XIV) a roll;

646 (XV) a tart;

647 (XVI) a torte; or

648 (XVII) a tortilla.

649 (c) Notwithstanding Subsection [~~(63)~~] (64)(a)(iii), an eating utensil provided by the
650 seller does not include the following used to transport the food:

651 (i) a container; or

652 (ii) packaging.

653 [~~(64)~~] (65) "Prescription" means an order, formula, or recipe that is issued:

654 (a) (i) orally;

655 (ii) in writing;

656 (iii) electronically; or

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

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

659 [~~(65)~~] (66) (a) Except as provided in Subsection [~~(65)~~] (66)(b)(ii) or (iii), "prewritten
660 computer software" means computer software that is not designed and developed:

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

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

663 (b) "Prewritten computer software" includes:

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

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

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

668 (ii) notwithstanding Subsection [~~(65)~~] (66)(a), computer software designed and
669 developed by the author or other creator of the computer software to the specifications of a
670 specific purchaser if the computer software is sold to a person other than the purchaser; or

671 (iii) notwithstanding Subsection [~~(65)~~] (66)(a) and except as provided in Subsection
672 [~~(65)~~] (66)(c), prewritten computer software or a prewritten portion of prewritten computer
673 software:

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

675 (B) if the modification or enhancement described in Subsection [~~(65)~~] (66)(b)(iii)(A) is
676 designed and developed to the specifications of a specific purchaser.

677 (c) Notwithstanding Subsection ~~[(65)]~~ (66)(b)(iii), "prewritten computer software"
678 does not include a modification or enhancement described in Subsection ~~[(65)]~~ (66)(b)(iii) if
679 the charges for the modification or enhancement are:

680 (i) reasonable; and

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

683 ~~[(66)]~~ (67) (a) "Prosthetic device" means a device that is worn on or in the body to:

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

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

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

687 (b) "Prosthetic device" includes:

688 (i) parts used in the repairs or renovation of a prosthetic device; ~~[or]~~

689 (ii) replacement parts for a prosthetic device~~[-];~~ or

690 (iii) a dental prosthesis.

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

692 (i) corrective eyeglasses;

693 (ii) contact lenses; or

694 (iii) hearing aids~~[-;or]~~.

695 ~~[(iv) dental prostheses.]~~

696 ~~[(67)]~~ (68) (a) "Protective equipment" means an item:

697 (i) for human wear; and

698 (ii) that is:

699 (A) designed as protection:

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

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

702 (B) not suitable for general use.

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

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

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

707 under the agreement.

708 [~~(68)~~] (69) (a) "Purchase price" and "sales price" mean the total amount of
709 consideration:
710 (i) valued in money; and
711 (ii) for which tangible personal property or services are:
712 (A) sold;
713 (B) leased; or
714 (C) rented.
715 (b) "Purchase price" and "sales price" include:
716 (i) the seller's cost of the tangible personal property or services sold;
717 (ii) expenses of the seller, including:
718 (A) the cost of materials used;
719 (B) a labor cost;
720 (C) a service cost;
721 (D) interest;
722 (E) a loss;
723 (F) the cost of transportation to the seller; or
724 (G) a tax imposed on the seller; or
725 (iii) a charge by the seller for any service necessary to complete the sale.
726 (c) "Purchase price" and "sales price" do not include:
727 (i) a discount:
728 (A) in a form including:
729 (I) cash;
730 (II) term; or
731 (III) coupon;
732 (B) that is allowed by a seller;
733 (C) taken by a purchaser on a sale; and
734 (D) that is not reimbursed by a third party; or
735 (ii) the following if separately stated on an invoice, bill of sale, or similar document
736 provided to the purchaser:
737 (A) the amount of a trade-in;
738 (B) the following from credit extended on the sale of tangible personal property or

739 services:

- 740 (I) interest charges;
- 741 (II) financing charges; or
- 742 (III) carrying charges;
- 743 (C) a tax or fee legally imposed directly on the consumer;
- 744 (D) a delivery charge; or
- 745 (E) an installation charge.

746 [~~(69)~~] (70) "Purchaser" means a person to whom:

- 747 (a) a sale of tangible personal property is made; or
- 748 (b) a service is furnished.

749 [~~(70)~~] (71) "Regularly rented" means:

- 750 (a) rented to a guest for value three or more times during a calendar year; or
- 751 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 752 value.

753 [~~(71)~~] (72) "Renewable energy" means:

- 754 (a) biomass energy;
- 755 (b) hydroelectric energy;
- 756 (c) geothermal energy;
- 757 (d) solar energy; or
- 758 (e) wind energy.

759 [~~(72)~~] (73) (a) "Renewable energy production facility" means a facility that:

- 760 (i) uses renewable energy to produce electricity; and
- 761 (ii) has a production capacity of 20 kilowatts or greater.
- 762 (b) A facility is a renewable energy production facility regardless of whether the

763 facility is:

- 764 (i) connected to an electric grid; or
- 765 (ii) located on the premises of an electricity consumer.

766 [~~(73)~~] (74) "Rental" is as defined in Subsection [~~(41)~~] (42).

767 [~~(74)~~] (75) "Repairs or renovations of tangible personal property" means:

- 768 (a) a repair or renovation of tangible personal property that is not permanently attached
- 769 to real property; or

770 (b) attaching tangible personal property to other tangible personal property if the other
771 tangible personal property to which the tangible personal property is attached is not
772 permanently attached to real property.

773 [~~(75)~~] (76) "Research and development" means the process of inquiry or
774 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
775 process of preparing those devices, technologies, or applications for marketing.

776 [~~(76)~~] (77) "Residential use" means the use in or around a home, apartment building,
777 sleeping quarters, and similar facilities or accommodations.

778 [~~(77)~~] (78) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
779 other than:

- 780 (a) resale;
- 781 (b) sublease; or
- 782 (c) subrent.

