

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 defined  
92 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 of  
94 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 aircraft;

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

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

102 (A) an inspection;

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

104 (C) changing landing gear; and

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

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

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

111 ~~[(8)]~~ (9) "Alcoholic beverage" means a beverage that:

112 (a) is suitable for human consumption; and

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

114 ~~[(9)]~~ (10) (a) "Ancillary service" means a service associated with, or incidental to, the  
115 provision of telecommunications service.

116 (b) "Ancillary service" includes:

117 (i) a conference bridging service;

118 (ii) a detailed communications billing service;

119 (iii) directory assistance;

120 (iv) a vertical service; or

121 (v) a voice mail service.

122 [~~(10)~~] (11) "Area agency on aging" is as defined in Section 62A-3-101.

123 [~~(11)~~] (12) "Assisted amusement device" means an amusement device, skill device, or  
124 ride device that is started and stopped by an individual:

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

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

129 [~~(12)~~] (13) "Assisted cleaning or washing of tangible personal property" means  
130 cleaning or washing of tangible personal property if the cleaning or washing labor is primarily  
131 performed by an individual:

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

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

136 [~~(13)~~] (14) "Authorized carrier" means:

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

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

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

144 [~~(14)~~] (15) (a) Except as provided in Subsection [~~(14)~~] (15)(b), "biomass energy"  
145 means any of the following that is used as the primary source of energy to produce fuel or  
146 electricity:

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

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

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

150 (B) animal waste;

151 (C) methane produced;

- 152 (I) at landfills; or
- 153 (II) as a byproduct of the treatment of wastewater residuals;
- 154 (D) aquatic plants; and
- 155 (E) agricultural products.
- 156 (b) "Biomass energy" does not include:
- 157 (i) black liquor;
- 158 (ii) treated woods; or
- 159 (iii) biomass from municipal solid waste other than methane produced:
- 160 (A) at landfills; or
- 161 (B) as a byproduct of the treatment of wastewater residuals.
- 162 ~~[(15)]~~ (16) (a) "Bundled transaction" means the sale of two or more items of tangible
- 163 personal property, products, or services if the tangible personal property, products, or services
- 164 are:
- 165 (i) distinct and identifiable; and
- 166 (ii) sold for one nonitemized price.
- 167 (b) "Bundled transaction" does not include:
- 168 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 169 the basis of the selection by the purchaser of the items of tangible personal property included in
- 170 the transaction;
- 171 (ii) the sale of real property;
- 172 (iii) the sale of services to real property;
- 173 (iv) the retail sale of tangible personal property and a service if:
- 174 (A) the tangible personal property:
- 175 (I) is essential to the use of the service; and
- 176 (II) is provided exclusively in connection with the service; and
- 177 (B) the service is the true object of the transaction;
- 178 (v) the retail sale of two services if:
- 179 (A) one service is provided that is essential to the use or receipt of a second service;
- 180 (B) the first service is provided exclusively in connection with the second service; and
- 181 (C) the second service is the true object of the transaction;
- 182 (vi) a transaction that includes tangible personal property or a product subject to

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

185 (A) seller's purchase price of the tangible personal property or product subject to  
186 taxation under this chapter is de minimis; or

187 (B) seller's sales price of the tangible personal property or product subject to taxation  
188 under this chapter is de minimis; and

189 (vii) the retail sale of tangible personal property that is not subject to taxation under  
190 this chapter and tangible personal property that is subject to taxation under this chapter if:

191 (A) that retail sale includes:

192 (I) food and food ingredients;

193 (II) a drug;

194 (III) durable medical equipment;

195 (IV) mobility enhancing equipment;

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

197 (VI) a prosthetic device; or

198 (VII) a medical supply; and

199 (B) subject to Subsection [~~(15)~~] (16)(f):

200 (I) the seller's purchase price of the tangible personal property subject to taxation under  
201 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

202 (II) the seller's sales price of the tangible personal property subject to taxation under  
203 this chapter is 50% or less of the seller's total sales price of that retail sale.

204 (c) (i) For purposes of Subsection [~~(15)~~] (16)(a)(i), tangible personal property, a  
205 product, or a service that is distinct and identifiable does not include:

206 (A) packaging that:

207 (I) accompanies the sale of the tangible personal property, product, or service; and

208 (II) is incidental or immaterial to the sale of the tangible personal property, product, or  
209 service;

210 (B) tangible personal property, a product, or a service provided free of charge with the  
211 purchase of another item of tangible personal property, a product, or a service; or

212 (C) an item of tangible personal property, a product, or a service included in the  
213 definition of "purchase price."

214 (ii) For purposes of Subsection [~~(15)~~] (16)(c)(i)(B), an item of tangible personal  
215 property, a product, or a service is provided free of charge with the purchase of another item of  
216 tangible personal property, a product, or a service if the sales price of the purchased item of  
217 tangible personal property, product, or service does not vary depending on the inclusion of the  
218 tangible personal property, product, or service provided free of charge.

219 (d) (i) For purposes of Subsection [~~(15)~~] (16)(a)(ii), property sold for one nonitemized  
220 price does not include a price that is separately identified by product on the following,  
221 regardless of whether the following is in paper format or electronic format:

222 (A) a binding sales document; or

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

224 (ii) For purposes of Subsection [~~(15)~~] (16)(d)(i), a binding sales document or another  
225 supporting sales-related document that is available to a purchaser includes:

226 (A) a bill of sale;

227 (B) a contract;

228 (C) an invoice;

229 (D) a lease agreement;

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

231 (F) a price list;

232 (G) a rate card;

233 (H) a receipt; or

234 (I) a service agreement.

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

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

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

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

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



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

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

251 (f) For purposes of Subsection [~~(15)~~] (16)(b)(vii)(B), a seller may not use a  
252 combination of the seller's purchase price and the seller's sales price to determine if tangible  
253 personal property subject to taxation under this chapter is 50% or less of the seller's total  
254 purchase price or sales price of that retail sale.

255 [~~(16)~~] (17) "Certified automated system" means software certified by the governing  
256 board of the agreement that:

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

259 (i) on a transaction; and

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

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

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

264 [~~(17)~~] (18) "Certified service provider" means an agent certified:

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

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

269 [~~(18)~~] (19) (a) Subject to Subsection [~~(18)~~] (19)(b), "clothing" means all human  
270 wearing apparel suitable for general use.

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

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

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

276            [~~(19)~~] (20) "Coal-to-liquid" means the process of converting coal into a liquid synthetic  
277 fuel.

278            [~~(20)~~] (21) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or  
279 other fuels that does not constitute industrial use under Subsection [~~(46)~~] (48) or residential use  
280 under Subsection [~~(91)~~] (93).

281            [~~(21)~~] (22) (a) "Common carrier" means a person engaged in or transacting the  
282 business of transporting passengers, freight, merchandise, or other property for hire within this  
283 state.

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

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

290            [~~(22)~~] (23) "Component part" includes:

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

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

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

296            (d) feed, seeds, and seedlings.

297            [~~(23)~~] (24) "Computer" means an electronic device that accepts information:

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

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

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

301            [~~(24)~~] (25) "Computer software" means a set of coded instructions designed to cause:

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

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

304            [~~(25)~~] (26) (a) "Conference bridging service" means an ancillary service that links two  
305 or more participants of an audio conference call or video conference call.

306            (b) "Conference bridging service" includes providing a telephone number as part of the

307 ancillary service described in Subsection [~~(25)~~] (26)(a).

308 (c) "Conference bridging service" does not include a telecommunications service used  
309 to reach the ancillary service described in Subsection [~~(25)~~] (26)(a).

310 [~~(26)~~] (27) "Construction materials" means any tangible personal property that will be  
311 converted into real property.

312 [~~(27)~~] (28) "Delivered electronically" means delivered to a purchaser by means other  
313 than tangible storage media.

314 [~~(28)~~] (29) (a) "Delivery charge" means a charge:

315 (i) by a seller of:

316 (A) tangible personal property;

317 (B) a product transferred electronically; or

318 (C) services; and

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

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

323 (i) transportation;

324 (ii) shipping;

325 (iii) postage;

326 (iv) handling;

327 (v) crating; or

328 (vi) packing.

329 [~~(29)~~] (30) "Detailed telecommunications billing service" means an ancillary service of  
330 separately stating information pertaining to individual calls on a customer's billing statement.

331 [~~(30)~~] (31) "Dietary supplement" means a product, other than tobacco, that:

332 (a) is intended to supplement the diet;

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

334 (i) a vitamin;

335 (ii) a mineral;

336 (iii) an herb or other botanical;

337 (iv) an amino acid;

338 (v) a dietary substance for use by humans to supplement the diet by increasing the total  
339 dietary intake; or

340 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient  
341 described in Subsections [~~(30)~~] (31)(b)(i) through (v);

342 (c) (i) except as provided in Subsection [~~(30)~~] (31)(c)(ii), is intended for ingestion in:

343 (A) tablet form;

344 (B) capsule form;

345 (C) powder form;

346 (D) softgel form;

347 (E) gelcap form; or

348 (F) liquid form; or

349 (ii) notwithstanding Subsection [~~(30)~~] (31)(c)(i), if the product is not intended for  
350 ingestion in a form described in Subsections [~~(30)~~] (31)(c)(i)(A) through (F), is not  
351 represented:

352 (A) as conventional food; and

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

354 (I) a meal; or

355 (II) the diet; and

356 (d) is required to be labeled as a dietary supplement:

357 (i) identifiable by the "Supplemental Facts" box found on the label; and

358 (ii) as required by 21 C.F.R. Sec. 101.36.

359 [~~(31)~~] (32) (a) "Direct mail" means printed material delivered or distributed by United  
360 States mail or other delivery service:

361 (i) to:

362 (A) a mass audience; or

363 (B) addressees on a mailing list provided:

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

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

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

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

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

371 [~~(32)~~] (33) "Directory assistance" means an ancillary service of providing:

372 (a) address information; or

373 (b) telephone number information.

374 [~~(33)~~] (34) (a) "Disposable home medical equipment or supplies" means medical  
375 equipment or supplies that:

376 (i) cannot withstand repeated use; and

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

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

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

380 (C) an office of a health care provider described in Subsection [~~(33)~~] (34)(a)(ii)(B); or

381 (D) a person similar to a person described in Subsections [~~(33)~~] (34)(a)(ii)(A) through  
382 (C).

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

384 (i) a drug;

385 (ii) durable medical equipment;

386 (iii) a hearing aid;

387 (iv) a hearing aid accessory;

388 (v) mobility enhancing equipment; or

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

390 (A) eyeglasses; or

391 (B) contact lenses.

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

394 [~~(34)~~] (35) (a) "Drug" means a compound, substance, or preparation, or a component of  
395 a compound, substance, or preparation that is:

396 (i) recognized in:

397 (A) the official United States Pharmacopoeia;

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

399 (C) the official National Formulary; or

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

402 (ii) intended for use in the:

403 (A) diagnosis of disease;

404 (B) cure of disease;

405 (C) mitigation of disease;

406 (D) treatment of disease; or

407 (E) prevention of disease; or

408 (iii) intended to affect:

409 (A) the structure of the body; or

410 (B) any function of the body.

