

1 **SALES AND USE TAX - COMPUTER SOFTWARE AND**
2 **OTHER TANGIBLE PERSONAL PROPERTY AMENDMENTS**

3 2012 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Wayne A. Harper**

6 Senate Sponsor: Curtis S. Bramble

7
8 **LONG TITLE**

9 **Committee Note:**

10 The Revenue and Taxation Interim Committee recommended this bill.

11 **General Description:**

12 This bill amends provisions in the Sales and Use Tax Act related to computer software
13 and other tangible personal property.

14 **Highlighted Provisions:**

15 This bill:

- 16 ▶ defines terms;
- 17 ▶ addresses the detachment of certain tangible personal property, including prewritten
18 computer software, from other tangible personal property;
- 19 ▶ addresses the sales and use taxation of certain optional computer software
20 maintenance contracts; and
- 21 ▶ makes technical and conforming changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 This bill takes effect on July 1, 2012.

26 **Utah Code Sections Affected:**

27 AMENDS:



28 **59-12-102**, as last amended by Laws of Utah 2011, Chapters 14, 285, and 314
29 **59-12-103**, as last amended by Laws of Utah 2011, Chapters 285, 303, 342, and 441
30 **59-12-104**, as last amended by Laws of Utah 2011, Chapters 288, 314, 370, and 391



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

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

34 **59-12-102. Definitions.**

35 As used in this chapter:

- 36 (1) "800 service" means a telecommunications service that:
37 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
38 (b) is typically marketed:
39 (i) under the name 800 toll-free calling;
40 (ii) under the name 855 toll-free calling;
41 (iii) under the name 866 toll-free calling;
42 (iv) under the name 877 toll-free calling;
43 (v) under the name 888 toll-free calling; or
44 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
45 Federal Communications Commission.

- 46 (2) (a) "900 service" means an inbound toll telecommunications service that:
47 (i) a subscriber purchases;
48 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
49 the subscriber's:

- 50 (A) prerecorded announcement; or
51 (B) live service; and
52 (iii) is typically marketed:
53 (A) under the name 900 service; or
54 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
55 Communications Commission.

- 56 (b) "900 service" does not include a charge for:
57 (i) a collection service a seller of a telecommunications service provides to a
58 subscriber; or

- 59 (ii) the following a subscriber sells to the subscriber's customer:
- 60 (A) a product; or
- 61 (B) a service.
- 62 (3) (a) "Admission or user fees" includes season passes.
- 63 (b) "Admission or user fees" does not include annual membership dues to private
- 64 organizations.
- 65 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 66 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 67 Agreement after November 12, 2002.
- 68 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 69 (a) listed under Subsection (6); and
- 70 (b) that are imposed within a local taxing jurisdiction.
- 71 (6) "Agreement sales and use tax" means a tax imposed under:
- 72 (a) Subsection 59-12-103(2)(a)(i)(A);
- 73 (b) Subsection 59-12-103(2)(b)(i);
- 74 (c) Subsection 59-12-103(2)(c)(i);
- 75 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 76 (e) Section 59-12-204;
- 77 (f) Section 59-12-401;
- 78 (g) Section 59-12-402;
- 79 (h) Section 59-12-703;
- 80 (i) Section 59-12-802;
- 81 (j) Section 59-12-804;
- 82 (k) Section 59-12-1102;
- 83 (l) Section 59-12-1302;
- 84 (m) Section 59-12-1402;
- 85 (n) Section 59-12-1802;
- 86 (o) Section 59-12-2003;
- 87 (p) Section 59-12-2103;
- 88 (q) Section 59-12-2213;
- 89 (r) Section 59-12-2214;

- 90 (s) Section 59-12-2215;
- 91 (t) Section 59-12-2216;
- 92 (u) Section 59-12-2217; or
- 93 (v) Section 59-12-2218.
- 94 (7) "Aircraft" is as defined in Section 72-10-102.
- 95 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 96 (a) except for an airline as defined in Section 59-2-102 or an affiliated group as defined
- 97 in Subsection 59-12-107(1)(f) of an airline; and
- 98 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 99 whether the business entity performs the following in this state:
- 100 (i) check, diagnose, overhaul, and repair:
- 101 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 102 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 103 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 104 engine;
- 105 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 106 aircraft:
- 107 (A) an inspection;
- 108 (B) a repair, including a structural repair or modification;
- 109 (C) changing landing gear; and
- 110 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 111 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 112 completely apply new paint to the fixed wing turbine powered aircraft; and
- 113 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 114 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 115 authority that certifies the fixed wing turbine powered aircraft.
- 116 (9) "Alcoholic beverage" means a beverage that:
- 117 (a) is suitable for human consumption; and
- 118 (b) contains .5% or more alcohol by volume.
- 119 (10) (a) "Ancillary service" means a service associated with, or incidental to, the
- 120 provision of telecommunications service.

121 (b) "Ancillary service" includes:

122 (i) a conference bridging service;

123 (ii) a detailed communications billing service;

124 (iii) directory assistance;

125 (iv) a vertical service; or

126 (v) a voice mail service.

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

128 (12) "Assisted amusement device" means an amusement device, skill device, or ride

129 device that is started and stopped by an individual:

130 (a) who is not the purchaser or renter of the right to use or operate the amusement

131 device, skill device, or ride device; and

132 (b) at the direction of the seller of the right to use the amusement device, skill device,

133 or ride device.

134 (13) "Assisted cleaning or washing of tangible personal property" means cleaning or

135 washing of tangible personal property if the cleaning or washing labor is primarily performed

136 by an individual:

137 (a) who is not the purchaser of the cleaning or washing of the tangible personal

138 property; and

139 (b) at the direction of the seller of the cleaning or washing of the tangible personal

140 property.

141 (14) "Authorized carrier" means:

142 (a) in the case of vehicles operated over public highways, the holder of credentials

143 indicating that the vehicle is or will be operated pursuant to both the International Registration

144 Plan and the International Fuel Tax Agreement;

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

146 certificate or air carrier's operating certificate; or

147 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling

148 stock, the holder of a certificate issued by the United States Surface Transportation Board.