783 [~~(78)~~] (79) (a) "Retailer" means any person engaged in a regularly organized business
784 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1),
785 and who is selling to the user or consumer and not for resale.

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

788 [~~(79)~~] (80) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
789 otherwise, in any manner, of tangible personal property or any other taxable transaction under
790 Subsection 59-12-103(1), for consideration.

791 (b) "Sale" includes:

- 792 (i) installment and credit sales;
- 793 (ii) any closed transaction constituting a sale;
- 794 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
795 chapter;

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

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

801 [~~(80)~~] (81) "Sale at retail" is as defined in Subsection [~~(77)~~] (78).

802 [~~(81)~~] (82) "Sale-leaseback transaction" means a transaction by which title to tangible
803 personal property that is subject to a tax under this chapter is transferred:

804 (a) by a purchaser-lessee;

805 (b) to a lessor;

806 (c) for consideration; and

807 (d) if:

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

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

812 (A) for the property; and

813 (B) to the purchaser-lessee; and

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

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

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

818 [~~(82)~~] (83) "Sales price" is as defined in Subsection [~~(68)~~] (69).

819 [~~(83)~~] (84) (a) "Sales relating to schools" means the following sales by, amounts paid
820 to, or amounts charged by a school:

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

823 (A) the sale of:

824 (I) textbooks;

825 (II) textbook fees;

826 (III) laboratory fees;

827 (IV) laboratory supplies; or

828 (V) safety equipment;

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

830 that:

831 (I) a student is specifically required to wear as a condition of participation in a

832 school-related event or school-related activity; and

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

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

837 (I) food and food ingredients; or

838 (II) prepared food; or

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

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

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

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

844 (ii) except as provided in Subsection [~~(83)~~] (84)(a)(i)(B):

845 (A) clothing;

846 (B) clothing accessories or equipment;

847 (C) protective equipment; or

848 (D) sports or recreational equipment; or

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

851 (A) other than a:

852 (I) school;

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

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

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

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

860 [~~(84)~~] (85) For purposes of this section and Section 59-12-104, "school" means:

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

862 (i) is a:

- 863 (A) public school; or
- 864 (B) private school; and
- 865 (ii) provides instruction for one or more grades kindergarten through 12; or
- 866 (b) a public school district.
- 867 [~~(85)~~] (86) "Seller" means a person that makes a sale, lease, or rental of:
- 868 (a) tangible personal property; or
- 869 (b) a service.
- 870 [~~(86)~~] (87) (a) "Semiconductor fabricating, processing, research, or development
- 871 materials" means tangible personal property:
- 872 (i) used primarily in the process of:
- 873 (A) (I) manufacturing a semiconductor;
- 874 (II) fabricating a semiconductor; or
- 875 (III) research or development of a:
- 876 (Aa) semiconductor; or
- 877 (Bb) semiconductor manufacturing process; or
- 878 (B) maintaining an environment suitable for a semiconductor; or
- 879 (ii) consumed primarily in the process of:
- 880 (A) (I) manufacturing a semiconductor;
- 881 (II) fabricating a semiconductor; or
- 882 (III) research or development of a:
- 883 (Aa) semiconductor; or
- 884 (Bb) semiconductor manufacturing process; or
- 885 (B) maintaining an environment suitable for a semiconductor.
- 886 (b) "Semiconductor fabricating, processing, research, or development materials"
- 887 includes:
- 888 (i) parts used in the repairs or renovations of tangible personal property described in
- 889 Subsection [~~(86)~~] (87)(a); or
- 890 (ii) a chemical, catalyst, or other material used to:
- 891 (A) produce or induce in a semiconductor a:
- 892 (I) chemical change; or
- 893 (II) physical change;

894 (B) remove impurities from a semiconductor; or

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

896 [~~(87)~~] (88) "Senior citizen center" means a facility having the primary purpose of
897 providing services to the aged as defined in Section 62A-3-101.

898 [~~(88)~~] (89) "Simplified electronic return" means the electronic return:

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

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

901 [~~(89)~~] (90) "Solar energy" means the sun used as the sole source of energy for
902 producing electricity.

903 [~~(90)~~] (91) (a) "Sports or recreational equipment" means an item:

904 (i) designed for human use; and

905 (ii) that is:

906 (A) worn in conjunction with:

907 (I) an athletic activity; or

908 (II) a recreational activity; and

909 (B) not suitable for general use.

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

912 (i) listing the items that constitute "sports or recreational equipment"; and

913 (ii) that are consistent with the list of items that constitute "sports or recreational
914 equipment" under the agreement.

915 [~~(91)~~] (92) "State" means the state of Utah, its departments, and agencies.

916 [~~(92)~~] (93) "Storage" means any keeping or retention of tangible personal property or
917 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
918 except sale in the regular course of business.

919 [~~(93)~~] (94) (a) "Tangible personal property" means personal property that:

920 (i) may be:

921 (A) seen;

922 (B) weighed;

923 (C) measured;

924 (D) felt; or

- 925 (E) touched; or
- 926 (ii) is in any manner perceptible to the senses.
- 927 (b) "Tangible personal property" includes:
- 928 (i) electricity;
- 929 (ii) water;
- 930 (iii) gas;
- 931 (iv) steam; or
- 932 (v) prewritten computer software.

933 [~~94~~] 95 "Tar sands" means impregnated sands that yield mixtures of liquid
934 hydrocarbon and require further processing other than mechanical blending before becoming
935 finished petroleum products.