411 (b) "Drug" does not include:

412 (i) food and food ingredients;

413 (ii) a dietary supplement;

414 (iii) an alcoholic beverage; or

415 (iv) a prosthetic device.

416 [~~(35)~~] (36) (a) Except as provided in Subsection [~~(35)~~] (36)(c), "durable medical  
417 equipment" means equipment that:

418 (i) can withstand repeated use;

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

420 (iii) generally is not useful to a person in the absence of illness or injury; and

421 (iv) is not worn in or on the body.

422 (b) "Durable medical equipment" includes parts used in the repair or replacement of the  
423 equipment described in Subsection [~~(35)~~] (36)(a).

424 (c) Notwithstanding Subsection [~~(35)~~] (36)(a), "durable medical equipment" does not  
425 include mobility enhancing equipment.

426 [~~(36)~~] (37) "Electronic" means:

427 (a) relating to technology; and

428 (b) having:

429 (i) electrical capabilities;

430 (ii) digital capabilities;

- 431 (iii) magnetic capabilities;
- 432 (iv) wireless capabilities;
- 433 (v) optical capabilities;
- 434 (vi) electromagnetic capabilities; or
- 435 (vii) capabilities similar to Subsections [~~(36)~~] (37)(b)(i) through (vi).
- 436 [~~(37)~~] (38) "Employee" is as defined in Section 59-10-401.
- 437 [~~(38)~~] (39) "Fixed guideway" means a public transit facility that uses and occupies:
- 438 (a) rail for the use of public transit; or
- 439 (b) a separate right-of-way for the use of public transit.
- 440 (40) "Fixed wing turbine powered aircraft" means an aircraft that:
- 441 (a) is powered by turbine engines;
- 442 (b) operates on jet fuel; and
- 443 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 444 [~~(39)~~] (41) "Fixed wireless service" means a telecommunications service that provides
- 445 radio communication between fixed points.
- 446 [~~(40)~~] (42) (a) "Food and food ingredients" means substances:
- 447 (i) regardless of whether the substances are in:
- 448 (A) liquid form;
- 449 (B) concentrated form;
- 450 (C) solid form;
- 451 (D) frozen form;
- 452 (E) dried form; or
- 453 (F) dehydrated form; and
- 454 (ii) that are:
- 455 (A) sold for:
- 456 (I) ingestion by humans; or
- 457 (II) chewing by humans; and
- 458 (B) consumed for the substance's:
- 459 (I) taste; or
- 460 (II) nutritional value.
- 461 (b) "Food and food ingredients" includes an item described in Subsection [~~(75)~~]

462 ~~(77)~~(b)(iii).

463 (c) "Food and food ingredients" does not include:

464 (i) an alcoholic beverage;

465 (ii) tobacco; or

466 (iii) prepared food.

467 ~~[(41)]~~ (43) (a) "Fundraising sales" means sales:

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

469 (B) made by a school student;

470 (ii) that are for the purpose of raising funds for the school to purchase equipment,  
471 materials, or provide transportation; and

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

473 (b) For purposes of Subsection ~~[(41)]~~ (43)(a)(iii), "officially sanctioned school activity"  
474 means a school activity:

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

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

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

481 ~~[(42)]~~ (44) "Geothermal energy" means energy contained in heat that continuously  
482 flows outward from the earth that is used as the sole source of energy to produce electricity.

483 ~~[(43)]~~ (45) "Governing board of the agreement" means the governing board of the  
484 agreement that is:

485 (a) authorized to administer the agreement; and

486 (b) established in accordance with the agreement.

487 ~~[(44)]~~ (46) (a) For purposes of Subsection 59-12-104(41), "governmental entity"  
488 means:

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

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



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

497 (iv) the National Guard;

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

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

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

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

503 (ii) a school;

504 (iii) the State Board of Education;

505 (iv) the State Board of Regents; or

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

507 [~~45~~] (47) "Hydroelectric energy" means water used as the sole source of energy to  
508 produce electricity.

509 [~~46~~] (48) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,  
510 or other fuels:

511 (a) in mining or extraction of minerals;

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

514 (i) commercial greenhouses;

515 (ii) irrigation pumps;

516 (iii) farm machinery;

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

519 (v) other farming activities;

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

523 (d) by a scrap recycler if:

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

- 527 (A) iron;
- 528 (B) steel;
- 529 (C) nonferrous metal;
- 530 (D) paper;
- 531 (E) glass;
- 532 (F) plastic;
- 533 (G) textile; or
- 534 (H) rubber; and

535 (ii) the new products under Subsection [~~(46)~~] (48)(d)(i) would otherwise be made with  
536 nonrecycled materials; or

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

539 [~~(47)~~] (49) (a) Except as provided in Subsection [~~(47)~~] (49)(b), "installation charge"  
540 means a charge for installing:

- 541 (i) tangible personal property; or
- 542 (ii) a product transferred electronically.
- 543 (b) "Installation charge" does not include a charge for repairs or renovations of:
  - 544 (i) tangible personal property; or
  - 545 (ii) a product transferred electronically.

546 [~~(48)~~] (50) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
547 personal property or a product transferred electronically for:

- 548 (i) (A) a fixed term; or
- 549 (B) an indeterminate term; and
- 550 (ii) consideration.

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

- 555 (c) "Lease" or "rental" does not include:
- 556 (i) a transfer of possession or control of property under a security agreement or
- 557 deferred payment plan that requires the transfer of title upon completion of the required
- 558 payments;
- 559 (ii) a transfer of possession or control of property under an agreement that requires the
- 560 transfer of title:
- 561 (A) upon completion of required payments; and
- 562 (B) if the payment of an option price does not exceed the greater of:
- 563 (I) \$100; or
- 564 (II) 1% of the total required payments; or
- 565 (iii) providing tangible personal property along with an operator for a fixed period of
- 566 time or an indeterminate period of time if the operator is necessary for equipment to perform as
- 567 designed.
- 568 (d) For purposes of Subsection [~~(48)~~] (50)(c)(iii), an operator is necessary for
- 569 equipment to perform as designed if the operator's duties exceed the:
- 570 (i) set-up of tangible personal property;
- 571 (ii) maintenance of tangible personal property; or
- 572 (iii) inspection of tangible personal property.
- 573 [~~(49)~~] (51) "Load and leave" means delivery to a purchaser by use of a tangible storage
- 574 media if the tangible storage media is not physically transferred to the purchaser.
- 575 [~~(50)~~] (52) "Local taxing jurisdiction" means a:
- 576 (a) county that is authorized to impose an agreement sales and use tax;
- 577 (b) city that is authorized to impose an agreement sales and use tax; or
- 578 (c) town that is authorized to impose an agreement sales and use tax.
- 579 [~~(51)~~] (53) "Manufactured home" is as defined in Section 58-56-3.
- 580 [~~(52)~~] (54) For purposes of Section 59-12-104, "manufacturing facility" means:
- 581 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
- 582 Industrial Classification Manual of the federal Executive Office of the President, Office of
- 583 Management and Budget;
- 584 (b) a scrap recycler if:
- 585 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

586 one or more of the following items into prepared grades of processed materials for use in new  
587 products:

- 588 (A) iron;
- 589 (B) steel;
- 590 (C) nonferrous metal;
- 591 (D) paper;
- 592 (E) glass;
- 593 (F) plastic;
- 594 (G) textile; or
- 595 (H) rubber; and

596 (ii) the new products under Subsection [~~52~~] (54)(b)(i) would otherwise be made with  
597 nonrecycled materials; or

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

599 [~~53~~] (55) "Member of the immediate family of the producer" means a person who is  
600 related to a producer described in Subsection 59-12-104(20)(a) as a:

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

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

603 (ii) a foster child or foster stepchild;

604 (b) grandchild or stepgrandchild;

605 (c) grandparent or stepgrandparent;

606 (d) nephew or stepnephew;

607 (e) niece or stepniece;

608 (f) parent or stepparent;

609 (g) sibling or stepsibling;

610 (h) spouse;

611 (i) person who is the spouse of a person described in Subsections [~~53~~] (55)(a) through

612 (g); or

613 (j) person similar to a person described in Subsections [~~53~~] (55)(a) through (i) as  
614 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
615 Administrative Rulemaking Act.

616 [~~54~~] (56) "Mobile home" is as defined in Section 58-56-3.

617            [~~(55)~~] (57) "Mobile telecommunications service" is as defined in the Mobile  
618 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

619            [~~(56)~~] (58) (a) "Mobile wireless service" means a telecommunications service,  
620 regardless of the technology used, if:

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

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

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

629            [~~(57)~~] (59) (a) Except as provided in Subsection [~~(57)~~] (59)(c), "mobility enhancing  
630 equipment" means equipment that is:

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

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

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

- 641            (i) a motor vehicle;
- 642            (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
643 vehicle manufacturer;
- 644            (iii) durable medical equipment; or
- 645            (iv) a prosthetic device.

646            [~~(58)~~] (60) "Model 1 seller" means a seller that has selected a certified service provider  
647 as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales

648 and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the  
649 seller's own purchases.

650 ~~[(59)]~~ (61) "Model 2 seller" means a seller that:

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

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

655 (i) collected by the seller; and

656 (ii) to the appropriate local taxing jurisdiction.

657 ~~[(60)]~~ (62) (a) Subject to Subsection ~~[(60)]~~ (62)(b), "model 3 seller" means a seller that  
658 has:

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

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

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

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

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

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

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

667 ~~[(61)]~~ (63) "Modular home" means a modular unit as defined in Section 58-56-3.

668 ~~[(62)]~~ (64) "Motor vehicle" is as defined in Section 41-1a-102.

669 ~~[(63)]~~ (65) "Oil shale" means a group of fine black to dark brown shales containing  
670 bituminous material that yields petroleum upon distillation.

671 ~~[(64)]~~ (66) (a) "Other fuels" means products that burn independently to produce heat or  
672 energy.

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

675 ~~[(65)]~~ (67) (a) "Paging service" means a telecommunications service that provides  
676 transmission of a coded radio signal for the purpose of activating a specific pager.