149 (15) (a) Except as provided in Subsection (15)(b), "biomass energy" means any of the

150 following that is used as the primary source of energy to produce fuel or electricity:

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

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

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

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

185 (vi) a transaction that includes tangible personal property or a product subject to
186 taxation under this chapter and tangible personal property or a product that is not subject to
187 taxation under this chapter if the:

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

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

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

194 (A) that retail sale includes:

195 (I) food and food ingredients;

196 (II) a drug;

197 (III) durable medical equipment;

198 (IV) mobility enhancing equipment;

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

200 (VI) a prosthetic device; or

201 (VII) a medical supply; and

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

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

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

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

209 (A) packaging that:

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

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

213 (B) tangible personal property, a product, or a service provided free of charge with the

214 purchase of another item of tangible personal property, a product, or a service; or

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

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

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

226 (A) a binding sales document; or

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

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

230 (A) a bill of sale;

231 (B) a contract;

232 (C) an invoice;

233 (D) a lease agreement;

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

235 (F) a price list;

236 (G) a rate card;

237 (H) a receipt; or

238 (I) a service agreement.

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

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

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

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

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

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

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

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

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

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

262 (i) on a transaction; and

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

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

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

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

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

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

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

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

276 (i) listing the items that constitute "clothing"; and
277 (ii) that are consistent with the list of items that constitute "clothing" under the
278 agreement.

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

280 (21) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
281 fuels that does not constitute industrial use under Subsection [~~48~~] (49) or residential use
282 under Subsection [~~96~~] (98).

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

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

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

291 (23) "Component part" includes:

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

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

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

297 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

305 (26) "Computer software maintenance contract" means a contract that obligates a seller
306 of computer software to provide a customer with:

307 (a) future updates or upgrades to computer software;

308 (b) support services with respect to computer software; or

309 (c) a combination of Subsections (26)(a) and (b).

310 [~~(26)~~] (27) (a) "Conference bridging service" means an ancillary service that links two
311 or more participants of an audio conference call or video conference call.

312 (b) "Conference bridging service" may include providing a telephone number as part of
313 the ancillary service described in Subsection [~~(26)~~] (27)(a).

314 (c) "Conference bridging service" does not include a telecommunications service used
315 to reach the ancillary service described in Subsection [~~(26)~~] (27)(a).

316 [~~(27)~~] (28) "Construction materials" means any tangible personal property that will be
317 converted into real property.

318 [~~(28)~~] (29) "Delivered electronically" means delivered to a purchaser by means other
319 than tangible storage media.

320 [~~(29)~~] (30) (a) "Delivery charge" means a charge:

321 (i) by a seller of:

322 (A) tangible personal property;

323 (B) a product transferred electronically; or

324 (C) services; and

325 (ii) for preparation and delivery of the tangible personal property, product transferred
326 electronically, or services described in Subsection [~~(29)~~] (30)(a)(i) to a location designated by
327 the purchaser.

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

329 (i) transportation;

330 (ii) shipping;

331 (iii) postage;

332 (iv) handling;

333 (v) crating; or

334 (vi) packing.

335 [~~(30)~~] (31) "Detailed telecommunications billing service" means an ancillary service of
336 separately stating information pertaining to individual calls on a customer's billing statement.

337 [~~(31)~~] (32) "Dietary supplement" means a product, other than tobacco, that:

- 338 (a) is intended to supplement the diet;
- 339 (b) contains one or more of the following dietary ingredients:
 - 340 (i) a vitamin;
 - 341 (ii) a mineral;
 - 342 (iii) an herb or other botanical;
 - 343 (iv) an amino acid;
 - 344 (v) a dietary substance for use by humans to supplement the diet by increasing the total
 - 345 dietary intake; or
 - 346 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
 - 347 described in Subsections [~~(31)~~] (32)(b)(i) through (v);
 - 348 (c) (i) except as provided in Subsection [~~(31)~~] (32)(c)(ii), is intended for ingestion in:
 - 349 (A) tablet form;
 - 350 (B) capsule form;
 - 351 (C) powder form;
 - 352 (D) softgel form;
 - 353 (E) gelcap form; or
 - 354 (F) liquid form; or
 - 355 (ii) notwithstanding Subsection [~~(31)~~] (32)(c)(i), if the product is not intended for
 - 356 ingestion in a form described in Subsections [~~(31)~~] (32)(c)(i)(A) through (F), is not
 - 357 represented:
 - 358 (A) as conventional food; and
 - 359 (B) for use as a sole item of:
 - 360 (I) a meal; or
 - 361 (II) the diet; and
 - 362 (d) is required to be labeled as a dietary supplement:
 - 363 (i) identifiable by the "Supplemental Facts" box found on the label; and
 - 364 (ii) as required by 21 C.F.R. Sec. 101.36.
 - 365 [~~(32)~~] (33) (a) "Direct mail" means printed material delivered or distributed by United
 - 366 States mail or other delivery service:
 - 367 (i) to:
 - 368 (A) a mass audience; or

- 369 (B) addressees on a mailing list provided:
- 370 (I) by a purchaser of the mailing list; or
- 371 (II) at the discretion of the purchaser of the mailing list; and
- 372 (ii) if the cost of the printed material is not billed directly to the recipients.
- 373 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 374 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 375 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 376 single address.
- 377 [~~(33)~~] (34) "Directory assistance" means an ancillary service of providing:
- 378 (a) address information; or
- 379 (b) telephone number information.
- 380 [~~(34)~~] (35) (a) "Disposable home medical equipment or supplies" means medical
- 381 equipment or supplies that:
- 382 (i) cannot withstand repeated use; and
- 383 (ii) are purchased by, for, or on behalf of a person other than:
- 384 (A) a health care facility as defined in Section 26-21-2;
- 385 (B) a health care provider as defined in Section 78B-3-403;
- 386 (C) an office of a health care provider described in Subsection [~~(34)~~] (35)(a)(ii)(B); or
- 387 (D) a person similar to a person described in Subsections [~~(34)~~] (35)(a)(ii)(A) through
- 388 (C).
- 389 (b) "Disposable home medical equipment or supplies" does not include:
- 390 (i) a drug;
- 391 (ii) durable medical equipment;
- 392 (iii) a hearing aid;
- 393 (iv) a hearing aid accessory;
- 394 (v) mobility enhancing equipment; or
- 395 (vi) tangible personal property used to correct impaired vision, including:
- 396 (A) eyeglasses; or
- 397 (B) contact lenses.
- 398 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 399 commission may by rule define what constitutes medical equipment or supplies.