936 [~~95~~] 96 (a) "Telecommunications enabling or facilitating equipment, machinery, or
937 software" means an item listed in Subsection [~~95~~] 96(b) if that item is purchased or leased
938 primarily to enable or facilitate one or more of the following to function:

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

941 (b) The following apply to Subsection [~~95~~] 96(a):

- 942 (i) a pole;
- 943 (ii) software;
- 944 (iii) a supplementary power supply;
- 945 (iv) temperature or environmental equipment or machinery;
- 946 (v) test equipment;
- 947 (vi) a tower; or
- 948 (vii) equipment, machinery, or software that functions similarly to an item listed in

949 Subsections [~~95~~] 96(b)(i) through (vi) as determined by the commission by rule made in
950 accordance with Subsection [~~95~~] 96(c).

951 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
952 commission may by rule define what constitutes equipment, machinery, or software that
953 functions similarly to an item listed in Subsections [~~95~~] 96(b)(i) through (vi).

954 [~~96~~] 97 "Telecommunications equipment, machinery, or software required for 911
955 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.

956 Sec. 20.18.

957 ~~[(97)]~~ (98) "Telecommunications maintenance or repair equipment, machinery, or
958 software" means equipment, machinery, or software purchased or leased primarily to maintain
959 or repair one or more of the following, regardless of whether the equipment, machinery, or
960 software is purchased or leased as a spare part or as an upgrade or modification to one or more
961 of the following:

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

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

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

965 ~~[(98)]~~ (99) (a) "Telecommunications switching or routing equipment, machinery, or
966 software" means an item listed in Subsection ~~[(98)]~~ (99)(b) if that item is purchased or leased
967 primarily for switching or routing:

968 (i) voice communications;

969 (ii) data communications; or

970 (iii) telephone service.

971 (b) The following apply to Subsection ~~[(98)]~~ (99)(a):

972 (i) a bridge;

973 (ii) a computer;

974 (iii) a cross connect;

975 (iv) a modem;

976 (v) a multiplexer;

977 (vi) plug in circuitry;

978 (vii) a router;

979 (viii) software;

980 (ix) a switch; or

981 (x) equipment, machinery, or software that functions similarly to an item listed in
982 Subsections ~~[(98)]~~ (99)(b)(i) through (ix) as determined by the commission by rule made in
983 accordance with Subsection ~~[(98)]~~ (99)(c).

984 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
985 commission may by rule define what constitutes equipment, machinery, or software that
986 functions similarly to an item listed in Subsections ~~[(98)]~~ (99)(b)(i) through (ix).

987 [~~(99)~~] (100) (a) "Telecommunications transmission equipment, machinery, or
988 software" means an item listed in Subsection [~~(99)~~] (100)(b) if that item is purchased or leased
989 primarily for sending, receiving, or transporting:

- 990 (i) voice communications;
- 991 (ii) data communications; or
- 992 (iii) telephone service.

993 (b) The following apply to Subsection [~~(99)~~] (100)(a):

- 994 (i) an amplifier;
- 995 (ii) a cable;
- 996 (iii) a closure;
- 997 (iv) a conduit;
- 998 (v) a controller;
- 999 (vi) a duplexer;
- 1000 (vii) a filter;
- 1001 (viii) an input device;
- 1002 (ix) an input/output device;
- 1003 (x) an insulator;
- 1004 (xi) microwave machinery or equipment;
- 1005 (xii) an oscillator;
- 1006 (xiii) an output device;
- 1007 (xiv) a pedestal;
- 1008 (xv) a power converter;
- 1009 (xvi) a power supply;
- 1010 (xvii) a radio channel;
- 1011 (xviii) a radio receiver;
- 1012 (xix) a radio transmitter;
- 1013 (xx) a repeater;
- 1014 (xxi) software;
- 1015 (xxii) a terminal;
- 1016 (xxiii) a timing unit;
- 1017 (xxiv) a transformer;

1018 (xxv) a wire; or
1019 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
1020 Subsections [~~(99)~~] (100)(b)(i) through (xxv) as determined by the commission by rule made in
1021 accordance with Subsection [~~(99)~~] (100)(c).

1022 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1023 commission may by rule define what constitutes equipment, machinery, or software that
1024 functions similarly to an item listed in Subsections [~~(99)~~] (100)(b)(i) through (xxv).

1025 [~~(100)~~] (101) (a) "Telephone service" means a two-way transmission:

1026 (i) by:

1027 (A) wire;

1028 (B) radio;

1029 (C) lightwave; or

1030 (D) other electromagnetic means; and

1031 (ii) of one or more of the following:

1032 (A) a sign;

1033 (B) a signal;

1034 (C) writing;

1035 (D) an image;

1036 (E) sound;

1037 (F) a message;

1038 (G) data; or

1039 (H) other information of any nature.

1040 (b) "Telephone service" includes:

1041 (i) mobile telecommunications service;

1042 (ii) private communications service; or

1043 (iii) automated digital telephone answering service.

1044 (c) "Telephone service" does not include a service or a transaction that a state or a
1045 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
1046 Tax Freedom Act, Pub. L. No. 105-277.

1047 [~~(101)~~] (102) Notwithstanding where a call is billed or paid, "telephone service
1048 address" means:

1049 (a) if the location described in this Subsection [~~(101)~~] (102)(a) is known, the location
1050 of the telephone service equipment:

1051 (i) to which a call is charged; and

1052 (ii) from which the call originates or terminates;

1053 (b) if the location described in Subsection [~~(101)~~] (102)(a) is not known but the
1054 location described in this Subsection [~~(101)~~] (102)(b) is known, the location of the origination
1055 point of the signal of the telephone service first identified by:

1056 (i) the telecommunications system of the seller; or

1057 (ii) if the system used to transport the signal is not that of the seller, information
1058 received by the seller from its service provider; or

1059 (c) if the locations described in Subsection [~~(101)~~] (102)(a) or (b) are not known, the
1060 location of a purchaser's primary place of use.

1061 [~~(102)~~] (103) (a) "Telephone service provider" means a person that:

1062 (i) owns, controls, operates, or manages a telephone service; and

1063 (ii) engages in an activity described in Subsection [~~(102)~~] (103)(a)(i) for the shared use
1064 with or resale to any person of the telephone service.

