

1                                   **SALES AND USE TAX EXEMPTION**  
2                                   **RELATING TO AIRCRAFT**

3                                   2010 GENERAL SESSION

4                                   STATE OF UTAH

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

6                                   House Sponsor: Brad L. Dee

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8   **LONG TITLE**

9   **General Description:**

10           This bill amends the Sales and Use Tax Act to enact a sales and use tax exemption  
11 relating to aircraft.

12   **Highlighted Provisions:**

13           This bill:

- 14           ▶ defines terms;
- 15           ▶ enacts a sales and use tax exemption for certain sales of tangible personal property  
16 to or by an aircraft maintenance, repair, and overhaul provider; and
- 17           ▶ makes technical and conforming changes.

18   **Monies Appropriated in this Bill:**

19           None

20   **Other Special Clauses:**

21           This bill takes effect on July 1, 2010.

22   **Utah Code Sections Affected:**

23   AMENDS:

24           **59-12-102**, as last amended by Laws of Utah 2009, Chapters 203 and 314

25           **59-12-104**, as last amended by Laws of Utah 2009, Chapters 31, 203, 212, and 385

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

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

29           **59-12-102. Definitions.**

30 As used in this chapter:

31 (1) "800 service" means a telecommunications service that:

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

33 (b) is typically marketed:

34 (i) under the name 800 toll-free calling;

35 (ii) under the name 855 toll-free calling;

36 (iii) under the name 866 toll-free calling;

37 (iv) under the name 877 toll-free calling;

38 (v) under the name 888 toll-free calling; or

39 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

40 Federal Communications Commission.

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

42 (i) a subscriber purchases;

43 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to

44 the subscriber's:

45 (A) prerecorded announcement; or

46 (B) live service; and

47 (iii) is typically marketed:

48 (A) under the name 900 service; or

49 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

50 Communications Commission.

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

52 (i) a collection service a seller of a telecommunications service provides to a

53 subscriber; or

54 (ii) the following a subscriber sells to the subscriber's customer:

55 (A) a product; or

56 (B) a service.

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

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

60 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on  
61 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax  
62 Agreement after November 12, 2002.

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

64 (a) listed under Subsection (6); and

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

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

67 (a) Subsection 59-12-103(2)(a)(i)(A);

68 (b) Subsection 59-12-103(2)(b)(i);

69 (c) Subsection 59-12-103(2)(c)(i);

70 (d) Subsection 59-12-103(2)(d)(i)(A)(I);

71 (e) Section 59-12-204;

72 (f) Section 59-12-401;

73 (g) Section 59-12-402;

74 (h) Section 59-12-501;

75 (i) Section 59-12-502;

76 (j) Section 59-12-703;

77 (k) Section 59-12-802;

78 (l) Section 59-12-804;

79 (m) Section 59-12-1001;

80 (n) Section 59-12-1102;

81 (o) Section 59-12-1302;

82 (p) Section 59-12-1402;

83 (q) Section 59-12-1503;

84 (r) Section 59-12-1703;

85 (s) Section 59-12-1802;

86 (t) Section 59-12-1903;

87 (u) Section 59-12-2003; or

88 (v) Section 59-12-2103.

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

90 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

91 (a) except for an airline as defined in Section 59-2-102 or an affiliated group as

92 defined in Subsection 59-12-107(1)(f) of an airline; and

93 (b) that has the workers, expertise, and facilities to perform the following, regardless

94 of whether the business entity performs the following in this state:

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

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

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

98 aircraft;

99 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered

100 aircraft engine;

101 (iii) perform at least the following maintenance on a fixed wing turbine powered

102 aircraft:

103 (A) an inspection;

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

105 (C) changing landing gear; and

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

107 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and

108 completely apply new paint to the fixed wing turbine powered aircraft; and

109 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that

110 results in a change in the fixed wing turbine powered aircraft's certification requirements by

111 the authority that certifies the fixed wing turbine powered aircraft.

112 [~~(8)~~] (9) "Alcoholic beverage" means a beverage that:

113 (a) is suitable for human consumption; and

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

115 [~~9~~] (10) (a) "Ancillary service" means a service associated with, or incidental to, the  
116 provision of telecommunications service.

117 (b) "Ancillary service" includes:

118 (i) a conference bridging service;

119 (ii) a detailed communications billing service;

120 (iii) directory assistance;

121 (iv) a vertical service; or

122 (v) a voice mail service.

123 [~~10~~] (11) "Area agency on aging" is as defined in Section 62A-3-101.

124 [~~11~~] (12) "Assisted amusement device" means an amusement device, skill device, or  
125 ride device that is started and stopped by an individual:

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

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

130 [~~12~~] (13) "Assisted cleaning or washing of tangible personal property" means  
131 cleaning or washing of tangible personal property if the cleaning or washing labor is primarily  
132 performed by an individual:

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

135 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
136 property.

137 [~~13~~] (14) "Authorized carrier" means:

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

141 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating

142 certificate or air carrier's operating certificate; or

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

145 [~~(14)~~] (15) (a) Except as provided in Subsection [~~(14)~~] (15)(b), "biomass energy"  
146 means any of the following that is used as the primary source of energy to produce fuel or  
147 electricity:

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

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

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

151 (B) animal waste;

152 (C) methane produced:

153 (I) at landfills; or

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

155 (D) aquatic plants; and

156 (E) agricultural products.

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

158 (i) black liquor;

159 (ii) treated woods; or

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

161 (A) at landfills; or

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

163 [~~(15)~~] (16) (a) "Bundled transaction" means the sale of two or more items of tangible  
164 personal property, products, or services if the tangible personal property, products, or services  
165 are:

166 (i) distinct and identifiable; and

167 (ii) sold for one nonitemized price.

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

169 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on

170 the basis of the selection by the purchaser of the items of tangible personal property included  
171 in the transaction;

172 (ii) the sale of real property;

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

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

175 (A) the tangible personal property:

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

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

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

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

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

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

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

183 (vi) a transaction that includes tangible personal property or a product subject to

184 taxation under this chapter and tangible personal property or a product that is not subject to

185 taxation under this chapter if the:

186 (A) seller's purchase price of the tangible personal property or product subject to

187 taxation under this chapter is de minimis; or

188 (B) seller's sales price of the tangible personal property or product subject to taxation

189 under this chapter is de minimis; and

190 (vii) the retail sale of tangible personal property that is not subject to taxation under

191 this chapter and tangible personal property that is subject to taxation under this chapter if:

192 (A) that retail sale includes:

193 (I) food and food ingredients;

194 (II) a drug;

195 (III) durable medical equipment;

196 (IV) mobility enhancing equipment;

197 (V) an over-the-counter drug;

- 198 (VI) a prosthetic device; or
- 199 (VII) a medical supply; and
- 200 (B) subject to Subsection [~~(15)~~] (16)(f):
- 201 (I) the seller's purchase price of the tangible personal property subject to taxation
- 202 under this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 203 (II) the seller's sales price of the tangible personal property subject to taxation under
- 204 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 205 (c) (i) For purposes of Subsection [~~(15)~~] (16)(a)(i), tangible personal property, a
- 206 product, or a service that is distinct and identifiable does not include:
- 207 (A) packaging that:
- 208 (I) accompanies the sale of the tangible personal property, product, or service; and
- 209 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
- 210 service;
- 211 (B) tangible personal property, a product, or a service provided free of charge with the
- 212 purchase of another item of tangible personal property, a product, or a service; or
- 213 (C) an item of tangible personal property, a product, or a service included in the
- 214 definition of "purchase price."
- 215 (ii) For purposes of Subsection [~~(15)~~] (16)(c)(i)(B), an item of tangible personal
- 216 property, a product, or a service is provided free of charge with the purchase of another item of
- 217 tangible personal property, a product, or a service if the sales price of the purchased item of
- 218 tangible personal property, product, or service does not vary depending on the inclusion of the
- 219 tangible personal property, product, or service provided free of charge.
- 220 (d) (i) For purposes of Subsection [~~(15)~~] (16)(a)(ii), property sold for one nonitemized
- 221 price does not include a price that is separately identified by product on the following,
- 222 regardless of whether the following is in paper format or electronic format:
- 223 (A) a binding sales document; or
- 224 (B) another supporting sales-related document that is available to a purchaser.
- 225 (ii) For purposes of Subsection [~~(15)~~] (16)(d)(i), a binding sales document or another



226 supporting sales-related document that is available to a purchaser includes:

- 227 (A) a bill of sale;
- 228 (B) a contract;
- 229 (C) an invoice;
- 230 (D) a lease agreement;
- 231 (E) a periodic notice of rates and services;
- 232 (F) a price list;
- 233 (G) a rate card;
- 234 (H) a receipt; or
- 235 (I) a service agreement.

236 (e) (i) For purposes of Subsection [~~(15)~~] (16)(b)(vi), the sales price of tangible  
237 personal property or a product subject to taxation under this chapter is de minimis if:

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

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

242 (ii) For purposes of Subsection [~~(15)~~] (16)(b)(vi), a seller:

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

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

249 (iii) For purposes of Subsection [~~(15)~~] (16)(b)(vi), a seller shall use the full term of a  
250 service contract to determine if the sales price of tangible personal property or a product is de  
251 minimis.

252 (f) For purposes of Subsection [~~(15)~~] (16)(b)(vii)(B), a seller may not use a  
253 combination of the seller's purchase price and the seller's sales price to determine if tangible

254 personal property subject to taxation under this chapter is 50% or less of the seller's total  
255 purchase price or sales price of that retail sale.

256 ~~[(16)]~~ (17) "Certified automated system" means software certified by the governing  
257 board of the agreement that:

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

260 (i) on a transaction; and

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

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

264 (c) maintains a record of the transaction described in Subsection ~~[(16)]~~ (17)(a)(i).

265 ~~[(17)]~~ (18) "Certified service provider" means an agent certified:

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

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

270 ~~[(18)]~~ (19) (a) Subject to Subsection ~~[(18)]~~ (19)(b), "clothing" means all human  
271 wearing apparel suitable for general use.

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

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

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

277 ~~[(19)]~~ (20) "Coal-to-liquid" means the process of converting coal into a liquid  
278 synthetic fuel.

279 ~~[(20)]~~ (21) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or  
280 other fuels that does not constitute industrial use under Subsection ~~[(46)]~~ (48) or residential  
281 use under Subsection ~~[(91)]~~ (93).

282            [~~(21)~~] (22) (a) "Common carrier" means a person engaged in or transacting the  
283 business of transporting passengers, freight, merchandise, or other property for hire within this  
284 state.

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

288            (ii) For purposes of Subsection [~~(21)~~] (22)(b)(i), in accordance with Title 63G,  
289 Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining  
290 what constitutes a person's place of employment.

291            [~~(22)~~] (23) "Component part" includes:

- 292            (a) poultry, dairy, and other livestock feed, and their components;
- 293            (b) baling ties and twine used in the baling of hay and straw;
- 294            (c) fuel used for providing temperature control of orchards and commercial  
295 greenhouses doing a majority of their business in wholesale sales, and for providing power for  
296 off-highway type farm machinery; and
- 297            (d) feed, seeds, and seedlings.

298            [~~(23)~~] (24) "Computer" means an electronic device that accepts information:

- 299            (a) (i) in digital form; or
- 300            (ii) in a form similar to digital form; and
- 301            (b) manipulates that information for a result based on a sequence of instructions.

302            [~~(24)~~] (25) "Computer software" means a set of coded instructions designed to cause:

- 303            (a) a computer to perform a task; or
- 304            (b) automatic data processing equipment to perform a task.

305            [~~(25)~~] (26) (a) "Conference bridging service" means an ancillary service that links two  
306 or more participants of an audio conference call or video conference call.

307            (b) "Conference bridging service" includes providing a telephone number as part of  
308 the ancillary service described in Subsection [~~(25)~~] (26)(a).

309            (c) "Conference bridging service" does not include a telecommunications service used

310 to reach the ancillary service described in Subsection [~~(25)~~] (26)(a).

311 [~~(26)~~] (27) "Construction materials" means any tangible personal property that will be  
312 converted into real property.

313 [~~(27)~~] (28) "Delivered electronically" means delivered to a purchaser by means other  
314 than tangible storage media.