400 [~~(35)~~] (36) (a) "Drug" means a compound, substance, or preparation, or a component of
401 a compound, substance, or preparation that is:

402 (i) recognized in:

403 (A) the official United States Pharmacopoeia;

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

405 (C) the official National Formulary; or

406 (D) a supplement to a publication listed in Subsections [~~(35)~~] (36)(a)(i)(A) through

407 (C);

408 (ii) intended for use in the:

409 (A) diagnosis of disease;

410 (B) cure of disease;

411 (C) mitigation of disease;

412 (D) treatment of disease; or

413 (E) prevention of disease; or

414 (iii) intended to affect:

415 (A) the structure of the body; or

416 (B) any function of the body.

417 (b) "Drug" does not include:

418 (i) food and food ingredients;

419 (ii) a dietary supplement;

420 (iii) an alcoholic beverage; or

421 (iv) a prosthetic device.

422 [~~(36)~~] (37) (a) Except as provided in Subsection [~~(36)~~] (37)(c), "durable medical
423 equipment" means equipment that:

424 (i) can withstand repeated use;

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

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

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

428 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
429 equipment described in Subsection [~~(36)~~] (37)(a).

430 (c) Notwithstanding Subsection [~~(36)~~] (37)(a), "durable medical equipment" does not

431 include mobility enhancing equipment.

432 [~~(37)~~] (38) "Electronic" means:

433 (a) relating to technology; and

434 (b) having:

435 (i) electrical capabilities;

436 (ii) digital capabilities;

437 (iii) magnetic capabilities;

438 (iv) wireless capabilities;

439 (v) optical capabilities;

440 (vi) electromagnetic capabilities; or

441 (vii) capabilities similar to Subsections [~~(37)~~] (38)(b)(i) through (vi).

442 [~~(38)~~] (39) "Employee" is as defined in Section 59-10-401.

443 [~~(39)~~] (40) "Fixed guideway" means a public transit facility that uses and occupies:

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

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

446 [~~(40)~~] (41) "Fixed wing turbine powered aircraft" means an aircraft that:

447 (a) is powered by turbine engines;

448 (b) operates on jet fuel; and

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

450 [~~(41)~~] (42) "Fixed wireless service" means a telecommunications service that provides

451 radio communication between fixed points.

452 [~~(42)~~] (43) (a) "Food and food ingredients" means substances:

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

454 (A) liquid form;

455 (B) concentrated form;

456 (C) solid form;

457 (D) frozen form;

458 (E) dried form; or

459 (F) dehydrated form; and

460 (ii) that are:

461 (A) sold for:

- 462 (I) ingestion by humans; or
- 463 (II) chewing by humans; and
- 464 (B) consumed for the substance's:
- 465 (I) taste; or
- 466 (II) nutritional value.
- 467 (b) "Food and food ingredients" includes an item described in Subsection [~~(79)~~
- 468 (81)(b)(iii).
- 469 (c) "Food and food ingredients" does not include:
- 470 (i) an alcoholic beverage;
- 471 (ii) tobacco; or
- 472 (iii) prepared food.
- 473 [~~(43)~~] (44) (a) "Fundraising sales" means sales:
- 474 (i) (A) made by a school; or
- 475 (B) made by a school student;
- 476 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 477 materials, or provide transportation; and
- 478 (iii) that are part of an officially sanctioned school activity.
- 479 (b) For purposes of Subsection [~~(43)~~] (44)(a)(iii), "officially sanctioned school activity"
- 480 means a school activity:
- 481 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 482 district governing the authorization and supervision of fundraising activities;
- 483 (ii) that does not directly or indirectly compensate an individual teacher or other
- 484 educational personnel by direct payment, commissions, or payment in kind; and
- 485 (iii) the net or gross revenues from which are deposited in a dedicated account
- 486 controlled by the school or school district.
- 487 [~~(44)~~] (45) "Geothermal energy" means energy contained in heat that continuously
- 488 flows outward from the earth that is used as the sole source of energy to produce electricity.
- 489 [~~(45)~~] (46) "Governing board of the agreement" means the governing board of the
- 490 agreement that is:
- 491 (a) authorized to administer the agreement; and
- 492 (b) established in accordance with the agreement.

493 [~~(46)~~] (47) (a) For purposes of Subsection 59-12-104(41), "governmental entity"
494 means:

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

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

499 (iii) the legislative branch of the state, including the House of Representatives, the
500 Senate, the Legislative Printing Office, the Office of Legislative Research and General
501 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
502 Analyst;

503 (iv) the National Guard;

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

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

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

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

509 (ii) a school;

510 (iii) the State Board of Education;

511 (iv) the State Board of Regents; or

512 (v) an institution of higher education.

513 [~~(47)~~] (48) "Hydroelectric energy" means water used as the sole source of energy to
514 produce electricity.

515 [~~(48)~~] (49) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
516 or other fuels:

517 (a) in mining or extraction of minerals;

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

520 (i) commercial greenhouses;

521 (ii) irrigation pumps;

522 (iii) farm machinery;

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

524 registered under Title 41, Chapter 1a, Part 2, Registration; and
525 (v) other farming activities;
526 (c) in manufacturing tangible personal property at an establishment described in SIC
527 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
528 Executive Office of the President, Office of Management and Budget;
529 (d) by a scrap recycler if:
530 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
531 one or more of the following items into prepared grades of processed materials for use in new
532 products:
533 (A) iron;
534 (B) steel;
535 (C) nonferrous metal;
536 (D) paper;
537 (E) glass;
538 (F) plastic;
539 (G) textile; or
540 (H) rubber; and
541 (ii) the new products under Subsection [~~(48)~~] (49)(d)(i) would otherwise be made with
542 nonrecycled materials; or
543 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
544 cogeneration facility as defined in Section 54-2-1.
545 [~~(49)~~] (50) (a) Except as provided in Subsection [~~(49)~~] (50)(b), "installation charge"
546 means a charge for installing:
547 (i) tangible personal property; or
548 (ii) a product transferred electronically.
549 (b) "Installation charge" does not include a charge for:
550 (i) repairs or renovations of:
551 (A) tangible personal property; or
552 (B) a product transferred electronically; or
553 (ii) attaching tangible personal property or a product transferred electronically:
554 (A) to other tangible personal property; and

555 (B) as part of a manufacturing or fabrication process.

556 [~~(50)~~] (51) "Institution of higher education" means an institution of higher education
557 listed in Section 53B-2-101.

558 [~~(51)~~] (52) (a) "Lease" or "rental" means a transfer of possession or control of tangible
559 personal property or a product transferred electronically for:

560 (i) (A) a fixed term; or
561 (B) an indeterminate term; and
562 (ii) consideration.