1065 (b) A person described in Subsection [~~(102)~~] (103)(a) is a telephone service provider
1066 whether or not the Public Service Commission of Utah regulates:

1067 (i) that person; or

1068 (ii) the telephone service that the person owns, controls, operates, or manages.

1069 [~~(103)~~] (104) "Tobacco" means:

1070 (a) a cigarette;

1071 (b) a cigar;

1072 (c) chewing tobacco;

1073 (d) pipe tobacco; or

1074 (e) any other item that contains tobacco.

1075 [~~(104)~~] (105) "Unassisted amusement device" means an amusement device, skill

1076 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
1077 operate the amusement device, skill device, or ride device.

1078 [~~(105)~~] (106) (a) "Use" means the exercise of any right or power over tangible personal
1079 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that

1080 property, item, or service.

1081 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
1082 the regular course of business and held for resale.

1083 [~~(106)~~] (107) (a) Subject to Subsection [~~(106)~~] (107)(b), "vehicle" means the following
1084 that are required to be titled, registered, or titled and registered:

- 1085 (i) an aircraft as defined in Section 72-10-102;
- 1086 (ii) a vehicle as defined in Section 41-1a-102;
- 1087 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1088 (iv) a vessel as defined in Section 41-1a-102.

1089 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1090 (i) a vehicle described in Subsection [~~(106)~~] (107)(a); or
- 1091 (ii) (A) a locomotive;
- 1092 (B) a freight car;
- 1093 (C) railroad work equipment; or
- 1094 (D) other railroad rolling stock.

1095 [~~(107)~~] (108) "Vehicle dealer" means a person engaged in the business of buying,
1096 selling, or exchanging a vehicle as defined in Subsection [~~(106)~~] (107).

1097 [~~(108)~~] (109) (a) Except as provided in Subsection [~~(108)~~] (109)(b), "waste energy
1098 facility" means a facility that generates electricity:

- 1099 (i) using as the primary source of energy waste materials that would be placed in a
1100 landfill or refuse pit if it were not used to generate electricity, including:
 - 1101 (A) tires;
 - 1102 (B) waste coal; or
 - 1103 (C) oil shale; and
- 1104 (ii) in amounts greater than actually required for the operation of the facility.

1105 (b) "Waste energy facility" does not include a facility that incinerates:

- 1106 (i) municipal solid waste;
- 1107 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1108 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1109 [~~(109)~~] (110) "Watercraft" means a vessel as defined in Section 73-18-2.

1110 [~~(110)~~] (111) "Wind energy" means wind used as the sole source of energy to produce

1111 electricity.

1112 [~~(HH)~~] (112) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
1113 geographic location by the United States Postal Service.

1114 Section 2. Section **59-12-104** is amended to read:

1115 **59-12-104. Exemptions.**

1116 The following sales and uses are exempt from the taxes imposed by this chapter:

1117 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
1118 under Chapter 13, Motor and Special Fuel Tax Act;

1119 (2) sales to the state, its institutions, and its political subdivisions; however, this
1120 exemption does not apply to sales of:

1121 (a) construction materials except:

1122 (i) construction materials purchased by or on behalf of institutions of the public
1123 education system as defined in Utah Constitution Article X, Section 2, provided the
1124 construction materials are clearly identified and segregated and installed or converted to real
1125 property which is owned by institutions of the public education system; and

1126 (ii) construction materials purchased by the state, its institutions, or its political
1127 subdivisions which are installed or converted to real property by employees of the state, its
1128 institutions, or its political subdivisions; or

1129 (b) tangible personal property in connection with the construction, operation,
1130 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
1131 providing additional project capacity, as defined in Section 11-13-103;

1132 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

1133 (i) the proceeds of each sale do not exceed \$1; and

1134 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
1135 the cost of the item described in Subsection (3)(b) as goods consumed; and

1136 (b) Subsection (3)(a) applies to:

1137 (i) food and food ingredients; or

1138 (ii) prepared food;

1139 (4) sales of the following to a commercial airline carrier for in-flight consumption:

1140 (a) food and food ingredients;

1141 (b) prepared food; or

- 1142 (c) services related to Subsection (4)(a) or (b);
- 1143 (5) sales of parts and equipment for installation in aircraft operated by common carriers
1144 in interstate or foreign commerce;
- 1145 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
1146 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
1147 exhibitor, distributor, or commercial television or radio broadcaster;
- 1148 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
1149 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
1150 washing of tangible personal property;
- 1151 (b) if a seller that sells at the same business location assisted cleaning or washing of
1152 tangible personal property and cleaning or washing of tangible personal property that is not
1153 assisted cleaning or washing of tangible personal property, the exemption described in
1154 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
1155 or washing of the tangible personal property; and
- 1156 (c) for purposes of Subsection (7)(b) and in accordance with Title 63, Chapter 46a,
1157 Utah Administrative Rulemaking Act, the commission may make rules:
- 1158 (i) governing the circumstances under which sales are at the same business location;
1159 and
- 1160 (ii) establishing the procedures and requirements for a seller to separately account for
1161 sales of assisted cleaning or washing of tangible personal property;
- 1162 (8) sales made to or by religious or charitable institutions in the conduct of their regular
1163 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
1164 fulfilled;
- 1165 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
1166 this state if the vehicle is both not:
- 1167 (a) registered in this state; and
- 1168 (b) used in this state except as necessary to transport the vehicle to the borders of this
1169 state;
- 1170 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 1171 (i) the item is intended for human use; and
- 1172 (ii) (A) a prescription was issued for the item; or