315 [~~(28)~~] (29) (a) "Delivery charge" means a charge:

316 (i) by a seller of:

317 (A) tangible personal property;

318 (B) a product transferred electronically; or

319 (C) services; and

320 (ii) for preparation and delivery of the tangible personal property, product transferred  
321 electronically, or services described in Subsection [~~(28)~~] (29)(a)(i) to a location designated by  
322 the purchaser.

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

324 (i) transportation;

325 (ii) shipping;

326 (iii) postage;

327 (iv) handling;

328 (v) crating; or

329 (vi) packing.

330 [~~(29)~~] (30) "Detailed telecommunications billing service" means an ancillary service  
331 of separately stating information pertaining to individual calls on a customer's billing  
332 statement.

333 [~~(30)~~] (31) "Dietary supplement" means a product, other than tobacco, that:

334 (a) is intended to supplement the diet;

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

336 (i) a vitamin;

337 (ii) a mineral;

- 338 (iii) an herb or other botanical;
- 339 (iv) an amino acid;
- 340 (v) a dietary substance for use by humans to supplement the diet by increasing the
- 341 total dietary intake; or
- 342 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 343 described in Subsections [~~(30)~~] (31)(b)(i) through (v);
- 344 (c) (i) except as provided in Subsection [~~(30)~~] (31)(c)(ii), is intended for ingestion in:
- 345 (A) tablet form;
- 346 (B) capsule form;
- 347 (C) powder form;
- 348 (D) softgel form;
- 349 (E) gelcap form; or
- 350 (F) liquid form; or
- 351 (ii) notwithstanding Subsection [~~(30)~~] (31)(c)(i), if the product is not intended for
- 352 ingestion in a form described in Subsections [~~(30)~~] (31)(c)(i)(A) through (F), is not
- 353 represented:
- 354 (A) as conventional food; and
- 355 (B) for use as a sole item of:
- 356 (I) a meal; or
- 357 (II) the diet; and
- 358 (d) is required to be labeled as a dietary supplement:
- 359 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 360 (ii) as required by 21 C.F.R. Sec. 101.36.
- 361 [~~(31)~~] (32) (a) "Direct mail" means printed material delivered or distributed by United
- 362 States mail or other delivery service:
- 363 (i) to:
- 364 (A) a mass audience; or
- 365 (B) addressees on a mailing list provided:

- 366 (I) by a purchaser of the mailing list; or
- 367 (II) at the discretion of the purchaser of the mailing list; and
- 368 (ii) if the cost of the printed material is not billed directly to the recipients.
- 369 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by
- 370 a purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 371 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 372 single address.
- 373 [~~(32)~~] (33) "Directory assistance" means an ancillary service of providing:
- 374 (a) address information; or
- 375 (b) telephone number information.
- 376 [~~(33)~~] (34) (a) "Disposable home medical equipment or supplies" means medical
- 377 equipment or supplies that:
- 378 (i) cannot withstand repeated use; and
- 379 (ii) are purchased by, for, or on behalf of a person other than:
- 380 (A) a health care facility as defined in Section 26-21-2;
- 381 (B) a health care provider as defined in Section 78B-3-403;
- 382 (C) an office of a health care provider described in Subsection [~~(33)~~] (34)(a)(ii)(B); or
- 383 (D) a person similar to a person described in Subsections [~~(33)~~] (34)(a)(ii)(A) through
- 384 (C).
- 385 (b) "Disposable home medical equipment or supplies" does not include:
- 386 (i) a drug;
- 387 (ii) durable medical equipment;
- 388 (iii) a hearing aid;
- 389 (iv) a hearing aid accessory;
- 390 (v) mobility enhancing equipment; or
- 391 (vi) tangible personal property used to correct impaired vision, including:
- 392 (A) eyeglasses; or
- 393 (B) contact lenses.

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

396 [~~34~~] (35) (a) "Drug" means a compound, substance, or preparation, or a component  
397 of a compound, substance, or preparation that is:

398 (i) recognized in:

399 (A) the official United States Pharmacopoeia;

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

401 (C) the official National Formulary; or

402 (D) a supplement to a publication listed in Subsections [~~34~~] (35)(a)(i)(A) through  
403 (C);

404 (ii) intended for use in the:

405 (A) diagnosis of disease;

406 (B) cure of disease;

407 (C) mitigation of disease;

408 (D) treatment of disease; or

409 (E) prevention of disease; or

410 (iii) intended to affect:

411 (A) the structure of the body; or

412 (B) any function of the body.

413 (b) "Drug" does not include:

414 (i) food and food ingredients;

415 (ii) a dietary supplement;

416 (iii) an alcoholic beverage; or

417 (iv) a prosthetic device.

418 [~~35~~] (36) (a) Except as provided in Subsection [~~35~~] (36)(c), "durable medical  
419 equipment" means equipment that:

420 (i) can withstand repeated use;

421 (ii) is primarily and customarily used to serve a medical purpose;

- 422 (iii) generally is not useful to a person in the absence of illness or injury; and
- 423 (iv) is not worn in or on the body.
- 424 (b) "Durable medical equipment" includes parts used in the repair or replacement of
- 425 the equipment described in Subsection [~~(35)~~] (36)(a).
- 426 (c) Notwithstanding Subsection [~~(35)~~] (36)(a), "durable medical equipment" does not
- 427 include mobility enhancing equipment.
- 428 [~~(36)~~] (37) "Electronic" means:
- 429 (a) relating to technology; and
- 430 (b) having:
- 431 (i) electrical capabilities;
- 432 (ii) digital capabilities;
- 433 (iii) magnetic capabilities;
- 434 (iv) wireless capabilities;
- 435 (v) optical capabilities;
- 436 (vi) electromagnetic capabilities; or
- 437 (vii) capabilities similar to Subsections [~~(36)~~] (37)(b)(i) through (vi).
- 438 [~~(37)~~] (38) "Employee" is as defined in Section 59-10-401.
- 439 [~~(38)~~] (39) "Fixed guideway" means a public transit facility that uses and occupies:
- 440 (a) rail for the use of public transit; or
- 441 (b) a separate right-of-way for the use of public transit.
- 442 (40) "Fixed wing turbine powered aircraft" means an aircraft that:
- 443 (a) is powered by turbine engines;
- 444 (b) operates on jet fuel; and
- 445 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 446 [~~(39)~~] (41) "Fixed wireless service" means a telecommunications service that provides
- 447 radio communication between fixed points.
- 448 [~~(40)~~] (42) (a) "Food and food ingredients" means substances:
- 449 (i) regardless of whether the substances are in:



- 450 (A) liquid form;
- 451 (B) concentrated form;
- 452 (C) solid form;
- 453 (D) frozen form;
- 454 (E) dried form; or
- 455 (F) dehydrated form; and
- 456 (ii) that are:
- 457 (A) sold for:
- 458 (I) ingestion by humans; or
- 459 (II) chewing by humans; and
- 460 (B) consumed for the substance's:
- 461 (I) taste; or
- 462 (II) nutritional value.
- 463 (b) "Food and food ingredients" includes an item described in Subsection [~~(75)~~]
- 464 (77)(b)(iii).
- 465 (c) "Food and food ingredients" does not include:
- 466 (i) an alcoholic beverage;
- 467 (ii) tobacco; or
- 468 (iii) prepared food.
- 469 [~~(41)~~] (43) (a) "Fundraising sales" means sales:
- 470 (i) (A) made by a school; or
- 471 (B) made by a school student;
- 472 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 473 materials, or provide transportation; and
- 474 (iii) that are part of an officially sanctioned school activity.
- 475 (b) For purposes of Subsection [~~(41)~~] (43)(a)(iii), "officially sanctioned school
- 476 activity" means a school activity:
- 477 (i) that is conducted in accordance with a formal policy adopted by the school or

478 school district governing the authorization and supervision of fundraising activities;

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

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

483 [~~42~~] (44) "Geothermal energy" means energy contained in heat that continuously  
484 flows outward from the earth that is used as the sole source of energy to produce electricity.

485 [~~43~~] (45) "Governing board of the agreement" means the governing board of the  
486 agreement that is:

487 (a) authorized to administer the agreement; and

488 (b) established in accordance with the agreement.

489 [~~44~~] (46) (a) For purposes of Subsection 59-12-104(41), "governmental entity"  
490 means:

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

493 (ii) the judicial branch of the state, including the courts, the Judicial Council, the  
494 Office of the Court Administrator, and similar administrative units in the judicial branch;

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

499 (iv) the National Guard;

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

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

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

504 (i) a college campus of the Utah College of Applied Technology;

505 (ii) a school;

506 (iii) the State Board of Education;

507 (iv) the State Board of Regents; or

508 (v) a state institution of higher education as defined in Section 53B-3-102.

509 [~~45~~] (47) "Hydroelectric energy" means water used as the sole source of energy to

510 produce electricity.

511 [~~46~~] (48) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,

512 or other fuels:

513 (a) in mining or extraction of minerals;

514 (b) in agricultural operations to produce an agricultural product up to the time of

515 harvest or placing the agricultural product into a storage facility, including:

516 (i) commercial greenhouses;

517 (ii) irrigation pumps;

518 (iii) farm machinery;

519 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not

520 registered under Title 41, Chapter 1a, Part 2, Registration; and

521 (v) other farming activities;

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

523 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal

524 Executive Office of the President, Office of Management and Budget;

525 (d) by a scrap recycler if:

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

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

528 products:

529 (A) iron;

530 (B) steel;

531 (C) nonferrous metal;

532 (D) paper;

533 (E) glass;

- 534 (F) plastic;
- 535 (G) textile; or
- 536 (H) rubber; and
- 537 (ii) the new products under Subsection [~~(46)~~] (48)(d)(i) would otherwise be made with
- 538 nonrecycled materials; or
- 539 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
- 540 cogeneration facility as defined in Section 54-2-1.
- 541 [~~(47)~~] (49) (a) Except as provided in Subsection [~~(47)~~] (49)(b), "installation charge"
- 542 means a charge for installing:
  - 543 (i) tangible personal property; or
  - 544 (ii) a product transferred electronically.
- 545 (b) "Installation charge" does not include a charge for repairs or renovations of:
  - 546 (i) tangible personal property; or
  - 547 (ii) a product transferred electronically.
- 548 [~~(48)~~] (50) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 549 personal property or a product transferred electronically for:
  - 550 (i) (A) a fixed term; or
  - 551 (B) an indeterminate term; and
  - 552 (ii) consideration.
- 553 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if
- 554 the amount of consideration may be increased or decreased by reference to the amount realized
- 555 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 556 Code.
- 557 (c) "Lease" or "rental" does not include:
  - 558 (i) a transfer of possession or control of property under a security agreement or
  - 559 deferred payment plan that requires the transfer of title upon completion of the required
  - 560 payments;
  - 561 (ii) a transfer of possession or control of property under an agreement that requires the

562 transfer of title:

563 (A) upon completion of required payments; and

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

565 (I) \$100; or

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

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

570 (d) For purposes of Subsection [~~(48)~~] (50)(c)(iii), an operator is necessary for  
571 equipment to perform as designed if the operator's duties exceed the:

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

573 (ii) maintenance of tangible personal property; or

574 (iii) inspection of tangible personal property.

575 [~~(49)~~] (51) "Load and leave" means delivery to a purchaser by use of a tangible storage  
576 media if the tangible storage media is not physically transferred to the purchaser.

577 [~~(50)~~] (52) "Local taxing jurisdiction" means a:

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

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

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

581 [~~(51)~~] (53) "Manufactured home" is as defined in Section 58-56-3.