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

- 679            [~~(66)~~] (68) "Pawnbroker" is as defined in Section 13-32a-102.
- 680            [~~(67)~~] (69) "Pawn transaction" is as defined in Section 13-32a-102.
- 681            [~~(68)~~] (70) (a) "Permanently attached to real property" means that for tangible personal  
682 property attached to real property:
- 683            (i) the attachment of the tangible personal property to the real property:
- 684            (A) is essential to the use of the tangible personal property; and
- 685            (B) suggests that the tangible personal property will remain attached to the real  
686 property in the same place over the useful life of the tangible personal property; or
- 687            (ii) if the tangible personal property is detached from the real property, the detachment  
688 would:
- 689            (A) cause substantial damage to the tangible personal property; or
- 690            (B) require substantial alteration or repair of the real property to which the tangible  
691 personal property is attached.
- 692            (b) "Permanently attached to real property" includes:
- 693            (i) the attachment of an accessory to the tangible personal property if the accessory is:
- 694            (A) essential to the operation of the tangible personal property; and
- 695            (B) attached only to facilitate the operation of the tangible personal property;
- 696            (ii) a temporary detachment of tangible personal property from real property for a  
697 repair or renovation if the repair or renovation is performed where the tangible personal  
698 property and real property are located; or
- 699            (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
700 Subsection [~~(68)~~] (70)(c)(iii) or (iv).
- 701            (c) "Permanently attached to real property" does not include:
- 702            (i) the attachment of portable or movable tangible personal property to real property if  
703 that portable or movable tangible personal property is attached to real property only for:
- 704            (A) convenience;
- 705            (B) stability; or
- 706            (C) for an obvious temporary purpose;
- 707            (ii) the detachment of tangible personal property from real property except for the  
708 detachment described in Subsection [~~(68)~~] (70)(b)(ii);
- 709            (iii) an attachment of the following tangible personal property to real property if the

710 attachment to real property is only through a line that supplies water, electricity, gas,  
711 telecommunications, cable, or supplies a similar item as determined by the commission by rule  
712 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- 713 (A) a computer;
- 714 (B) a telephone;
- 715 (C) a television; or
- 716 (D) tangible personal property similar to Subsections [~~68~~] (70)(c)(iii)(A) through (C)  
717 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
718 Administrative Rulemaking Act; or
- 719 (iv) an item listed in Subsection [~~108~~] (110)(c).

720 [~~69~~] (71) "Person" includes any individual, firm, partnership, joint venture,  
721 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,  
722 city, municipality, district, or other local governmental entity of the state, or any group or  
723 combination acting as a unit.

724 [~~70~~] (72) "Place of primary use":

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

- 728 (i) the residential street address of the customer; or
- 729 (ii) the primary business street address of the customer; or
- 730 (b) for mobile telecommunications service, is as defined in the Mobile  
731 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

732 [~~71~~] (73) (a) "Postpaid calling service" means a telecommunications service a person  
733 obtains by making a payment on a call-by-call basis:

- 734 (i) through the use of a:
  - 735 (A) bank card;
  - 736 (B) credit card;
  - 737 (C) debit card; or
  - 738 (D) travel card; or
- 739 (ii) by a charge made to a telephone number that is not associated with the origination  
740 or termination of the telecommunications service.



741 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
742 service, that would be a prepaid wireless calling service if the service were exclusively a  
743 telecommunications service.

744 [~~(72)~~] (74) "Postproduction" means an activity related to the finishing or duplication of  
745 a medium described in Subsection 59-12-104(54)(a).

746 [~~(73)~~] (75) "Prepaid calling service" means a telecommunications service:

747 (a) that allows a purchaser access to telecommunications service that is exclusively  
748 telecommunications service;

749 (b) that:

750 (i) is paid for in advance; and

751 (ii) enables the origination of a call using an:

752 (A) access number; or

753 (B) authorization code;

754 (c) that is dialed:

755 (i) manually; or

756 (ii) electronically; and

757 (d) sold in predetermined units or dollars that decline:

758 (i) by a known amount; and

759 (ii) with use.

760 [~~(74)~~] (76) "Prepaid wireless calling service" means a telecommunications service:

761 (a) that provides the right to utilize:

762 (i) mobile wireless service; and

763 (ii) other service that is not a telecommunications service, including:

764 (A) the download of a product transferred electronically;

765 (B) a content service; or

766 (C) an ancillary service;

767 (b) that:

768 (i) is paid for in advance; and

769 (ii) enables the origination of a call using an:

770 (A) access number; or

771 (B) authorization code;

- 772 (c) that is dialed:
- 773 (i) manually; or
- 774 (ii) electronically; and
- 775 (d) sold in predetermined units or dollars that decline:
- 776 (i) by a known amount; and
- 777 (ii) with use.
- 778 [~~(75)~~] (77) (a) "Prepared food" means:
- 779 (i) food:
- 780 (A) sold in a heated state; or
- 781 (B) heated by a seller;
- 782 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 783 item; or
- 784 (iii) except as provided in Subsection [~~(75)~~] (77)(c), food sold with an eating utensil
- 785 provided by the seller, including a:
- 786 (A) plate;
- 787 (B) knife;
- 788 (C) fork;
- 789 (D) spoon;
- 790 (E) glass;
- 791 (F) cup;
- 792 (G) napkin; or
- 793 (H) straw.
- 794 (b) "Prepared food" does not include:
- 795 (i) food that a seller only:
- 796 (A) cuts;
- 797 (B) repackages; or
- 798 (C) pasteurizes; or
- 799 (ii) (A) the following:
- 800 (I) raw egg;
- 801 (II) raw fish;
- 802 (III) raw meat;

- 803 (IV) raw poultry; or
- 804 (V) a food containing an item described in Subsections [~~(75)~~] (77)(b)(ii)(A)(I) through
- 805 (IV); and
- 806 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 807 Food and Drug Administration's Food Code that a consumer cook the items described in
- 808 Subsection [~~(75)~~] (77)(b)(ii)(A) to prevent food borne illness; or
- 809 (iii) the following if sold without eating utensils provided by the seller:
- 810 (A) food and food ingredients sold by a seller if the seller's proper primary
- 811 classification under the 2002 North American Industry Classification System of the federal
- 812 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 813 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 814 Manufacturing;
- 815 (B) food and food ingredients sold in an unheated state:
- 816 (I) by weight or volume; and
- 817 (II) as a single item; or
- 818 (C) a bakery item, including:
- 819 (I) a bagel;
- 820 (II) a bar;
- 821 (III) a biscuit;
- 822 (IV) bread;
- 823 (V) a bun;
- 824 (VI) a cake;
- 825 (VII) a cookie;
- 826 (VIII) a croissant;
- 827 (IX) a danish;
- 828 (X) a donut;
- 829 (XI) a muffin;
- 830 (XII) a pastry;
- 831 (XIII) a pie;
- 832 (XIV) a roll;
- 833 (XV) a tart;

834 (XVI) a torte; or

835 (XVII) a tortilla.

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

838 (i) a container; or

839 (ii) packaging.

840 [~~(76)~~] (78) "Prescription" means an order, formula, or recipe that is issued:

841 (a) (i) orally;

842 (ii) in writing;

843 (iii) electronically; or

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

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

846 [~~(77)~~] (79) (a) Except as provided in Subsection [~~(77)~~] (79)(b)(ii) or (iii), "prewritten  
847 computer software" means computer software that is not designed and developed:

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

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

850 (b) "Prewritten computer software" includes:

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

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

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

855 (ii) notwithstanding Subsection [~~(77)~~] (79)(a), computer software designed and  
856 developed by the author or other creator of the computer software to the specifications of a  
857 specific purchaser if the computer software is sold to a person other than the purchaser; or

858 (iii) notwithstanding Subsection [~~(77)~~] (79)(a) and except as provided in Subsection  
859 [~~(77)~~] (79)(c), prewritten computer software or a prewritten portion of prewritten computer  
860 software:

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

862 (B) if the modification or enhancement described in Subsection [~~(77)~~] (79)(b)(iii)(A) is  
863 designed and developed to the specifications of a specific purchaser.

864 (c) Notwithstanding Subsection [~~(77)~~] (79)(b)(iii), "prewritten computer software"

865 does not include a modification or enhancement described in Subsection [~~(77)~~] (79)(b)(iii) if  
866 the charges for the modification or enhancement are:

867 (i) reasonable; and

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

870 [~~(78)~~] (80) (a) "Private communication service" means a telecommunications service:

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

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

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

877 (i) an extension line;

878 (ii) a station;

879 (iii) switching capacity; or

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

882 [~~(79)~~] (81) (a) "Prosthetic device" means a device that is worn on or in the body to:

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

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

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

886 (b) "Prosthetic device" includes:

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

888 (ii) replacement parts for a prosthetic device;

889 (iii) a dental prosthesis; or

890 (iv) a hearing aid.

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

892 (i) corrective eyeglasses; or

893 (ii) contact lenses.

894 [~~(80)~~] (82) (a) "Protective equipment" means an item:

895 (i) for human wear; and

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

- 927 (i) the seller's cost of the tangible personal property, a product transferred  
928 electronically, or services sold;
- 929 (ii) expenses of the seller, including:
- 930 (A) the cost of materials used;
- 931 (B) a labor cost;
- 932 (C) a service cost;
- 933 (D) interest;
- 934 (E) a loss;
- 935 (F) the cost of transportation to the seller; or
- 936 (G) a tax imposed on the seller;
- 937 (iii) a charge by the seller for any service necessary to complete the sale; or
- 938 (iv) consideration a seller receives from a person other than the purchaser if:
- 939 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 940 and
- 941 (II) the consideration described in Subsection [~~(82)~~] (84)(b)(iv)(A)(I) is directly related  
942 to a price reduction or discount on the sale;
- 943 (B) the seller has an obligation to pass the price reduction or discount through to the  
944 purchaser;
- 945 (C) the amount of the consideration attributable to the sale is fixed and determinable by  
946 the seller at the time of the sale to the purchaser; and
- 947 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the  
948 seller to claim a price reduction or discount; and
- 949 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,  
950 coupon, or other documentation with the understanding that the person other than the seller  
951 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 952 (II) the purchaser identifies that purchaser to the seller as a member of a group or  
953 organization allowed a price reduction or discount, except that a preferred customer card that is  
954 available to any patron of a seller does not constitute membership in a group or organization  
955 allowed a price reduction or discount; or
- 956 (III) the price reduction or discount is identified as a third party price reduction or  
957 discount on the:

- 958 (Aa) invoice the purchaser receives; or
- 959 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 960 (c) "Purchase price" and "sales price" do not include:
- 961 (i) a discount:
- 962 (A) in a form including:
- 963 (I) cash;
- 964 (II) term; or
- 965 (III) coupon;
- 966 (B) that is allowed by a seller;
- 967 (C) taken by a purchaser on a sale; and
- 968 (D) that is not reimbursed by a third party; or
- 969 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 970 provided to the purchaser:
- 971 (A) the following from credit extended on the sale of tangible personal property or
- 972 services:
- 973 (I) a carrying charge;
- 974 (II) a financing charge; or
- 975 (III) an interest charge;
- 976 (B) a delivery charge;
- 977 (C) an installation charge;
- 978 (D) a manufacturer rebate on a motor vehicle; or
- 979 (E) a tax or fee legally imposed directly on the consumer.
- 980 [~~(83)~~] (85) "Purchaser" means a person to whom:
- 981 (a) a sale of tangible personal property is made;
- 982 (b) a product is transferred electronically; or
- 983 (c) a service is furnished.
- 984 [~~(84)~~] (86) "Regularly rented" means:
- 985 (a) rented to a guest for value three or more times during a calendar year; or
- 986 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 987 value.
- 988 [~~(85)~~] (87) "Renewable energy" means:



989 (a) biomass energy;

990 (b) hydroelectric energy;

991 (c) geothermal energy;

992 (d) solar energy; or

993 (e) wind energy.