1173 (B) the item was purchased by a hospital or other medical facility; and
1174 (b) (i) Subsection (10)(a) applies to:
1175 (A) a drug;
1176 (B) a syringe; or
1177 (C) a stoma supply; and
1178 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1179 commission may by rule define the terms:
1180 (A) "syringe"; or
1181 (B) "stoma supply";
1182 (11) sales or use of property, materials, or services used in the construction of or
1183 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
1184 (12) (a) sales of an item described in Subsection (12)(c) served by:
1185 (i) the following if the item described in Subsection (12)(c) is not available to the
1186 general public:
1187 (A) a church; or
1188 (B) a charitable institution;
1189 (ii) an institution of higher education if:
1190 (A) the item described in Subsection (12)(c) is not available to the general public; or
1191 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
1192 offered by the institution of higher education; or
1193 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
1194 (i) a medical facility; or
1195 (ii) a nursing facility; and
1196 (c) Subsections (12)(a) and (b) apply to:
1197 (i) food and food ingredients;
1198 (ii) prepared food; or
1199 (iii) alcoholic beverages;
1200 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
1201 by a person:
1202 (i) regardless of the number of transactions involving the sale of that tangible personal
1203 property by that person; and

- 1204 (ii) not regularly engaged in the business of selling that type of tangible personal
1205 property;
- 1206 (b) this Subsection (13) does not apply if:
- 1207 (i) the sale is one of a series of sales of a character to indicate that the person is
1208 regularly engaged in the business of selling that type of tangible personal property;
- 1209 (ii) the person holds that person out as regularly engaged in the business of selling that
1210 type of tangible personal property;
- 1211 (iii) the person sells an item of tangible personal property that the person purchased as
1212 a sale that is exempt under Subsection (25); or
- 1213 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
1214 this state in which case the tax is based upon:
- 1215 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
1216 sold; or
- 1217 (B) in the absence of a bill of sale or other written evidence of value, the fair market
1218 value of the vehicle or vessel being sold at the time of the sale as determined by the
1219 commission; and
- 1220 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1221 commission shall make rules establishing the circumstances under which:
- 1222 (i) a person is regularly engaged in the business of selling a type of tangible personal
1223 property;
- 1224 (ii) a sale of tangible personal property is one of a series of sales of a character to
1225 indicate that a person is regularly engaged in the business of selling that type of tangible
1226 personal property; or
- 1227 (iii) a person holds that person out as regularly engaged in the business of selling a type
1228 of tangible personal property;
- 1229 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
1230 July 1, 2006, for a purchase or lease by a manufacturing facility other than a cogeneration
1231 facility, for the following:
- 1232 (i) machinery and equipment that:
- 1233 (A) is used:
- 1234 (I) for a manufacturing facility other than a manufacturing facility that is a scrap

1235 recycler described in Subsection 59-12-102[~~(45)~~] (46)(b):

1236 (Aa) in the manufacturing process; and

1237 (Bb) to manufacture an item sold as tangible personal property; or

1238 (II) for a manufacturing facility that is a scrap recycler described in Subsection

1239 59-12-102[~~(45)~~] (46)(b), to process an item sold as tangible personal property; and

1240 (B) has an economic life of three or more years; and

1241 (ii) normal operating repair or replacement parts that:

1242 (A) have an economic life of three or more years; and

1243 (B) are used:

1244 (I) for a manufacturing facility in the state other than a manufacturing facility that is a

1245 scrap recycler described in Subsection 59-12-102[~~(45)~~] (46)(b), in the manufacturing process;

1246 or

1247 (II) for a manufacturing facility in the state that is a scrap recycler described in

1248 Subsection 59-12-102[~~(45)~~] (46)(b), to process an item sold as tangible personal property;

1249 (b) (i) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a

1250 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,

1251 for the following:

1252 (A) machinery and equipment that:

1253 (I) is used:

1254 (Aa) in the manufacturing process; and

1255 (Bb) to manufacture an item sold as tangible personal property; and

1256 (II) has an economic life of three or more years; and

1257 (B) normal operating repair or replacement parts that:

1258 (I) are used in the manufacturing process in a manufacturing facility in the state; and

1259 (II) have an economic life of three or more years; and

1260 (ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,

1261 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may

1262 claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:

1263 (A) for sales and use taxes paid under this chapter on the purchase or lease payment;

1264 and

1265 (B) in accordance with Section 59-12-110;

1266 (c) for purposes of this Subsection (14) and in accordance with Title 63, Chapter 46a,
1267 Utah Administrative Rulemaking Act, the commission:

1268 (i) shall by rule define the term "establishment"; and

1269 (ii) may by rule define what constitutes processing an item sold as tangible personal
1270 property; and

1271 (d) on or before October 1, 1991, and every five years after October 1, 1991, the
1272 commission shall:

1273 (i) review the exemptions described in this Subsection (14) and make
1274 recommendations to the Revenue and Taxation Interim Committee concerning whether the
1275 exemptions should be continued, modified, or repealed; and

1276 (ii) include in its report:

1277 (A) the cost of the exemptions;

1278 (B) the purpose and effectiveness of the exemptions; and

1279 (C) the benefits of the exemptions to the state;

1280 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

1281 (i) tooling;

1282 (ii) special tooling;

1283 (iii) support equipment;

1284 (iv) special test equipment; or

1285 (v) parts used in the repairs or renovations of tooling or equipment described in

1286 Subsections (15)(a)(i) through (iv); and

1287 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

1288 (i) the tooling, equipment, or parts are used or consumed exclusively in the

1289 performance of any aerospace or electronics industry contract with the United States

1290 government or any subcontract under that contract; and

1291 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),

1292 title to the tooling, equipment, or parts is vested in the United States government as evidenced

1293 by:

1294 (A) a government identification tag placed on the tooling, equipment, or parts; or

1295 (B) listing on a government-approved property record if placing a government

1296 identification tag on the tooling, equipment, or parts is impractical;

1297 (16) sales of newspapers or newspaper subscriptions;