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

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

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

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

573 (A) upon completion of required payments; and
574 (B) if the payment of an option price does not exceed the greater of:

575 (I) \$100; or
576 (II) 1% of the total required payments; or
577 (iii) providing tangible personal property along with an operator for a fixed period of
578 time or an indeterminate period of time if the operator is necessary for equipment to perform as
579 designed.

580 (d) For purposes of Subsection [~~(51)~~] (52)(c)(iii), an operator is necessary for
581 equipment to perform as designed if the operator's duties exceed the:

582 (i) set-up of tangible personal property;
583 (ii) maintenance of tangible personal property; or
584 (iii) inspection of tangible personal property.

585 [~~(52)~~] (53) "Load and leave" means delivery to a purchaser by use of a tangible storage

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

587 [~~53~~] (54) "Local taxing jurisdiction" means a:

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

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

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

591 [~~54~~] (55) "Manufactured home" is as defined in Section 15A-1-302.

592 [~~55~~] (56) For purposes of Section 59-12-104, "manufacturing facility" means:

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

594 Industrial Classification Manual of the federal Executive Office of the President, Office of
595 Management and Budget;

596 (b) a scrap recycler if:

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

600 (A) iron;

601 (B) steel;

602 (C) nonferrous metal;

603 (D) paper;

604 (E) glass;

605 (F) plastic;

606 (G) textile; or

607 (H) rubber; and

608 (ii) the new products under Subsection [~~55~~] (56)(b)(i) would otherwise be made with
609 nonrecycled materials; or

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

611 [~~56~~] (57) "Member of the immediate family of the producer" means a person who is
612 related to a producer described in Subsection 59-12-104(20)(a) as a:

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

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

615 (ii) a foster child or foster stepchild;

616 (b) grandchild or stepgrandchild;

- 617 (c) grandparent or stepgrandparent;
- 618 (d) nephew or stepnephew;
- 619 (e) niece or stepniece;
- 620 (f) parent or stepparent;
- 621 (g) sibling or stepsibling;
- 622 (h) spouse;
- 623 (i) person who is the spouse of a person described in Subsections [~~(56)~~] (57)(a) through
- 624 (g); or
- 625 (j) person similar to a person described in Subsections [~~(56)~~] (57)(a) through (i) as
- 626 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 627 Administrative Rulemaking Act.
- 628 [~~(57)~~] (58) "Mobile home" is as defined in Section 15A-1-302.
- 629 [~~(58)~~] (59) "Mobile telecommunications service" is as defined in the Mobile
- 630 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 631 [~~(59)~~] (60) (a) "Mobile wireless service" means a telecommunications service,
- 632 regardless of the technology used, if:
- 633 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 634 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 635 (iii) the origination point described in Subsection [~~(59)~~] (60)(a)(i) and the termination
- 636 point described in Subsection [~~(59)~~] (60)(a)(ii) are not fixed.
- 637 (b) "Mobile wireless service" includes a telecommunications service that is provided
- 638 by a commercial mobile radio service provider.
- 639 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 640 commission may by rule define "commercial mobile radio service provider."
- 641 [~~(60)~~] (61) (a) Except as provided in Subsection [~~(60)~~] (61)(c), "mobility enhancing
- 642 equipment" means equipment that is:
- 643 (i) primarily and customarily used to provide or increase the ability to move from one
- 644 place to another;
- 645 (ii) appropriate for use in a:
- 646 (A) home; or
- 647 (B) motor vehicle; and

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

649 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
650 the equipment described in Subsection [~~(60)~~] (61)(a).

651 (c) Notwithstanding Subsection [~~(60)~~] (61)(a), "mobility enhancing equipment" does
652 not include:

653 (i) a motor vehicle;

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

656 (iii) durable medical equipment; or

657 (iv) a prosthetic device.

658 [~~(61)~~] (62) "Model 1 seller" means a seller registered under the agreement that has
659 selected a certified service provider as the seller's agent to perform all of the seller's sales and
660 use tax functions for agreement sales and use taxes other than the seller's obligation under
661 Section 59-12-124 to remit a tax on the seller's own purchases.

662 [~~(62)~~] (63) "Model 2 seller" means a seller registered under the agreement that:

663 (a) except as provided in Subsection [~~(62)~~] (63)(b), has selected a certified automated
664 system to perform the seller's sales tax functions for agreement sales and use taxes; and

665 (b) notwithstanding Subsection [~~(62)~~] (63)(a), retains responsibility for remitting all of
666 the sales tax:

667 (i) collected by the seller; and

668 (ii) to the appropriate local taxing jurisdiction.

669 [~~(63)~~] (64) (a) Subject to Subsection [~~(63)~~] (64)(b), "model 3 seller" means a seller
670 registered under the agreement that has:

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

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

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

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

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

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

677 (b) For purposes of Subsection [~~(63)~~] (64)(a), "model 3 seller" includes an affiliated
678 group of sellers using the same proprietary system.

679 [~~(64)~~] (65) "Model 4 seller" means a seller that is registered under the agreement and is
680 not a model 1 seller, model 2 seller, or model 3 seller.

681 [~~(65)~~] (66) "Modular home" means a modular unit as defined in Section 15A-1-302.

682 [~~(66)~~] (67) "Motor vehicle" is as defined in Section 41-1a-102.

683 [~~(67)~~] (68) "Oil shale" means a group of fine black to dark brown shales containing
684 bituminous material that yields petroleum upon distillation.

685 (69) "Optional computer software maintenance contract" means a computer software
686 maintenance contract that a customer is not obligated to purchase as a condition to the retail
687 sale of computer software.

688 [~~(68)~~] (70) (a) "Other fuels" means products that burn independently to produce heat or
689 energy.

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

692 [~~(69)~~] (71) (a) "Paging service" means a telecommunications service that provides
693 transmission of a coded radio signal for the purpose of activating a specific pager.

694 (b) For purposes of Subsection [~~(69)~~] (71)(a), the transmission of a coded radio signal
695 includes a transmission by message or sound.

696 [~~(70)~~] (72) "Pawnbroker" is as defined in Section 13-32a-102.

697 [~~(71)~~] (73) "Pawn transaction" is as defined in Section 13-32a-102.