582 [~~(52)~~] (54) For purposes of Section 59-12-104, "manufacturing facility" means:

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

586 (b) a scrap recycler if:

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

- 590 (A) iron;
- 591 (B) steel;
- 592 (C) nonferrous metal;
- 593 (D) paper;
- 594 (E) glass;
- 595 (F) plastic;
- 596 (G) textile; or
- 597 (H) rubber; and
- 598 (ii) the new products under Subsection [~~(52)~~] (54)(b)(i) would otherwise be made with
- 599 nonrecycled materials; or
- 600 (c) a cogeneration facility as defined in Section 54-2-1.
- 601 [~~(53)~~] (55) "Member of the immediate family of the producer" means a person who is
- 602 related to a producer described in Subsection 59-12-104(20)(a) as a:
- 603 (a) child or stepchild, regardless of whether the child or stepchild is:
- 604 (i) an adopted child or adopted stepchild; or
- 605 (ii) a foster child or foster stepchild;
- 606 (b) grandchild or stepgrandchild;
- 607 (c) grandparent or stepgrandparent;
- 608 (d) nephew or stepnephew;
- 609 (e) niece or stepniece;
- 610 (f) parent or stepparent;
- 611 (g) sibling or stepsibling;
- 612 (h) spouse;
- 613 (i) person who is the spouse of a person described in Subsections [~~(53)~~] (55)(a)
- 614 through (g); or
- 615 (j) person similar to a person described in Subsections [~~(53)~~] (55)(a) through (i) as
- 616 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 617 Administrative Rulemaking Act.

618            [~~54~~] (56) "Mobile home" is as defined in Section 58-56-3.

619            [~~55~~] (57) "Mobile telecommunications service" is as defined in the Mobile  
620 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

621            [~~56~~] (58) (a) "Mobile wireless service" means a telecommunications service,  
622 regardless of the technology used, if:

- 623            (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 624            (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 625            (iii) the origination point described in Subsection [~~56~~] (58)(a)(i) and the termination  
626 point described in Subsection [~~56~~] (58)(a)(ii) are not fixed.

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

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

631            [~~57~~] (59) (a) Except as provided in Subsection [~~57~~] (59)(c), "mobility enhancing  
632 equipment" means equipment that is:

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

639            (b) "Mobility enhancing equipment" includes parts used in the repair or replacement  
640 of the equipment described in Subsection [~~57~~] (59)(a).

641            (c) Notwithstanding Subsection [~~57~~] (59)(a), "mobility enhancing equipment" does  
642 not include:

- 643            (i) a motor vehicle;
- 644            (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
645 vehicle manufacturer;

646 (iii) durable medical equipment; or

647 (iv) a prosthetic device.

648 [~~58~~] (60) "Model 1 seller" means a seller that has selected a certified service provider  
649 as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales  
650 and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the  
651 seller's own purchases.

652 [~~59~~] (61) "Model 2 seller" means a seller that:

653 (a) except as provided in Subsection [~~59~~] (61)(b), has selected a certified automated  
654 system to perform the seller's sales tax functions for agreement sales and use taxes; and

655 (b) notwithstanding Subsection [~~59~~] (61)(a), retains responsibility for remitting all of  
656 the sales tax:

657 (i) collected by the seller; and

658 (ii) to the appropriate local taxing jurisdiction.

659 [~~60~~] (62) (a) Subject to Subsection [~~60~~] (62)(b), "model 3 seller" means a seller  
660 that has:

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

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

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

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

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

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

667 (b) For purposes of Subsection [~~60~~] (62)(a), "model 3 seller" includes an affiliated  
668 group of sellers using the same proprietary system.

669 [~~61~~] (63) "Modular home" means a modular unit as defined in Section 58-56-3.

670 [~~62~~] (64) "Motor vehicle" is as defined in Section 41-1a-102.

671 [~~63~~] (65) "Oil shale" means a group of fine black to dark brown shales containing  
672 bituminous material that yields petroleum upon distillation.

673 [~~64~~] (66) (a) "Other fuels" means products that burn independently to produce heat



674 or energy.

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

677 ~~[(65)]~~ (67) (a) "Paging service" means a telecommunications service that provides  
678 transmission of a coded radio signal for the purpose of activating a specific pager.

679 (b) For purposes of Subsection ~~[(65)]~~ (67)(a), the transmission of a coded radio signal  
680 includes a transmission by message or sound.

681 ~~[(66)]~~ (68) "Pawnbroker" is as defined in Section 13-32a-102.

682 ~~[(67)]~~ (69) "Pawn transaction" is as defined in Section 13-32a-102.

683 ~~[(68)]~~ (70) (a) "Permanently attached to real property" means that for tangible personal  
684 property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

701 (iii) property attached to oil, gas, or water pipelines, except for the property listed in

702 Subsection [~~68~~] (70)(c)(iii) or (iv).

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

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

706 (A) convenience;

707 (B) stability; or

708 (C) for an obvious temporary purpose;

709 (ii) the detachment of tangible personal property from real property except for the  
710 detachment described in Subsection [~~68~~] (70)(b)(ii);

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

715 (A) a computer;

716 (B) a telephone;

717 (C) a television; or

718 (D) tangible personal property similar to Subsections [~~68~~] (70)(c)(iii)(A) through (C)  
719 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
720 Administrative Rulemaking Act; or

721 (iv) an item listed in Subsection [~~108~~] (110)(c).

722 [~~69~~] (71) "Person" includes any individual, firm, partnership, joint venture,  
723 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,  
724 city, municipality, district, or other local governmental entity of the state, or any group or  
725 combination acting as a unit.

726 [~~70~~] (72) "Place of primary use":

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

- 730 (i) the residential street address of the customer; or
- 731 (ii) the primary business street address of the customer; or
- 732 (b) for mobile telecommunications service, is as defined in the Mobile
- 733 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 734 [~~(71)~~] (73) (a) "Postpaid calling service" means a telecommunications service a person
- 735 obtains by making a payment on a call-by-call basis:
- 736 (i) through the use of a:
- 737 (A) bank card;
- 738 (B) credit card;
- 739 (C) debit card; or
- 740 (D) travel card; or
- 741 (ii) by a charge made to a telephone number that is not associated with the origination
- 742 or termination of the telecommunications service.
- 743 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
- 744 service, that would be a prepaid wireless calling service if the service were exclusively a
- 745 telecommunications service.
- 746 [~~(72)~~] (74) "Postproduction" means an activity related to the finishing or duplication
- 747 of a medium described in Subsection 59-12-104(54)(a).
- 748 [~~(73)~~] (75) "Prepaid calling service" means a telecommunications service:
- 749 (a) that allows a purchaser access to telecommunications service that is exclusively
- 750 telecommunications service;
- 751 (b) that:
- 752 (i) is paid for in advance; and
- 753 (ii) enables the origination of a call using an:
- 754 (A) access number; or
- 755 (B) authorization code;
- 756 (c) that is dialed:
- 757 (i) manually; or

- 758 (ii) electronically; and
- 759 (d) sold in predetermined units or dollars that decline:
- 760 (i) by a known amount; and
- 761 (ii) with use.
- 762 [~~74~~] (76) "Prepaid wireless calling service" means a telecommunications service:
- 763 (a) that provides the right to utilize:
- 764 (i) mobile wireless service; and
- 765 (ii) other service that is not a telecommunications service, including:
- 766 (A) the download of a product transferred electronically;
- 767 (B) a content service; or
- 768 (C) an ancillary service;
- 769 (b) that:
- 770 (i) is paid for in advance; and
- 771 (ii) enables the origination of a call using an:
- 772 (A) access number; or
- 773 (B) authorization code;
- 774 (c) that is dialed:
- 775 (i) manually; or
- 776 (ii) electronically; and
- 777 (d) sold in predetermined units or dollars that decline:
- 778 (i) by a known amount; and
- 779 (ii) with use.
- 780 [~~75~~] (77) (a) "Prepared food" means:
- 781 (i) food:
- 782 (A) sold in a heated state; or
- 783 (B) heated by a seller;
- 784 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 785 item; or

786 (iii) except as provided in Subsection [~~(75)~~] (77)(c), food sold with an eating utensil  
787 provided by the seller, including a:

- 788 (A) plate;
- 789 (B) knife;
- 790 (C) fork;
- 791 (D) spoon;
- 792 (E) glass;
- 793 (F) cup;
- 794 (G) napkin; or
- 795 (H) straw.

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

797 (i) food that a seller only:

- 798 (A) cuts;
- 799 (B) repackages; or
- 800 (C) pasteurizes; or

801 (ii) (A) the following:

- 802 (I) raw egg;
- 803 (II) raw fish;
- 804 (III) raw meat;
- 805 (IV) raw poultry; or

806 (V) a food containing an item described in Subsections [~~(75)~~] (77)(b)(ii)(A)(I) through  
807 (IV); and

808 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the  
809 Food and Drug Administration's Food Code that a consumer cook the items described in  
810 Subsection [~~(75)~~] (77)(b)(ii)(A) to prevent food borne illness; or

811 (iii) the following if sold without eating utensils provided by the seller:

812 (A) food and food ingredients sold by a seller if the seller's proper primary  
813 classification under the 2002 North American Industry Classification System of the federal

814 Executive Office of the President, Office of Management and Budget, is manufacturing in  
815 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla  
816 Manufacturing;

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

818 (I) by weight or volume; and

819 (II) as a single item; or

820 (C) a bakery item, including:

821 (I) a bagel;

822 (II) a bar;

823 (III) a biscuit;

824 (IV) bread;

825 (V) a bun;

826 (VI) a cake;

827 (VII) a cookie;

828 (VIII) a croissant;

829 (IX) a danish;

830 (X) a donut;

831 (XI) a muffin;

832 (XII) a pastry;

833 (XIII) a pie;

834 (XIV) a roll;

835 (XV) a tart;

836 (XVI) a torte; or

837 (XVII) a tortilla.

838 (c) Notwithstanding Subsection [~~(75)~~] (77)(a)(iii), an eating utensil provided by the  
839 seller does not include the following used to transport the food:

840 (i) a container; or

841 (ii) packaging.

842            [~~(76)~~] (78) "Prescription" means an order, formula, or recipe that is issued:  
843            (a) (i) orally;  
844            (ii) in writing;  
845            (iii) electronically; or  
846            (iv) by any other manner of transmission; and  
847            (b) by a licensed practitioner authorized by the laws of a state.  
848            [~~(77)~~] (79) (a) Except as provided in Subsection [~~(77)~~] (79)(b)(ii) or (iii), "prewritten  
849 computer software" means computer software that is not designed and developed:  
850            (i) by the author or other creator of the computer software; and  
851            (ii) to the specifications of a specific purchaser.  
852            (b) "Prewritten computer software" includes:  
853            (i) a prewritten upgrade to computer software if the prewritten upgrade to the  
854 computer software is not designed and developed:  
855            (A) by the author or other creator of the computer software; and  
856            (B) to the specifications of a specific purchaser;  
857            (ii) notwithstanding Subsection [~~(77)~~] (79)(a), computer software designed and  
858 developed by the author or other creator of the computer software to the specifications of a  
859 specific purchaser if the computer software is sold to a person other than the purchaser; or  
860            (iii) notwithstanding Subsection [~~(77)~~] (79)(a) and except as provided in Subsection  
861 [~~(77)~~] (79)(c), prewritten computer software or a prewritten portion of prewritten computer  
862 software:  
863            (A) that is modified or enhanced to any degree; and  
864            (B) if the modification or enhancement described in Subsection [~~(77)~~] (79)(b)(iii)(A)  
865 is designed and developed to the specifications of a specific purchaser.  
866            (c) Notwithstanding Subsection [~~(77)~~] (79)(b)(iii), "prewritten computer software"  
867 does not include a modification or enhancement described in Subsection [~~(77)~~] (79)(b)(iii) if  
868 the charges for the modification or enhancement are:  
869            (i) reasonable; and

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

872 [~~(78)~~] (80) (a) "Private communication service" means a telecommunications service:

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

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

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

879 (i) an extension line;

880 (ii) a station;

881 (iii) switching capacity; or

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

884 [~~(79)~~] (81) (a) "Prosthetic device" means a device that is worn on or in the body to:

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

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

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

888 (b) "Prosthetic device" includes:

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

890 (ii) replacement parts for a prosthetic device;

891 (iii) a dental prosthesis; or

892 (iv) a hearing aid.

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

894 (i) corrective eyeglasses; or

895 (ii) contact lenses.