994 ~~[(86)]~~ (88) (a) "Renewable energy production facility" means a facility that:

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

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

997 (b) A facility is a renewable energy production facility regardless of whether the  
998 facility is:

999 (i) connected to an electric grid; or

1000 (ii) located on the premises of an electricity consumer.

1001 ~~[(87)]~~ (89) "Rental" is as defined in Subsection ~~[(48)]~~ (50).

1002 ~~[(88)]~~ (90) "Repairs or renovations of tangible personal property" means:

1003 (a) a repair or renovation of tangible personal property that is not permanently attached  
1004 to real property; or

1005 (b) attaching tangible personal property or a product that is transferred electronically to  
1006 other tangible personal property if the other tangible personal property to which the tangible  
1007 personal property or product that is transferred electronically is attached is not permanently  
1008 attached to real property.

1009 ~~[(89)]~~ (91) "Research and development" means the process of inquiry or  
1010 experimentation aimed at the discovery of facts, devices, technologies, or applications and the  
1011 process of preparing those devices, technologies, or applications for marketing.

1012 ~~[(90)]~~ (92) (a) "Residential telecommunications services" means a telecommunications  
1013 service or an ancillary service that is provided to an individual for personal use:

1014 (i) at a residential address; or

1015 (ii) at an institution, including a nursing home or a school, if the telecommunications  
1016 service or ancillary service is provided to and paid for by the individual residing at the  
1017 institution rather than the institution.

1018 (b) For purposes of Subsection ~~[(90)]~~ (92)(a), a residential address includes an:

1019 (i) apartment; or

- 1020 (ii) other individual dwelling unit.
- 1021 [~~91~~] (93) "Residential use" means the use in or around a home, apartment building,
- 1022 sleeping quarters, and similar facilities or accommodations.
- 1023 [~~92~~] (94) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
- 1024 other than:
  - 1025 (a) resale;
  - 1026 (b) sublease; or
  - 1027 (c) subrent.
- 1028 [~~93~~] (95) (a) "Retailer" means any person engaged in a regularly organized business
- 1029 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1),
- 1030 and who is selling to the user or consumer and not for resale.
- 1031 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
- 1032 engaged in the business of selling to users or consumers within the state.
- 1033 [~~94~~] (96) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
- 1034 otherwise, in any manner, of tangible personal property or any other taxable transaction under
- 1035 Subsection 59-12-103(1), for consideration.
- 1036 (b) "Sale" includes:
  - 1037 (i) installment and credit sales;
  - 1038 (ii) any closed transaction constituting a sale;
  - 1039 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
  - 1040 chapter;
  - 1041 (iv) any transaction if the possession of property is transferred but the seller retains the
  - 1042 title as security for the payment of the price; and
  - 1043 (v) any transaction under which right to possession, operation, or use of any article of
  - 1044 tangible personal property is granted under a lease or contract and the transfer of possession
  - 1045 would be taxable if an outright sale were made.
- 1046 [~~95~~] (97) "Sale at retail" is as defined in Subsection [~~92~~] (94).
- 1047 [~~96~~] (98) "Sale-leaseback transaction" means a transaction by which title to tangible
- 1048 personal property or a product transferred electronically that is subject to a tax under this
- 1049 chapter is transferred:
  - 1050 (a) by a purchaser-lessee;

1051 (b) to a lessor;

1052 (c) for consideration; and

1053 (d) if:

1054 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase

1055 of the tangible personal property or product transferred electronically;

1056 (ii) the sale of the tangible personal property or product transferred electronically to the

1057 lessor is intended as a form of financing:

1058 (A) for the tangible personal property or product transferred electronically; and

1059 (B) to the purchaser-lessee; and

1060 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

1061 is required to:

1062 (A) capitalize the tangible personal property or product transferred electronically for

1063 financial reporting purposes; and

1064 (B) account for the lease payments as payments made under a financing arrangement.

1065 [~~(97)~~ (99) "Sales price" is as defined in Subsection [~~(82)~~ (84).

1066 [~~(98)~~ (100) (a) "Sales relating to schools" means the following sales by, amounts paid

1067 to, or amounts charged by a school:

1068 (i) sales that are directly related to the school's educational functions or activities

1069 including:

1070 (A) the sale of:

1071 (I) textbooks;

1072 (II) textbook fees;

1073 (III) laboratory fees;

1074 (IV) laboratory supplies; or

1075 (V) safety equipment;

1076 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1077 that:

1078 (I) a student is specifically required to wear as a condition of participation in a

1079 school-related event or school-related activity; and

1080 (II) is not readily adaptable to general or continued usage to the extent that it takes the

1081 place of ordinary clothing;

1082 (C) sales of the following if the net or gross revenues generated by the sales are  
1083 deposited into a school district fund or school fund dedicated to school meals:  
1084 (I) food and food ingredients; or  
1085 (II) prepared food; or  
1086 (D) transportation charges for official school activities; or  
1087 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
1088 event or school-related activity.

1089 (b) "Sales relating to schools" does not include:  
1090 (i) bookstore sales of items that are not educational materials or supplies;  
1091 (ii) except as provided in Subsection [~~98~~] (100)(a)(i)(B):  
1092 (A) clothing;  
1093 (B) clothing accessories or equipment;  
1094 (C) protective equipment; or  
1095 (D) sports or recreational equipment; or  
1096 (iii) amounts paid to or amounts charged by a school for admission to a school-related  
1097 event or school-related activity if the amounts paid or charged are passed through to a person:

1098 (A) other than a:  
1099 (I) school;  
1100 (II) nonprofit organization authorized by a school board or a governing body of a  
1101 private school to organize and direct a competitive secondary school activity; or  
1102 (III) nonprofit association authorized by a school board or a governing body of a  
1103 private school to organize and direct a competitive secondary school activity; and

1104 (B) that is required to collect sales and use taxes under this chapter.  
1105 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1106 commission may make rules defining the term "passed through."

1107 [~~99~~] (101) For purposes of this section and Section 59-12-104, "school":

1108 (a) means:  
1109 (i) an elementary school or a secondary school that:  
1110 (A) is a:  
1111 (I) public school; or  
1112 (II) private school; and

- 1113 (B) provides instruction for one or more grades kindergarten through 12; or
- 1114 (ii) a public school district; and
- 1115 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1116 [~~(100)~~] (102) "Seller" means a person that makes a sale, lease, or rental of:
- 1117 (a) tangible personal property;
- 1118 (b) a product transferred electronically; or
- 1119 (c) a service.
- 1120 [~~(101)~~] (103) (a) "Semiconductor fabricating, processing, research, or development
- 1121 materials" means tangible personal property or a product transferred electronically if the
- 1122 tangible personal property or product transferred electronically is:
- 1123 (i) used primarily in the process of:
- 1124 (A) (I) manufacturing a semiconductor;
- 1125 (II) fabricating a semiconductor; or
- 1126 (III) research or development of a:
- 1127 (Aa) semiconductor; or
- 1128 (Bb) semiconductor manufacturing process; or
- 1129 (B) maintaining an environment suitable for a semiconductor; or
- 1130 (ii) consumed primarily in the process of:
- 1131 (A) (I) manufacturing a semiconductor;
- 1132 (II) fabricating a semiconductor; or
- 1133 (III) research or development of a:
- 1134 (Aa) semiconductor; or
- 1135 (Bb) semiconductor manufacturing process; or
- 1136 (B) maintaining an environment suitable for a semiconductor.
- 1137 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1138 includes:
- 1139 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1140 transferred electronically described in Subsection [~~(101)~~] (103)(a); or
- 1141 (ii) a chemical, catalyst, or other material used to:
- 1142 (A) produce or induce in a semiconductor a:
- 1143 (I) chemical change; or

- 1144 (II) physical change;
- 1145 (B) remove impurities from a semiconductor; or
- 1146 (C) improve the marketable condition of a semiconductor.
- 1147 [~~(102)~~] (104) "Senior citizen center" means a facility having the primary purpose of
- 1148 providing services to the aged as defined in Section 62A-3-101.
- 1149 [~~(103)~~] (105) "Simplified electronic return" means the electronic return:
- 1150 (a) described in Section 318(C) of the agreement; and
- 1151 (b) approved by the governing board of the agreement.
- 1152 [~~(104)~~] (106) "Solar energy" means the sun used as the sole source of energy for
- 1153 producing electricity.
- 1154 [~~(105)~~] (107) (a) "Sports or recreational equipment" means an item:
- 1155 (i) designed for human use; and
- 1156 (ii) that is:
- 1157 (A) worn in conjunction with:
- 1158 (I) an athletic activity; or
- 1159 (II) a recreational activity; and
- 1160 (B) not suitable for general use.
- 1161 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1162 commission shall make rules:
- 1163 (i) listing the items that constitute "sports or recreational equipment"; and
- 1164 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1165 equipment" under the agreement.
- 1166 [~~(106)~~] (108) "State" means the state of Utah, its departments, and agencies.
- 1167 [~~(107)~~] (109) "Storage" means any keeping or retention of tangible personal property or
- 1168 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 1169 except sale in the regular course of business.
- 1170 [~~(108)~~] (110) (a) Except as provided in Subsection [~~(108)~~] (110)(d) or (e), "tangible
- 1171 personal property" means personal property that:
- 1172 (i) may be:
- 1173 (A) seen;
- 1174 (B) weighed;

- 1175 (C) measured;
- 1176 (D) felt; or
- 1177 (E) touched; or
- 1178 (ii) is in any manner perceptible to the senses.
- 1179 (b) "Tangible personal property" includes:
- 1180 (i) electricity;
- 1181 (ii) water;
- 1182 (iii) gas;
- 1183 (iv) steam; or
- 1184 (v) prewritten computer software.
- 1185 (c) "Tangible personal property" includes the following regardless of whether the item
- 1186 is attached to real property:
- 1187 (i) a dishwasher;
- 1188 (ii) a dryer;
- 1189 (iii) a freezer;
- 1190 (iv) a microwave;
- 1191 (v) a refrigerator;
- 1192 (vi) a stove;
- 1193 (vii) a washer; or
- 1194 (viii) an item similar to Subsections [~~108~~] (110)(c)(i) through (vii) as determined by
- 1195 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1196 Rulemaking Act.
- 1197 (d) "Tangible personal property" does not include a product that is transferred
- 1198 electronically.
- 1199 (e) "Tangible personal property" does not include the following if attached to real
- 1200 property, regardless of whether the attachment to real property is only through a line that
- 1201 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 1202 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1203 Rulemaking Act:
- 1204 (i) a hot water heater;
- 1205 (ii) a water filtration system; or

1206 (iii) a water softener system.

1207 [~~(109)~~] (111) "Tar sands" means impregnated sands that yield mixtures of liquid  
1208 hydrocarbon and require further processing other than mechanical blending before becoming  
1209 finished petroleum products.

1210 [~~(110)~~] (112) (a) "Telecommunications enabling or facilitating equipment, machinery,  
1211 or software" means an item listed in Subsection [~~(110)~~] (112)(b) if that item is purchased or  
1212 leased primarily to enable or facilitate one or more of the following to function:

1213 (i) telecommunications switching or routing equipment, machinery, or software; or

1214 (ii) telecommunications transmission equipment, machinery, or software.

