

1 **SALES AND USE TAX EXEMPTION FOR AN ENERGY**
2 **EFFICIENT STOVE OR ENERGY EFFICIENT STOVE**
3 **FUEL**

4 2011 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Gene Davis**

7 House Sponsor: Melvin R. Brown

8
9 **LONG TITLE**

10 **General Description:**

11 This bill amends the Sales and Use Tax Act to provide a sales and use tax exemption.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines terms;
- 15 ▶ provides a sales and use tax exemption for the purchase of an energy efficient stove
- 16 or energy efficient stove fuel; and
- 17 ▶ makes technical and conforming changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 This bill takes effect on July 1, 2011.

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **59-12-102**, as last amended by Laws of Utah 2010, Chapters 88, 142, 234, and 263

25 **59-12-104**, as last amended by Laws of Utah 2010, Chapters 88, 209, and 364

26
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 59-12-703;

75 (i) Section 59-12-802;

76 (j) Section 59-12-804;

77 (k) Section 59-12-1102;

78 (l) Section 59-12-1302;

79 (m) Section 59-12-1402;

80 (n) Section 59-12-1802;

81 (o) Section 59-12-2003;

82 (p) Section 59-12-2103;

83 (q) Section 59-12-2213;

84 (r) Section 59-12-2214;

85 (s) Section 59-12-2215;

86 (t) Section 59-12-2216;

87 (u) Section 59-12-2217; or

88 (v) Section 59-12-2218.

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

123 (12) "Assisted amusement device" means an amusement device, skill device, or ride
124 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 (13) "Assisted cleaning or washing of tangible personal property" means cleaning or
130 washing of tangible personal property if the cleaning or washing labor is primarily performed
131 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 (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 (15) (a) Except as provided in Subsection (15)(b), "biomass energy" means any of the
145 following that is used as the primary source of energy to produce fuel or electricity:

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

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

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

149 (B) animal waste;

150 (C) methane produced:

151 (I) at landfills; or

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

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

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

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

189 (A) that retail sale includes:

190 (I) food and food ingredients;

191 (II) a drug;

192 (III) durable medical equipment;

193 (IV) mobility enhancing equipment;

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

195 (VI) a prosthetic device; or

196 (VII) a medical supply; and

197 (B) subject to Subsection (16)(f):

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

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

202 (c) (i) For purposes of Subsection (16)(a)(i), tangible personal property, a product, or a
203 service that is distinct and identifiable does not include:

204 (A) packaging that:

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

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

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

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

212 (ii) For purposes of Subsection (16)(c)(i)(B), an item of tangible personal property, a
213 product, or a service is provided free of charge with the purchase of another item of tangible

214 personal property, a product, or a service if the sales price of the purchased item of tangible
215 personal property, product, or service does not vary depending on the inclusion of the tangible
216 personal property, product, or service provided free of charge.

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

221 (A) a binding sales document; or

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

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

225 (A) a bill of sale;

226 (B) a contract;

227 (C) an invoice;

228 (D) a lease agreement;

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

230 (F) a price list;

231 (G) a rate card;

232 (H) a receipt; or

233 (I) a service agreement.

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

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

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

240 (ii) For purposes of Subsection (16)(b)(vi), a seller:

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

244 (B) may not use a combination of the seller's purchase price and the seller's sales price

245 to determine if the purchase price or sales price of the tangible personal property or product
246 subject to taxation under this chapter is de minimis.

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

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

253 (17) "Certified automated system" means software certified by the governing board of
254 the agreement that:

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

257 (i) on a transaction; and

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

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

261 (c) maintains a record of the transaction described in Subsection (17)(a)(i).

262 (18) "Certified service provider" means an agent certified:

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

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

267 (19) (a) Subject to Subsection (19)(b), "clothing" means all human wearing apparel
268 suitable for general use.

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

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

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

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

275 (21) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other

276 fuels that does not constitute industrial use under Subsection (48) or residential use under
277 Subsection [~~(94)~~ (95)].

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

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

283 (ii) For purposes of Subsection (22)(b)(i), in accordance with Title 63G, Chapter 3,
284 Utah Administrative Rulemaking Act, the commission may make rules defining what
285 constitutes a person's place of employment.

286 (23) "Component part" includes:

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

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

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

292 (d) feed, seeds, and seedlings.

293 (24) "Computer" means an electronic device that accepts information:

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

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

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

297 (25) "Computer software" means a set of coded instructions designed to cause:

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

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

300 (26) (a) "Conference bridging service" means an ancillary service that links two or
301 more participants of an audio conference call or video conference call.

302 (b) "Conference bridging service" includes providing a telephone number as part of the
303 ancillary service described in Subsection (26)(a).

304 (c) "Conference bridging service" does not include a telecommunications service used
305 to reach the ancillary service described in Subsection (26)(a).

306 (27) "Construction materials" means any tangible personal property that will be

307 converted into real property.

308 (28) "Delivered electronically" means delivered to a purchaser by means other than
309 tangible storage media.

310 (29) (a) "Delivery charge" means a charge:

311 (i) by a seller of:

312 (A) tangible personal property;

313 (B) a product transferred electronically; or

314 (C) services; and

315 (ii) for preparation and delivery of the tangible personal property, product transferred
316 electronically, or services described in Subsection (29)(a)(i) to a location designated by the
317 purchaser.

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

319 (i) transportation;

320 (ii) shipping;

321 (iii) postage;

322 (iv) handling;

323 (v) crating; or

324 (vi) packing.

325 (30) "Detailed telecommunications billing service" means an ancillary service of
326 separately stating information pertaining to individual calls on a customer's billing statement.

327 (31) "Dietary supplement" means a product, other than tobacco, that:

328 (a) is intended to supplement the diet;

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

330 (i) a vitamin;

331 (ii) a mineral;

332 (iii) an herb or other botanical;

333 (iv) an amino acid;

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

336 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
337 described in Subsections (31)(b)(i) through (v);

- 338 (c) (i) except as provided in Subsection (31)(c)(ii), is intended for ingestion in:
- 339 (A) tablet form;
- 340 (B) capsule form;
- 341 (C) powder form;
- 342 (D) softgel form;
- 343 (E) gelcap form; or
- 344 (F) liquid form; or
- 345 (ii) notwithstanding Subsection (31)(c)(i), if the product is not intended for ingestion in
- 346 a form described in Subsections (31)(c)(i)(A) through (F), is not represented:
- 347 (A) as conventional food; and
- 348 (B) for use as a sole item of:
- 349 (I) a meal; or
- 350 (II) the diet; and
- 351 (d) is required to be labeled as a dietary supplement:
- 352 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 353 (ii) as required by 21 C.F.R. Sec. 101.36.
- 354 (32) (a) "Direct mail" means printed material delivered or distributed by United States
- 355 mail or other delivery service:
- 356 (i) to:
- 357 (A) a mass audience; or
- 358 (B) addressees on a mailing list provided:
- 359 (I) by a purchaser of the mailing list; or
- 360 (II) at the discretion of the purchaser of the mailing list; and
- 361 (ii) if the cost of the printed material is not billed directly to the recipients.
- 362 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 363 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 364 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 365 single address.
- 366 (33) "Directory assistance" means an ancillary service of providing:
- 367 (a) address information; or
- 368 (b) telephone number information.

369 (34) (a) "Disposable home medical equipment or supplies" means medical equipment
370 or supplies that:

- 371 (i) cannot withstand repeated use; and
372 (ii) are purchased by, for, or on behalf of a person other than:
373 (A) a health care facility as defined in Section 26-21-2;
374 (B) a health care provider as defined in Section 78B-3-403;
375 (C) an office of a health care provider described in Subsection (34)(a)(ii)(B); or
376 (D) a person similar to a person described in Subsections (34)(a)(ii)(A) through (C).

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

- 378 (i) a drug;
379 (ii) durable medical equipment;
380 (iii) a hearing aid;
381 (iv) a hearing aid accessory;
382 (v) mobility enhancing equipment; or
383 (vi) tangible personal property used to correct impaired vision, including:
384 (A) eyeglasses; or
385 (B) contact lenses.

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

388 (35) (a) "Drug" means a compound, substance, or preparation, or a component of a
389 compound, substance, or preparation that is:

- 390 (i) recognized in:
391 (A) the official United States Pharmacopoeia;
392 (B) the official Homeopathic Pharmacopoeia of the United States;
393 (C) the official National Formulary; or
394 (D) a supplement to a publication listed in Subsections (35)(a)(i)(A) through (C);
395 (ii) intended for use in the:
396 (A) diagnosis of disease;
397 (B) cure of disease;
398 (C) mitigation of disease;
399 (D) treatment of disease; or

- 400 (E) prevention of disease; or
- 401 (iii) intended to affect:
- 402 (A) the structure of the body; or
- 403 (B) any function of the body.
- 404 (b) "Drug" does not include:
- 405 (i) food and food ingredients;
- 406 (ii) a dietary supplement;
- 407 (iii) an alcoholic beverage; or
- 408 (iv) a prosthetic device.
- 409 (36) (a) Except as provided in Subsection (36)(c), "durable medical equipment" means
- 410 equipment that:
- 411 (i) can withstand repeated use;
- 412 (ii) is primarily and customarily used to serve a medical purpose;
- 413 (iii) generally is not useful to a person in the absence of illness or injury; and
- 414 (iv) is not worn in or on the body.
- 415 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 416 equipment described in Subsection (36)(a).
- 417 (c) Notwithstanding Subsection (36)(a), "durable medical equipment" does not include
- 418 mobility enhancing equipment.
- 419 (37) "Electronic" means:
- 420 (a) relating to technology; and
- 421 (b) having:
- 422 (i) electrical capabilities;
- 423 (ii) digital capabilities;
- 424 (iii) magnetic capabilities;
- 425 (iv) wireless capabilities;
- 426 (v) optical capabilities;
- 427 (vi) electromagnetic capabilities; or
- 428 (vii) capabilities similar to Subsections (37)(b)(i) through (vi).
- 429 (38) "Employee" is as defined in Section 59-10-401.
- 430 (39) "Energy efficient stove" means a stove that:

431 (a) uses the burning of energy efficient stove fuel to heat a dwelling or heat water for
432 use in a dwelling; and

433 (b) has a thermal efficiency rating of at least 75%, as measured using a lower heating
434 value.

435 (40) "Energy efficient stove fuel" means any plant-derived fuel available on a
436 renewable or recurring basis, including agricultural crops and trees, wood and wood waste and
437 residues including wood pellets, plants including aquatic plants, grasses, residues, and fibers.