698 [~~(72)~~] (74) (a) "Permanently attached to real property" means that for tangible personal
699 property attached to real property:

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

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

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

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

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

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

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

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

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

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

713 (ii) a temporary detachment of tangible personal property from real property for a

714 repair or renovation if the repair or renovation is performed where the tangible personal

715 property and real property are located; or

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

717 Subsection [~~(72)~~] (74)(c)(iii) or (iv).

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

719 (i) the attachment of portable or movable tangible personal property to real property if

720 that portable or movable tangible personal property is attached to real property only for:

721 (A) convenience;

722 (B) stability; or

723 (C) for an obvious temporary purpose;

724 (ii) the detachment of tangible personal property from real property except for the

725 detachment described in Subsection [~~(72)~~] (74)(b)(ii);

726 (iii) an attachment of the following tangible personal property to real property if the

727 attachment to real property is only through a line that supplies water, electricity, gas,

728 telecommunications, cable, or supplies a similar item as determined by the commission by rule

729 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

730 (A) a computer;

731 (B) a telephone;

732 (C) a television; or

733 (D) tangible personal property similar to Subsections [~~(72)~~] (74)(c)(iii)(A) through (C)

734 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

735 Administrative Rulemaking Act; or

736 (iv) an item listed in Subsection [~~(113)~~] (115)(c).

737 [~~(73)~~] (75) "Person" includes any individual, firm, partnership, joint venture,

738 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,

739 city, municipality, district, or other local governmental entity of the state, or any group or

740 combination acting as a unit.

741 [~~(74)~~] (76) "Place of primary use":

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

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

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

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

749 [~~(75)~~] (77) (a) "Postpaid calling service" means a telecommunications service a person
750 obtains by making a payment on a call-by-call basis:

751 (i) through the use of a:

752 (A) bank card;

753 (B) credit card;

754 (C) debit card; or

755 (D) travel card; or

756 (ii) by a charge made to a telephone number that is not associated with the origination
757 or termination of the telecommunications service.

758 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
759 service, that would be a prepaid wireless calling service if the service were exclusively a
760 telecommunications service.

761 [~~(76)~~] (78) "Postproduction" means an activity related to the finishing or duplication of
762 a medium described in Subsection 59-12-104(54)(a).

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

764 (a) that allows a purchaser access to telecommunications service that is exclusively
765 telecommunications service;

766 (b) that:

767 (i) is paid for in advance; and

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

769 (A) access number; or

770 (B) authorization code;

771 (c) that is dialed:

- 772 (i) manually; or
- 773 (ii) electronically; and
- 774 (d) sold in predetermined units or dollars that decline:
- 775 (i) by a known amount; and
- 776 (ii) with use.
- 777 [~~78~~] (80) "Prepaid wireless calling service" means a telecommunications service:
- 778 (a) that provides the right to utilize:
- 779 (i) mobile wireless service; and
- 780 (ii) other service that is not a telecommunications service, including:
- 781 (A) the download of a product transferred electronically;
- 782 (B) a content service; or
- 783 (C) an ancillary service;
- 784 (b) that:
- 785 (i) is paid for in advance; and
- 786 (ii) enables the origination of a call using an:
- 787 (A) access number; or
- 788 (B) authorization code;
- 789 (c) that is dialed:
- 790 (i) manually; or
- 791 (ii) electronically; and
- 792 (d) sold in predetermined units or dollars that decline:
- 793 (i) by a known amount; and
- 794 (ii) with use.
- 795 [~~79~~] (81) (a) "Prepared food" means:
- 796 (i) food:
- 797 (A) sold in a heated state; or
- 798 (B) heated by a seller;
- 799 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 800 item; or
- 801 (iii) except as provided in Subsection [~~79~~] (81)(c), food sold with an eating utensil
- 802 provided by the seller, including a:

- 803 (A) plate;
- 804 (B) knife;
- 805 (C) fork;
- 806 (D) spoon;
- 807 (E) glass;
- 808 (F) cup;
- 809 (G) napkin; or
- 810 (H) straw.
- 811 (b) "Prepared food" does not include:
- 812 (i) food that a seller only:
 - 813 (A) cuts;
 - 814 (B) repackages; or
 - 815 (C) pasteurizes; or
 - 816 (ii) (A) the following:
 - 817 (I) raw egg;
 - 818 (II) raw fish;
 - 819 (III) raw meat;
 - 820 (IV) raw poultry; or
 - 821 (V) a food containing an item described in Subsections [~~79~~] (81)(b)(ii)(A)(I) through
 - 822 (IV); and
 - 823 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
 - 824 Food and Drug Administration's Food Code that a consumer cook the items described in
 - 825 Subsection [~~79~~] (81)(b)(ii)(A) to prevent food borne illness; or
 - 826 (iii) the following if sold without eating utensils provided by the seller:
 - 827 (A) food and food ingredients sold by a seller if the seller's proper primary
 - 828 classification under the 2002 North American Industry Classification System of the federal
 - 829 Executive Office of the President, Office of Management and Budget, is manufacturing in
 - 830 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
 - 831 Manufacturing;
 - 832 (B) food and food ingredients sold in an unheated state:
 - 833 (I) by weight or volume; and

- 834 (II) as a single item; or
- 835 (C) a bakery item, including:
- 836 (I) a bagel;
- 837 (II) a bar;
- 838 (III) a biscuit;
- 839 (IV) bread;
- 840 (V) a bun;
- 841 (VI) a cake;
- 842 (VII) a cookie;
- 843 (VIII) a croissant;
- 844 (IX) a danish;
- 845 (X) a donut;
- 846 (XI) a muffin;
- 847 (XII) a pastry;
- 848 (XIII) a pie;
- 849 (XIV) a roll;
- 850 (XV) a tart;
- 851 (XVI) a torte; or
- 852 (XVII) a tortilla.

853 (c) Notwithstanding Subsection [~~79~~] (81)(a)(iii), an eating utensil provided by the
854 seller does not include the following used to transport the food:

- 855 (i) a container; or
- 856 (ii) packaging.