1298 (17) (a) except as provided in Subsection (17)(b), tangible personal property traded in
1299 as full or part payment of the purchase price, except that for purposes of calculating sales or use
1300 tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and
1301 the tax is based upon:

1302 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
1303 vehicle being traded in; or

1304 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
1305 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
1306 commission; and

1307 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
1308 following items of tangible personal property traded in as full or part payment of the purchase
1309 price:

1310 (i) money;

1311 (ii) electricity;

1312 (iii) water;

1313 (iv) gas; or

1314 (v) steam;

1315 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
1316 used or consumed primarily and directly in farming operations, regardless of whether the
1317 tangible personal property:

1318 (A) becomes part of real estate; or

1319 (B) is installed by a:

1320 (I) farmer;

1321 (II) contractor; or

1322 (III) subcontractor; or

1323 (ii) sales of parts used in the repairs or renovations of tangible personal property if the
1324 tangible personal property is exempt under Subsection (18)(a)(i); and

1325 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following
1326 tangible personal property are subject to the taxes imposed by this chapter:

1327 (i) (A) subject to Subsection (18)(b)(i)(B), the following tangible personal property if

1328 the tangible personal property is used in a manner that is incidental to farming:

1329 (I) machinery;

1330 (II) equipment;

1331 (III) materials; or

1332 (IV) supplies; and

1333 (B) tangible personal property that is considered to be used in a manner that is

1334 incidental to farming includes:

1335 (I) hand tools; or

1336 (II) maintenance and janitorial equipment and supplies;

1337 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property if the tangible

1338 personal property is used in an activity other than farming; and

1339 (B) tangible personal property that is considered to be used in an activity other than

1340 farming includes:

1341 (I) office equipment and supplies; or

1342 (II) equipment and supplies used in:

1343 (Aa) the sale or distribution of farm products;

1344 (Bb) research; or

1345 (Cc) transportation; or

1346 (iii) a vehicle required to be registered by the laws of this state during the period ending

1347 two years after the date of the vehicle's purchase;

1348 (19) sales of hay;

1349 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or

1350 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or

1351 garden, farm, or other agricultural produce is sold by:

1352 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other

1353 agricultural produce;

1354 (b) an employee of the producer described in Subsection (20)(a); or

1355 (c) a member of the immediate family of the producer described in Subsection (20)(a);

1356 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued

1357 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

1358 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,

1359 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
1360 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
1361 manufacturer, processor, wholesaler, or retailer;

1362 (23) property stored in the state for resale;

1363 (24) property brought into the state by a nonresident for his or her own personal use or
1364 enjoyment while within the state, except property purchased for use in Utah by a nonresident
1365 living and working in Utah at the time of purchase;

1366 (25) property purchased for resale in this state, in the regular course of business, either
1367 in its original form or as an ingredient or component part of a manufactured or compounded
1368 product;

1369 (26) property upon which a sales or use tax was paid to some other state, or one of its
1370 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
1371 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
1372 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
1373 Act;

1374 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
1375 person for use in compounding a service taxable under the subsections;

1376 (28) purchases made in accordance with the special supplemental nutrition program for
1377 women, infants, and children established in 42 U.S.C. Sec. 1786;

1378 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
1379 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
1380 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
1381 Manual of the federal Executive Office of the President, Office of Management and Budget;

1382 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
1383 Boating Act, a boat trailer, or an outboard motor if the boat, trailer, or outboard motor is both
1384 not:

1385 (a) registered in this state; and

1386 (b) used in this state except as necessary to transport the boat, boat trailer, or outboard
1387 motor to the borders of this state;

1388 (31) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah
1389 where a sales or use tax is not imposed, even if the title is passed in Utah;

- 1390 (32) amounts paid for the purchase of telephone service for purposes of providing
- 1391 telephone service;
- 1392 (33) sales or leases of vehicles to, or use of vehicles by an authorized carrier;
- 1393 (34) (a) 45% of the sales price of any new manufactured home; and
- 1394 (b) 100% of the sales price of any used manufactured home;
- 1395 (35) sales relating to schools and fundraising sales;
- 1396 (36) sales or rentals of durable medical equipment if:
- 1397 (a) a person presents a prescription for the durable medical equipment; and
- 1398 (b) the durable medical equipment is used for home use only;
- 1399 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 1400 Section 72-11-102; and
- 1401 (b) the commission shall by rule determine the method for calculating sales exempt
- 1402 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 1403 (38) sales to a ski resort of:
- 1404 (a) snowmaking equipment;
- 1405 (b) ski slope grooming equipment;
- 1406 (c) passenger ropeways as defined in Section 72-11-102; or
- 1407 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 1408 described in Subsections (38)(a) through (c);
- 1409 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 1410 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 1411 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 1412 59-12-102;
- 1413 (b) if a seller that sells or rents at the same business location the right to use or operate
- 1414 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 1415 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 1416 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 1417 amusement, entertainment, or recreation for the assisted amusement devices; and
- 1418 (c) for purposes of Subsection (40)(b) and in accordance with Title 63, Chapter 46a,
- 1419 Utah Administrative Rulemaking Act, the commission may make rules:
- 1420 (i) governing the circumstances under which sales are at the same business location;

1421 and

1422 (ii) establishing the procedures and requirements for a seller to separately account for

1423 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for

1424 assisted amusement devices;

1425 (41) sales by the state or a political subdivision of the state, except state institutions of

1426 higher education as defined in Section 53B-3-102, of:

1427 (a) photocopies; or

1428 (b) other copies of records held or maintained by the state or a political subdivision of

1429 the state;

1430 (42) amounts paid for admission to an athletic event at an institution of higher

1431 education that is subject to the provisions of Title IX of the Education Amendments of 1972,

1432 20 U.S.C. Sec. 1681 et seq.;

1433 (43) sales of telephone service charged to a prepaid telephone calling card;