438 [~~39~~] (41) "Fixed guideway" means a public transit facility that uses and occupies:

439 (a) rail for the use of public transit; or

440 (b) a separate right-of-way for the use of public transit.

441 [~~40~~] (42) "Fixed wing turbine powered aircraft" means an aircraft that:

442 (a) is powered by turbine engines;

443 (b) operates on jet fuel; and

444 (c) has wings that are permanently attached to the fuselage of the aircraft.

445 [~~41~~] (43) "Fixed wireless service" means a telecommunications service that provides
446 radio communication between fixed points.

447 [~~42~~] (44) (a) "Food and food ingredients" means substances:

448 (i) regardless of whether the substances are in:

449 (A) liquid form;

450 (B) concentrated form;

451 (C) solid form;

452 (D) frozen form;

453 (E) dried form; or

454 (F) dehydrated form; and

455 (ii) that are:

456 (A) sold for:

457 (I) ingestion by humans; or

458 (II) chewing by humans; and

459 (B) consumed for the substance's:

460 (I) taste; or

461 (II) nutritional value.

462 (b) "Food and food ingredients" includes an item described in Subsection [~~(78)~~]
463 (80)(b)(iii).

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

465 (i) an alcoholic beverage;

466 (ii) tobacco; or

467 (iii) prepared food.

468 [~~(43)~~] (45) (a) "Fundraising sales" means sales:

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

470 (B) made by a school student;

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

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

474 (b) For purposes of Subsection [~~(43)~~] (45)(a)(iii), "officially sanctioned school activity"
475 means a school activity:

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

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

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

482 [~~(44)~~] (46) "Geothermal energy" means energy contained in heat that continuously
483 flows outward from the earth that is used as the sole source of energy to produce electricity.

484 [~~(45)~~] (47) "Governing board of the agreement" means the governing board of the
485 agreement that is:

486 (a) authorized to administer the agreement; and

487 (b) established in accordance with the agreement.

488 [~~(46)~~] (48) (a) For purposes of Subsection 59-12-104(41), "governmental entity"
489 means:

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

492 (ii) the judicial branch of the state, including the courts, the Judicial Council, the

493 Office of the Court Administrator, and similar administrative units in the judicial branch;
494 (iii) the legislative branch of the state, including the House of Representatives, the
495 Senate, the Legislative Printing Office, the Office of Legislative Research and General
496 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
497 Analyst;

498 (iv) the National Guard;
499 (v) an independent entity as defined in Section 63E-1-102; or
500 (vi) a political subdivision as defined in Section 17B-1-102.

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

503 (i) a college campus of the Utah College of Applied Technology;
504 (ii) a school;
505 (iii) the State Board of Education;
506 (iv) the State Board of Regents; or
507 (v) a state institution of higher education as defined in Section 53B-3-102.

508 [~~47~~] (49) "Hydroelectric energy" means water used as the sole source of energy to
509 produce electricity.

510 [~~48~~] (50) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
511 or other fuels:

512 (a) in mining or extraction of minerals;
513 (b) in agricultural operations to produce an agricultural product up to the time of
514 harvest or placing the agricultural product into a storage facility, including:
515 (i) commercial greenhouses;
516 (ii) irrigation pumps;
517 (iii) farm machinery;
518 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
519 registered under Title 41, Chapter 1a, Part 2, Registration; and
520 (v) other farming activities;
521 (c) in manufacturing tangible personal property at an establishment described in SIC
522 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
523 Executive Office of the President, Office of Management and Budget;

524 (d) by a scrap recycler if:

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

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

536 (ii) the new products under Subsection [~~(48)~~] (50)(d)(i) would otherwise be made with
537 nonrecycled materials; or

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

540 [~~(49)~~] (51) (a) Except as provided in Subsection [~~(49)~~] (51)(b), "installation charge"
541 means a charge for installing:

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

547 [~~(50)~~] (52) (a) "Lease" or "rental" means a transfer of possession or control of tangible
548 personal property or a product transferred electronically for:

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

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

555 Code.

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

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

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

562 (A) upon completion of required payments; and

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

564 (I) \$100; or

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

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

569 (d) For purposes of Subsection [~~50~~] (52)(c)(iii), an operator is necessary for
570 equipment to perform as designed if the operator's duties exceed the:

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

572 (ii) maintenance of tangible personal property; or

573 (iii) inspection of tangible personal property.

574 [~~51~~] (53) "Load and leave" means delivery to a purchaser by use of a tangible storage
575 media if the tangible storage media is not physically transferred to the purchaser.

576 [~~52~~] (54) "Local taxing jurisdiction" means a:

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

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

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

580 [~~53~~] (55) "Manufactured home" is as defined in Section 58-56-3.

581 [~~54~~] (56) For purposes of Section 59-12-104, "manufacturing facility" means:

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

583 Industrial Classification Manual of the federal Executive Office of the President, Office of
584 Management and Budget;

585 (b) a scrap recycler if:

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

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

597 (ii) the new products under Subsection [~~54~~] 56(b)(i) would otherwise be made with
598 nonrecycled materials; or

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

600 [~~55~~] 57 "Member of the immediate family of the producer" means a person who is
601 related to a producer described in Subsection 59-12-104(20)(a) as a:

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

- 603 (i) an adopted child or adopted stepchild; or
- 604 (ii) a foster child or foster stepchild;
- 605 (b) grandchild or stepgrandchild;
- 606 (c) grandparent or stepgrandparent;
- 607 (d) nephew or stepnephew;
- 608 (e) niece or stepniece;
- 609 (f) parent or stepparent;
- 610 (g) sibling or stepsibling;
- 611 (h) spouse;

612 (i) person who is the spouse of a person described in Subsections [~~55~~] 57(a) through
613 (g); or

614 (j) person similar to a person described in Subsections [~~55~~] 57(a) through (i) as
615 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
616 Administrative Rulemaking Act.

617 ~~[(56)]~~ (58) "Mobile home" is as defined in Section 58-56-3.

618 ~~[(57)]~~ (59) "Mobile telecommunications service" is as defined in the Mobile
619 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

620 ~~[(58)]~~ (60) (a) "Mobile wireless service" means a telecommunications service,
621 regardless of the technology used, if:

- 622 (i) the origination point of the conveyance, routing, or transmission is not fixed;
623 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
624 (iii) the origination point described in Subsection ~~[(58)]~~ (60)(a)(i) and the termination
625 point described in Subsection ~~[(58)]~~ (60)(a)(ii) are not fixed.

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

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

630 ~~[(59)]~~ (61) (a) Except as provided in Subsection ~~[(59)]~~ (61)(c), "mobility enhancing
631 equipment" means equipment that is:

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

638 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
639 the equipment described in Subsection ~~[(59)]~~ (61)(a).

640 (c) Notwithstanding Subsection ~~[(59)]~~ (61)(a), "mobility enhancing equipment" does
641 not include:

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

647 ~~[(60)]~~ (62) "Model 1 seller" means a seller registered under the agreement that has

648 selected a certified service provider as the seller's agent to perform all of the seller's sales and
649 use tax functions for agreement sales and use taxes other than the seller's obligation under
650 Section 59-12-124 to remit a tax on the seller's own purchases.

651 ~~[(61)]~~ (63) "Model 2 seller" means a seller registered under the agreement that:

652 (a) except as provided in Subsection ~~[(61)]~~ (63)(b), has selected a certified automated
653 system to perform the seller's sales tax functions for agreement sales and use taxes; and

654 (b) notwithstanding Subsection ~~[(61)]~~ (63)(a), retains responsibility for remitting all of
655 the sales tax:

656 (i) collected by the seller; and

657 (ii) to the appropriate local taxing jurisdiction.

658 ~~[(62)]~~ (64) (a) Subject to Subsection ~~[(62)]~~ (64)(b), "model 3 seller" means a seller
659 registered under the agreement that has:

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

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

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

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

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

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

666 (b) For purposes of Subsection ~~[(62)]~~ (64)(a), "model 3 seller" includes an affiliated
667 group of sellers using the same proprietary system.

668 ~~[(63)]~~ (65) "Model 4 seller" means a seller that is registered under the agreement and is
669 not a model 1 seller, model 2 seller, or model 3 seller.

670 ~~[(64)]~~ (66) "Modular home" means a modular unit as defined in Section 58-56-3.

671 ~~[(65)]~~ (67) "Motor vehicle" is as defined in Section 41-1a-102.

672 ~~[(66)]~~ (68) "Oil shale" means a group of fine black to dark brown shales containing
673 bituminous material that yields petroleum upon distillation.

674 ~~[(67)]~~ (69) (a) "Other fuels" means products that burn independently to produce heat or
675 energy.

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

678 ~~[(68)]~~ (70) (a) "Paging service" means a telecommunications service that provides

679 transmission of a coded radio signal for the purpose of activating a specific pager.

680 (b) For purposes of Subsection [~~(68)~~] (70)(a), the transmission of a coded radio signal
681 includes a transmission by message or sound.

682 [~~(69)~~] (71) "Pawnbroker" is as defined in Section 13-32a-102.

683 [~~(70)~~] (72) "Pawn transaction" is as defined in Section 13-32a-102.

684 [~~(71)~~] (73) (a) "Permanently attached to real property" means that for tangible personal
685 property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

702 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
703 Subsection [~~(71)~~] (73)(c)(iii) or (iv).

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

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

707 (A) convenience;

708 (B) stability; or

709 (C) for an obvious temporary purpose;

710 (ii) the detachment of tangible personal property from real property except for the
711 detachment described in Subsection [~~71~~] (73)(b)(ii);

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

716 (A) a computer;

717 (B) a telephone;

718 (C) a television; or

719 (D) tangible personal property similar to Subsections [~~71~~] (73)(c)(iii)(A) through (C)
720 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
721 Administrative Rulemaking Act; or

722 (iv) an item listed in Subsection [~~111~~] (113)(c).

723 [~~72~~] (74) "Person" includes any individual, firm, partnership, joint venture,
724 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
725 city, municipality, district, or other local governmental entity of the state, or any group or
726 combination acting as a unit.

727 [~~73~~] (75) "Place of primary use":

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

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

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

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

735 [~~74~~] (76) (a) "Postpaid calling service" means a telecommunications service a person
736 obtains by making a payment on a call-by-call basis:

737 (i) through the use of a:

738 (A) bank card;

739 (B) credit card;

740 (C) debit card; or

741 (D) travel card; or
742 (ii) by a charge made to a telephone number that is not associated with the origination
743 or termination of the telecommunications service.

744 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
745 service, that would be a prepaid wireless calling service if the service were exclusively a
746 telecommunications service.