857 [~~80~~] (82) "Prescription" means an order, formula, or recipe that is issued:

- 858 (a) (i) orally;
- 859 (ii) in writing;
- 860 (iii) electronically; or
- 861 (iv) by any other manner of transmission; and

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

863 [~~81~~] (83) (a) Except as provided in Subsection [~~81~~] (83)(b)(ii) or (iii), "prewritten
864 computer software" means computer software that is not designed and developed:

- 865 (i) by the author or other creator of the computer software; and
866 (ii) to the specifications of a specific purchaser.
- 867 (b) "Prewritten computer software" includes:
868 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
869 software is not designed and developed:
870 (A) by the author or other creator of the computer software; and
871 (B) to the specifications of a specific purchaser;
872 (ii) notwithstanding Subsection ~~[(81)]~~ (83)(a), computer software designed and
873 developed by the author or other creator of the computer software to the specifications of a
874 specific purchaser if the computer software is sold to a person other than the purchaser; or
875 (iii) notwithstanding Subsection ~~[(81)]~~ (83)(a) and except as provided in Subsection
876 ~~[(81)]~~ (83)(c), prewritten computer software or a prewritten portion of prewritten computer
877 software:
878 (A) that is modified or enhanced to any degree; and
879 (B) if the modification or enhancement described in Subsection ~~[(81)]~~ (83)(b)(iii)(A) is
880 designed and developed to the specifications of a specific purchaser.
- 881 (c) Notwithstanding Subsection ~~[(81)]~~ (83)(b)(iii), "prewritten computer software"
882 does not include a modification or enhancement described in Subsection ~~[(81)]~~ (83)(b)(iii) if
883 the charges for the modification or enhancement are:
884 (i) reasonable; and
885 (ii) separately stated on the invoice or other statement of price provided to the
886 purchaser.
- 887 ~~[(82)]~~ (84) (a) "Private communication service" means a telecommunications service:
888 (i) that entitles a customer to exclusive or priority use of one or more communications
889 channels between or among termination points; and
890 (ii) regardless of the manner in which the one or more communications channels are
891 connected.
- 892 (b) "Private communications service" includes the following provided in connection
893 with the use of one or more communications channels:
894 (i) an extension line;
895 (ii) a station;

896 (iii) switching capacity; or
897 (iv) another associated service that is provided in connection with the use of one or
898 more communications channels as defined in Section 59-12-215.

899 ~~[(83)]~~ (85) (a) Except as provided in Subsection ~~[(83)]~~ (85)(b), "product transferred
900 electronically" means a product transferred electronically that would be subject to a tax under
901 this chapter if that product was transferred in a manner other than electronically.

902 (b) "Product transferred electronically" does not include:

- 903 (i) an ancillary service;
- 904 (ii) computer software; or
- 905 (iii) a telecommunications service.

906 ~~[(84)]~~ (86) (a) "Prosthetic device" means a device that is worn on or in the body to:

- 907 (i) artificially replace a missing portion of the body;
- 908 (ii) prevent or correct a physical deformity or physical malfunction; or
- 909 (iii) support a weak or deformed portion of the body.

910 (b) "Prosthetic device" includes:

- 911 (i) parts used in the repairs or renovation of a prosthetic device;
- 912 (ii) replacement parts for a prosthetic device;
- 913 (iii) a dental prosthesis; or
- 914 (iv) a hearing aid.

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

- 916 (i) corrective eyeglasses; or
- 917 (ii) contact lenses.

918 ~~[(85)]~~ (87) (a) "Protective equipment" means an item:

- 919 (i) for human wear; and
- 920 (ii) that is:
 - 921 (A) designed as protection:
 - 922 (I) to the wearer against injury or disease; or
 - 923 (II) against damage or injury of other persons or property; and
 - 924 (B) not suitable for general use.

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

927 (i) listing the items that constitute "protective equipment"; and
928 (ii) that are consistent with the list of items that constitute "protective equipment"
929 under the agreement.

930 ~~[(86)]~~ (88) (a) For purposes of Subsection 59-12-104(41), "publication" means any
931 written or printed matter, other than a photocopy:

932 (i) regardless of:
933 (A) characteristics;
934 (B) copyright;
935 (C) form;
936 (D) format;
937 (E) method of reproduction; or
938 (F) source; and

939 (ii) made available in printed or electronic format.

940 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
941 commission may by rule define the term "photocopy."

942 ~~[(87)]~~ (89) (a) "Purchase price" and "sales price" mean the total amount of
943 consideration:

944 (i) valued in money; and
945 (ii) for which tangible personal property, a product transferred electronically, or
946 services are:

947 (A) sold;
948 (B) leased; or
949 (C) rented.

950 (b) "Purchase price" and "sales price" include:

951 (i) the seller's cost of the tangible personal property, a product transferred
952 electronically, or services sold;

953 (ii) expenses of the seller, including:

954 (A) the cost of materials used;
955 (B) a labor cost;
956 (C) a service cost;
957 (D) interest;

- 958 (E) a loss;
- 959 (F) the cost of transportation to the seller; or
- 960 (G) a tax imposed on the seller;
- 961 (iii) a charge by the seller for any service necessary to complete the sale; or
- 962 (iv) consideration a seller receives from a person other than the purchaser if:
- 963 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 964 and
- 965 (II) the consideration described in Subsection [~~(87)~~] (89)(b)(iv)(A)(I) is directly related
- 966 to a price reduction or discount on the sale;
- 967 (B) the seller has an obligation to pass the price reduction or discount through to the
- 968 purchaser;
- 969 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 970 the seller at the time of the sale to the purchaser; and
- 971 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 972 seller to claim a price reduction or discount; and
- 973 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 974 coupon, or other documentation with the understanding that the person other than the seller
- 975 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 976 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 977 organization allowed a price reduction or discount, except that a preferred customer card that is
- 978 available to any patron of a seller does not constitute membership in a group or organization
- 979 allowed a price reduction or discount; or
- 980 (III) the price reduction or discount is identified as a third party price reduction or
- 981 discount on the:
- 982 (Aa) invoice the purchaser receives; or
- 983 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 984 (c) "Purchase price" and "sales price" do not include:
- 985 (i) a discount:
- 986 (A) in a form including:
- 987 (I) cash;
- 988 (II) term; or

- 989 (III) coupon;
- 990 (B) that is allowed by a seller;
- 991 (C) taken by a purchaser on a sale; and
- 992 (D) that is not reimbursed by a third party; or
- 993 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 994 provided to the purchaser:
- 995 (A) the following from credit extended on the sale of tangible personal property or
- 996 services:
- 997 (I) a carrying charge;
- 998 (II) a financing charge; or
- 999 (III) an interest charge;
- 1000 (B) a delivery charge;
- 1001 (C) an installation charge;
- 1002 (D) a manufacturer rebate on a motor vehicle; or
- 1003 (E) a tax or fee legally imposed directly on the consumer.
- 1004 [~~(88)~~] (90) "Purchaser" means a person to whom:
- 1005 (a) a sale of tangible personal property is made;
- 1006 (b) a product is transferred electronically; or
- 1007 (c) a service is furnished.
- 1008 [~~(89)~~] (91) "Regularly rented" means:
- 1009 (a) rented to a guest for value three or more times during a calendar year; or
- 1010 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1011 value.
- 1012 [~~(90)~~] (92) "Renewable energy" means:
- 1013 (a) biomass energy;
- 1014 (b) hydroelectric energy;
- 1015 (c) geothermal energy;
- 1016 (d) solar energy; or
- 1017 (e) wind energy.
- 1018 [~~(91)~~] (93) (a) "Renewable energy production facility" means a facility that:
- 1019 (i) uses renewable energy to produce electricity; and

1020 (ii) has a production capacity of 20 kilowatts or greater.