1215 (b) The following apply to Subsection [~~(110)~~] (112)(a):

1216 (i) a pole;

1217 (ii) software;

1218 (iii) a supplementary power supply;

1219 (iv) temperature or environmental equipment or machinery;

1220 (v) test equipment;

1221 (vi) a tower; or

1222 (vii) equipment, machinery, or software that functions similarly to an item listed in  
1223 Subsections [~~(110)~~] (112)(b)(i) through (vi) as determined by the commission by rule made in  
1224 accordance with Subsection [~~(110)~~] (112)(c).

1225 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1226 commission may by rule define what constitutes equipment, machinery, or software that  
1227 functions similarly to an item listed in Subsections [~~(110)~~] (112)(b)(i) through (vi).

1228 [~~(111)~~] (113) "Telecommunications equipment, machinery, or software required for  
1229 911 service" means equipment, machinery, or software that is required to comply with 47  
1230 C.F.R. Sec. 20.18.

1231 [~~(112)~~] (114) "Telecommunications maintenance or repair equipment, machinery, or  
1232 software" means equipment, machinery, or software purchased or leased primarily to maintain  
1233 or repair one or more of the following, regardless of whether the equipment, machinery, or  
1234 software is purchased or leased as a spare part or as an upgrade or modification to one or more  
1235 of the following:

1236 (a) telecommunications enabling or facilitating equipment, machinery, or software;



1237 (b) telecommunications switching or routing equipment, machinery, or software; or

1238 (c) telecommunications transmission equipment, machinery, or software.

1239 [~~(H3)~~] (115) (a) "Telecommunications service" means the electronic conveyance,

1240 routing, or transmission of audio, data, video, voice, or any other information or signal to a

1241 point, or among or between points.

1242 (b) "Telecommunications service" includes:

1243 (i) an electronic conveyance, routing, or transmission with respect to which a computer

1244 processing application is used to act:

1245 (A) on the code, form, or protocol of the content;

1246 (B) for the purpose of electronic conveyance, routing, or transmission; and

1247 (C) regardless of whether the service:

1248 (I) is referred to as voice over Internet protocol service; or

1249 (II) is classified by the Federal Communications Commission as enhanced or value

1250 added;

1251 (ii) an 800 service;

1252 (iii) a 900 service;

1253 (iv) a fixed wireless service;

1254 (v) a mobile wireless service;

1255 (vi) a postpaid calling service;

1256 (vii) a prepaid calling service;

1257 (viii) a prepaid wireless calling service; or

1258 (ix) a private communications service.

1259 (c) "Telecommunications service" does not include:

1260 (i) advertising, including directory advertising;

1261 (ii) an ancillary service;

1262 (iii) a billing and collection service provided to a third party;

1263 (iv) a data processing and information service if:

1264 (A) the data processing and information service allows data to be:

1265 (I) (Aa) acquired;

1266 (Bb) generated;

1267 (Cc) processed;

- 1268 (Dd) retrieved; or
- 1269 (Ee) stored; and
- 1270 (II) delivered by an electronic transmission to a purchaser; and
- 1271 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1272 or information;
- 1273 (v) installation or maintenance of the following on a customer's premises:
- 1274 (A) equipment; or
- 1275 (B) wiring;
- 1276 (vi) Internet access service;
- 1277 (vii) a paging service;
- 1278 (viii) a product transferred electronically, including:
- 1279 (A) music;
- 1280 (B) reading material;
- 1281 (C) a ring tone;
- 1282 (D) software; or
- 1283 (E) video;
- 1284 (ix) a radio and television audio and video programming service:
- 1285 (A) regardless of the medium; and
- 1286 (B) including:
- 1287 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1288 programming service by a programming service provider;
- 1289 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1290 (III) audio and video programming services delivered by a commercial mobile radio
- 1291 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1292 (x) a value-added nonvoice data service; or
- 1293 (xi) tangible personal property.
- 1294 [~~(114)~~] (116) (a) "Telecommunications service provider" means a person that:
- 1295 (i) owns, controls, operates, or manages a telecommunications service; and
- 1296 (ii) engages in an activity described in Subsection [~~(114)~~] (116)(a)(i) for the shared use
- 1297 with or resale to any person of the telecommunications service.
- 1298 (b) A person described in Subsection [~~(114)~~] (116)(a) is a telecommunications service

1299 provider whether or not the Public Service Commission of Utah regulates:

1300 (i) that person; or

1301 (ii) the telecommunications service that the person owns, controls, operates, or  
1302 manages.

1303 [~~(H5)~~] (117) (a) "Telecommunications switching or routing equipment, machinery, or  
1304 software" means an item listed in Subsection [~~(H5)~~] (117)(b) if that item is purchased or  
1305 leased primarily for switching or routing:

1306 (i) an ancillary service;

1307 (ii) data communications;

1308 (iii) voice communications; or

1309 (iv) telecommunications service.

1310 (b) The following apply to Subsection [~~(H5)~~] (117)(a):

1311 (i) a bridge;

1312 (ii) a computer;

1313 (iii) a cross connect;

1314 (iv) a modem;

1315 (v) a multiplexer;

1316 (vi) plug in circuitry;

1317 (vii) a router;

1318 (viii) software;

1319 (ix) a switch; or

1320 (x) equipment, machinery, or software that functions similarly to an item listed in

1321 Subsections [~~(H5)~~] (117)(b)(i) through (ix) as determined by the commission by rule made in  
1322 accordance with Subsection [~~(H5)~~] (117)(c).

1323 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1324 commission may by rule define what constitutes equipment, machinery, or software that  
1325 functions similarly to an item listed in Subsections [~~(H5)~~] (117)(b)(i) through (ix).

1326 [~~(H6)~~] (118) (a) "Telecommunications transmission equipment, machinery, or  
1327 software" means an item listed in Subsection [~~(H6)~~] (118)(b) if that item is purchased or  
1328 leased primarily for sending, receiving, or transporting:

1329 (i) an ancillary service;

- 1330 (ii) data communications;
- 1331 (iii) voice communications; or
- 1332 (iv) telecommunications service.
- 1333 (b) The following apply to Subsection [~~(116)~~] (118)(a):
- 1334 (i) an amplifier;
- 1335 (ii) a cable;
- 1336 (iii) a closure;
- 1337 (iv) a conduit;
- 1338 (v) a controller;
- 1339 (vi) a duplexer;
- 1340 (vii) a filter;
- 1341 (viii) an input device;
- 1342 (ix) an input/output device;
- 1343 (x) an insulator;
- 1344 (xi) microwave machinery or equipment;
- 1345 (xii) an oscillator;
- 1346 (xiii) an output device;
- 1347 (xiv) a pedestal;
- 1348 (xv) a power converter;
- 1349 (xvi) a power supply;
- 1350 (xvii) a radio channel;
- 1351 (xviii) a radio receiver;
- 1352 (xix) a radio transmitter;
- 1353 (xx) a repeater;
- 1354 (xxi) software;
- 1355 (xxii) a terminal;
- 1356 (xxiii) a timing unit;
- 1357 (xxiv) a transformer;
- 1358 (xxv) a wire; or
- 1359 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1360 Subsections [~~(116)~~] (118)(b)(i) through (xxv) as determined by the commission by rule made in

1361 accordance with Subsection [~~(116)~~] (118)(c).

1362 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1363 commission may by rule define what constitutes equipment, machinery, or software that  
1364 functions similarly to an item listed in Subsections [~~(116)~~] (118)(b)(i) through (xxv).

1365 [~~(117)~~] (119) "Tobacco" means:

1366 (a) a cigarette;

1367 (b) a cigar;

1368 (c) chewing tobacco;

1369 (d) pipe tobacco; or

1370 (e) any other item that contains tobacco.

1371 [~~(118)~~] (120) "Unassisted amusement device" means an amusement device, skill

1372 device, or ride device that is started and stopped by the purchaser or renter of the right to use or  
1373 operate the amusement device, skill device, or ride device.

1374 [~~(119)~~] (121) (a) "Use" means the exercise of any right or power over tangible personal  
1375 property, a product transferred electronically, or a service under Subsection 59-12-103(1),  
1376 incident to the ownership or the leasing of that tangible personal property, product transferred  
1377 electronically, or service.

1378 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
1379 property, a product transferred electronically, or a service in the regular course of business and  
1380 held for resale.

1381 [~~(120)~~] (122) "Value-added nonvoice data service" means a service:

1382 (a) that otherwise meets the definition of a telecommunications service except that a  
1383 computer processing application is used to act primarily for a purpose other than conveyance,  
1384 routing, or transmission; and

1385 (b) with respect to which a computer processing application is used to act on data or  
1386 information:

1387 (i) code;

1388 (ii) content;

1389 (iii) form; or

1390 (iv) protocol.

1391 [~~(121)~~] (123) (a) Subject to Subsection [~~(121)~~] (123)(b), "vehicle" means the following

1392 that are required to be titled, registered, or titled and registered:

- 1393 (i) an aircraft as defined in Section 72-10-102;
  - 1394 (ii) a vehicle as defined in Section 41-1a-102;
  - 1395 (iii) an off-highway vehicle as defined in Section 41-22-2; or
  - 1396 (iv) a vessel as defined in Section 41-1a-102.
- 1397 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1398 (i) a vehicle described in Subsection [~~(121)~~] (123)(a); or
- 1399 (ii) (A) a locomotive;
- 1400 (B) a freight car;
- 1401 (C) railroad work equipment; or
- 1402 (D) other railroad rolling stock.

1403 [~~(122)~~] (124) "Vehicle dealer" means a person engaged in the business of buying,  
1404 selling, or exchanging a vehicle as defined in Subsection [~~(121)~~] (123).

1405 [~~(123)~~] (125) (a) "Vertical service" means an ancillary service that:

- 1406 (i) is offered in connection with one or more telecommunications services; and
- 1407 (ii) offers an advanced calling feature that allows a customer to:
  - 1408 (A) identify a caller; and
  - 1409 (B) manage multiple calls and call connections.

1410 (b) "Vertical service" includes an ancillary service that allows a customer to manage a  
1411 conference bridging service.

1412 [~~(124)~~] (126) (a) "Voice mail service" means an ancillary service that enables a  
1413 customer to receive, send, or store a recorded message.

1414 (b) "Voice mail service" does not include a vertical service that a customer is required  
1415 to have in order to utilize a voice mail service.