747 [~~75~~] (77) "Postproduction" means an activity related to the finishing or duplication of
748 a medium described in Subsection 59-12-104(54)(a).

749 [~~76~~] (78) "Prepaid calling service" means a telecommunications service:

750 (a) that allows a purchaser access to telecommunications service that is exclusively
751 telecommunications service;

752 (b) that:

753 (i) is paid for in advance; and

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

755 (A) access number; or

756 (B) authorization code;

757 (c) that is dialed:

758 (i) manually; or

759 (ii) electronically; and

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

761 (i) by a known amount; and

762 (ii) with use.

763 [~~77~~] (79) "Prepaid wireless calling service" means a telecommunications service:

764 (a) that provides the right to utilize:

765 (i) mobile wireless service; and

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

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

768 (B) a content service; or

769 (C) an ancillary service;

770 (b) that:

771 (i) is paid for in advance; and

- 772 (ii) enables the origination of a call using an:
- 773 (A) access number; or
- 774 (B) authorization code;
- 775 (c) that is dialed:
- 776 (i) manually; or
- 777 (ii) electronically; and
- 778 (d) sold in predetermined units or dollars that decline:
- 779 (i) by a known amount; and
- 780 (ii) with use.
- 781 [~~(78)~~] (80) (a) "Prepared food" means:
- 782 (i) food:
- 783 (A) sold in a heated state; or
- 784 (B) heated by a seller;
- 785 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 786 item; or
- 787 (iii) except as provided in Subsection [~~(78)~~] (80)(c), food sold with an eating utensil
- 788 provided by the seller, including a:
- 789 (A) plate;
- 790 (B) knife;
- 791 (C) fork;
- 792 (D) spoon;
- 793 (E) glass;
- 794 (F) cup;
- 795 (G) napkin; or
- 796 (H) straw.
- 797 (b) "Prepared food" does not include:
- 798 (i) food that a seller only:
- 799 (A) cuts;
- 800 (B) repackages; or
- 801 (C) pasteurizes; or
- 802 (ii) (A) the following:

- 803 (I) raw egg;
- 804 (II) raw fish;
- 805 (III) raw meat;
- 806 (IV) raw poultry; or
- 807 (V) a food containing an item described in Subsections [~~(78)~~] (80)(b)(ii)(A)(I) through
- 808 (IV); and
- 809 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 810 Food and Drug Administration's Food Code that a consumer cook the items described in
- 811 Subsection [~~(78)~~] (80)(b)(ii)(A) to prevent food borne illness; or
- 812 (iii) the following if sold without eating utensils provided by the seller:
- 813 (A) food and food ingredients sold by a seller if the seller's proper primary
- 814 classification under the 2002 North American Industry Classification System of the federal
- 815 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 816 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 817 Manufacturing;
- 818 (B) food and food ingredients sold in an unheated state:
- 819 (I) by weight or volume; and
- 820 (II) as a single item; or
- 821 (C) a bakery item, including:
- 822 (I) a bagel;
- 823 (II) a bar;
- 824 (III) a biscuit;
- 825 (IV) bread;
- 826 (V) a bun;
- 827 (VI) a cake;
- 828 (VII) a cookie;
- 829 (VIII) a croissant;
- 830 (IX) a danish;
- 831 (X) a donut;
- 832 (XI) a muffin;
- 833 (XII) a pastry;

834 (XIII) a pie;

835 (XIV) a roll;

836 (XV) a tart;

837 (XVI) a torte; or

838 (XVII) a tortilla.

839 (c) Notwithstanding Subsection [~~(78)~~] (80)(a)(iii), an eating utensil provided by the
840 seller does not include the following used to transport the food:

841 (i) a container; or

842 (ii) packaging.

843 [~~(79)~~] (81) "Prescription" means an order, formula, or recipe that is issued:

844 (a) (i) orally;

845 (ii) in writing;

846 (iii) electronically; or

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

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

849 [~~(80)~~] (82) (a) Except as provided in Subsection [~~(80)~~] (82)(b)(ii) or (iii), "prewritten
850 computer software" means computer software that is not designed and developed:

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

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

853 (b) "Prewritten computer software" includes:

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

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

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

858 (ii) notwithstanding Subsection [~~(80)~~] (82)(a), computer software designed and
859 developed by the author or other creator of the computer software to the specifications of a
860 specific purchaser if the computer software is sold to a person other than the purchaser; or

861 (iii) notwithstanding Subsection [~~(80)~~] (82)(a) and except as provided in Subsection
862 [~~(80)~~] (82)(c), prewritten computer software or a prewritten portion of prewritten computer
863 software:

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

865 (B) if the modification or enhancement described in Subsection [~~(80)~~] (82)(b)(iii)(A) is
866 designed and developed to the specifications of a specific purchaser.

867 (c) Notwithstanding Subsection [~~(80)~~] (82)(b)(iii), "prewritten computer software"
868 does not include a modification or enhancement described in Subsection [~~(80)~~] (82)(b)(iii) if
869 the charges for the modification or enhancement are:

870 (i) reasonable; and

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

873 [~~(81)~~] (83) (a) "Private communication service" means a telecommunications service:

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

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

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

880 (i) an extension line;

881 (ii) a station;

882 (iii) switching capacity; or

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

885 [~~(82)~~] (84) (a) "Prosthetic device" means a device that is worn on or in the body to:

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

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

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

889 (b) "Prosthetic device" includes:

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

891 (ii) replacement parts for a prosthetic device;

892 (iii) a dental prosthesis; or

893 (iv) a hearing aid.

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

895 (i) corrective eyeglasses; or

896 (ii) contact lenses.
897 [~~83~~] (85) (a) "Protective equipment" means an item:
898 (i) for human wear; and
899 (ii) that is:
900 (A) designed as protection:
901 (I) to the wearer against injury or disease; or
902 (II) against damage or injury of other persons or property; and
903 (B) not suitable for general use.
904 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
905 commission shall make rules:
906 (i) listing the items that constitute "protective equipment"; and
907 (ii) that are consistent with the list of items that constitute "protective equipment"
908 under the agreement.
909 [~~84~~] (86) (a) For purposes of Subsection 59-12-104(41), "publication" means any
910 written or printed matter, other than a photocopy:
911 (i) regardless of:
912 (A) characteristics;
913 (B) copyright;
914 (C) form;
915 (D) format;
916 (E) method of reproduction; or
917 (F) source; and
918 (ii) made available in printed or electronic format.
919 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
920 commission may by rule define the term "photocopy."
921 [~~85~~] (87) (a) "Purchase price" and "sales price" mean the total amount of
922 consideration:
923 (i) valued in money; and
924 (ii) for which tangible personal property, a product transferred electronically, or
925 services are:
926 (A) sold;

- 927 (B) leased; or
- 928 (C) rented.
- 929 (b) "Purchase price" and "sales price" include:
- 930 (i) the seller's cost of the tangible personal property, a product transferred
- 931 electronically, or services sold;
- 932 (ii) expenses of the seller, including:
- 933 (A) the cost of materials used;
- 934 (B) a labor cost;
- 935 (C) a service cost;
- 936 (D) interest;
- 937 (E) a loss;
- 938 (F) the cost of transportation to the seller; or
- 939 (G) a tax imposed on the seller;
- 940 (iii) a charge by the seller for any service necessary to complete the sale; or
- 941 (iv) consideration a seller receives from a person other than the purchaser if:
- 942 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 943 and
- 944 (II) the consideration described in Subsection [~~(85)~~] (87)(b)(iv)(A)(I) is directly related
- 945 to a price reduction or discount on the sale;
- 946 (B) the seller has an obligation to pass the price reduction or discount through to the
- 947 purchaser;
- 948 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 949 the seller at the time of the sale to the purchaser; and
- 950 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 951 seller to claim a price reduction or discount; and
- 952 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 953 coupon, or other documentation with the understanding that the person other than the seller
- 954 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 955 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 956 organization allowed a price reduction or discount, except that a preferred customer card that is
- 957 available to any patron of a seller does not constitute membership in a group or organization

958 allowed a price reduction or discount; or
959 (III) the price reduction or discount is identified as a third party price reduction or
960 discount on the:
961 (Aa) invoice the purchaser receives; or
962 (Bb) certificate, coupon, or other documentation the purchaser presents.
963 (c) "Purchase price" and "sales price" do not include:
964 (i) a discount:
965 (A) in a form including:
966 (I) cash;
967 (II) term; or
968 (III) coupon;
969 (B) that is allowed by a seller;
970 (C) taken by a purchaser on a sale; and
971 (D) that is not reimbursed by a third party; or
972 (ii) the following if separately stated on an invoice, bill of sale, or similar document
973 provided to the purchaser:
974 (A) the following from credit extended on the sale of tangible personal property or
975 services:
976 (I) a carrying charge;
977 (II) a financing charge; or
978 (III) an interest charge;
979 (B) a delivery charge;
980 (C) an installation charge;
981 (D) a manufacturer rebate on a motor vehicle; or
982 (E) a tax or fee legally imposed directly on the consumer.
983 [~~86~~] (88) "Purchaser" means a person to whom:
984 (a) a sale of tangible personal property is made;
985 (b) a product is transferred electronically; or
986 (c) a service is furnished.
987 [~~87~~] (89) "Regularly rented" means:
988 (a) rented to a guest for value three or more times during a calendar year; or

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

991 [~~88~~] (90) "Renewable energy" means:

- 992 (a) biomass energy;
- 993 (b) hydroelectric energy;
- 994 (c) geothermal energy;
- 995 (d) solar energy; or
- 996 (e) wind energy.

997 [~~89~~] (91) (a) "Renewable energy production facility" means a facility that:

- 998 (i) uses renewable energy to produce electricity; and
- 999 (ii) has a production capacity of 20 kilowatts or greater.

1000 (b) A facility is a renewable energy production facility regardless of whether the
1001 facility is:

- 1002 (i) connected to an electric grid; or
- 1003 (ii) located on the premises of an electricity consumer.

1004 [~~90~~] (92) "Rental" is as defined in Subsection [~~50~~] (52).

1005 [~~91~~] (93) "Repairs or renovations of tangible personal property" means:

1006 (a) a repair or renovation of tangible personal property that is not permanently attached
1007 to real property; or

1008 (b) attaching tangible personal property or a product that is transferred electronically to
1009 other tangible personal property if the other tangible personal property to which the tangible
1010 personal property or product that is transferred electronically is attached is not permanently
1011 attached to real property.

1012 [~~92~~] (94) "Research and development" means the process of inquiry or
1013 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
1014 process of preparing those devices, technologies, or applications for marketing.