1021 (b) A facility is a renewable energy production facility regardless of whether the

1022 facility is:

1023 (i) connected to an electric grid; or

1024 (ii) located on the premises of an electricity consumer.

1025 [~~92~~] (94) "Rental" is as defined in Subsection [~~51~~] (52).

1026 [~~93~~] (95) (a) Except as provided in Subsection [~~93~~] (95)(b), "repairs or renovations

1027 of tangible personal property" means:

1028 (i) a repair or renovation of tangible personal property that is not permanently attached

1029 to real property; or

1030 (ii) attaching tangible personal property or a product transferred electronically to other

1031 tangible personal property or detaching tangible personal property or a product transferred

1032 electronically from other tangible personal property if:

1033 (A) the other tangible personal property to which the tangible personal property or

1034 product transferred electronically is attached or from which the tangible personal property or

1035 product transferred electronically is detached is not permanently attached to real property; and

1036 (B) the attachment of tangible personal property or a product transferred electronically

1037 to other tangible personal property or detachment of tangible personal property or a product

1038 transferred electronically from other tangible personal property is made in conjunction with a

1039 repair or replacement of tangible personal property or a product transferred electronically.

1040 (b) "Repairs or renovations of tangible personal property" does not include:

1041 (i) attaching prewritten computer software to other tangible personal property if the

1042 other tangible personal property to which the prewritten computer software is attached is not

1043 permanently attached to real property[:]; or

1044 (ii) detaching prewritten computer software from other tangible personal property if the

1045 other tangible personal property from which the prewritten computer software is detached is

1046 not permanently attached to real property.

1047 [~~94~~] (96) "Research and development" means the process of inquiry or

1048 experimentation aimed at the discovery of facts, devices, technologies, or applications and the

1049 process of preparing those devices, technologies, or applications for marketing.

1050 [~~95~~] (97) (a) "Residential telecommunications services" means a telecommunications

- 1051 service or an ancillary service that is provided to an individual for personal use:
- 1052 (i) at a residential address; or
- 1053 (ii) at an institution, including a nursing home or a school, if the telecommunications
- 1054 service or ancillary service is provided to and paid for by the individual residing at the
- 1055 institution rather than the institution.
- 1056 (b) For purposes of Subsection [~~95~~] (97)(a)(i), a residential address includes an:
- 1057 (i) apartment; or
- 1058 (ii) other individual dwelling unit.
- 1059 [~~96~~] (98) "Residential use" means the use in or around a home, apartment building,
- 1060 sleeping quarters, and similar facilities or accommodations.
- 1061 [~~97~~] (99) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
- 1062 other than:
- 1063 (a) resale;
- 1064 (b) sublease; or
- 1065 (c) subrent.
- 1066 [~~98~~] (100) (a) "Retailer" means any person engaged in a regularly organized business
- 1067 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1),
- 1068 and who is selling to the user or consumer and not for resale.
- 1069 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
- 1070 engaged in the business of selling to users or consumers within the state.
- 1071 [~~99~~] (101) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
- 1072 otherwise, in any manner, of tangible personal property or any other taxable transaction under
- 1073 Subsection 59-12-103(1), for consideration.
- 1074 (b) "Sale" includes:
- 1075 (i) installment and credit sales;
- 1076 (ii) any closed transaction constituting a sale;
- 1077 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 1078 chapter;
- 1079 (iv) any transaction if the possession of property is transferred but the seller retains the
- 1080 title as security for the payment of the price; and
- 1081 (v) any transaction under which right to possession, operation, or use of any article of

1082 tangible personal property is granted under a lease or contract and the transfer of possession
1083 would be taxable if an outright sale were made.

1084 [~~(100)~~] (102) "Sale at retail" is as defined in Subsection [~~(97)~~] (99).

1085 [~~(101)~~] (103) "Sale-leaseback transaction" means a transaction by which title to
1086 tangible personal property or a product transferred electronically that is subject to a tax under
1087 this chapter is transferred:

1088 (a) by a purchaser-lessee;

1089 (b) to a lessor;

1090 (c) for consideration; and

1091 (d) if:

1092 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1093 of the tangible personal property or product transferred electronically;

1094 (ii) the sale of the tangible personal property or product transferred electronically to the
1095 lessor is intended as a form of financing:

1096 (A) for the tangible personal property or product transferred electronically; and

1097 (B) to the purchaser-lessee; and

1098 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1099 is required to:

1100 (A) capitalize the tangible personal property or product transferred electronically for
1101 financial reporting purposes; and

1102 (B) account for the lease payments as payments made under a financing arrangement.

1103 [~~(102)~~] (104) "Sales price" is as defined in Subsection [~~(87)~~] (89).

1104 [~~(103)~~] (105) (a) "Sales relating to schools" means the following sales by, amounts
1105 paid to, or amounts charged by a school:

1106 (i) sales that are directly related to the school's educational functions or activities
1107 including:

1108 (A) the sale of:

1109 (I) textbooks;

1110 (II) textbook fees;

1111 (III) laboratory fees;