896 [~~(80)~~] (82) (a) "Protective equipment" means an item:

897 (i) for human wear; and



898 (ii) that is:  
899 (A) designed as protection:  
900 (I) to the wearer against injury or disease; or  
901 (II) against damage or injury of other persons or property; and  
902 (B) not suitable for general use.  
903 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
904 the commission shall make rules:  
905 (i) listing the items that constitute "protective equipment"; and  
906 (ii) that are consistent with the list of items that constitute "protective equipment"  
907 under the agreement.  
908 ~~[(81)]~~ (83) (a) For purposes of Subsection 59-12-104(41), "publication" means any  
909 written or printed matter, other than a photocopy:  
910 (i) regardless of:  
911 (A) characteristics;  
912 (B) copyright;  
913 (C) form;  
914 (D) format;  
915 (E) method of reproduction; or  
916 (F) source; and  
917 (ii) made available in printed or electronic format.  
918 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
919 the commission may by rule define the term "photocopy."  
920 ~~[(82)]~~ (84) (a) "Purchase price" and "sales price" mean the total amount of  
921 consideration:  
922 (i) valued in money; and  
923 (ii) for which tangible personal property, a product transferred electronically, or  
924 services are:  
925 (A) sold;

- 926 (B) leased; or
- 927 (C) rented.
- 928 (b) "Purchase price" and "sales price" include:
- 929 (i) the seller's cost of the tangible personal property, a product transferred
- 930 electronically, or services sold;
- 931 (ii) expenses of the seller, including:
- 932 (A) the cost of materials used;
- 933 (B) a labor cost;
- 934 (C) a service cost;
- 935 (D) interest;
- 936 (E) a loss;
- 937 (F) the cost of transportation to the seller; or
- 938 (G) a tax imposed on the seller;
- 939 (iii) a charge by the seller for any service necessary to complete the sale; or
- 940 (iv) consideration a seller receives from a person other than the purchaser if:
- 941 (A) (I) the seller actually receives consideration from a person other than the
- 942 purchaser; and
- 943 (II) the consideration described in Subsection [~~(82)~~] (84)(b)(iv)(A)(I) is directly related
- 944 to a price reduction or discount on the sale;
- 945 (B) the seller has an obligation to pass the price reduction or discount through to the
- 946 purchaser;
- 947 (C) the amount of the consideration attributable to the sale is fixed and determinable
- 948 by the seller at the time of the sale to the purchaser; and
- 949 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 950 seller to claim a price reduction or discount; and
- 951 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 952 coupon, or other documentation with the understanding that the person other than the seller
- 953 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

954 (II) the purchaser identifies that purchaser to the seller as a member of a group or  
955 organization allowed a price reduction or discount, except that a preferred customer card that  
956 is available to any patron of a seller does not constitute membership in a group or organization  
957 allowed a price reduction or discount; or

958 (III) the price reduction or discount is identified as a third party price reduction or  
959 discount on the:

960 (Aa) invoice the purchaser receives; or

961 (Bb) certificate, coupon, or other documentation the purchaser presents.

962 (c) "Purchase price" and "sales price" do not include:

963 (i) a discount:

964 (A) in a form including:

965 (I) cash;

966 (II) term; or

967 (III) coupon;

968 (B) that is allowed by a seller;

969 (C) taken by a purchaser on a sale; and

970 (D) that is not reimbursed by a third party; or

971 (ii) the following if separately stated on an invoice, bill of sale, or similar document  
972 provided to the purchaser:

973 (A) the following from credit extended on the sale of tangible personal property or  
974 services:

975 (I) a carrying charge;

976 (II) a financing charge; or

977 (III) an interest charge;

978 (B) a delivery charge;

979 (C) an installation charge;

980 (D) a manufacturer rebate on a motor vehicle; or

981 (E) a tax or fee legally imposed directly on the consumer.

982 [~~(83)~~] (85) "Purchaser" means a person to whom:

983 (a) a sale of tangible personal property is made;

984 (b) a product is transferred electronically; or

985 (c) a service is furnished.

986 [~~(84)~~] (86) "Regularly rented" means:

987 (a) rented to a guest for value three or more times during a calendar year; or

988 (b) advertised or held out to the public as a place that is regularly rented to guests for  
989 value.

990 [~~(85)~~] (87) "Renewable energy" means:

991 (a) biomass energy;

992 (b) hydroelectric energy;

993 (c) geothermal energy;

994 (d) solar energy; or

995 (e) wind energy.

996 [~~(86)~~] (88) (a) "Renewable energy production facility" means a facility that:

997 (i) uses renewable energy to produce electricity; and

998 (ii) has a production capacity of 20 kilowatts or greater.

999 (b) A facility is a renewable energy production facility regardless of whether the  
1000 facility is:

1001 (i) connected to an electric grid; or

1002 (ii) located on the premises of an electricity consumer.

1003 [~~(87)~~] (89) "Rental" is as defined in Subsection [~~(48)~~] (50).

1004 [~~(88)~~] (90) "Repairs or renovations of tangible personal property" means:

1005 (a) a repair or renovation of tangible personal property that is not permanently  
1006 attached to real property; or

1007 (b) attaching tangible personal property or a product that is transferred electronically  
1008 to other tangible personal property if the other tangible personal property to which the tangible  
1009 personal property or product that is transferred electronically is attached is not permanently

1010 attached to real property.

1011           ~~[(89)]~~ (91) "Research and development" means the process of inquiry or  
1012 experimentation aimed at the discovery of facts, devices, technologies, or applications and the  
1013 process of preparing those devices, technologies, or applications for marketing.

1014           ~~[(90)]~~ (92) (a) "Residential telecommunications services" means a telecommunications  
1015 service or an ancillary service that is provided to an individual for personal use:

1016           (i) at a residential address; or

1017           (ii) at an institution, including a nursing home or a school, if the telecommunications  
1018 service or ancillary service is provided to and paid for by the individual residing at the  
1019 institution rather than the institution.

1020           (b) For purposes of Subsection ~~[(90)]~~ (92)(a), a residential address includes an:

1021           (i) apartment; or

1022           (ii) other individual dwelling unit.

1023           ~~[(91)]~~ (93) "Residential use" means the use in or around a home, apartment building,  
1024 sleeping quarters, and similar facilities or accommodations.

1025           ~~[(92)]~~ (94) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose  
1026 other than:

1027           (a) resale;

1028           (b) sublease; or

1029           (c) subrent.

1030           ~~[(93)]~~ (95) (a) "Retailer" means any person engaged in a regularly organized business  
1031 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1),  
1032 and who is selling to the user or consumer and not for resale.

1033           (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1034 engaged in the business of selling to users or consumers within the state.

1035           ~~[(94)]~~ (96) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1036 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1037 Subsection 59-12-103(1), for consideration.

- 1038 (b) "Sale" includes:
- 1039 (i) installment and credit sales;
- 1040 (ii) any closed transaction constituting a sale;
- 1041 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 1042 chapter;
- 1043 (iv) any transaction if the possession of property is transferred but the seller retains the
- 1044 title as security for the payment of the price; and
- 1045 (v) any transaction under which right to possession, operation, or use of any article of
- 1046 tangible personal property is granted under a lease or contract and the transfer of possession
- 1047 would be taxable if an outright sale were made.
- 1048 ~~[(95)]~~ (97) "Sale at retail" is as defined in Subsection ~~[(92)]~~ (94).
- 1049 ~~[(96)]~~ (98) "Sale-leaseback transaction" means a transaction by which title to tangible
- 1050 personal property or a product transferred electronically that is subject to a tax under this
- 1051 chapter is transferred:
- 1052 (a) by a purchaser-lessee;
- 1053 (b) to a lessor;
- 1054 (c) for consideration; and
- 1055 (d) if:
- 1056 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
- 1057 of the tangible personal property or product transferred electronically;
- 1058 (ii) the sale of the tangible personal property or product transferred electronically to
- 1059 the lessor is intended as a form of financing:
- 1060 (A) for the tangible personal property or product transferred electronically; and
- 1061 (B) to the purchaser-lessee; and
- 1062 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
- 1063 is required to:
- 1064 (A) capitalize the tangible personal property or product transferred electronically for
- 1065 financial reporting purposes; and

1066 (B) account for the lease payments as payments made under a financing arrangement.

1067 [~~(97)~~] (99) "Sales price" is as defined in Subsection [~~(82)~~] (84).

1068 [~~(98)~~] (100) (a) "Sales relating to schools" means the following sales by, amounts paid  
1069 to, or amounts charged by a school:

1070 (i) sales that are directly related to the school's educational functions or activities

1071 including:

1072 (A) the sale of:

1073 (I) textbooks;

1074 (II) textbook fees;

1075 (III) laboratory fees;

1076 (IV) laboratory supplies; or

1077 (V) safety equipment;

1078 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1079 that:

1080 (I) a student is specifically required to wear as a condition of participation in a  
1081 school-related event or school-related activity; and

1082 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
1083 place of ordinary clothing;

1084 (C) sales of the following if the net or gross revenues generated by the sales are  
1085 deposited into a school district fund or school fund dedicated to school meals:

1086 (I) food and food ingredients; or

1087 (II) prepared food; or

1088 (D) transportation charges for official school activities; or

1089 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
1090 event or school-related activity.

1091 (b) "Sales relating to schools" does not include:

1092 (i) bookstore sales of items that are not educational materials or supplies;

1093 (ii) except as provided in Subsection [~~(98)~~] (100)(a)(i)(B):

- 1094 (A) clothing;
- 1095 (B) clothing accessories or equipment;
- 1096 (C) protective equipment; or
- 1097 (D) sports or recreational equipment; or
- 1098 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1099 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1100 (A) other than a:
- 1101 (I) school;
- 1102 (II) nonprofit organization authorized by a school board or a governing body of a
- 1103 private school to organize and direct a competitive secondary school activity; or
- 1104 (III) nonprofit association authorized by a school board or a governing body of a
- 1105 private school to organize and direct a competitive secondary school activity; and
- 1106 (B) that is required to collect sales and use taxes under this chapter.
- 1107 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1108 commission may make rules defining the term "passed through."
- 1109 [~~99~~] (101) For purposes of this section and Section 59-12-104, "school":
- 1110 (a) means:
- 1111 (i) an elementary school or a secondary school that:
- 1112 (A) is a:
- 1113 (I) public school; or
- 1114 (II) private school; and
- 1115 (B) provides instruction for one or more grades kindergarten through 12; or
- 1116 (ii) a public school district; and
- 1117 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1118 [~~100~~] (102) "Seller" means a person that makes a sale, lease, or rental of:
- 1119 (a) tangible personal property;
- 1120 (b) a product transferred electronically; or
- 1121 (c) a service.



1122            [~~(101)~~] (103) (a) "Semiconductor fabricating, processing, research, or development  
1123 materials" means tangible personal property or a product transferred electronically if the  
1124 tangible personal property or product transferred electronically is:

1125            (i) used primarily in the process of:

1126            (A) (I) manufacturing a semiconductor;

1127            (II) fabricating a semiconductor; or

1128            (III) research or development of a:

1129            (Aa) semiconductor; or

1130            (Bb) semiconductor manufacturing process; or

1131            (B) maintaining an environment suitable for a semiconductor; or

1132            (ii) consumed primarily in the process of:

1133            (A) (I) manufacturing a semiconductor;

1134            (II) fabricating a semiconductor; or

1135            (III) research or development of a:

1136            (Aa) semiconductor; or

1137            (Bb) semiconductor manufacturing process; or

1138            (B) maintaining an environment suitable for a semiconductor.

1139            (b) "Semiconductor fabricating, processing, research, or development materials"

1140 includes:

1141            (i) parts used in the repairs or renovations of tangible personal property or a product  
1142 transferred electronically described in Subsection [~~(101)~~] (103)(a); or

1143            (ii) a chemical, catalyst, or other material used to:

1144            (A) produce or induce in a semiconductor a:

1145            (I) chemical change; or

1146            (II) physical change;

1147            (B) remove impurities from a semiconductor; or

1148            (C) improve the marketable condition of a semiconductor.

1149            [~~(102)~~] (104) "Senior citizen center" means a facility having the primary purpose of

1150 providing services to the aged as defined in Section 62A-3-101.

1151 [~~(103)~~] (105) "Simplified electronic return" means the electronic return:

1152 (a) described in Section 318(C) of the agreement; and

1153 (b) approved by the governing board of the agreement.