1015 [~~93~~] (95) (a) "Residential telecommunications services" means a telecommunications
1016 service or an ancillary service that is provided to an individual for personal use:

- 1017 (i) at a residential address; or
- 1018 (ii) at an institution, including a nursing home or a school, if the telecommunications
1019 service or ancillary service is provided to and paid for by the individual residing at the

1020 institution rather than the institution.

1021 (b) For purposes of Subsection [~~(93)~~] (95)(a), a residential address includes an:

1022 (i) apartment; or

1023 (ii) other individual dwelling unit.

1024 [~~(94)~~] (96) "Residential use" means the use in or around a home, apartment building,
1025 sleeping quarters, and similar facilities or accommodations.

1026 [~~(95)~~] (97) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
1027 other than:

1028 (a) resale;

1029 (b) sublease; or

1030 (c) subrent.

1031 [~~(96)~~] (98) (a) "Retailer" means any person engaged in a regularly organized business
1032 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1),
1033 and who is selling to the user or consumer and not for resale.

1034 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1035 engaged in the business of selling to users or consumers within the state.

1036 [~~(97)~~] (99) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1037 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1038 Subsection 59-12-103(1), for consideration.

1039 (b) "Sale" includes:

1040 (i) installment and credit sales;

1041 (ii) any closed transaction constituting a sale;

1042 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1043 chapter;

1044 (iv) any transaction if the possession of property is transferred but the seller retains the
1045 title as security for the payment of the price; and

1046 (v) any transaction under which right to possession, operation, or use of any article of
1047 tangible personal property is granted under a lease or contract and the transfer of possession
1048 would be taxable if an outright sale were made.

1049 [~~(98)~~] (100) "Sale at retail" is as defined in Subsection [~~(95)~~] (97).

1050 [~~(99)~~] (101) "Sale-leaseback transaction" means a transaction by which title to tangible

1051 personal property or a product transferred electronically that is subject to a tax under this
1052 chapter is transferred:

- 1053 (a) by a purchaser-lessee;
- 1054 (b) to a lessor;
- 1055 (c) for consideration; and
- 1056 (d) if:
 - 1057 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
 - 1058 of the tangible personal property or product transferred electronically;
 - 1059 (ii) the sale of the tangible personal property or product transferred electronically to the
 - 1060 lessor is intended as a form of financing:
 - 1061 (A) for the tangible personal property or product transferred electronically; and
 - 1062 (B) to the purchaser-lessee; and
 - 1063 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
 - 1064 is required to:
 - 1065 (A) capitalize the tangible personal property or product transferred electronically for
 - 1066 financial reporting purposes; and
 - 1067 (B) account for the lease payments as payments made under a financing arrangement.

1068 [~~(100)~~] (102) "Sales price" is as defined in Subsection [~~(85)~~] (87).

1069 [~~(101)~~] (103) (a) "Sales relating to schools" means the following sales by, amounts

1070 paid to, or amounts charged by a school:

- 1071 (i) sales that are directly related to the school's educational functions or activities
- 1072 including:
 - 1073 (A) the sale of:
 - 1074 (I) textbooks;
 - 1075 (II) textbook fees;
 - 1076 (III) laboratory fees;
 - 1077 (IV) laboratory supplies; or
 - 1078 (V) safety equipment;
 - 1079 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1080 that:

- 1081 (I) a student is specifically required to wear as a condition of participation in a

1082 school-related event or school-related activity; and
1083 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1084 place of ordinary clothing;
1085 (C) sales of the following if the net or gross revenues generated by the sales are
1086 deposited into a school district fund or school fund dedicated to school meals:
1087 (I) food and food ingredients; or
1088 (II) prepared food; or
1089 (D) transportation charges for official school activities; or
1090 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1091 event or school-related activity.
1092 (b) "Sales relating to schools" does not include:
1093 (i) bookstore sales of items that are not educational materials or supplies;
1094 (ii) except as provided in Subsection [~~(101)~~] (103)(a)(i)(B):
1095 (A) clothing;
1096 (B) clothing accessories or equipment;
1097 (C) protective equipment; or
1098 (D) sports or recreational equipment; or
1099 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1100 event or school-related activity if the amounts paid or charged are passed through to a person:
1101 (A) other than a:
1102 (I) school;
1103 (II) nonprofit organization authorized by a school board or a governing body of a
1104 private school to organize and direct a competitive secondary school activity; or
1105 (III) nonprofit association authorized by a school board or a governing body of a
1106 private school to organize and direct a competitive secondary school activity; and
1107 (B) that is required to collect sales and use taxes under this chapter.
1108 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1109 commission may make rules defining the term "passed through."
1110 [~~(102)~~] (104) For purposes of this section and Section 59-12-104, "school":
1111 (a) means:
1112 (i) an elementary school or a secondary school that:

- 1113 (A) is a:
- 1114 (I) public school; or
- 1115 (II) private school; and
- 1116 (B) provides instruction for one or more grades kindergarten through 12; or
- 1117 (ii) a public school district; and
- 1118 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1119 [~~(103)~~] (105) "Seller" means a person that makes a sale, lease, or rental of:
- 1120 (a) tangible personal property;
- 1121 (b) a product transferred electronically; or
- 1122 (c) a service.
- 1123 [~~(104)~~] (106) (a) "Semiconductor fabricating, processing, research, or development
- 1124 materials" means tangible personal property or a product transferred electronically if the
- 1125 tangible personal property or product transferred electronically is:
- 1126 (i) used primarily in the process of:
- 1127 (A) (I) manufacturing a semiconductor;
- 1128 (II) fabricating a semiconductor; or
- 1129 (III) research or development of a:
- 1130 (Aa) semiconductor; or
- 1131 (Bb) semiconductor manufacturing process; or
- 1132 (B) maintaining an environment suitable for a semiconductor; or
- 1133 (ii) consumed primarily in the process of:
- 1134 (A) (I) manufacturing a semiconductor;
- 1135 (II) fabricating a semiconductor; or
- 1136 (III) research or development of a:
- 1137 (Aa) semiconductor; or
- 1138 (Bb) semiconductor manufacturing process; or
- 1139 (B) maintaining an environment suitable for a semiconductor.
- 1140 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1141 includes:
- 1142 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1143 transferred electronically described in Subsection [~~(104)~~] (106)(a); or

1144 (ii) a chemical, catalyst, or other material used to:

1145 (A) produce or induce in a semiconductor a:

1146 (I) chemical change; or

1147 (II) physical change;

1148 (B) remove impurities from a semiconductor; or

1149 (C) improve the marketable condition of a semiconductor.

1150 [~~(105)~~] (107) "Senior citizen center" means a facility having the primary purpose of
1151 providing services to the aged as defined in Section 62A-3-101.

1152 [~~(106)~~] (108) "Simplified electronic return" means the electronic return:

1153 (a) described in Section 318(C) of the agreement; and

1154 (b) approved by the governing board of the agreement.

1155 [~~(107)~~] (109) "Solar energy" means the sun used as the sole source of energy for
1156 producing electricity.

1157 [~~(108)~~] (110) (a) "Sports or recreational equipment" means an item:

1158 (i) designed for human use; and

1159 (ii) that is:

1160 (A) worn in conjunction with:

1161 (I) an athletic activity; or

1162 (II) a recreational activity; and

1163 (B) not suitable for general use.

1164 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1165 commission shall make rules:

1166 (i) listing the items that constitute "sports or recreational equipment"; and

1167 (ii) that are consistent with the list of items that constitute "sports or recreational
1168 equipment" under the agreement.

1169 [~~(109)~~] (111) "State" means the state of Utah, its departments, and agencies.

1170 [~~(110)~~] (112) "Storage" means any keeping or retention of tangible personal property or
1171 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
1172 except sale in the regular course of business.

1173 [~~(111)~~] (113) (a) Except as provided in Subsection [~~(111)~~] (113)(d) or (e), "tangible
1174 personal property" means personal property that:

- 1175 (i) may be:
- 1176 (A) seen;
- 1177 (B) weighed;
- 1178 (C) measured;
- 1179 (D) felt; or
- 1180 (E) touched; or
- 1181 (ii) is in any manner perceptible to the senses.
- 1182 (b) "Tangible personal property" includes:
- 1183 (i) electricity;
- 1184 (ii) water;
- 1185 (iii) gas;
- 1186 (iv) steam; or
- 1187 (v) prewritten computer software.
- 1188 (c) "Tangible personal property" includes the following regardless of whether the item
- 1189 is attached to real property:
- 1190 (i) a dishwasher;
- 1191 (ii) a dryer;
- 1192 (iii) a freezer;
- 1193 (iv) a microwave;
- 1194 (v) a refrigerator;
- 1195 (vi) a stove;
- 1196 (vii) a washer; or
- 1197 (viii) an item similar to Subsections [~~(113)~~] (113)(c)(i) through (vii) as determined by
- 1198 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1199 Rulemaking Act.
- 1200 (d) "Tangible personal property" does not include a product that is transferred
- 1201 electronically.
- 1202 (e) "Tangible personal property" does not include the following if attached to real
- 1203 property, regardless of whether the attachment to real property is only through a line that
- 1204 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 1205 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

1206 Rulemaking Act:

- 1207 (i) a hot water heater;
- 1208 (ii) a water filtration system; or
- 1209 (iii) a water softener system.

1210 [~~H2~~] (114) "Tar sands" means impregnated sands that yield mixtures of liquid
1211 hydrocarbon and require further processing other than mechanical blending before becoming
1212 finished petroleum products.

1213 [~~H3~~] (115) (a) "Telecommunications enabling or facilitating equipment, machinery,
1214 or software" means an item listed in Subsection [~~H3~~] (115)(b) if that item is purchased or
1215 leased primarily to enable or facilitate one or more of the following to function:

- 1216 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1217 (ii) telecommunications transmission equipment, machinery, or software.

1218 (b) The following apply to Subsection [~~H3~~] (115)(a):

- 1219 (i) a pole;
- 1220 (ii) software;
- 1221 (iii) a supplementary power supply;
- 1222 (iv) temperature or environmental equipment or machinery;
- 1223 (v) test equipment;
- 1224 (vi) a tower; or
- 1225 (vii) equipment, machinery, or software that functions similarly to an item listed in

1226 Subsections [~~H3~~] (115)(b)(i) through (vi) as determined by the commission by rule made in
1227 accordance with Subsection [~~H3~~] (115)(c).

1228 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1229 commission may by rule define what constitutes equipment, machinery, or software that
1230 functions similarly to an item listed in Subsections [~~H3~~] (115)(b)(i) through (vi).