1416 [~~(125)~~] (127) (a) Except as provided in Subsection [~~(125)~~] (127)(b), "waste energy  
1417 facility" means a facility that generates electricity:

- 1418 (i) using as the primary source of energy waste materials that would be placed in a  
1419 landfill or refuse pit if it were not used to generate electricity, including:
  - 1420 (A) tires;
  - 1421 (B) waste coal; or
  - 1422 (C) oil shale; and

- 1423 (ii) in amounts greater than actually required for the operation of the facility.
- 1424 (b) "Waste energy facility" does not include a facility that incinerates:
- 1425 (i) municipal solid waste;
- 1426 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1427 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1428 [~~126~~] (128) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1429 [~~127~~] (129) "Wind energy" means wind used as the sole source of energy to produce
- 1430 electricity.
- 1431 [~~128~~] (130) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
- 1432 geographic location by the United States Postal Service.
- 1433 Section 2. Section **59-12-104** is amended to read:
- 1434 **59-12-104. Exemptions.**
- 1435 The following sales and uses are exempt from the taxes imposed by this chapter:
- 1436 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
- 1437 under Chapter 13, Motor and Special Fuel Tax Act;
- 1438 (2) sales to the state, its institutions, and its political subdivisions; however, this
- 1439 exemption does not apply to sales of:
- 1440 (a) construction materials except:
- 1441 (i) construction materials purchased by or on behalf of institutions of the public
- 1442 education system as defined in Utah Constitution Article X, Section 2, provided the
- 1443 construction materials are clearly identified and segregated and installed or converted to real
- 1444 property which is owned by institutions of the public education system; and
- 1445 (ii) construction materials purchased by the state, its institutions, or its political
- 1446 subdivisions which are installed or converted to real property by employees of the state, its
- 1447 institutions, or its political subdivisions; or
- 1448 (b) tangible personal property in connection with the construction, operation,
- 1449 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
- 1450 providing additional project capacity, as defined in Section 11-13-103;
- 1451 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
- 1452 (i) the proceeds of each sale do not exceed \$1; and
- 1453 (ii) the seller or operator of the vending machine reports an amount equal to 150% of

1454 the cost of the item described in Subsection (3)(b) as goods consumed; and  
1455 (b) Subsection (3)(a) applies to:  
1456 (i) food and food ingredients; or  
1457 (ii) prepared food;  
1458 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:  
1459 (i) alcoholic beverages;  
1460 (ii) food and food ingredients; or  
1461 (iii) prepared food;  
1462 (b) sales of tangible personal property or a product transferred electronically:  
1463 (i) to a passenger;  
1464 (ii) by a commercial airline carrier; and  
1465 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or  
1466 (c) services related to Subsection (4)(a) or (b);  
1467 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts  
1468 and equipment:  
1469 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002  
1470 North American Industry Classification System of the federal Executive Office of the  
1471 President, Office of Management and Budget; and  
1472 (II) for:  
1473 (Aa) installation in an aircraft, including services relating to the installation of parts or  
1474 equipment in the aircraft;  
1475 (Bb) renovation of an aircraft; or  
1476 (Cc) repair of an aircraft; or  
1477 (B) for installation in an aircraft operated by a common carrier in interstate or foreign  
1478 commerce; or  
1479 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an  
1480 aircraft operated by a common carrier in interstate or foreign commerce; and  
1481 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,  
1482 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a  
1483 refund:  
1484 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;



- 1485 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
- 1486 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
- 1487 the sale prior to filing for the refund;
- 1488 (iv) for sales and use taxes paid under this chapter on the sale;
- 1489 (v) in accordance with Section 59-1-1410; and
- 1490 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
- 1491 the person files for the refund on or before September 30, 2011;
- 1492 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
- 1493 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
- 1494 exhibitor, distributor, or commercial television or radio broadcaster;
- 1495 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
- 1496 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
- 1497 washing of tangible personal property;
- 1498 (b) if a seller that sells at the same business location assisted cleaning or washing of
- 1499 tangible personal property and cleaning or washing of tangible personal property that is not
- 1500 assisted cleaning or washing of tangible personal property, the exemption described in
- 1501 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
- 1502 or washing of the tangible personal property; and
- 1503 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
- 1504 Utah Administrative Rulemaking Act, the commission may make rules:
- 1505 (i) governing the circumstances under which sales are at the same business location;
- 1506 and
- 1507 (ii) establishing the procedures and requirements for a seller to separately account for
- 1508 sales of assisted cleaning or washing of tangible personal property;
- 1509 (8) sales made to or by religious or charitable institutions in the conduct of their regular
- 1510 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
- 1511 fulfilled;
- 1512 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
- 1513 this state if the vehicle is:
- 1514 (a) not registered in this state; and
- 1515 (b) (i) not used in this state; or

- 1516 (ii) used in this state:
- 1517 (A) if the vehicle is not used to conduct business, for a time period that does not
- 1518 exceed the longer of:
- 1519 (I) 30 days in any calendar year; or
- 1520 (II) the time period necessary to transport the vehicle to the borders of this state; or
- 1521 (B) if the vehicle is used to conduct business, for the time period necessary to transport
- 1522 the vehicle to the borders of this state;
- 1523 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 1524 (i) the item is intended for human use; and
- 1525 (ii) (A) a prescription was issued for the item; or
- 1526 (B) the item was purchased by a hospital or other medical facility; and
- 1527 (b) (i) Subsection (10)(a) applies to:
- 1528 (A) a drug;
- 1529 (B) a syringe; or
- 1530 (C) a stoma supply; and
- 1531 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1532 commission may by rule define the terms:
- 1533 (A) "syringe"; or
- 1534 (B) "stoma supply";
- 1535 (11) sales or use of property, materials, or services used in the construction of or
- 1536 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
- 1537 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 1538 (i) the following if the item described in Subsection (12)(c) is not available to the
- 1539 general public:
- 1540 (A) a church; or
- 1541 (B) a charitable institution;
- 1542 (ii) an institution of higher education if:
- 1543 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 1544 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 1545 offered by the institution of higher education; or
- 1546 (b) sales of an item described in Subsection (12)(c) provided for a patient by:

- 1547 (i) a medical facility; or
- 1548 (ii) a nursing facility; and
- 1549 (c) Subsections (12)(a) and (b) apply to:
  - 1550 (i) food and food ingredients;
  - 1551 (ii) prepared food; or
  - 1552 (iii) alcoholic beverages;
- 1553 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 1554 or a product transferred electronically by a person:
  - 1555 (i) regardless of the number of transactions involving the sale of that tangible personal
  - 1556 property or product transferred electronically by that person; and
  - 1557 (ii) not regularly engaged in the business of selling that type of tangible personal
  - 1558 property or product transferred electronically;
- 1559 (b) this Subsection (13) does not apply if:
  - 1560 (i) the sale is one of a series of sales of a character to indicate that the person is
  - 1561 regularly engaged in the business of selling that type of tangible personal property or product
  - 1562 transferred electronically;
  - 1563 (ii) the person holds that person out as regularly engaged in the business of selling that
  - 1564 type of tangible personal property or product transferred electronically;
  - 1565 (iii) the person sells an item of tangible personal property or product transferred
  - 1566 electronically that the person purchased as a sale that is exempt under Subsection (25); or
  - 1567 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
  - 1568 this state in which case the tax is based upon:
    - 1569 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
    - 1570 sold; or
    - 1571 (B) in the absence of a bill of sale or other written evidence of value, the fair market
    - 1572 value of the vehicle or vessel being sold at the time of the sale as determined by the
    - 1573 commission; and
  - 1574 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
  - 1575 commission shall make rules establishing the circumstances under which:
    - 1576 (i) a person is regularly engaged in the business of selling a type of tangible personal
    - 1577 property or product transferred electronically;

1578 (ii) a sale of tangible personal property or a product transferred electronically is one of  
1579 a series of sales of a character to indicate that a person is regularly engaged in the business of  
1580 selling that type of tangible personal property or product transferred electronically; or

1581 (iii) a person holds that person out as regularly engaged in the business of selling a type  
1582 of tangible personal property or product transferred electronically;

1583 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after  
1584 July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration  
1585 facility, for the following:

1586 (i) machinery and equipment that:

1587 (A) are used:

1588 (I) for a manufacturing facility except for a manufacturing facility that is a scrap  
1589 recycler described in Subsection 59-12-102[~~(52)~~](54)(b):

1590 (Aa) in the manufacturing process;

1591 (Bb) to manufacture an item sold as tangible personal property; and

1592 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection  
1593 (14)(a)(i)(A)(I) in the state; or

1594 (II) for a manufacturing facility that is a scrap recycler described in Subsection  
1595 59-12-102[~~(52)~~](54)(b):

1596 (Aa) to process an item sold as tangible personal property; and

1597 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection  
1598 (14)(a)(i)(A)(II) in the state; and

1599 (B) have an economic life of three or more years; and

1600 (ii) normal operating repair or replacement parts that:

1601 (A) have an economic life of three or more years; and

1602 (B) are used:

1603 (I) for a manufacturing facility except for a manufacturing facility that is a scrap  
1604 recycler described in Subsection 59-12-102[~~(52)~~](54)(b):

1605 (Aa) in the manufacturing process; and

1606 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the  
1607 state; or

1608 (II) for a manufacturing facility that is a scrap recycler described in Subsection

1609 59-12-102[(52)](54)(b):  
1610 (Aa) to process an item sold as tangible personal property; and  
1611 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the  
1612 state;  
1613 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a  
1614 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,  
1615 for the following:  
1616 (i) machinery and equipment that:  
1617 (A) are used:  
1618 (I) in the manufacturing process;  
1619 (II) to manufacture an item sold as tangible personal property; and  
1620 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection  
1621 (14)(b) in the state; and  
1622 (B) have an economic life of three or more years; and  
1623 (ii) normal operating repair or replacement parts that:  
1624 (A) are used:  
1625 (I) in the manufacturing process; and  
1626 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and  
1627 (B) have an economic life of three or more years;  
1628 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,  
1629 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or  
1630 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for  
1631 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,  
1632 of the 2002 North American Industry Classification System of the federal Executive Office of  
1633 the President, Office of Management and Budget:  
1634 (i) machinery and equipment that:  
1635 (A) are used:  
1636 (I) (Aa) in the production process, other than the production of real property; or  
1637 (Bb) in research and development; and  
1638 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)  
1639 in the state; and

1640 (B) have an economic life of three or more years; and  
1641 (ii) normal operating repair or replacement parts that:  
1642 (A) have an economic life of three or more years; and  
1643 (B) are used in:  
1644 (I) (Aa) the production process, except for the production of real property; and  
1645 (Bb) an establishment described in this Subsection (14)(c) in the state; or  
1646 (II) (Aa) research and development; and  
1647 (Bb) in an establishment described in this Subsection (14)(c) in the state;  
1648 (d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,  
1649 Utah Administrative Rulemaking Act, the commission:  
1650 (i) shall by rule define the term "establishment"; and  
1651 (ii) may by rule define what constitutes:  
1652 (A) processing an item sold as tangible personal property;  
1653 (B) the production process, except for the production of real property; or  
1654 (C) research and development; and  
1655 (e) on or before October 1, 2011, and every five years after October 1, 2011, the  
1656 commission shall:  
1657 (i) review the exemptions described in this Subsection (14) and make  
1658 recommendations to the Revenue and Taxation Interim Committee concerning whether the  
1659 exemptions should be continued, modified, or repealed; and  
1660 (ii) include in its report:  
1661 (A) an estimate of the cost of the exemptions;  
1662 (B) the purpose and effectiveness of the exemptions; and  
1663 (C) the benefits of the exemptions to the state;  
1664 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:  
1665 (i) tooling;  
1666 (ii) special tooling;  
1667 (iii) support equipment;  
1668 (iv) special test equipment; or  
1669 (v) parts used in the repairs or renovations of tooling or equipment described in  
1670 Subsections (15)(a)(i) through (iv); and