1434 (44) (a) sales of:

1435 (i) hearing aids;

1436 (ii) hearing aid accessories; or

1437 (iii) except as provided in Subsection (44)(b), parts used in the repairs or renovations

1438 of hearing aids or hearing aid accessories; and

1439 (b) for purposes of this Subsection (44), notwithstanding Subsection (44)(a)(iii),

1440 "parts" does not include batteries;

1441 (45) (a) sales made to or by:

1442 (i) an area agency on aging; or

1443 (ii) a senior citizen center owned by a county, city, or town; or

1444 (b) sales made by a senior citizen center that contracts with an area agency on aging;

1445 (46) sales or leases of semiconductor fabricating, processing, research, or development

1446 materials regardless of whether the semiconductor fabricating, processing, research, or

1447 development materials:

1448 (a) actually come into contact with a semiconductor; or

1449 (b) ultimately become incorporated into real property;

1450 (47) an amount paid by or charged to a purchaser for accommodations and services

1451 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section

- 1452 59-12-104.2;
- 1453 (48) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
1454 sports event registration certificate in accordance with Section 41-3-306 for the event period
1455 specified on the temporary sports event registration certificate;
- 1456 (49) sales or uses of electricity, if the sales or uses are:
- 1457 (a) made under a tariff adopted by the Public Service Commission of Utah only for
1458 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
1459 source, as designated in the tariff by the Public Service Commission of Utah; and
- 1460 (b) for an amount of electricity that is:
- 1461 (i) unrelated to the amount of electricity used by the person purchasing the electricity
1462 under the tariff described in Subsection (49)(a); and
- 1463 (ii) equivalent to the number of kilowatthours specified in the tariff described in
1464 Subsection (49)(a) that may be purchased under the tariff described in Subsection (49)(a);
- 1465 (50) sales or rentals of mobility enhancing equipment if a person presents a
1466 prescription for the mobility enhancing equipment;
- 1467 (51) sales of water in a:
- 1468 (a) pipe;
- 1469 (b) conduit;
- 1470 (c) ditch; or
- 1471 (d) reservoir;
- 1472 (52) sales of currency or coinage that constitute legal tender of the United States or of a
1473 foreign nation;
- 1474 (53) (a) sales of an item described in Subsection (53)(b) if the item:
- 1475 (i) does not constitute legal tender of any nation; and
- 1476 (ii) has a gold, silver, or platinum content of 80% or more; and
- 1477 (b) Subsection (53)(a) applies to a gold, silver, or platinum:
- 1478 (i) ingot;
- 1479 (ii) bar;
- 1480 (iii) medallion; or
- 1481 (iv) decorative coin;
- 1482 (54) amounts paid on a sale-leaseback transaction;

1483 (55) sales of a prosthetic device:
1484 (a) for use on or in a human;
1485 (b) for which a prescription is issued; and
1486 (c) to a person that presents a prescription for the prosthetic device;
1487 (56) (a) except as provided in Subsection (56)(b), purchases, leases, or rentals of
1488 machinery or equipment by an establishment described in Subsection (56)(c) if the machinery
1489 or equipment is primarily used in the production or postproduction of the following media for
1490 commercial distribution:
1491 (i) a motion picture;
1492 (ii) a television program;
1493 (iii) a movie made for television;
1494 (iv) a music video;
1495 (v) a commercial;
1496 (vi) a documentary; or
1497 (vii) a medium similar to Subsections (56)(a)(i) through (vi) as determined by the
1498 commission by administrative rule made in accordance with Subsection (56)(d); or
1499 (b) notwithstanding Subsection (56)(a), purchases, leases, or rentals of machinery or
1500 equipment by an establishment described in Subsection (56)(c) that is used for the production
1501 or postproduction of the following are subject to the taxes imposed by this chapter:
1502 (i) a live musical performance;
1503 (ii) a live news program; or
1504 (iii) a live sporting event;
1505 (c) the following establishments listed in the 1997 North American Industry
1506 Classification System of the federal Executive Office of the President, Office of Management
1507 and Budget, apply to Subsections (56)(a) and (b):
1508 (i) NAICS Code 512110; or
1509 (ii) NAICS Code 51219; and
1510 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1511 commission may by rule:
1512 (i) prescribe what constitutes a medium similar to Subsections (56)(a)(i) through (vi);
1513 or

- 1514 (ii) define:
- 1515 (A) "commercial distribution";
- 1516 (B) "live musical performance";
- 1517 (C) "live news program"; or
- 1518 (D) "live sporting event";
- 1519 (57) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
- 1520 or before June 30, 2009, of machinery or equipment that:
- 1521 (i) is leased or purchased for or by a facility that:
- 1522 (A) is a renewable energy production facility;
- 1523 (B) is located in the state; and
- 1524 (C) (I) becomes operational on or after July 1, 2004; or
- 1525 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 1526 2004 as a result of the use of the machinery or equipment;
- 1527 (ii) has an economic life of five or more years; and
- 1528 (iii) is used to make the facility or the increase in capacity of the facility described in
- 1529 Subsection (57)(a)(i) operational up to the point of interconnection with an existing
- 1530 transmission grid including:
- 1531 (A) a wind turbine;
- 1532 (B) generating equipment;
- 1533 (C) a control and monitoring system;
- 1534 (D) a power line;
- 1535 (E) substation equipment;
- 1536 (F) lighting;
- 1537 (G) fencing;
- 1538 (H) pipes; or
- 1539 (I) other equipment used for locating a power line or pole; and
- 1540 (b) this Subsection (57) does not apply to:
- 1541 (i) machinery or equipment used in construction of:
- 1542 (A) a new renewable energy production facility; or
- 1543 (B) the increase in the capacity of a renewable energy production facility;
- 1544 (ii) contracted services required for construction and routine maintenance activities;