1231 [~~H4~~] (116) "Telecommunications equipment, machinery, or software required for
1232 911 service" means equipment, machinery, or software that is required to comply with 47
1233 C.F.R. Sec. 20.18.

1234 [~~H5~~] (117) "Telecommunications maintenance or repair equipment, machinery, or
1235 software" means equipment, machinery, or software purchased or leased primarily to maintain
1236 or repair one or more of the following, regardless of whether the equipment, machinery, or

1237 software is purchased or leased as a spare part or as an upgrade or modification to one or more
1238 of the following:

1239 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1240 (b) telecommunications switching or routing equipment, machinery, or software; or

1241 (c) telecommunications transmission equipment, machinery, or software.

1242 [(H6)] (118) (a) "Telecommunications service" means the electronic conveyance,
1243 routing, or transmission of audio, data, video, voice, or any other information or signal to a
1244 point, or among or between points.

1245 (b) "Telecommunications service" includes:

1246 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1247 processing application is used to act:

1248 (A) on the code, form, or protocol of the content;

1249 (B) for the purpose of electronic conveyance, routing, or transmission; and

1250 (C) regardless of whether the service:

1251 (I) is referred to as voice over Internet protocol service; or

1252 (II) is classified by the Federal Communications Commission as enhanced or value
1253 added;

1254 (ii) an 800 service;

1255 (iii) a 900 service;

1256 (iv) a fixed wireless service;

1257 (v) a mobile wireless service;

1258 (vi) a postpaid calling service;

1259 (vii) a prepaid calling service;

1260 (viii) a prepaid wireless calling service; or

1261 (ix) a private communications service.

1262 (c) "Telecommunications service" does not include:

1263 (i) advertising, including directory advertising;

1264 (ii) an ancillary service;

1265 (iii) a billing and collection service provided to a third party;

1266 (iv) a data processing and information service if:

1267 (A) the data processing and information service allows data to be:

- 1268 (I) (Aa) acquired;
- 1269 (Bb) generated;
- 1270 (Cc) processed;
- 1271 (Dd) retrieved; or
- 1272 (Ee) stored; and
- 1273 (II) delivered by an electronic transmission to a purchaser; and
- 1274 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1275 or information;
- 1276 (v) installation or maintenance of the following on a customer's premises:
- 1277 (A) equipment; or
- 1278 (B) wiring;
- 1279 (vi) Internet access service;
- 1280 (vii) a paging service;
- 1281 (viii) a product transferred electronically, including:
- 1282 (A) music;
- 1283 (B) reading material;
- 1284 (C) a ring tone;
- 1285 (D) software; or
- 1286 (E) video;
- 1287 (ix) a radio and television audio and video programming service:
- 1288 (A) regardless of the medium; and
- 1289 (B) including:
- 1290 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1291 programming service by a programming service provider;
- 1292 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1293 (III) audio and video programming services delivered by a commercial mobile radio
- 1294 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1295 (x) a value-added nonvoice data service; or
- 1296 (xi) tangible personal property.
- 1297 [~~(H7)~~] (119) (a) "Telecommunications service provider" means a person that:
- 1298 (i) owns, controls, operates, or manages a telecommunications service; and

1299 (ii) engages in an activity described in Subsection [~~(117)~~] (119)(a)(i) for the shared use
1300 with or resale to any person of the telecommunications service.

1301 (b) A person described in Subsection [~~(117)~~] (119)(a) is a telecommunications service
1302 provider whether or not the Public Service Commission of Utah regulates:

1303 (i) that person; or

1304 (ii) the telecommunications service that the person owns, controls, operates, or
1305 manages.

1306 [~~(118)~~] (120) (a) "Telecommunications switching or routing equipment, machinery, or
1307 software" means an item listed in Subsection [~~(118)~~] (120)(b) if that item is purchased or
1308 leased primarily for switching or routing:

1309 (i) an ancillary service;

1310 (ii) data communications;

1311 (iii) voice communications; or

1312 (iv) telecommunications service.

1313 (b) The following apply to Subsection [~~(118)~~] (120)(a):

1314 (i) a bridge;

1315 (ii) a computer;

1316 (iii) a cross connect;

1317 (iv) a modem;

1318 (v) a multiplexer;

1319 (vi) plug in circuitry;

1320 (vii) a router;

1321 (viii) software;

1322 (ix) a switch; or

1323 (x) equipment, machinery, or software that functions similarly to an item listed in
1324 Subsections [~~(118)~~] (120)(b)(i) through (ix) as determined by the commission by rule made in
1325 accordance with Subsection [~~(118)~~] (120)(c).

1326 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1327 commission may by rule define what constitutes equipment, machinery, or software that
1328 functions similarly to an item listed in Subsections [~~(118)~~] (120)(b)(i) through (ix).

1329 [~~(119)~~] (121) (a) "Telecommunications transmission equipment, machinery, or

1330 software" means an item listed in Subsection [~~(119)~~] (121)(b) if that item is purchased or
1331 leased primarily for sending, receiving, or transporting:

- 1332 (i) an ancillary service;
- 1333 (ii) data communications;
- 1334 (iii) voice communications; or
- 1335 (iv) telecommunications service.

1336 (b) The following apply to Subsection [~~(119)~~] (121)(a):

- 1337 (i) an amplifier;
- 1338 (ii) a cable;
- 1339 (iii) a closure;
- 1340 (iv) a conduit;
- 1341 (v) a controller;
- 1342 (vi) a duplexer;
- 1343 (vii) a filter;
- 1344 (viii) an input device;
- 1345 (ix) an input/output device;
- 1346 (x) an insulator;
- 1347 (xi) microwave machinery or equipment;
- 1348 (xii) an oscillator;
- 1349 (xiii) an output device;
- 1350 (xiv) a pedestal;
- 1351 (xv) a power converter;
- 1352 (xvi) a power supply;
- 1353 (xvii) a radio channel;
- 1354 (xviii) a radio receiver;
- 1355 (xix) a radio transmitter;
- 1356 (xx) a repeater;
- 1357 (xxi) software;
- 1358 (xxii) a terminal;
- 1359 (xxiii) a timing unit;
- 1360 (xxiv) a transformer;

1361 (xxv) a wire; or
1362 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
1363 Subsections [~~(119)~~] (121)(b)(i) through (xxv) as determined by the commission by rule made in
1364 accordance with Subsection [~~(119)~~] (121)(c).

1365 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1366 commission may by rule define what constitutes equipment, machinery, or software that
1367 functions similarly to an item listed in Subsections [~~(119)~~] (121)(b)(i) through (xxv).

1368 [~~(120)~~] (122) "Tobacco" means:

1369 (a) a cigarette;

1370 (b) a cigar;

1371 (c) chewing tobacco;

1372 (d) pipe tobacco; or

1373 (e) any other item that contains tobacco.

1374 [~~(121)~~] (123) "Unassisted amusement device" means an amusement device, skill

1375 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
1376 operate the amusement device, skill device, or ride device.

1377 [~~(122)~~] (124) (a) "Use" means the exercise of any right or power over tangible personal
1378 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1379 incident to the ownership or the leasing of that tangible personal property, product transferred
1380 electronically, or service.

1381 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1382 property, a product transferred electronically, or a service in the regular course of business and
1383 held for resale.

1384 [~~(123)~~] (125) "Value-added nonvoice data service" means a service:

1385 (a) that otherwise meets the definition of a telecommunications service except that a
1386 computer processing application is used to act primarily for a purpose other than conveyance,
1387 routing, or transmission; and

1388 (b) with respect to which a computer processing application is used to act on data or
1389 information:

1390 (i) code;

1391 (ii) content;

1392 (iii) form; or

1393 (iv) protocol.

1394 [~~(124)~~] (126) (a) Subject to Subsection [~~(124)~~] (126)(b), "vehicle" means the following
1395 that are required to be titled, registered, or titled and registered:

1396 (i) an aircraft as defined in Section 72-10-102;

1397 (ii) a vehicle as defined in Section 41-1a-102;

1398 (iii) an off-highway vehicle as defined in Section 41-22-2; or

1399 (iv) a vessel as defined in Section 41-1a-102.

1400 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

1401 (i) a vehicle described in Subsection [~~(124)~~] (126)(a); or

1402 (ii) (A) a locomotive;

1403 (B) a freight car;

1404 (C) railroad work equipment; or

1405 (D) other railroad rolling stock.

1406 [~~(125)~~] (127) "Vehicle dealer" means a person engaged in the business of buying,
1407 selling, or exchanging a vehicle as defined in Subsection [~~(124)~~] (126).

1408 [~~(126)~~] (128) (a) "Vertical service" means an ancillary service that:

1409 (i) is offered in connection with one or more telecommunications services; and

1410 (ii) offers an advanced calling feature that allows a customer to:

1411 (A) identify a caller; and

1412 (B) manage multiple calls and call connections.

1413 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1414 conference bridging service.

1415 [~~(127)~~] (129) (a) "Voice mail service" means an ancillary service that enables a
1416 customer to receive, send, or store a recorded message.

1417 (b) "Voice mail service" does not include a vertical service that a customer is required
1418 to have in order to utilize a voice mail service.