1154 [~~(104)~~] (106) "Solar energy" means the sun used as the sole source of energy for  
1155 producing electricity.

1156 [~~(105)~~] (107) (a) "Sports or recreational equipment" means an item:

1157 (i) designed for human use; and

1158 (ii) that is:

1159 (A) worn in conjunction with:

1160 (I) an athletic activity; or

1161 (II) a recreational activity; and

1162 (B) not suitable for general use.

1163 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1164 the commission shall make rules:

1165 (i) listing the items that constitute "sports or recreational equipment"; and

1166 (ii) that are consistent with the list of items that constitute "sports or recreational  
1167 equipment" under the agreement.

1168 [~~(106)~~] (108) "State" means the state of Utah, its departments, and agencies.

1169 [~~(107)~~] (109) "Storage" means any keeping or retention of tangible personal property  
1170 or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose  
1171 except sale in the regular course of business.

1172 [~~(108)~~] (110) (a) Except as provided in Subsection [~~(108)~~] (110)(d) or (e), "tangible  
1173 personal property" means personal property that:

1174 (i) may be:

1175 (A) seen;

1176 (B) weighed;

1177 (C) measured;

- 1178 (D) felt; or
- 1179 (E) touched; or
- 1180 (ii) is in any manner perceptible to the senses.
- 1181 (b) "Tangible personal property" includes:
- 1182 (i) electricity;
- 1183 (ii) water;
- 1184 (iii) gas;
- 1185 (iv) steam; or
- 1186 (v) prewritten computer software.
- 1187 (c) "Tangible personal property" includes the following regardless of whether the item
- 1188 is attached to real property:
- 1189 (i) a dishwasher;
- 1190 (ii) a dryer;
- 1191 (iii) a freezer;
- 1192 (iv) a microwave;
- 1193 (v) a refrigerator;
- 1194 (vi) a stove;
- 1195 (vii) a washer; or
- 1196 (viii) an item similar to Subsections [~~(108)~~] (110)(c)(i) through (vii) as determined by
- 1197 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1198 Rulemaking Act.
- 1199 (d) "Tangible personal property" does not include a product that is transferred
- 1200 electronically.
- 1201 (e) "Tangible personal property" does not include the following if attached to real
- 1202 property, regardless of whether the attachment to real property is only through a line that
- 1203 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by
- 1204 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1205 Rulemaking Act:

1206 (i) a hot water heater;

1207 (ii) a water filtration system; or

1208 (iii) a water softener system.

1209 ~~[(109)]~~ (111) "Tar sands" means impregnated sands that yield mixtures of liquid

1210 hydrocarbon and require further processing other than mechanical blending before becoming

1211 finished petroleum products.

1212 ~~[(110)]~~ (112) (a) "Telecommunications enabling or facilitating equipment, machinery,

1213 or software" means an item listed in Subsection ~~[(110)]~~ (112)(b) if that item is purchased or

1214 leased primarily to enable or facilitate one or more of the following to function:

1215 (i) telecommunications switching or routing equipment, machinery, or software; or

1216 (ii) telecommunications transmission equipment, machinery, or software.

1217 (b) The following apply to Subsection ~~[(110)]~~ (112)(a):

1218 (i) a pole;

1219 (ii) software;

1220 (iii) a supplementary power supply;

1221 (iv) temperature or environmental equipment or machinery;

1222 (v) test equipment;

1223 (vi) a tower; or

1224 (vii) equipment, machinery, or software that functions similarly to an item listed in

1225 Subsections ~~[(110)]~~ (112)(b)(i) through (vi) as determined by the commission by rule made in

1226 accordance with Subsection ~~[(110)]~~ (112)(c).

1227 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1228 commission may by rule define what constitutes equipment, machinery, or software that

1229 functions similarly to an item listed in Subsections ~~[(110)]~~ (112)(b)(i) through (vi).

1230 ~~[(111)]~~ (113) "Telecommunications equipment, machinery, or software required for

1231 911 service" means equipment, machinery, or software that is required to comply with 47

1232 C.F.R. Sec. 20.18.

1233 ~~[(112)]~~ (114) "Telecommunications maintenance or repair equipment, machinery, or

1234 software" means equipment, machinery, or software purchased or leased primarily to maintain  
1235 or repair one or more of the following, regardless of whether the equipment, machinery, or  
1236 software is purchased or leased as a spare part or as an upgrade or modification to one or more  
1237 of the following:

- 1238 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1239 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1240 (c) telecommunications transmission equipment, machinery, or software.

1241 ~~[(H3)]~~ (115) (a) "Telecommunications service" means the electronic conveyance,  
1242 routing, or transmission of audio, data, video, voice, or any other information or signal to a  
1243 point, or among or between points.

1244 (b) "Telecommunications service" includes:

1245 (i) an electronic conveyance, routing, or transmission with respect to which a  
1246 computer processing application is used to act:

- 1247 (A) on the code, form, or protocol of the content;
- 1248 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 1249 (C) regardless of whether the service:
  - 1250 (I) is referred to as voice over Internet protocol service; or
  - 1251 (II) is classified by the Federal Communications Commission as enhanced or value  
1252 added;

1253 (ii) an 800 service;

1254 (iii) a 900 service;

1255 (iv) a fixed wireless service;

1256 (v) a mobile wireless service;

1257 (vi) a postpaid calling service;

1258 (vii) a prepaid calling service;

1259 (viii) a prepaid wireless calling service; or

1260 (ix) a private communications service.

1261 (c) "Telecommunications service" does not include:

- 1262 (i) advertising, including directory advertising;
- 1263 (ii) an ancillary service;
- 1264 (iii) a billing and collection service provided to a third party;
- 1265 (iv) a data processing and information service if:
- 1266 (A) the data processing and information service allows data to be:
- 1267 (I) (Aa) acquired;
- 1268 (Bb) generated;
- 1269 (Cc) processed;
- 1270 (Dd) retrieved; or
- 1271 (Ee) stored; and
- 1272 (II) delivered by an electronic transmission to a purchaser; and
- 1273 (B) the purchaser's primary purpose for the underlying transaction is the processed
- 1274 data or information;
- 1275 (v) installation or maintenance of the following on a customer's premises:
- 1276 (A) equipment; or
- 1277 (B) wiring;
- 1278 (vi) Internet access service;
- 1279 (vii) a paging service;
- 1280 (viii) a product transferred electronically, including:
- 1281 (A) music;
- 1282 (B) reading material;
- 1283 (C) a ring tone;
- 1284 (D) software; or
- 1285 (E) video;
- 1286 (ix) a radio and television audio and video programming service:
- 1287 (A) regardless of the medium; and
- 1288 (B) including:
- 1289 (I) furnishing conveyance, routing, or transmission of a television audio and video

- 1290 programming service by a programming service provider;
- 1291 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1292 (III) audio and video programming services delivered by a commercial mobile radio
- 1293 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1294 (x) a value-added nonvoice data service; or
- 1295 (xi) tangible personal property.
- 1296 [~~(114)~~] (116) (a) "Telecommunications service provider" means a person that:
- 1297 (i) owns, controls, operates, or manages a telecommunications service; and
- 1298 (ii) engages in an activity described in Subsection [~~(114)~~] (116)(a)(i) for the shared
- 1299 use with or resale to any person of the telecommunications service.
- 1300 (b) A person described in Subsection [~~(114)~~] (116)(a) is a telecommunications service
- 1301 provider whether or not the Public Service Commission of Utah regulates:
- 1302 (i) that person; or
- 1303 (ii) the telecommunications service that the person owns, controls, operates, or
- 1304 manages.
- 1305 [~~(115)~~] (117) (a) "Telecommunications switching or routing equipment, machinery, or
- 1306 software" means an item listed in Subsection [~~(115)~~] (117)(b) if that item is purchased or
- 1307 leased primarily for switching or routing:
- 1308 (i) an ancillary service;
- 1309 (ii) data communications;
- 1310 (iii) voice communications; or
- 1311 (iv) telecommunications service.
- 1312 (b) The following apply to Subsection [~~(115)~~] (117)(a):
- 1313 (i) a bridge;
- 1314 (ii) a computer;
- 1315 (iii) a cross connect;
- 1316 (iv) a modem;
- 1317 (v) a multiplexer;

1318 (vi) plug in circuitry;  
1319 (vii) a router;  
1320 (viii) software;  
1321 (ix) a switch; or  
1322 (x) equipment, machinery, or software that functions similarly to an item listed in  
1323 Subsections [~~(117)~~] (117)(b)(i) through (ix) as determined by the commission by rule made in  
1324 accordance with Subsection [~~(117)~~] (117)(c).

1325 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1326 commission may by rule define what constitutes equipment, machinery, or software that  
1327 functions similarly to an item listed in Subsections [~~(117)~~] (117)(b)(i) through (ix).

1328 [~~(118)~~] (118) (a) "Telecommunications transmission equipment, machinery, or  
1329 software" means an item listed in Subsection [~~(118)~~] (118)(b) if that item is purchased or  
1330 leased primarily for sending, receiving, or transporting:

- 1331 (i) an ancillary service;
- 1332 (ii) data communications;
- 1333 (iii) voice communications; or
- 1334 (iv) telecommunications service.

1335 (b) The following apply to Subsection [~~(118)~~] (118)(a):

- 1336 (i) an amplifier;
- 1337 (ii) a cable;
- 1338 (iii) a closure;
- 1339 (iv) a conduit;
- 1340 (v) a controller;
- 1341 (vi) a duplexer;
- 1342 (vii) a filter;
- 1343 (viii) an input device;
- 1344 (ix) an input/output device;
- 1345 (x) an insulator;



- 1346 (xi) microwave machinery or equipment;
- 1347 (xii) an oscillator;
- 1348 (xiii) an output device;
- 1349 (xiv) a pedestal;
- 1350 (xv) a power converter;
- 1351 (xvi) a power supply;
- 1352 (xvii) a radio channel;
- 1353 (xviii) a radio receiver;
- 1354 (xix) a radio transmitter;
- 1355 (xx) a repeater;
- 1356 (xxi) software;
- 1357 (xxii) a terminal;
- 1358 (xxiii) a timing unit;
- 1359 (xxiv) a transformer;
- 1360 (xxv) a wire; or
- 1361 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1362 Subsections [~~(H6)~~] (118)(b)(i) through (xxv) as determined by the commission by rule made
- 1363 in accordance with Subsection [~~(H6)~~] (118)(c).

1364 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1365 commission may by rule define what constitutes equipment, machinery, or software that

1366 functions similarly to an item listed in Subsections [~~(H6)~~] (118)(b)(i) through (xxv).

1367 [~~(H7)~~] (119) "Tobacco" means:

- 1368 (a) a cigarette;
  - 1369 (b) a cigar;
  - 1370 (c) chewing tobacco;
  - 1371 (d) pipe tobacco; or
  - 1372 (e) any other item that contains tobacco.
- 1373 [~~(H8)~~] (120) "Unassisted amusement device" means an amusement device, skill

1374 device, or ride device that is started and stopped by the purchaser or renter of the right to use  
1375 or operate the amusement device, skill device, or ride device.

1376 ~~[(119)]~~ (121) (a) "Use" means the exercise of any right or power over tangible  
1377 personal property, a product transferred electronically, or a service under Subsection  
1378 59-12-103(1), incident to the ownership or the leasing of that tangible personal property,  
1379 product transferred electronically, or service.

1380 (b) "Use" does not include the sale, display, demonstration, or trial of tangible  
1381 personal property, a product transferred electronically, or a service in the regular course of  
1382 business and held for resale.

1383 ~~[(120)]~~ (122) "Value-added nonvoice data service" means a service:

1384 (a) that otherwise meets the definition of a telecommunications service except that a  
1385 computer processing application is used to act primarily for a purpose other than conveyance,  
1386 routing, or transmission; and

1387 (b) with respect to which a computer processing application is used to act on data or  
1388 information:

- 1389 (i) code;
- 1390 (ii) content;
- 1391 (iii) form; or
- 1392 (iv) protocol.