1671 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

1672 (i) the tooling, equipment, or parts are used or consumed exclusively in the  
1673 performance of any aerospace or electronics industry contract with the United States  
1674 government or any subcontract under that contract; and

1675 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),  
1676 title to the tooling, equipment, or parts is vested in the United States government as evidenced  
1677 by:

1678 (A) a government identification tag placed on the tooling, equipment, or parts; or

1679 (B) listing on a government-approved property record if placing a government  
1680 identification tag on the tooling, equipment, or parts is impractical;

1681 (16) sales of newspapers or newspaper subscriptions;

1682 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a  
1683 product transferred electronically traded in as full or part payment of the purchase price, except  
1684 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,  
1685 trade-ins are limited to other vehicles only, and the tax is based upon:

1686 (i) the bill of sale or other written evidence of value of the vehicle being sold and the  
1687 vehicle being traded in; or

1688 (ii) in the absence of a bill of sale or other written evidence of value, the then existing  
1689 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the  
1690 commission; and

1691 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the  
1692 following items of tangible personal property or products transferred electronically traded in as  
1693 full or part payment of the purchase price:

1694 (i) money;

1695 (ii) electricity;

1696 (iii) water;

1697 (iv) gas; or

1698 (v) steam;

1699 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property  
1700 or a product transferred electronically used or consumed primarily and directly in farming  
1701 operations, regardless of whether the tangible personal property or product transferred

1702 electronically:

1703           (A) becomes part of real estate; or

1704           (B) is installed by a:

1705           (I) farmer;

1706           (II) contractor; or

1707           (III) subcontractor; or

1708           (ii) sales of parts used in the repairs or renovations of tangible personal property or a

1709 product transferred electronically if the tangible personal property or product transferred

1710 electronically is exempt under Subsection (18)(a)(i); and

1711           (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are

1712 subject to the taxes imposed by this chapter:

1713           (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is

1714 incidental to farming:

1715           (I) machinery;

1716           (II) equipment;

1717           (III) materials; or

1718           (IV) supplies; and

1719           (B) tangible personal property that is considered to be used in a manner that is

1720 incidental to farming includes:

1721           (I) hand tools; or

1722           (II) maintenance and janitorial equipment and supplies;

1723           (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product

1724 transferred electronically if the tangible personal property or product transferred electronically

1725 is used in an activity other than farming; and

1726           (B) tangible personal property or a product transferred electronically that is considered

1727 to be used in an activity other than farming includes:

1728           (I) office equipment and supplies; or

1729           (II) equipment and supplies used in:

1730           (Aa) the sale or distribution of farm products;

1731           (Bb) research; or

1732           (Cc) transportation; or



1733 (iii) a vehicle required to be registered by the laws of this state during the period  
1734 ending two years after the date of the vehicle's purchase;

1735 (19) sales of hay;

1736 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or  
1737 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or  
1738 garden, farm, or other agricultural produce is sold by:

1739 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other  
1740 agricultural produce;

1741 (b) an employee of the producer described in Subsection (20)(a); or

1742 (c) a member of the immediate family of the producer described in Subsection (20)(a);

1743 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued  
1744 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

1745 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,  
1746 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,  
1747 wholesaler, or retailer for use in packaging tangible personal property to be sold by that  
1748 manufacturer, processor, wholesaler, or retailer;

1749 (23) a product stored in the state for resale;

1750 (24) (a) purchases of a product if:

1751 (i) the product is:

1752 (A) purchased outside of this state;

1753 (B) brought into this state:

1754 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

1755 (II) by a nonresident person who is not living or working in this state at the time of the  
1756 purchase;

1757 (C) used for the personal use or enjoyment of the nonresident person described in  
1758 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

1759 (D) not used in conducting business in this state; and

1760 (ii) for:

1761 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of  
1762 the product for a purpose for which the product is designed occurs outside of this state;

1763 (B) a boat, the boat is registered outside of this state; or

1764 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
1765 outside of this state;

1766 (b) the exemption provided for in Subsection (24)(a) does not apply to:

1767 (i) a lease or rental of a product; or

1768 (ii) a sale of a vehicle exempt under Subsection (33); and

1769 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
1770 purposes of Subsection (24)(a), the commission may by rule define what constitutes the  
1771 following:

1772 (i) conducting business in this state if that phrase has the same meaning in this  
1773 Subsection (24) as in Subsection (63);

1774 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)  
1775 as in Subsection (63); or

1776 (iii) a purpose for which a product is designed if that phrase has the same meaning in  
1777 this Subsection (24) as in Subsection (63);

1778 (25) a product purchased for resale in this state, in the regular course of business, either  
1779 in its original form or as an ingredient or component part of a manufactured or compounded  
1780 product;

1781 (26) a product upon which a sales or use tax was paid to some other state, or one of its  
1782 subdivisions, except that the state shall be paid any difference between the tax paid and the tax  
1783 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if  
1784 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax  
1785 Act;

1786 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a  
1787 person for use in compounding a service taxable under the subsections;

1788 (28) purchases made in accordance with the special supplemental nutrition program for  
1789 women, infants, and children established in 42 U.S.C. Sec. 1786;

1790 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,  
1791 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens  
1792 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification  
1793 Manual of the federal Executive Office of the President, Office of Management and Budget;

1794 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State

1795 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:  
1796 (a) not registered in this state; and  
1797 (b) (i) not used in this state; or  
1798 (ii) used in this state:  
1799 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a  
1800 time period that does not exceed the longer of:  
1801 (I) 30 days in any calendar year; or  
1802 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to  
1803 the borders of this state; or  
1804 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time  
1805 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this  
1806 state;  
1807 (31) sales of aircraft manufactured in Utah;  
1808 (32) amounts paid for the purchase of telecommunications service for purposes of  
1809 providing telecommunications service;  
1810 (33) sales, leases, or uses of the following:  
1811 (a) a vehicle by an authorized carrier; or  
1812 (b) tangible personal property that is installed on a vehicle:  
1813 (i) sold or leased to or used by an authorized carrier; and  
1814 (ii) before the vehicle is placed in service for the first time;  
1815 (34) (a) 45% of the sales price of any new manufactured home; and  
1816 (b) 100% of the sales price of any used manufactured home;  
1817 (35) sales relating to schools and fundraising sales;  
1818 (36) sales or rentals of durable medical equipment if:  
1819 (a) a person presents a prescription for the durable medical equipment; and  
1820 (b) the durable medical equipment is used for home use only;  
1821 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in  
1822 Section 72-11-102; and  
1823 (b) the commission shall by rule determine the method for calculating sales exempt  
1824 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;  
1825 (38) sales to a ski resort of:

- 1826 (a) snowmaking equipment;
- 1827 (b) ski slope grooming equipment;
- 1828 (c) passenger ropeways as defined in Section 72-11-102; or
- 1829 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 1830 described in Subsections (38)(a) through (c);
- 1831 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 1832 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 1833 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 1834 59-12-102;
- 1835 (b) if a seller that sells or rents at the same business location the right to use or operate
- 1836 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 1837 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 1838 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 1839 amusement, entertainment, or recreation for the assisted amusement devices; and
- 1840 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
- 1841 Utah Administrative Rulemaking Act, the commission may make rules:
- 1842 (i) governing the circumstances under which sales are at the same business location;
- 1843 and
- 1844 (ii) establishing the procedures and requirements for a seller to separately account for
- 1845 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
- 1846 assisted amusement devices;
- 1847 (41) (a) sales of photocopies by:
- 1848 (i) a governmental entity; or
- 1849 (ii) an entity within the state system of public education, including:
- 1850 (A) a school; or
- 1851 (B) the State Board of Education; or
- 1852 (b) sales of publications by a governmental entity;
- 1853 (42) amounts paid for admission to an athletic event at an institution of higher
- 1854 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 1855 20 U.S.C. Sec. 1681 et seq.;
- 1856 (43) (a) sales made to or by:

- 1857 (i) an area agency on aging; or
- 1858 (ii) a senior citizen center owned by a county, city, or town; or
- 1859 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 1860 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 1861 materials regardless of whether the semiconductor fabricating, processing, research, or
- 1862 development materials:
  - 1863 (a) actually come into contact with a semiconductor; or
  - 1864 (b) ultimately become incorporated into real property;
- 1865 (45) an amount paid by or charged to a purchaser for accommodations and services
- 1866 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
- 1867 59-12-104.2;
- 1868 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
- 1869 sports event registration certificate in accordance with Section 41-3-306 for the event period
- 1870 specified on the temporary sports event registration certificate;
- 1871 (47) sales or uses of electricity, if the sales or uses are:
  - 1872 (a) made under a tariff adopted by the Public Service Commission of Utah only for
  - 1873 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
  - 1874 source, as designated in the tariff by the Public Service Commission of Utah; and
  - 1875 (b) for an amount of electricity that is:
    - 1876 (i) unrelated to the amount of electricity used by the person purchasing the electricity
    - 1877 under the tariff described in Subsection (47)(a); and
    - 1878 (ii) equivalent to the number of kilowatthours specified in the tariff described in
    - 1879 Subsection (47)(a) that may be purchased under the tariff described in Subsection (47)(a);
  - 1880 (48) sales or rentals of mobility enhancing equipment if a person presents a
  - 1881 prescription for the mobility enhancing equipment;
  - 1882 (49) sales of water in a:
    - 1883 (a) pipe;
    - 1884 (b) conduit;
    - 1885 (c) ditch; or
    - 1886 (d) reservoir;
  - 1887 (50) sales of currency or coinage that constitute legal tender of the United States or of a

- 1888 foreign nation;
- 1889 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 1890 (i) does not constitute legal tender of any nation; and
- 1891 (ii) has a gold, silver, or platinum content of 80% or more; and
- 1892 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 1893 (i) ingot;
- 1894 (ii) bar;
- 1895 (iii) medallion; or
- 1896 (iv) decorative coin;
- 1897 (52) amounts paid on a sale-leaseback transaction;
- 1898 (53) sales of a prosthetic device:
- 1899 (a) for use on or in a human; and
- 1900 (b) (i) for which a prescription is required; or
- 1901 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 1902 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 1903 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 1904 or equipment is primarily used in the production or postproduction of the following media for
- 1905 commercial distribution:
- 1906 (i) a motion picture;
- 1907 (ii) a television program;
- 1908 (iii) a movie made for television;
- 1909 (iv) a music video;
- 1910 (v) a commercial;
- 1911 (vi) a documentary; or
- 1912 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
- 1913 commission by administrative rule made in accordance with Subsection (54)(d); or
- 1914 (b) notwithstanding Subsection (54)(a), purchases, leases, or rentals of machinery or
- 1915 equipment by an establishment described in Subsection (54)(c) that is used for the production
- 1916 or postproduction of the following are subject to the taxes imposed by this chapter:
- 1917 (i) a live musical performance;
- 1918 (ii) a live news program; or