1419 [~~(128)~~] (130) (a) Except as provided in Subsection [~~(128)~~] (130)(b), "waste energy
1420 facility" means a facility that generates electricity:

1421 (i) using as the primary source of energy waste materials that would be placed in a
1422 landfill or refuse pit if it were not used to generate electricity, including:

- 1423 (A) tires;
- 1424 (B) waste coal; or
- 1425 (C) oil shale; and
- 1426 (ii) in amounts greater than actually required for the operation of the facility.
- 1427 (b) "Waste energy facility" does not include a facility that incinerates:
- 1428 (i) municipal solid waste;
- 1429 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1430 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1431 [~~(129)~~] (131) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1432 [~~(130)~~] (132) "Wind energy" means wind used as the sole source of energy to produce
- 1433 electricity.
- 1434 [~~(131)~~] (133) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
- 1435 geographic location by the United States Postal Service.
- 1436 Section 2. Section **59-12-104** is amended to read:
- 1437 **59-12-104. Exemptions.**
- 1438 The following sales and uses are exempt from the taxes imposed by this chapter:
- 1439 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
- 1440 under Chapter 13, Motor and Special Fuel Tax Act;
- 1441 (2) sales to the state, its institutions, and its political subdivisions; however, this
- 1442 exemption does not apply to sales of:
- 1443 (a) construction materials except:
- 1444 (i) construction materials purchased by or on behalf of institutions of the public
- 1445 education system as defined in Utah Constitution Article X, Section 2, provided the
- 1446 construction materials are clearly identified and segregated and installed or converted to real
- 1447 property which is owned by institutions of the public education system; and
- 1448 (ii) construction materials purchased by the state, its institutions, or its political
- 1449 subdivisions which are installed or converted to real property by employees of the state, its
- 1450 institutions, or its political subdivisions; or
- 1451 (b) tangible personal property in connection with the construction, operation,
- 1452 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
- 1453 providing additional project capacity, as defined in Section 11-13-103;

- 1454 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
- 1455 (i) the proceeds of each sale do not exceed \$1; and
- 1456 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
- 1457 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 1458 (b) Subsection (3)(a) applies to:
- 1459 (i) food and food ingredients; or
- 1460 (ii) prepared food;
- 1461 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
- 1462 (i) alcoholic beverages;
- 1463 (ii) food and food ingredients; or
- 1464 (iii) prepared food;
- 1465 (b) sales of tangible personal property or a product transferred electronically:
- 1466 (i) to a passenger;
- 1467 (ii) by a commercial airline carrier; and
- 1468 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 1469 (c) services related to Subsection (4)(a) or (b);
- 1470 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
- 1471 and equipment:
- 1472 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
- 1473 North American Industry Classification System of the federal Executive Office of the
- 1474 President, Office of Management and Budget; and
- 1475 (II) for:
- 1476 (Aa) installation in an aircraft, including services relating to the installation of parts or
- 1477 equipment in the aircraft;
- 1478 (Bb) renovation of an aircraft; or
- 1479 (Cc) repair of an aircraft; or
- 1480 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
- 1481 commerce; or
- 1482 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
- 1483 aircraft operated by a common carrier in interstate or foreign commerce; and
- 1484 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,

1485 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
1486 refund:

1487 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

1488 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

1489 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
1490 the sale prior to filing for the refund;

1491 (iv) for sales and use taxes paid under this chapter on the sale;

1492 (v) in accordance with Section 59-1-1410; and

1493 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
1494 the person files for the refund on or before September 30, 2011;

1495 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
1496 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
1497 exhibitor, distributor, or commercial television or radio broadcaster;

1498 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
1499 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
1500 washing of tangible personal property;

1501 (b) if a seller that sells at the same business location assisted cleaning or washing of
1502 tangible personal property and cleaning or washing of tangible personal property that is not
1503 assisted cleaning or washing of tangible personal property, the exemption described in
1504 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
1505 or washing of the tangible personal property; and

1506 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
1507 Utah Administrative Rulemaking Act, the commission may make rules:

1508 (i) governing the circumstances under which sales are at the same business location;
1509 and

1510 (ii) establishing the procedures and requirements for a seller to separately account for
1511 sales of assisted cleaning or washing of tangible personal property;

1512 (8) sales made to or by religious or charitable institutions in the conduct of their regular
1513 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
1514 fulfilled;

1515 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of

1516 this state if the vehicle is:

1517 (a) not registered in this state; and

1518 (b) (i) not used in this state; or

1519 (ii) used in this state:

1520 (A) if the vehicle is not used to conduct business, for a time period that does not

1521 exceed the longer of:

1522 (I) 30 days in any calendar year; or

1523 (II) the time period necessary to transport the vehicle to the borders of this state; or

1524 (B) if the vehicle is used to conduct business, for the time period necessary to transport

1525 the vehicle to the borders of this state;

1526 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

1527 (i) the item is intended for human use; and

1528 (ii) (A) a prescription was issued for the item; or

1529 (B) the item was purchased by a hospital or other medical facility; and

1530 (b) (i) Subsection (10)(a) applies to:

1531 (A) a drug;

1532 (B) a syringe; or

1533 (C) a stoma supply; and

1534 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1535 commission may by rule define the terms:

1536 (A) "syringe"; or

1537 (B) "stoma supply";

1538 (11) sales or use of property, materials, or services used in the construction of or

1539 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

1540 (12) (a) sales of an item described in Subsection (12)(c) served by:

1541 (i) the following if the item described in Subsection (12)(c) is not available to the

1542 general public:

1543 (A) a church; or

1544 (B) a charitable institution;

1545 (ii) an institution of higher education if:

1546 (A) the item described in Subsection (12)(c) is not available to the general public; or

1547 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
1548 offered by the institution of higher education; or

1549 (b) sales of an item described in Subsection (12)(c) provided for a patient by:

1550 (i) a medical facility; or

1551 (ii) a nursing facility; and

1552 (c) Subsections (12)(a) and (b) apply to:

1553 (i) food and food ingredients;

1554 (ii) prepared food; or

1555 (iii) alcoholic beverages;

1556 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
1557 or a product transferred electronically by a person:

1558 (i) regardless of the number of transactions involving the sale of that tangible personal
1559 property or product transferred electronically by that person; and

1560 (ii) not regularly engaged in the business of selling that type of tangible personal
1561 property or product transferred electronically;

1562 (b) this Subsection (13) does not apply if:

1563 (i) the sale is one of a series of sales of a character to indicate that the person is
1564 regularly engaged in the business of selling that type of tangible personal property or product
1565 transferred electronically;

1566 (ii) the person holds that person out as regularly engaged in the business of selling that
1567 type of tangible personal property or product transferred electronically;

1568 (iii) the person sells an item of tangible personal property or product transferred
1569 electronically that the person purchased as a sale that is exempt under Subsection (25); or

1570 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
1571 this state in which case the tax is based upon:

1572 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
1573 sold; or

1574 (B) in the absence of a bill of sale or other written evidence of value, the fair market
1575 value of the vehicle or vessel being sold at the time of the sale as determined by the
1576 commission; and

1577 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1578 commission shall make rules establishing the circumstances under which:

1579 (i) a person is regularly engaged in the business of selling a type of tangible personal
1580 property or product transferred electronically;

1581 (ii) a sale of tangible personal property or a product transferred electronically is one of
1582 a series of sales of a character to indicate that a person is regularly engaged in the business of
1583 selling that type of tangible personal property or product transferred electronically; or

1584 (iii) a person holds that person out as regularly engaged in the business of selling a type
1585 of tangible personal property or product transferred electronically;

1586 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
1587 July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration
1588 facility, of the following:

1589 (i) machinery and equipment that:

1590 (A) are used:

1591 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
1592 recycler described in Subsection 59-12-102(54)(b):

1593 (Aa) in the manufacturing process;

1594 (Bb) to manufacture an item sold as tangible personal property; and

1595 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
1596 (14)(a)(i)(A)(I) in the state; or

1597 (II) for a manufacturing facility that is a scrap recycler described in Subsection
1598 59-12-102(54)(b):

1599 (Aa) to process an item sold as tangible personal property; and

1600 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
1601 (14)(a)(i)(A)(II) in the state; and

1602 (B) have an economic life of three or more years; and

1603 (ii) normal operating repair or replacement parts that:

1604 (A) have an economic life of three or more years; and

1605 (B) are used:

1606 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
1607 recycler described in Subsection 59-12-102(54)(b):

1608 (Aa) in the manufacturing process; and

1609 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
1610 state; or

1611 (II) for a manufacturing facility that is a scrap recycler described in Subsection
1612 59-12-102(54)(b):

1613 (Aa) to process an item sold as tangible personal property; and

1614 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
1615 state;

1616 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
1617 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
1618 of the following:

1619 (i) machinery and equipment that:

1620 (A) are used:

1621 (I) in the manufacturing process;

1622 (II) to manufacture an item sold as tangible personal property; and

1623 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
1624 (14)(b) in the state; and

1625 (B) have an economic life of three or more years; and

1626 (ii) normal operating repair or replacement parts that:

1627 (A) are used:

1628 (I) in the manufacturing process; and

1629 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and

1630 (B) have an economic life of three or more years;

1631 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
1632 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
1633 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
1634 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
1635 of the 2002 North American Industry Classification System of the federal Executive Office of
1636 the President, Office of Management and Budget, of the following:

1637 (i) machinery and equipment that:

1638 (A) are used:

1639 (I) (Aa) in the production process, other than the production of real property; or

1640 (Bb) in research and development; and
1641 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)
1642 in the state; and
1643 (B) have an economic life of three or more years; and
1644 (ii) normal operating repair or replacement parts that:
1645 (A) have an economic life of three or more years; and
1646 (B) are used in:
1647 (I) (Aa) the production process, except for the production of real property; and
1648 (Bb) an establishment described in this Subsection (14)(c) in the state; or
1649 (II) (Aa) research and development; and
1650 (Bb) in an establishment described in this Subsection (14)(c) in the state;
1651 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,
1652 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web
1653 Search Portals, of the 2002 North American Industry Classification System of the federal
1654 Executive Office of the President, Office of Management and Budget, of the following:
1655 (A) machinery and equipment that:
1656 (I) are used in the operation of the web search portal;
1657 (II) have an economic life of three or more years; and
1658 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
1659 in the state; and
1660 (B) normal operating repair or replacement parts that:
1661 (I) are used in the operation of the web search portal;
1662 (II) have an economic life of three or more years; and
1663 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
1664 in the state; or
1665 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by
1666 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North
1667 American Industry Classification System of the federal Executive Office of the President,
1668 Office of Management and Budget, of the following:
1669 (A) machinery and equipment that:
1670 (I) are used in the operation of the web search portal; and

- 1671 (II) have an economic life of three or more years; and
1672 (B) normal operating repair or replacement parts that:
1673 (I) are used in the operation of the web search portal; and
1674 (II) have an economic life of three or more years;
1675 (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
1676 Utah Administrative Rulemaking Act, the commission:
1677 (i) shall by rule define the term "establishment"; and
1678 (ii) may by rule define what constitutes:
1679 (A) processing an item sold as tangible personal property;
1680 (B) the production process, except for the production of real property;
1681 (C) research and development; or
1682 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and
1683 (f) on or before October 1, 2011, and every five years after October 1, 2011, the
1684 commission shall:
1685 (i) review the exemptions described in this Subsection (14) and make
1686 recommendations to the Revenue and Taxation Interim Committee concerning whether the
1687 exemptions should be continued, modified, or repealed; and
1688 (ii) include in its report:
1689 (A) an estimate of the cost of the exemptions;
1690 (B) the purpose and effectiveness of the exemptions; and
1691 (C) the benefits of the exemptions to the state;
1692 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
1693 (i) tooling;
1694 (ii) special tooling;
1695 (iii) support equipment;
1696 (iv) special test equipment; or
1697 (v) parts used in the repairs or renovations of tooling or equipment described in
1698 Subsections (15)(a)(i) through (iv); and
1699 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
1700 (i) the tooling, equipment, or parts are used or consumed exclusively in the
1701 performance of any aerospace or electronics industry contract with the United States