1393 ~~[(121)]~~ (123) (a) Subject to Subsection ~~[(121)]~~ (123)(b), "vehicle" means the  
1394 following that are required to be titled, registered, or titled and registered:

- 1395 (i) an aircraft as defined in Section 72-10-102;
- 1396 (ii) a vehicle as defined in Section 41-1a-102;
- 1397 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1398 (iv) a vessel as defined in Section 41-1a-102.

1399 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1400 (i) a vehicle described in Subsection ~~[(121)]~~ (123)(a); or
- 1401 (ii) (A) a locomotive;

- 1402 (B) a freight car;
- 1403 (C) railroad work equipment; or
- 1404 (D) other railroad rolling stock.
- 1405 [~~(122)~~] (124) "Vehicle dealer" means a person engaged in the business of buying,
- 1406 selling, or exchanging a vehicle as defined in Subsection [~~(121)~~] (123).
- 1407 [~~(123)~~] (125) (a) "Vertical service" means an ancillary service that:
- 1408 (i) is offered in connection with one or more telecommunications services; and
- 1409 (ii) offers an advanced calling feature that allows a customer to:
- 1410 (A) identify a caller; and
- 1411 (B) manage multiple calls and call connections.
- 1412 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 1413 conference bridging service.
- 1414 [~~(124)~~] (126) (a) "Voice mail service" means an ancillary service that enables a
- 1415 customer to receive, send, or store a recorded message.
- 1416 (b) "Voice mail service" does not include a vertical service that a customer is required
- 1417 to have in order to utilize a voice mail service.
- 1418 [~~(125)~~] (127) (a) Except as provided in Subsection [~~(125)~~] (127)(b), "waste energy
- 1419 facility" means a facility that generates electricity:
- 1420 (i) using as the primary source of energy waste materials that would be placed in a
- 1421 landfill or refuse pit if it were not used to generate electricity, including:
- 1422 (A) tires;
- 1423 (B) waste coal; or
- 1424 (C) oil shale; and
- 1425 (ii) in amounts greater than actually required for the operation of the facility.
- 1426 (b) "Waste energy facility" does not include a facility that incinerates:
- 1427 (i) municipal solid waste;
- 1428 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1429 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1430            [~~(126)~~] (128) "Watercraft" means a vessel as defined in Section 73-18-2.

1431            [~~(127)~~] (129) "Wind energy" means wind used as the sole source of energy to produce  
1432 electricity.

1433            [~~(128)~~] (130) "ZIP Code" means a Zoning Improvement Plan Code assigned to a  
1434 geographic location by the United States Postal Service.

1435            Section 2. Section **59-12-104** is amended to read:

1436            **59-12-104. Exemptions.**

1437            The following sales and uses are exempt from the taxes imposed by this chapter:

1438            (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax  
1439 under Chapter 13, Motor and Special Fuel Tax Act;

1440            (2) sales to the state, its institutions, and its political subdivisions; however, this  
1441 exemption does not apply to sales of:

1442            (a) construction materials except:

1443            (i) construction materials purchased by or on behalf of institutions of the public  
1444 education system as defined in Utah Constitution Article X, Section 2, provided the  
1445 construction materials are clearly identified and segregated and installed or converted to real  
1446 property which is owned by institutions of the public education system; and

1447            (ii) construction materials purchased by the state, its institutions, or its political  
1448 subdivisions which are installed or converted to real property by employees of the state, its  
1449 institutions, or its political subdivisions; or

1450            (b) tangible personal property in connection with the construction, operation,  
1451 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities  
1452 providing additional project capacity, as defined in Section 11-13-103;

1453            (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

1454            (i) the proceeds of each sale do not exceed \$1; and

1455            (ii) the seller or operator of the vending machine reports an amount equal to 150% of  
1456 the cost of the item described in Subsection (3)(b) as goods consumed; and

1457            (b) Subsection (3)(a) applies to:

1458 (i) food and food ingredients; or  
1459 (ii) prepared food;  
1460 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:  
1461 (i) alcoholic beverages;  
1462 (ii) food and food ingredients; or  
1463 (iii) prepared food;  
1464 (b) sales of tangible personal property or a product transferred electronically:  
1465 (i) to a passenger;  
1466 (ii) by a commercial airline carrier; and  
1467 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or  
1468 (c) services related to Subsection (4)(a) or (b);  
1469 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts  
1470 and equipment:  
1471 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002  
1472 North American Industry Classification System of the federal Executive Office of the  
1473 President, Office of Management and Budget; and  
1474 (II) for:  
1475 (Aa) installation in an aircraft, including services relating to the installation of parts or  
1476 equipment in the aircraft;  
1477 (Bb) renovation of an aircraft; or  
1478 (Cc) repair of an aircraft; or  
1479 (B) for installation in an aircraft operated by a common carrier in interstate or foreign  
1480 commerce; or  
1481 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an  
1482 aircraft operated by a common carrier in interstate or foreign commerce; and  
1483 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,  
1484 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a  
1485 refund:

- 1486 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
- 1487 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
- 1488 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
- 1489 the sale prior to filing for the refund;
- 1490 (iv) for sales and use taxes paid under this chapter on the sale;
- 1491 (v) in accordance with Section 59-1-1410; and
- 1492 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,
- 1493 if the person files for the refund on or before September 30, 2011;
- 1494 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
- 1495 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
- 1496 exhibitor, distributor, or commercial television or radio broadcaster;
- 1497 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
- 1498 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
- 1499 washing of tangible personal property;
- 1500 (b) if a seller that sells at the same business location assisted cleaning or washing of
- 1501 tangible personal property and cleaning or washing of tangible personal property that is not
- 1502 assisted cleaning or washing of tangible personal property, the exemption described in
- 1503 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
- 1504 or washing of the tangible personal property; and
- 1505 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
- 1506 Utah Administrative Rulemaking Act, the commission may make rules:
- 1507 (i) governing the circumstances under which sales are at the same business location;
- 1508 and
- 1509 (ii) establishing the procedures and requirements for a seller to separately account for
- 1510 sales of assisted cleaning or washing of tangible personal property;
- 1511 (8) sales made to or by religious or charitable institutions in the conduct of their
- 1512 regular religious or charitable functions and activities, if the requirements of Section
- 1513 59-12-104.1 are fulfilled;

1514 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws  
1515 of this state if the vehicle is:  
1516 (a) not registered in this state; and  
1517 (b) (i) not used in this state; or  
1518 (ii) used in this state:  
1519 (A) if the vehicle is not used to conduct business, for a time period that does not  
1520 exceed the longer of:  
1521 (I) 30 days in any calendar year; or  
1522 (II) the time period necessary to transport the vehicle to the borders of this state; or  
1523 (B) if the vehicle is used to conduct business, for the time period necessary to  
1524 transport the vehicle to the borders of this state;  
1525 (10) (a) amounts paid for an item described in Subsection (10)(b) if:  
1526 (i) the item is intended for human use; and  
1527 (ii) (A) a prescription was issued for the item; or  
1528 (B) the item was purchased by a hospital or other medical facility; and  
1529 (b) (i) Subsection (10)(a) applies to:  
1530 (A) a drug;  
1531 (B) a syringe; or  
1532 (C) a stoma supply; and  
1533 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1534 the commission may by rule define the terms:  
1535 (A) "syringe"; or  
1536 (B) "stoma supply";  
1537 (11) sales or use of property, materials, or services used in the construction of or  
1538 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;  
1539 (12) (a) sales of an item described in Subsection (12)(c) served by:  
1540 (i) the following if the item described in Subsection (12)(c) is not available to the  
1541 general public:

- 1542 (A) a church; or
- 1543 (B) a charitable institution;
- 1544 (ii) an institution of higher education if:
  - 1545 (A) the item described in Subsection (12)(c) is not available to the general public; or
  - 1546 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 1547 offered by the institution of higher education; or
- 1548 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
  - 1549 (i) a medical facility; or
  - 1550 (ii) a nursing facility; and
- 1551 (c) Subsections (12)(a) and (b) apply to:
  - 1552 (i) food and food ingredients;
  - 1553 (ii) prepared food; or
  - 1554 (iii) alcoholic beverages;
- 1555 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal
- 1556 property or a product transferred electronically by a person:
  - 1557 (i) regardless of the number of transactions involving the sale of that tangible personal
  - 1558 property or product transferred electronically by that person; and
  - 1559 (ii) not regularly engaged in the business of selling that type of tangible personal
  - 1560 property or product transferred electronically;
- 1561 (b) this Subsection (13) does not apply if:
  - 1562 (i) the sale is one of a series of sales of a character to indicate that the person is
  - 1563 regularly engaged in the business of selling that type of tangible personal property or product
  - 1564 transferred electronically;
  - 1565 (ii) the person holds that person out as regularly engaged in the business of selling that
  - 1566 type of tangible personal property or product transferred electronically;
  - 1567 (iii) the person sells an item of tangible personal property or product transferred
  - 1568 electronically that the person purchased as a sale that is exempt under Subsection (25); or
  - 1569 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of



1570 this state in which case the tax is based upon:

1571 (A) the bill of sale or other written evidence of value of the vehicle or vessel being  
1572 sold; or

1573 (B) in the absence of a bill of sale or other written evidence of value, the fair market  
1574 value of the vehicle or vessel being sold at the time of the sale as determined by the  
1575 commission; and

1576 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1577 commission shall make rules establishing the circumstances under which:

1578 (i) a person is regularly engaged in the business of selling a type of tangible personal  
1579 property or product transferred electronically;

1580 (ii) a sale of tangible personal property or a product transferred electronically is one of  
1581 a series of sales of a character to indicate that a person is regularly engaged in the business of  
1582 selling that type of tangible personal property or product transferred electronically; or

1583 (iii) a person holds that person out as regularly engaged in the business of selling a  
1584 type of tangible personal property or product transferred electronically;

1585 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after  
1586 July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration  
1587 facility, for the following:

1588 (i) machinery and equipment that:

1589 (A) are used:

1590 (I) for a manufacturing facility except for a manufacturing facility that is a scrap  
1591 recycler described in Subsection 59-12-102~~(52)~~(54)(b):

1592 (Aa) in the manufacturing process;

1593 (Bb) to manufacture an item sold as tangible personal property; and

1594 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this  
1595 Subsection (14)(a)(i)(A)(I) in the state; or

1596 (II) for a manufacturing facility that is a scrap recycler described in Subsection  
1597 59-12-102~~(52)~~(54)(b):

1598 (Aa) to process an item sold as tangible personal property; and  
1599 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this  
1600 Subsection (14)(a)(i)(A)(II) in the state; and  
1601 (B) have an economic life of three or more years; and  
1602 (ii) normal operating repair or replacement parts that:  
1603 (A) have an economic life of three or more years; and  
1604 (B) are used:  
1605 (I) for a manufacturing facility except for a manufacturing facility that is a scrap  
1606 recycler described in Subsection 59-12-102[~~(52)~~](54)(b):  
1607 (Aa) in the manufacturing process; and  
1608 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the  
1609 state; or  
1610 (II) for a manufacturing facility that is a scrap recycler described in Subsection  
1611 59-12-102[~~(52)~~](54)(b):  
1612 (Aa) to process an item sold as tangible personal property; and  
1613 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the  
1614 state;  
1615 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a  
1616 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,  
1617 for the following:  
1618 (i) machinery and equipment that:  
1619 (A) are used:  
1620 (I) in the manufacturing process;  
1621 (II) to manufacture an item sold as tangible personal property; and  
1622 (III) beginning on July 1, 2009, in a manufacturing facility described in this  
1623 Subsection (14)(b) in the state; and  
1624 (B) have an economic life of three or more years; and  
1625 (ii) normal operating repair or replacement parts that:

1626 (A) are used:  
1627 (I) in the manufacturing process; and  
1628 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and  
1629 (B) have an economic life of three or more years;  
1630 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,  
1631 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or  
1632 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for  
1633 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,  
1634 of the 2002 North American Industry Classification System of the federal Executive Office of  
1635 the President, Office of Management and Budget:  
1636 (i) machinery and equipment that:  
1637 (A) are used:  
1638 (I) (Aa) in the production process, other than the production of real property; or  
1639 (Bb) in research and development; and  
1640 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)  
1641 in the state; and  
1642 (B) have an economic life of three or more years; and  
1643 (ii) normal operating repair or replacement parts that:  
1644 (A) have an economic life of three or more years; and  
1645 (B) are used in:  
1646 (I) (Aa) the production process, except for the production of real property; and  
1647 (Bb) an establishment described in this Subsection (14)(c) in the state; or  
1648 (II) (Aa) research and development; and  
1649 (Bb) in an establishment described in this Subsection (14)(c) in the state;  
1650 (d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,  
1651 Utah Administrative Rulemaking Act, the commission:  
1652 (i) shall by rule define the term "establishment"; and  
1653 (ii) may by rule define what constitutes:

- 1654 (A) processing an item sold as tangible personal property;
- 1655 (B) the production process, except for the production of real property; or
- 1656 (C) research and development; and
- 1657 (e) on or before October 1, 2011, and every five years after October 1, 2011, the
- 1658 commission shall:
- 1659 (i) review the exemptions described in this Subsection (14) and make
- 1660 recommendations to the Revenue and Taxation Interim Committee concerning whether the
- 1661 exemptions should be continued, modified, or repealed; and
- 1662 (ii) include in its report:
- 1663 (A) an estimate of the cost of the exemptions;
- 1664 (B) the purpose and effectiveness of the exemptions; and
- 1665 (C) the benefits of the exemptions to the state;
- 1666 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
- 1667 (i) tooling;
- 1668 (ii) special tooling;
- 1669 (iii) support equipment;
- 1670 (iv) special test equipment; or
- 1671 (v) parts used in the repairs or renovations of tooling or equipment described in
- 1672 Subsections (15)(a)(i) through (iv); and
- 1673 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
- 1674 (i) the tooling, equipment, or parts are used or consumed exclusively in the
- 1675 performance of any aerospace or electronics industry contract with the United States
- 1676 government or any subcontract under that contract; and
- 1677 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
- 1678 title to the tooling, equipment, or parts is vested in the United States government as evidenced
- 1679 by:
- 1680 (A) a government identification tag placed on the tooling, equipment, or parts; or
- 1681 (B) listing on a government-approved property record if placing a government

1682 identification tag on the tooling, equipment, or parts is impractical;

1683 (16) sales of newspapers or newspaper subscriptions;

1684 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a

1685 product transferred electronically traded in as full or part payment of the purchase price,

1686 except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle

1687 dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

1688 (i) the bill of sale or other written evidence of value of the vehicle being sold and the  
1689 vehicle being traded in; or

1690 (ii) in the absence of a bill of sale or other written evidence of value, the then existing  
1691 fair market value of the vehicle being sold and the vehicle being traded in, as determined by  
1692 the commission; and

1693 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the  
1694 following items of tangible personal property or products transferred electronically traded in as  
1695 full or part payment of the purchase price:

1696 (i) money;

1697 (ii) electricity;

1698 (iii) water;

1699 (iv) gas; or

1700 (v) steam;

1701 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal  
1702 property or a product transferred electronically used or consumed primarily and directly in  
1703 farming operations, regardless of whether the tangible personal property or product transferred  
1704 electronically:

1705 (A) becomes part of real estate; or

1706 (B) is installed by a:

1707 (I) farmer;

1708 (II) contractor; or

1709 (III) subcontractor; or

1710 (ii) sales of parts used in the repairs or renovations of tangible personal property or a  
1711 product transferred electronically if the tangible personal property or product transferred  
1712 electronically is exempt under Subsection (18)(a)(i); and

1713 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are  
1714 subject to the taxes imposed by this chapter:

1715 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is  
1716 incidental to farming:

1717 (I) machinery;

1718 (II) equipment;

1719 (III) materials; or

1720 (IV) supplies; and

1721 (B) tangible personal property that is considered to be used in a manner that is  
1722 incidental to farming includes:

1723 (I) hand tools; or

1724 (II) maintenance and janitorial equipment and supplies;

1725 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product  
1726 transferred electronically if the tangible personal property or product transferred electronically  
1727 is used in an activity other than farming; and

1728 (B) tangible personal property or a product transferred electronically that is considered  
1729 to be used in an activity other than farming includes:

1730 (I) office equipment and supplies; or

1731 (II) equipment and supplies used in:

1732 (Aa) the sale or distribution of farm products;

1733 (Bb) research; or

1734 (Cc) transportation; or

1735 (iii) a vehicle required to be registered by the laws of this state during the period  
1736 ending two years after the date of the vehicle's purchase;

1737 (19) sales of hay;

1738 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or  
1739 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or  
1740 garden, farm, or other agricultural produce is sold by:

1741 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other  
1742 agricultural produce;

1743 (b) an employee of the producer described in Subsection (20)(a); or

1744 (c) a member of the immediate family of the producer described in Subsection (20)(a);

1745 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued  
1746 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

1747 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,  
1748 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,  
1749 wholesaler, or retailer for use in packaging tangible personal property to be sold by that  
1750 manufacturer, processor, wholesaler, or retailer;

1751 (23) a product stored in the state for resale;

1752 (24) (a) purchases of a product if:

1753 (i) the product is:

1754 (A) purchased outside of this state;

1755 (B) brought into this state:

1756 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

1757 (II) by a nonresident person who is not living or working in this state at the time of the  
1758 purchase;

1759 (C) used for the personal use or enjoyment of the nonresident person described in  
1760 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

1761 (D) not used in conducting business in this state; and

1762 (ii) for:

1763 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of  
1764 the product for a purpose for which the product is designed occurs outside of this state;

1765 (B) a boat, the boat is registered outside of this state; or

1766 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
1767 outside of this state;

1768 (b) the exemption provided for in Subsection (24)(a) does not apply to:

1769 (i) a lease or rental of a product; or

1770 (ii) a sale of a vehicle exempt under Subsection (33); and

1771 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
1772 purposes of Subsection (24)(a), the commission may by rule define what constitutes the  
1773 following:

1774 (i) conducting business in this state if that phrase has the same meaning in this  
1775 Subsection (24) as in Subsection (63);

1776 (ii) the first use of a product if that phrase has the same meaning in this Subsection  
1777 (24) as in Subsection (63); or

1778 (iii) a purpose for which a product is designed if that phrase has the same meaning in  
1779 this Subsection (24) as in Subsection (63);

1780 (25) a product purchased for resale in this state, in the regular course of business,  
1781 either in its original form or as an ingredient or component part of a manufactured or  
1782 compounded product;

1783 (26) a product upon which a sales or use tax was paid to some other state, or one of its  
1784 subdivisions, except that the state shall be paid any difference between the tax paid and the tax  
1785 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if  
1786 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax  
1787 Act;

1788 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a  
1789 person for use in compounding a service taxable under the subsections;

1790 (28) purchases made in accordance with the special supplemental nutrition program  
1791 for women, infants, and children established in 42 U.S.C. Sec. 1786;

1792 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,  
1793 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or



1794 ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial  
1795 Classification Manual of the federal Executive Office of the President, Office of Management  
1796 and Budget;

1797       (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State  
1798 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:  
1799       (a) not registered in this state; and  
1800       (b) (i) not used in this state; or  
1801       (ii) used in this state:

1802       (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a  
1803 time period that does not exceed the longer of:  
1804       (I) 30 days in any calendar year; or  
1805       (II) the time period necessary to transport the boat, boat trailer, or outboard motor to  
1806 the borders of this state; or  
1807       (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time  
1808 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this  
1809 state;

1810       (31) sales of aircraft manufactured in Utah;

1811       (32) amounts paid for the purchase of telecommunications service for purposes of  
1812 providing telecommunications service;

1813       (33) sales, leases, or uses of the following:  
1814       (a) a vehicle by an authorized carrier; or  
1815       (b) tangible personal property that is installed on a vehicle:  
1816       (i) sold or leased to or used by an authorized carrier; and  
1817       (ii) before the vehicle is placed in service for the first time;

1818       (34) (a) 45% of the sales price of any new manufactured home; and  
1819       (b) 100% of the sales price of any used manufactured home;

1820       (35) sales relating to schools and fundraising sales;

1821       (36) sales or rentals of durable medical equipment if:

- 1822 (a) a person presents a prescription for the durable medical equipment; and  
1823 (b) the durable medical equipment is used for home use only;
- 1824 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in  
1825 Section 72-11-102; and  
1826 (b) the commission shall by rule determine the method for calculating sales exempt  
1827 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 1828 (38) sales to a ski resort of:  
1829 (a) snowmaking equipment;  
1830 (b) ski slope grooming equipment;  
1831 (c) passenger ropeways as defined in Section 72-11-102; or  
1832 (d) parts used in the repairs or renovations of equipment or passenger ropeways  
1833 described in Subsections (38)(a) through (c);
- 1834 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial  
1835 use;
- 1836 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for  
1837 amusement, entertainment, or recreation an unassisted amusement device as defined in Section  
1838 59-12-102;
- 1839 (b) if a seller that sells or rents at the same business location the right to use or operate  
1840 for amusement, entertainment, or recreation one or more unassisted amusement devices and  
1841 one or more assisted amusement devices, the exemption described in Subsection (40)(a)  
1842 applies if the seller separately accounts for the sales or rentals of the right to use or operate for  
1843 amusement, entertainment, or recreation for the assisted amusement devices; and
- 1844 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,  
1845 Utah Administrative Rulemaking Act, the commission may make rules:
- 1846 (i) governing the circumstances under which sales are at the same business location;  
1847 and  
1848 (ii) establishing the procedures and requirements for a seller to separately account for  
1849 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation

1850 for assisted amusement devices;

1851 (41) (a) sales of photocopies by:

1852 (i) a governmental entity; or

1853 (ii) an entity within the state system of public education, including:

1854 (A) a school; or

1855 (B) the State Board of Education; or

1856 (b) sales of publications by a governmental entity;

1857 (42) amounts paid for admission to an athletic event at an institution of higher

1858 education that is subject to the provisions of Title IX of the Education Amendments of 1972,

1859 20 U.S.C. Sec. 1681 et seq.;

1860 (43) (a) sales made to or by:

1861 (i) an area agency on aging; or

1862 (ii) a senior citizen center owned by a county, city, or town; or

1863 (b) sales made by a senior citizen center that contracts with an area agency on aging;

1864 (44) sales or leases of semiconductor fabricating, processing, research, or development

1865 materials regardless of whether the semiconductor fabricating, processing, research, or

1866 development materials:

1867 (a) actually come into contact with a semiconductor; or

1868 (b) ultimately become incorporated into real property;

1869 (45) an amount paid by or charged to a purchaser for accommodations and services

1870 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section

1871 59-12-104.2;

1872 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary

1873 sports event registration certificate in accordance with Section 41-3-306 for the event period

1874 specified on the temporary sports event registration certificate;

1875 (47) sales or uses of electricity, if the sales or uses are:

1876 (a) made under a tariff adopted by the Public Service Commission of Utah only for

1877 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy

1878 source, as designated in the tariff by the Public Service Commission of Utah; and  
1879 (b) for an amount of electricity that is:  
1880 (i) unrelated to the amount of electricity used by the person purchasing the electricity  
1881 under the tariff described in Subsection (47)(a); and  
1882 (ii) equivalent to the number of kilowatthours specified in the tariff described in  
1883 Subsection (47)(a) that may be purchased under the tariff described in Subsection (47)(a);  
1884 (48) sales or rentals of mobility enhancing equipment if a person presents a  
1885 prescription for the mobility enhancing equipment;  
1886 (49) sales of water in a:  
1887 (a) pipe;  
1888 (b) conduit;  
1889 (c) ditch; or  
1890 (d) reservoir;  
1891 (50) sales of currency or coinage that constitute legal tender of the United States or of  
1892 a foreign nation;  
1893 (51) (a) sales of an item described in Subsection (51)(b) if the item:  
1894 (i) does not constitute legal tender of any nation; and  
1895 (ii) has a gold, silver, or platinum content of 80% or more; and  
1896 (b) Subsection (51)(a) applies to a gold, silver, or platinum:  
1897 (i) ingot;  
1898 (ii) bar;  
1899 (iii) medallion; or  
1900 (iv) decorative coin;  
1901 (52) amounts paid on a sale-leaseback transaction;  
1902 (53) sales of a prosthetic device:  
1903 (a) for use on or in a human; and  
1904 (b) (i) for which a prescription is required; or  
1905 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