1545 and

1546 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
1547 of the facility described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or
1548 acquired after:

1549 (A) the renewable energy production facility described in Subsection (57)(a)(i) is
1550 operational as described in Subsection (57)(a)(iii); or

1551 (B) the increased capacity described in Subsection (57)(a)(i) is operational as described
1552 in Subsection (57)(a)(iii);

1553 (58) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
1554 or before June 30, 2009, of machinery or equipment that:

1555 (i) is leased or purchased for or by a facility that:

1556 (A) is a waste energy production facility;

1557 (B) is located in the state; and

1558 (C) (I) becomes operational on or after July 1, 2004; or

1559 (II) has its generation capacity increased by one or more megawatts on or after July 1,
1560 2004 as a result of the use of the machinery or equipment;

1561 (ii) has an economic life of five or more years; and

1562 (iii) is used to make the facility or the increase in capacity of the facility described in
1563 Subsection (58)(a)(i) operational up to the point of interconnection with an existing
1564 transmission grid including:

1565 (A) generating equipment;

1566 (B) a control and monitoring system;

1567 (C) a power line;

1568 (D) substation equipment;

1569 (E) lighting;

1570 (F) fencing;

1571 (G) pipes; or

1572 (H) other equipment used for locating a power line or pole; and

1573 (b) this Subsection (58) does not apply to:

1574 (i) machinery or equipment used in construction of:

1575 (A) a new waste energy facility; or

1576 (B) the increase in the capacity of a waste energy facility;
1577 (ii) contracted services required for construction and routine maintenance activities;
1578 and
1579 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
1580 described in Subsection (58)(a)(i)(C)(II), machinery or equipment used or acquired after:
1581 (A) the waste energy facility described in Subsection (58)(a)(i) is operational as
1582 described in Subsection (58)(a)(iii); or
1583 (B) the increased capacity described in Subsection (58)(a)(i) is operational as described
1584 in Subsection (58)(a)(iii);
1585 (59) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
1586 or before June 30, 2009, of machinery or equipment that:
1587 (i) is leased or purchased for or by a facility that:
1588 (A) is located in the state;
1589 (B) produces fuel from biomass energy including:
1590 (I) methanol; or
1591 (II) ethanol; and
1592 (C) (I) becomes operational on or after July 1, 2004; or
1593 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
1594 a result of the installation of the machinery or equipment;
1595 (ii) has an economic life of five or more years; and
1596 (iii) is installed on the facility described in Subsection (59)(a)(i);
1597 (b) this Subsection (59) does not apply to:
1598 (i) machinery or equipment used in construction of:
1599 (A) a new facility described in Subsection (59)(a)(i); or
1600 (B) the increase in capacity of the facility described in Subsection (59)(a)(i); or
1601 (ii) contracted services required for construction and routine maintenance activities;
1602 and
1603 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
1604 described in Subsection (59)(a)(i)(C)(II), machinery or equipment used or acquired after:
1605 (A) the facility described in Subsection (59)(a)(i) is operational; or
1606 (B) the increased capacity described in Subsection (59)(a)(i) is operational;

1607 (60) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle
1608 for purchasing the new vehicle;

1609 (61) (a) subject to Subsection (61)(b), sales of tangible personal property to persons
1610 within this state that is subsequently shipped outside the state and incorporated pursuant to
1611 contract into and becomes a part of real property located outside of this state, except to the
1612 extent that the other state or political entity imposes a sales, use, gross receipts, or other similar
1613 transaction excise tax on it against which the other state or political entity allows a credit for
1614 taxes imposed by this chapter; and

1615 (b) the exemption provided for in Subsection (61)(a):

1616 (i) is allowed only if the exemption is applied:

1617 (A) in calculating the purchase price of the tangible personal property; and

1618 (B) to a written contract that is in effect on July 1, 2004; and

1619 (ii) (A) does not apply beginning on the day on which the contract described in
1620 Subsection (61)(b)(i):

1621 (I) is substantially modified; or

1622 (II) terminates; and

1623 (B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
1624 the commission may by rule prescribe the circumstances under which a contract is substantially
1625 modified;

1626 (62) purchases:

1627 (a) of one or more of the following items in printed or electronic format:

1628 (i) a list containing information that includes one or more:

1629 (A) names; or

1630 (B) addresses; or

1631 (ii) a database containing information that includes one or more:

1632 (A) names; or

1633 (B) addresses; and

1634 (b) used to send direct mail;

1635 (63) redemptions or repurchases of property by a person if that property was:

1636 (a) delivered to a pawnbroker as part of a pawn transaction; and

1637 (b) redeemed or repurchased within the time period established in a written agreement

1638 between the person and the pawnbroker for redeeming or repurchasing the property;
1639 (64) (a) purchases or leases of an item described in Subsection (64)(b) if the item:
1640 (i) is purchased or leased by, or on behalf of, a telephone service provider; and
1641 (ii) has a useful economic life of one or more years; and
1642 (b) the following apply to Subsection (64)(a):
1643 (i) telecommunications enabling or facilitating equipment, machinery, or software;
1644 (ii) telecommunications equipment, machinery, or software required for 911 service;
1645 (iii) telecommunications maintenance or repair equipment, machinery, or software;
1646 (iv) telecommunications switching or routing equipment, machinery, or software; or
1647 (v) telecommunications transmission equipment, machinery, or software; and
1648 (65) (a) beginning on July 1, 2006 and ending on June 30, 2016, purchases of tangible
1649 personal property used in the research and development of coal-to-liquids, oil shale, or tar
1650 sands technology; and
1651 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1652 commission may, for purposes of Subsection (65)(a), make rules defining what constitutes
1653 tangible personal property used in the research and development of coal-to-liquids, oil shale,
1654 and tar sands technology.
1655 Section 3. **Effective date.**
1656 This bill takes effect on July 1, 2007.