1702 government or any subcontract under that contract; and
1703 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
1704 title to the tooling, equipment, or parts is vested in the United States government as evidenced
1705 by:
1706 (A) a government identification tag placed on the tooling, equipment, or parts; or
1707 (B) listing on a government-approved property record if placing a government
1708 identification tag on the tooling, equipment, or parts is impractical;
1709 (16) sales of newspapers or newspaper subscriptions;
1710 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
1711 product transferred electronically traded in as full or part payment of the purchase price, except
1712 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
1713 trade-ins are limited to other vehicles only, and the tax is based upon:
1714 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
1715 vehicle being traded in; or
1716 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
1717 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
1718 commission; and
1719 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
1720 following items of tangible personal property or products transferred electronically traded in as
1721 full or part payment of the purchase price:
1722 (i) money;
1723 (ii) electricity;
1724 (iii) water;
1725 (iv) gas; or
1726 (v) steam;
1727 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
1728 or a product transferred electronically used or consumed primarily and directly in farming
1729 operations, regardless of whether the tangible personal property or product transferred
1730 electronically:
1731 (A) becomes part of real estate; or
1732 (B) is installed by a:

- 1733 (I) farmer;
- 1734 (II) contractor; or
- 1735 (III) subcontractor; or
- 1736 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
- 1737 product transferred electronically if the tangible personal property or product transferred
- 1738 electronically is exempt under Subsection (18)(a)(i); and
- 1739 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are
- 1740 subject to the taxes imposed by this chapter:
- 1741 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
- 1742 incidental to farming:
- 1743 (I) machinery;
- 1744 (II) equipment;
- 1745 (III) materials; or
- 1746 (IV) supplies; and
- 1747 (B) tangible personal property that is considered to be used in a manner that is
- 1748 incidental to farming includes:
- 1749 (I) hand tools; or
- 1750 (II) maintenance and janitorial equipment and supplies;
- 1751 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
- 1752 transferred electronically if the tangible personal property or product transferred electronically
- 1753 is used in an activity other than farming; and
- 1754 (B) tangible personal property or a product transferred electronically that is considered
- 1755 to be used in an activity other than farming includes:
- 1756 (I) office equipment and supplies; or
- 1757 (II) equipment and supplies used in:
- 1758 (Aa) the sale or distribution of farm products;
- 1759 (Bb) research; or
- 1760 (Cc) transportation; or
- 1761 (iii) a vehicle required to be registered by the laws of this state during the period
- 1762 ending two years after the date of the vehicle's purchase;
- 1763 (19) sales of hay;

1764 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
1765 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
1766 garden, farm, or other agricultural produce is sold by:

1767 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
1768 agricultural produce;

1769 (b) an employee of the producer described in Subsection (20)(a); or
1770 (c) a member of the immediate family of the producer described in Subsection (20)(a);

1771 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
1772 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

1773 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
1774 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
1775 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
1776 manufacturer, processor, wholesaler, or retailer;

1777 (23) a product stored in the state for resale;

1778 (24) (a) purchases of a product if:

1779 (i) the product is:

1780 (A) purchased outside of this state;

1781 (B) brought into this state:

1782 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
1783 (II) by a nonresident person who is not living or working in this state at the time of the
1784 purchase;

1785 (C) used for the personal use or enjoyment of the nonresident person described in
1786 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

1787 (D) not used in conducting business in this state; and

1788 (ii) for:

1789 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
1790 the product for a purpose for which the product is designed occurs outside of this state;

1791 (B) a boat, the boat is registered outside of this state; or

1792 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
1793 outside of this state;

1794 (b) the exemption provided for in Subsection (24)(a) does not apply to:

- 1795 (i) a lease or rental of a product; or
1796 (ii) a sale of a vehicle exempt under Subsection (33); and
1797 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
1798 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
1799 following:
- 1800 (i) conducting business in this state if that phrase has the same meaning in this
1801 Subsection (24) as in Subsection (63);
1802 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
1803 as in Subsection (63); or
1804 (iii) a purpose for which a product is designed if that phrase has the same meaning in
1805 this Subsection (24) as in Subsection (63);
1806 (25) a product purchased for resale in this state, in the regular course of business, either
1807 in its original form or as an ingredient or component part of a manufactured or compounded
1808 product;
1809 (26) a product upon which a sales or use tax was paid to some other state, or one of its
1810 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
1811 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
1812 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
1813 Act;
1814 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
1815 person for use in compounding a service taxable under the subsections;
1816 (28) purchases made in accordance with the special supplemental nutrition program for
1817 women, infants, and children established in 42 U.S.C. Sec. 1786;
1818 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
1819 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
1820 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
1821 Manual of the federal Executive Office of the President, Office of Management and Budget;
1822 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
1823 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
1824 (a) not registered in this state; and
1825 (b) (i) not used in this state; or

- 1826 (ii) used in this state:
- 1827 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
- 1828 time period that does not exceed the longer of:
- 1829 (I) 30 days in any calendar year; or
- 1830 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 1831 the borders of this state; or
- 1832 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
- 1833 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
- 1834 state;
- 1835 (31) sales of aircraft manufactured in Utah;
- 1836 (32) amounts paid for the purchase of telecommunications service for purposes of
- 1837 providing telecommunications service;
- 1838 (33) sales, leases, or uses of the following:
- 1839 (a) a vehicle by an authorized carrier; or
- 1840 (b) tangible personal property that is installed on a vehicle:
- 1841 (i) sold or leased to or used by an authorized carrier; and
- 1842 (ii) before the vehicle is placed in service for the first time;
- 1843 (34) (a) 45% of the sales price of any new manufactured home; and
- 1844 (b) 100% of the sales price of any used manufactured home;
- 1845 (35) sales relating to schools and fundraising sales;
- 1846 (36) sales or rentals of durable medical equipment if:
- 1847 (a) a person presents a prescription for the durable medical equipment; and
- 1848 (b) the durable medical equipment is used for home use only;
- 1849 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 1850 Section 72-11-102; and
- 1851 (b) the commission shall by rule determine the method for calculating sales exempt
- 1852 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 1853 (38) sales to a ski resort of:
- 1854 (a) snowmaking equipment;
- 1855 (b) ski slope grooming equipment;
- 1856 (c) passenger ropeways as defined in Section 72-11-102; or

- 1857 (d) parts used in the repairs or renovations of equipment or passenger ropeways
1858 described in Subsections (38)(a) through (c);
- 1859 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 1860 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
1861 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
1862 59-12-102;
- 1863 (b) if a seller that sells or rents at the same business location the right to use or operate
1864 for amusement, entertainment, or recreation one or more unassisted amusement devices and
1865 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
1866 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
1867 amusement, entertainment, or recreation for the assisted amusement devices; and
- 1868 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
1869 Utah Administrative Rulemaking Act, the commission may make rules:
- 1870 (i) governing the circumstances under which sales are at the same business location;
1871 and
- 1872 (ii) establishing the procedures and requirements for a seller to separately account for
1873 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
1874 assisted amusement devices;
- 1875 (41) (a) sales of photocopies by:
- 1876 (i) a governmental entity; or
- 1877 (ii) an entity within the state system of public education, including:
- 1878 (A) a school; or
- 1879 (B) the State Board of Education; or
- 1880 (b) sales of publications by a governmental entity;
- 1881 (42) amounts paid for admission to an athletic event at an institution of higher
1882 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
1883 20 U.S.C. Sec. 1681 et seq.;
- 1884 (43) (a) sales made to or by:
- 1885 (i) an area agency on aging; or
- 1886 (ii) a senior citizen center owned by a county, city, or town; or
- 1887 (b) sales made by a senior citizen center that contracts with an area agency on aging;

1888 (44) sales or leases of semiconductor fabricating, processing, research, or development
1889 materials regardless of whether the semiconductor fabricating, processing, research, or
1890 development materials:

1891 (a) actually come into contact with a semiconductor; or

1892 (b) ultimately become incorporated into real property;

1893 (45) an amount paid by or charged to a purchaser for accommodations and services
1894 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
1895 59-12-104.2;

1896 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
1897 sports event registration certificate in accordance with Section 41-3-306 for the event period
1898 specified on the temporary sports event registration certificate;

1899 (47) sales or uses of electricity, if the sales or uses are:

1900 (a) made under a tariff adopted by the Public Service Commission of Utah only for
1901 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
1902 source, as designated in the tariff by the Public Service Commission of Utah; and

1903 (b) for an amount of electricity that is:

1904 (i) unrelated to the amount of electricity used by the person purchasing the electricity
1905 under the tariff described in Subsection (47)(a); and

1906 (ii) equivalent to the number of kilowatthours specified in the tariff described in
1907 Subsection (47)(a) that may be purchased under the tariff described in Subsection (47)(a);

1908 (48) sales or rentals of mobility enhancing equipment if a person presents a
1909 prescription for the mobility enhancing equipment;

1910 (49) sales of water in a:

1911 (a) pipe;

1912 (b) conduit;

1913 (c) ditch; or

1914 (d) reservoir;

1915 (50) sales of currency or coinage that constitute legal tender of the United States or of a
1916 foreign nation;

1917 (51) (a) sales of an item described in Subsection (51)(b) if the item:

1918 (i) does not constitute legal tender of any nation; and

- 1919 (ii) has a gold, silver, or platinum content of 80% or more; and
- 1920 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 1921 (i) ingot;
- 1922 (ii) bar;
- 1923 (iii) medallion; or
- 1924 (iv) decorative coin;
- 1925 (52) amounts paid on a sale-leaseback transaction;
- 1926 (53) sales of a prosthetic device:
- 1927 (a) for use on or in a human; and
- 1928 (b) (i) for which a prescription is required; or
- 1929 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 1930 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 1931 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 1932 or equipment is primarily used in the production or postproduction of the following media for
- 1933 commercial distribution:
- 1934 (i) a motion picture;
- 1935 (ii) a television program;
- 1936 (iii) a movie made for television;
- 1937 (iv) a music video;
- 1938 (v) a commercial;
- 1939 (vi) a documentary; or
- 1940 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
- 1941 commission by administrative rule made in accordance with Subsection (54)(d); or
- 1942 (b) notwithstanding Subsection (54)(a), purchases, leases, or rentals of machinery or
- 1943 equipment by an establishment described in Subsection (54)(c) that is used for the production
- 1944 or postproduction of the following are subject to the taxes imposed by this chapter:
- 1945 (i) a live musical performance;
- 1946 (ii) a live news program; or
- 1947 (iii) a live sporting event;
- 1948 (c) the following establishments listed in the 1997 North American Industry
- 1949 Classification System of the federal Executive Office of the President, Office of Management