1906 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of  
1907 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery  
1908 or equipment is primarily used in the production or postproduction of the following media for  
1909 commercial distribution:

- 1910 (i) a motion picture;
- 1911 (ii) a television program;
- 1912 (iii) a movie made for television;
- 1913 (iv) a music video;
- 1914 (v) a commercial;
- 1915 (vi) a documentary; or
- 1916 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the  
1917 commission by administrative rule made in accordance with Subsection (54)(d); or
- 1918 (b) notwithstanding Subsection (54)(a), purchases, leases, or rentals of machinery or  
1919 equipment by an establishment described in Subsection (54)(c) that is used for the production  
1920 or postproduction of the following are subject to the taxes imposed by this chapter:

- 1921 (i) a live musical performance;
- 1922 (ii) a live news program; or
- 1923 (iii) a live sporting event;
- 1924 (c) the following establishments listed in the 1997 North American Industry  
1925 Classification System of the federal Executive Office of the President, Office of Management  
1926 and Budget, apply to Subsections (54)(a) and (b):

- 1927 (i) NAICS Code 512110; or
- 1928 (ii) NAICS Code 51219; and
- 1929 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1930 the commission may by rule:

- 1931 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);  
1932 or
- 1933 (ii) define:

- 1934 (A) "commercial distribution";
- 1935 (B) "live musical performance";
- 1936 (C) "live news program"; or
- 1937 (D) "live sporting event";
- 1938 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004 but
- 1939 on or before June 30, 2019, of machinery or equipment that:
- 1940 (i) is leased or purchased for or by a facility that:
- 1941 (A) is a renewable energy production facility;
- 1942 (B) is located in the state; and
- 1943 (C) (I) becomes operational on or after July 1, 2004; or
- 1944 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 1945 2004 as a result of the use of the machinery or equipment;
- 1946 (ii) has an economic life of five or more years; and
- 1947 (iii) is used to make the facility or the increase in capacity of the facility described in
- 1948 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
- 1949 transmission grid including:
- 1950 (A) a wind turbine;
- 1951 (B) generating equipment;
- 1952 (C) a control and monitoring system;
- 1953 (D) a power line;
- 1954 (E) substation equipment;
- 1955 (F) lighting;
- 1956 (G) fencing;
- 1957 (H) pipes; or
- 1958 (I) other equipment used for locating a power line or pole; and
- 1959 (b) this Subsection (55) does not apply to:
- 1960 (i) machinery or equipment used in construction of:
- 1961 (A) a new renewable energy production facility; or

1962 (B) the increase in the capacity of a renewable energy production facility;  
1963 (ii) contracted services required for construction and routine maintenance activities;  
1964 and  
1965 (iii) unless the machinery or equipment is used or acquired for an increase in capacity  
1966 of the facility described in Subsection (55)(a)(i)(C)(II), machinery or equipment used or  
1967 acquired after:  
1968 (A) the renewable energy production facility described in Subsection (55)(a)(i) is  
1969 operational as described in Subsection (55)(a)(iii); or  
1970 (B) the increased capacity described in Subsection (55)(a)(i) is operational as  
1971 described in Subsection (55)(a)(iii);  
1972 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004 but  
1973 on or before June 30, 2019, of machinery or equipment that:  
1974 (i) is leased or purchased for or by a facility that:  
1975 (A) is a waste energy production facility;  
1976 (B) is located in the state; and  
1977 (C) (I) becomes operational on or after July 1, 2004; or  
1978 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
1979 2004 as a result of the use of the machinery or equipment;  
1980 (ii) has an economic life of five or more years; and  
1981 (iii) is used to make the facility or the increase in capacity of the facility described in  
1982 Subsection (56)(a)(i) operational up to the point of interconnection with an existing  
1983 transmission grid including:  
1984 (A) generating equipment;  
1985 (B) a control and monitoring system;  
1986 (C) a power line;  
1987 (D) substation equipment;  
1988 (E) lighting;  
1989 (F) fencing;

- 1990 (G) pipes; or
- 1991 (H) other equipment used for locating a power line or pole; and
- 1992 (b) this Subsection (56) does not apply to:
- 1993 (i) machinery or equipment used in construction of:
- 1994 (A) a new waste energy facility; or
- 1995 (B) the increase in the capacity of a waste energy facility;
- 1996 (ii) contracted services required for construction and routine maintenance activities;
- 1997 and
- 1998 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
- 1999 described in Subsection (56)(a)(i)(C)(II), machinery or equipment used or acquired after:
- 2000 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
- 2001 described in Subsection (56)(a)(iii); or
- 2002 (B) the increased capacity described in Subsection (56)(a)(i) is operational as
- 2003 described in Subsection (56)(a)(iii);
- 2004 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
- 2005 or before June 30, 2019, of machinery or equipment that:
- 2006 (i) is leased or purchased for or by a facility that:
- 2007 (A) is located in the state;
- 2008 (B) produces fuel from biomass energy including:
- 2009 (I) methanol; or
- 2010 (II) ethanol; and
- 2011 (C) (I) becomes operational on or after July 1, 2004; or
- 2012 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004
- 2013 as a result of the installation of the machinery or equipment;
- 2014 (ii) has an economic life of five or more years; and
- 2015 (iii) is installed on the facility described in Subsection (57)(a)(i);
- 2016 (b) this Subsection (57) does not apply to:
- 2017 (i) machinery or equipment used in construction of:



2018 (A) a new facility described in Subsection (57)(a)(i); or  
2019 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or  
2020 (ii) contracted services required for construction and routine maintenance activities;  
2021 and  
2022 (iii) unless the machinery or equipment is used or acquired for an increase in capacity  
2023 described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or acquired after:  
2024 (A) the facility described in Subsection (57)(a)(i) is operational; or  
2025 (B) the increased capacity described in Subsection (57)(a)(i) is operational;  
2026 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a  
2027 product transferred electronically to a person within this state if that tangible personal property  
2028 or product transferred electronically is subsequently shipped outside the state and incorporated  
2029 pursuant to contract into and becomes a part of real property located outside of this state;  
2030 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other  
2031 state or political entity to which the tangible personal property is shipped imposes a sales, use,  
2032 gross receipts, or other similar transaction excise tax on the transaction against which the other  
2033 state or political entity allows a credit for sales and use taxes imposed by this chapter; and  
2034 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,  
2035 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a  
2036 refund:  
2037 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;  
2038 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on  
2039 which the sale is made;  
2040 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the  
2041 sale prior to filing for the refund;  
2042 (iv) for sales and use taxes paid under this chapter on the sale;  
2043 (v) in accordance with Section 59-1-1410; and  
2044 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,  
2045 if the person files for the refund on or before June 30, 2011;

2046 (59) purchases:  
2047 (a) of one or more of the following items in printed or electronic format:  
2048 (i) a list containing information that includes one or more:  
2049 (A) names; or  
2050 (B) addresses; or  
2051 (ii) a database containing information that includes one or more:  
2052 (A) names; or  
2053 (B) addresses; and  
2054 (b) used to send direct mail;  
2055 (60) redemptions or repurchases of a product by a person if that product was:  
2056 (a) delivered to a pawnbroker as part of a pawn transaction; and  
2057 (b) redeemed or repurchased within the time period established in a written agreement  
2058 between the person and the pawnbroker for redeeming or repurchasing the product;  
2059 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:  
2060 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;  
2061 and  
2062 (ii) has a useful economic life of one or more years; and  
2063 (b) the following apply to Subsection (61)(a):  
2064 (i) telecommunications enabling or facilitating equipment, machinery, or software;  
2065 (ii) telecommunications equipment, machinery, or software required for 911 service;  
2066 (iii) telecommunications maintenance or repair equipment, machinery, or software;  
2067 (iv) telecommunications switching or routing equipment, machinery, or software; or  
2068 (v) telecommunications transmission equipment, machinery, or software;  
2069 (62) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of  
2070 tangible personal property or a product transferred electronically that are used in the research  
2071 and development of coal-to-liquids, oil shale, or tar sands technology; and  
2072 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
2073 the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes

2074 purchases of tangible personal property or a product transferred electronically that are used in  
2075 the research and development of coal-to-liquids, oil shale, and tar sands technology;

2076 (63) (a) purchases of tangible personal property or a product transferred electronically  
2077 if:

2078 (i) the tangible personal property or product transferred electronically is:

2079 (A) purchased outside of this state;

2080 (B) brought into this state at any time after the purchase described in Subsection

2081 (63)(a)(i)(A); and

2082 (C) used in conducting business in this state; and

2083 (ii) for:

2084 (A) tangible personal property or a product transferred electronically other than the  
2085 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property  
2086 for a purpose for which the property is designed occurs outside of this state; or

2087 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
2088 outside of this state;

2089 (b) the exemption provided for in Subsection (63)(a) does not apply to:

2090 (i) a lease or rental of tangible personal property or a product transferred  
2091 electronically; or

2092 (ii) a sale of a vehicle exempt under Subsection (33); and

2093 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
2094 purposes of Subsection (63)(a), the commission may by rule define what constitutes the  
2095 following:

2096 (i) conducting business in this state if that phrase has the same meaning in this  
2097 Subsection (63) as in Subsection (24);

2098 (ii) the first use of tangible personal property or a product transferred electronically if  
2099 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

2100 (iii) a purpose for which tangible personal property or a product transferred  
2101 electronically is designed if that phrase has the same meaning in this Subsection (63) as in

2102 Subsection (24);  
2103           (64) sales of disposable home medical equipment or supplies if:  
2104           (a) a person presents a prescription for the disposable home medical equipment or  
2105 supplies;  
2106           (b) the disposable home medical equipment or supplies are used exclusively by the  
2107 person to whom the prescription described in Subsection (64)(a) is issued; and  
2108           (c) the disposable home medical equipment and supplies are listed as eligible for  
2109 payment under:  
2110           (i) Title XVIII, federal Social Security Act; or  
2111           (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;  
2112           (65) sales:  
2113           (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit  
2114 District Act; or  
2115           (b) of tangible personal property to a subcontractor of a public transit district, if the  
2116 tangible personal property is:  
2117           (i) clearly identified; and  
2118           (ii) installed or converted to real property owned by the public transit district;  
2119           (66) sales of construction materials:  
2120           (a) purchased on or after July 1, 2010;  
2121           (b) purchased by, on behalf of, or for the benefit of an international airport:  
2122           (i) located within a county of the first class; and  
2123           (ii) that has a United States customs office on its premises; and  
2124           (c) if the construction materials are:  
2125           (i) clearly identified;  
2126           (ii) segregated; and  
2127           (iii) installed or converted to real property:  
2128           (A) owned or operated by the international airport described in Subsection (66)(b);  
2129 and

2130 (B) located at the international airport described in Subsection (66)(b);  
2131 (67) sales of construction materials:  
2132 (a) purchased on or after July 1, 2008;  
2133 (b) purchased by, on behalf of, or for the benefit of a new airport:  
2134 (i) located within a county of the second class; and  
2135 (ii) that is owned or operated by a city in which an airline as defined in Section  
2136 59-2-102 is headquartered; and  
2137 (c) if the construction materials are:  
2138 (i) clearly identified;  
2139 (ii) segregated; and  
2140 (iii) installed or converted to real property:  
2141 (A) owned or operated by the new airport described in Subsection (67)(b);  
2142 (B) located at the new airport described in Subsection (67)(b); and  
2143 (C) as part of the construction of the new airport described in Subsection (67)(b);  
2144 [~~and~~]  
2145 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive  
2146 engine[-]; and  
2147 (69) (a) sales of tangible personal property to an aircraft maintenance, repair, and  
2148 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of  
2149 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration  
2150 lists a state or country other than this state as the location of registry of the fixed wing turbine  
2151 powered aircraft; or  
2152 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul  
2153 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of  
2154 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration  
2155 lists a state or country other than this state as the location of registry of the fixed wing turbine  
2156 powered aircraft.  
2157 Section 3. **Effective date.**

2158

This bill takes effect on July 1, 2010.