- 1919 (iii) a live sporting event;
- 1920 (c) the following establishments listed in the 1997 North American Industry
- 1921 Classification System of the federal Executive Office of the President, Office of Management
- 1922 and Budget, apply to Subsections (54)(a) and (b):
- 1923 (i) NAICS Code 512110; or
- 1924 (ii) NAICS Code 51219; and
- 1925 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1926 commission may by rule:
- 1927 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
- 1928 or
- 1929 (ii) define:
- 1930 (A) "commercial distribution";
- 1931 (B) "live musical performance";
- 1932 (C) "live news program"; or
- 1933 (D) "live sporting event";
- 1934 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
- 1935 or before June 30, 2019, of machinery or equipment that:
- 1936 (i) is leased or purchased for or by a facility that:
- 1937 (A) is a renewable energy production facility;
- 1938 (B) is located in the state; and
- 1939 (C) (I) becomes operational on or after July 1, 2004; or
- 1940 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 1941 2004 as a result of the use of the machinery or equipment;
- 1942 (ii) has an economic life of five or more years; and
- 1943 (iii) is used to make the facility or the increase in capacity of the facility described in
- 1944 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
- 1945 transmission grid including:
- 1946 (A) a wind turbine;
- 1947 (B) generating equipment;
- 1948 (C) a control and monitoring system;
- 1949 (D) a power line;

- 1950 (E) substation equipment;
- 1951 (F) lighting;
- 1952 (G) fencing;
- 1953 (H) pipes; or
- 1954 (I) other equipment used for locating a power line or pole; and
- 1955 (b) this Subsection (55) does not apply to:
- 1956 (i) machinery or equipment used in construction of:
- 1957 (A) a new renewable energy production facility; or
- 1958 (B) the increase in the capacity of a renewable energy production facility;
- 1959 (ii) contracted services required for construction and routine maintenance activities;
- 1960 and
- 1961 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
- 1962 of the facility described in Subsection (55)(a)(i)(C)(II), machinery or equipment used or
- 1963 acquired after:
- 1964 (A) the renewable energy production facility described in Subsection (55)(a)(i) is
- 1965 operational as described in Subsection (55)(a)(iii); or
- 1966 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
- 1967 in Subsection (55)(a)(iii);
- 1968 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
- 1969 or before June 30, 2019, of machinery or equipment that:
- 1970 (i) is leased or purchased for or by a facility that:
- 1971 (A) is a waste energy production facility;
- 1972 (B) is located in the state; and
- 1973 (C) (I) becomes operational on or after July 1, 2004; or
- 1974 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 1975 2004 as a result of the use of the machinery or equipment;
- 1976 (ii) has an economic life of five or more years; and
- 1977 (iii) is used to make the facility or the increase in capacity of the facility described in
- 1978 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
- 1979 transmission grid including:
- 1980 (A) generating equipment;



- 1981 (B) a control and monitoring system;
- 1982 (C) a power line;
- 1983 (D) substation equipment;
- 1984 (E) lighting;
- 1985 (F) fencing;
- 1986 (G) pipes; or
- 1987 (H) other equipment used for locating a power line or pole; and
- 1988 (b) this Subsection (56) does not apply to:
  - 1989 (i) machinery or equipment used in construction of:
    - 1990 (A) a new waste energy facility; or
    - 1991 (B) the increase in the capacity of a waste energy facility;
  - 1992 (ii) contracted services required for construction and routine maintenance activities;
  - 1993 and
    - 1994 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
    - 1995 described in Subsection (56)(a)(i)(C)(II), machinery or equipment used or acquired after:
      - 1996 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
      - 1997 described in Subsection (56)(a)(iii); or
      - 1998 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
      - 1999 in Subsection (56)(a)(iii);
- 2000 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
- 2001 or before June 30, 2019, of machinery or equipment that:
  - 2002 (i) is leased or purchased for or by a facility that:
    - 2003 (A) is located in the state;
    - 2004 (B) produces fuel from biomass energy including:
      - 2005 (I) methanol; or
      - 2006 (II) ethanol; and
      - 2007 (C) (I) becomes operational on or after July 1, 2004; or
      - 2008 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
      - 2009 a result of the installation of the machinery or equipment;
  - 2010 (ii) has an economic life of five or more years; and
  - 2011 (iii) is installed on the facility described in Subsection (57)(a)(i);

2012 (b) this Subsection (57) does not apply to:

2013 (i) machinery or equipment used in construction of:

2014 (A) a new facility described in Subsection (57)(a)(i); or

2015 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

2016 (ii) contracted services required for construction and routine maintenance activities;

2017 and

2018 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

2019 described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or acquired after:

2020 (A) the facility described in Subsection (57)(a)(i) is operational; or

2021 (B) the increased capacity described in Subsection (57)(a)(i) is operational;

2022 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a

2023 product transferred electronically to a person within this state if that tangible personal property

2024 or product transferred electronically is subsequently shipped outside the state and incorporated

2025 pursuant to contract into and becomes a part of real property located outside of this state;

2026 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other

2027 state or political entity to which the tangible personal property is shipped imposes a sales, use,

2028 gross receipts, or other similar transaction excise tax on the transaction against which the other

2029 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

2030 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,

2031 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a

2032 refund:

2033 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

2034 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on

2035 which the sale is made;

2036 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the

2037 sale prior to filing for the refund;

2038 (iv) for sales and use taxes paid under this chapter on the sale;

2039 (v) in accordance with Section 59-1-1410; and

2040 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if

2041 the person files for the refund on or before June 30, 2011;

2042 (59) purchases:

- 2043 (a) of one or more of the following items in printed or electronic format:
- 2044 (i) a list containing information that includes one or more:
  - 2045 (A) names; or
  - 2046 (B) addresses; or
- 2047 (ii) a database containing information that includes one or more:
  - 2048 (A) names; or
  - 2049 (B) addresses; and
- 2050 (b) used to send direct mail;
- 2051 (60) redemptions or repurchases of a product by a person if that product was:
  - 2052 (a) delivered to a pawnbroker as part of a pawn transaction; and
  - 2053 (b) redeemed or repurchased within the time period established in a written agreement
  - 2054 between the person and the pawnbroker for redeeming or repurchasing the product;
- 2055 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
  - 2056 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
  - 2057 and
  - 2058 (ii) has a useful economic life of one or more years; and
  - 2059 (b) the following apply to Subsection (61)(a):
    - 2060 (i) telecommunications enabling or facilitating equipment, machinery, or software;
    - 2061 (ii) telecommunications equipment, machinery, or software required for 911 service;
    - 2062 (iii) telecommunications maintenance or repair equipment, machinery, or software;
    - 2063 (iv) telecommunications switching or routing equipment, machinery, or software; or
    - 2064 (v) telecommunications transmission equipment, machinery, or software;
- 2065 (62) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of tangible
- 2066 personal property or a product transferred electronically that are used in the research and
- 2067 development of coal-to-liquids, oil shale, or tar sands technology; and
- 2068 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2069 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
- 2070 purchases of tangible personal property or a product transferred electronically that are used in
- 2071 the research and development of coal-to-liquids, oil shale, and tar sands technology;
- 2072 (63) (a) purchases of tangible personal property or a product transferred electronically
- 2073 if:

- 2074 (i) the tangible personal property or product transferred electronically is:
- 2075 (A) purchased outside of this state;
- 2076 (B) brought into this state at any time after the purchase described in Subsection
- 2077 (63)(a)(i)(A); and
- 2078 (C) used in conducting business in this state; and
- 2079 (ii) for:
- 2080 (A) tangible personal property or a product transferred electronically other than the
- 2081 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
- 2082 for a purpose for which the property is designed occurs outside of this state; or
- 2083 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
- 2084 outside of this state;
- 2085 (b) the exemption provided for in Subsection (63)(a) does not apply to:
- 2086 (i) a lease or rental of tangible personal property or a product transferred electronically;
- 2087 or
- 2088 (ii) a sale of a vehicle exempt under Subsection (33); and
- 2089 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 2090 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
- 2091 following:
- 2092 (i) conducting business in this state if that phrase has the same meaning in this
- 2093 Subsection (63) as in Subsection (24);
- 2094 (ii) the first use of tangible personal property or a product transferred electronically if
- 2095 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
- 2096 (iii) a purpose for which tangible personal property or a product transferred
- 2097 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
- 2098 Subsection (24);
- 2099 (64) sales of disposable home medical equipment or supplies if:
- 2100 (a) a person presents a prescription for the disposable home medical equipment or
- 2101 supplies;
- 2102 (b) the disposable home medical equipment or supplies are used exclusively by the
- 2103 person to whom the prescription described in Subsection (64)(a) is issued; and
- 2104 (c) the disposable home medical equipment and supplies are listed as eligible for

2105 payment under:

2106 (i) Title XVIII, federal Social Security Act; or

2107 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

2108 (65) sales:

2109 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

2110 District Act; or

2111 (b) of tangible personal property to a subcontractor of a public transit district, if the

2112 tangible personal property is:

2113 (i) clearly identified; and

2114 (ii) installed or converted to real property owned by the public transit district;

2115 (66) sales of construction materials:

2116 (a) purchased on or after July 1, 2010;

2117 (b) purchased by, on behalf of, or for the benefit of an international airport:

2118 (i) located within a county of the first class; and

2119 (ii) that has a United States customs office on its premises; and

2120 (c) if the construction materials are:

2121 (i) clearly identified;

2122 (ii) segregated; and

2123 (iii) installed or converted to real property:

2124 (A) owned or operated by the international airport described in Subsection (66)(b); and

2125 (B) located at the international airport described in Subsection (66)(b);

2126 (67) sales of construction materials:

2127 (a) purchased on or after July 1, 2008;

2128 (b) purchased by, on behalf of, or for the benefit of a new airport:

2129 (i) located within a county of the second class; and

2130 (ii) that is owned or operated by a city in which an airline as defined in Section

2131 59-2-102 is headquartered; and

2132 (c) if the construction materials are:

2133 (i) clearly identified;

2134 (ii) segregated; and

2135 (iii) installed or converted to real property:

- 2136 (A) owned or operated by the new airport described in Subsection (67)(b);
- 2137 (B) located at the new airport described in Subsection (67)(b); and
- 2138 (C) as part of the construction of the new airport described in Subsection (67)(b); ~~and~~
- 2139 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive
- 2140 engine[-]; and
- 2141 (69) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 2142 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 2143 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2144 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2145 powered aircraft; or
- 2146 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 2147 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 2148 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2149 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2150 powered aircraft.
- 2151 Section 3. **Effective date.**
- 2152 This bill takes effect on July 1, 2010.

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**Legislative Review Note**  
as of 2-2-10 4:18 PM

**Office of Legislative Research and General Counsel**

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**S.B. 73 - Sales and Use Tax Exemption Relating to Aircraft**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will forgo future General Fund revenue of approximately \$123,300 in FY 2011 and \$246,700 per year beginning in FY 2012.

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**Individual, Business and/or Local Impact**

Certain businesses will not be required to collect or pay sales tax. Other individuals, businesses, and local governments are unaffected.

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