1950 and Budget, apply to Subsections (54)(a) and (b):
1951 (i) NAICS Code 512110; or
1952 (ii) NAICS Code 51219; and
1953 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1954 commission may by rule:
1955 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
1956 or
1957 (ii) define:
1958 (A) "commercial distribution";
1959 (B) "live musical performance";
1960 (C) "live news program"; or
1961 (D) "live sporting event";
1962 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
1963 on or before June 30, 2019, of machinery or equipment that:
1964 (i) is leased or purchased for or by a facility that:
1965 (A) is a renewable energy production facility;
1966 (B) is located in the state; and
1967 (C) (I) becomes operational on or after July 1, 2004; or
1968 (II) has its generation capacity increased by one or more megawatts on or after July 1,
1969 2004, as a result of the use of the machinery or equipment;
1970 (ii) has an economic life of five or more years; and
1971 (iii) is used to make the facility or the increase in capacity of the facility described in
1972 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
1973 transmission grid including:
1974 (A) a wind turbine;
1975 (B) generating equipment;
1976 (C) a control and monitoring system;
1977 (D) a power line;
1978 (E) substation equipment;
1979 (F) lighting;
1980 (G) fencing;

- 1981 (H) pipes; or
- 1982 (I) other equipment used for locating a power line or pole; and
- 1983 (b) this Subsection (55) does not apply to:
- 1984 (i) machinery or equipment used in construction of:
- 1985 (A) a new renewable energy production facility; or
- 1986 (B) the increase in the capacity of a renewable energy production facility;
- 1987 (ii) contracted services required for construction and routine maintenance activities;
- 1988 and
- 1989 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
- 1990 of the facility described in Subsection (55)(a)(i)(C)(II), machinery or equipment used or
- 1991 acquired after:
- 1992 (A) the renewable energy production facility described in Subsection (55)(a)(i) is
- 1993 operational as described in Subsection (55)(a)(iii); or
- 1994 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
- 1995 in Subsection (55)(a)(iii);
- 1996 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 1997 on or before June 30, 2019, of machinery or equipment that:
- 1998 (i) is leased or purchased for or by a facility that:
- 1999 (A) is a waste energy production facility;
- 2000 (B) is located in the state; and
- 2001 (C) (I) becomes operational on or after July 1, 2004; or
- 2002 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 2003 2004, as a result of the use of the machinery or equipment;
- 2004 (ii) has an economic life of five or more years; and
- 2005 (iii) is used to make the facility or the increase in capacity of the facility described in
- 2006 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
- 2007 transmission grid including:
- 2008 (A) generating equipment;
- 2009 (B) a control and monitoring system;
- 2010 (C) a power line;
- 2011 (D) substation equipment;

- 2012 (E) lighting;
- 2013 (F) fencing;
- 2014 (G) pipes; or
- 2015 (H) other equipment used for locating a power line or pole; and
- 2016 (b) this Subsection (56) does not apply to:
- 2017 (i) machinery or equipment used in construction of:
- 2018 (A) a new waste energy facility; or
- 2019 (B) the increase in the capacity of a waste energy facility;
- 2020 (ii) contracted services required for construction and routine maintenance activities;
- 2021 and
- 2022 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
- 2023 described in Subsection (56)(a)(i)(C)(II), machinery or equipment used or acquired after:
- 2024 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
- 2025 described in Subsection (56)(a)(iii); or
- 2026 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
- 2027 in Subsection (56)(a)(iii);
- 2028 (57) (a) leases of five or more years or purchases made on or after July 1, 2004₂ but on
- 2029 or before June 30, 2019, of machinery or equipment that:
- 2030 (i) is leased or purchased for or by a facility that:
- 2031 (A) is located in the state;
- 2032 (B) produces fuel from biomass energy including:
- 2033 (I) methanol; or
- 2034 (II) ethanol; and
- 2035 (C) (I) becomes operational on or after July 1, 2004; or
- 2036 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004₂ as
- 2037 a result of the installation of the machinery or equipment;
- 2038 (ii) has an economic life of five or more years; and
- 2039 (iii) is installed on the facility described in Subsection (57)(a)(i);
- 2040 (b) this Subsection (57) does not apply to:
- 2041 (i) machinery or equipment used in construction of:
- 2042 (A) a new facility described in Subsection (57)(a)(i); or

2043 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
2044 (ii) contracted services required for construction and routine maintenance activities;
2045 and
2046 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
2047 described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or acquired after:
2048 (A) the facility described in Subsection (57)(a)(i) is operational; or
2049 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
2050 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
2051 product transferred electronically to a person within this state if that tangible personal property
2052 or product transferred electronically is subsequently shipped outside the state and incorporated
2053 pursuant to contract into and becomes a part of real property located outside of this state;
2054 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
2055 state or political entity to which the tangible personal property is shipped imposes a sales, use,
2056 gross receipts, or other similar transaction excise tax on the transaction against which the other
2057 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
2058 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
2059 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
2060 refund:
2061 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
2062 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
2063 which the sale is made;
2064 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
2065 sale prior to filing for the refund;
2066 (iv) for sales and use taxes paid under this chapter on the sale;
2067 (v) in accordance with Section 59-1-1410; and
2068 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
2069 the person files for the refund on or before June 30, 2011;
2070 (59) purchases:
2071 (a) of one or more of the following items in printed or electronic format:
2072 (i) a list containing information that includes one or more:
2073 (A) names; or

2074 (B) addresses; or
2075 (ii) a database containing information that includes one or more:
2076 (A) names; or
2077 (B) addresses; and
2078 (b) used to send direct mail;
2079 (60) redemptions or repurchases of a product by a person if that product was:
2080 (a) delivered to a pawnbroker as part of a pawn transaction; and
2081 (b) redeemed or repurchased within the time period established in a written agreement
2082 between the person and the pawnbroker for redeeming or repurchasing the product;
2083 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
2084 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
2085 and
2086 (ii) has a useful economic life of one or more years; and
2087 (b) the following apply to Subsection (61)(a):
2088 (i) telecommunications enabling or facilitating equipment, machinery, or software;
2089 (ii) telecommunications equipment, machinery, or software required for 911 service;
2090 (iii) telecommunications maintenance or repair equipment, machinery, or software;
2091 (iv) telecommunications switching or routing equipment, machinery, or software; or
2092 (v) telecommunications transmission equipment, machinery, or software;
2093 (62) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of tangible
2094 personal property or a product transferred electronically that are used in the research and
2095 development of coal-to-liquids, oil shale, or tar sands technology; and
2096 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2097 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
2098 purchases of tangible personal property or a product transferred electronically that are used in
2099 the research and development of coal-to-liquids, oil shale, and tar sands technology;
2100 (63) (a) purchases of tangible personal property or a product transferred electronically
2101 if:
2102 (i) the tangible personal property or product transferred electronically is:
2103 (A) purchased outside of this state;
2104 (B) brought into this state at any time after the purchase described in Subsection

2105 (63)(a)(i)(A); and
2106 (C) used in conducting business in this state; and
2107 (ii) for:
2108 (A) tangible personal property or a product transferred electronically other than the
2109 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
2110 for a purpose for which the property is designed occurs outside of this state; or
2111 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
2112 outside of this state;
2113 (b) the exemption provided for in Subsection (63)(a) does not apply to:
2114 (i) a lease or rental of tangible personal property or a product transferred electronically;
2115 or
2116 (ii) a sale of a vehicle exempt under Subsection (33); and
2117 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2118 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
2119 following:
2120 (i) conducting business in this state if that phrase has the same meaning in this
2121 Subsection (63) as in Subsection (24);
2122 (ii) the first use of tangible personal property or a product transferred electronically if
2123 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
2124 (iii) a purpose for which tangible personal property or a product transferred
2125 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
2126 Subsection (24);
2127 (64) sales of disposable home medical equipment or supplies if:
2128 (a) a person presents a prescription for the disposable home medical equipment or
2129 supplies;
2130 (b) the disposable home medical equipment or supplies are used exclusively by the
2131 person to whom the prescription described in Subsection (64)(a) is issued; and
2132 (c) the disposable home medical equipment and supplies are listed as eligible for
2133 payment under:
2134 (i) Title XVIII, federal Social Security Act; or
2135 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

- 2136 (65) sales:
- 2137 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
- 2138 District Act; or
- 2139 (b) of tangible personal property to a subcontractor of a public transit district, if the
- 2140 tangible personal property is:
 - 2141 (i) clearly identified; and
 - 2142 (ii) installed or converted to real property owned by the public transit district;
- 2143 (66) sales of construction materials:
 - 2144 (a) purchased on or after July 1, 2010;
 - 2145 (b) purchased by, on behalf of, or for the benefit of an international airport:
 - 2146 (i) located within a county of the first class; and
 - 2147 (ii) that has a United States customs office on its premises; and
 - 2148 (c) if the construction materials are:
 - 2149 (i) clearly identified;
 - 2150 (ii) segregated; and
 - 2151 (iii) installed or converted to real property:
 - 2152 (A) owned or operated by the international airport described in Subsection (66)(b); and
 - 2153 (B) located at the international airport described in Subsection (66)(b);
- 2154 (67) sales of construction materials:
 - 2155 (a) purchased on or after July 1, 2008;
 - 2156 (b) purchased by, on behalf of, or for the benefit of a new airport:
 - 2157 (i) located within a county of the second class; and
 - 2158 (ii) that is owned or operated by a city in which an airline as defined in Section
 - 2159 59-2-102 is headquartered; and
 - 2160 (c) if the construction materials are:
 - 2161 (i) clearly identified;
 - 2162 (ii) segregated; and
 - 2163 (iii) installed or converted to real property:
 - 2164 (A) owned or operated by the new airport described in Subsection (67)(b);
 - 2165 (B) located at the new airport described in Subsection (67)(b); and
 - 2166 (C) as part of the construction of the new airport described in Subsection (67)(b);

2167 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
2168 (69) purchases and sales described in Section 9-3-511; [~~and~~]
2169 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
2170 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
2171 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
2172 lists a state or country other than this state as the location of registry of the fixed wing turbine
2173 powered aircraft; or
2174 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
2175 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
2176 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
2177 lists a state or country other than this state as the location of registry of the fixed wing turbine
2178 powered aircraft[~~;~~]; and
2179 (71) purchases of:
2180 (a) an energy efficient stove; or
2181 (b) energy efficient stove fuel for use as fuel for an energy efficient stove.
2182 Section 3. **Effective date.**
2183 This bill takes effect on July 1, 2011.

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Office of Legislative Research and General Counsel