1112 (IV) laboratory supplies; or

- 1113 (V) safety equipment;
- 1114 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 1115 that:
- 1116 (I) a student is specifically required to wear as a condition of participation in a
- 1117 school-related event or school-related activity; and
- 1118 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 1119 place of ordinary clothing;
- 1120 (C) sales of the following if the net or gross revenues generated by the sales are
- 1121 deposited into a school district fund or school fund dedicated to school meals:
- 1122 (I) food and food ingredients; or
- 1123 (II) prepared food; or
- 1124 (D) transportation charges for official school activities; or
- 1125 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1126 event or school-related activity.
- 1127 (b) "Sales relating to schools" does not include:
- 1128 (i) bookstore sales of items that are not educational materials or supplies;
- 1129 (ii) except as provided in Subsection [~~(103)~~] (105)(a)(i)(B):
- 1130 (A) clothing;
- 1131 (B) clothing accessories or equipment;
- 1132 (C) protective equipment; or
- 1133 (D) sports or recreational equipment; or
- 1134 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1135 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1136 (A) other than a:
- 1137 (I) school;
- 1138 (II) nonprofit organization authorized by a school board or a governing body of a
- 1139 private school to organize and direct a competitive secondary school activity; or
- 1140 (III) nonprofit association authorized by a school board or a governing body of a
- 1141 private school to organize and direct a competitive secondary school activity; and
- 1142 (B) that is required to collect sales and use taxes under this chapter.
- 1143 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1144 commission may make rules defining the term "passed through."
1145 ~~[(104)]~~ (106) For purposes of this section and Section 59-12-104, "school":
1146 (a) means:
1147 (i) an elementary school or a secondary school that:
1148 (A) is a:
1149 (I) public school; or
1150 (II) private school; and
1151 (B) provides instruction for one or more grades kindergarten through 12; or
1152 (ii) a public school district; and
1153 (b) includes the Electronic High School as defined in Section 53A-15-1002.
1154 ~~[(105)]~~ (107) "Seller" means a person that makes a sale, lease, or rental of:
1155 (a) tangible personal property;
1156 (b) a product transferred electronically; or
1157 (c) a service.
1158 ~~[(106)]~~ (108) (a) "Semiconductor fabricating, processing, research, or development
1159 materials" means tangible personal property or a product transferred electronically if the
1160 tangible personal property or product transferred electronically is:
1161 (i) used primarily in the process of:
1162 (A) (I) manufacturing a semiconductor;
1163 (II) fabricating a semiconductor; or
1164 (III) research or development of a:
1165 (Aa) semiconductor; or
1166 (Bb) semiconductor manufacturing process; or
1167 (B) maintaining an environment suitable for a semiconductor; or
1168 (ii) consumed primarily in the process of:
1169 (A) (I) manufacturing a semiconductor;
1170 (II) fabricating a semiconductor; or
1171 (III) research or development of a:
1172 (Aa) semiconductor; or
1173 (Bb) semiconductor manufacturing process; or
1174 (B) maintaining an environment suitable for a semiconductor.

1175 (b) "Semiconductor fabricating, processing, research, or development materials"

1176 includes:

1177 (i) parts used in the repairs or renovations of tangible personal property or a product
1178 transferred electronically described in Subsection [~~(106)~~] (108)(a); or

1179 (ii) a chemical, catalyst, or other material used to:

1180 (A) produce or induce in a semiconductor a:

1181 (I) chemical change; or

1182 (II) physical change;

1183 (B) remove impurities from a semiconductor; or

1184 (C) improve the marketable condition of a semiconductor.

1185 [~~(107)~~] (109) "Senior citizen center" means a facility having the primary purpose of
1186 providing services to the aged as defined in Section 62A-3-101.

1187 [~~(108)~~] (110) "Simplified electronic return" means the electronic return:

1188 (a) described in Section 318(C) of the agreement; and

1189 (b) approved by the governing board of the agreement.

1190 [~~(109)~~] (111) "Solar energy" means the sun used as the sole source of energy for
1191 producing electricity.

1192 [~~(110)~~] (112) (a) "Sports or recreational equipment" means an item:

1193 (i) designed for human use; and

1194 (ii) that is:

1195 (A) worn in conjunction with:

1196 (I) an athletic activity; or

1197 (II) a recreational activity; and

1198 (B) not suitable for general use.

1199 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1200 commission shall make rules:

1201 (i) listing the items that constitute "sports or recreational equipment"; and

1202 (ii) that are consistent with the list of items that constitute "sports or recreational
1203 equipment" under the agreement.

1204 [~~(111)~~] (113) "State" means the state of Utah, its departments, and agencies.

1205 [~~(112)~~] (114) "Storage" means any keeping or retention of tangible personal property or

1206 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
1207 except sale in the regular course of business.

1208 [~~(113)~~] (115) (a) Except as provided in Subsection [~~(113)~~] (115)(d) or (e), "tangible
1209 personal property" means personal property that:

1210 (i) may be:

1211 (A) seen;

1212 (B) weighed;

1213 (C) measured;

1214 (D) felt; or

1215 (E) touched; or

1216 (ii) is in any manner perceptible to the senses.

1217 (b) "Tangible personal property" includes:

1218 (i) electricity;

1219 (ii) water;

1220 (iii) gas;

1221 (iv) steam; or

1222 (v) prewritten computer software, regardless of the manner in which the prewritten
1223 computer software is transferred.

1224 (c) "Tangible personal property" includes the following regardless of whether the item
1225 is attached to real property:

1226 (i) a dishwasher;

1227 (ii) a dryer;

1228 (iii) a freezer;

1229 (iv) a microwave;

1230 (v) a refrigerator;

1231 (vi) a stove;

1232 (vii) a washer; or

1233 (viii) an item similar to Subsections [~~(113)~~] (115)(c)(i) through (vii) as determined by
1234 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1235 Rulemaking Act.

1236 (d) "Tangible personal property" does not include a product that is transferred

1237 electronically.

1238 (e) "Tangible personal property" does not include the following if attached to real
1239 property, regardless of whether the attachment to real property is only through a line that
1240 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1241 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1242 Rulemaking Act:

- 1243 (i) a hot water heater;
- 1244 (ii) a water filtration system; or
- 1245 (iii) a water softener system.

1246 [~~(H4)~~] (116) "Tar sands" means impregnated sands that yield mixtures of liquid
1247 hydrocarbon and require further processing other than mechanical blending before becoming
1248 finished petroleum products.

1249 [~~(H5)~~] (117) (a) "Telecommunications enabling or facilitating equipment, machinery,
1250 or software" means an item listed in Subsection [~~(H5)~~] (117)(b) if that item is purchased or
1251 leased primarily to enable or facilitate one or more of the following to function:

- 1252 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1253 (ii) telecommunications transmission equipment, machinery, or software.

1254 (b) The following apply to Subsection [~~(H5)~~] (117)(a):

- 1255 (i) a pole;
- 1256 (ii) software;
- 1257 (iii) a supplementary power supply;
- 1258 (iv) temperature or environmental equipment or machinery;
- 1259 (v) test equipment;
- 1260 (vi) a tower; or

1261 (vii) equipment, machinery, or software that functions similarly to an item listed in
1262 Subsections [~~(H5)~~] (117)(b)(i) through (vi) as determined by the commission by rule made in
1263 accordance with Subsection [~~(H5)~~] (117)(c).

1264 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1265 commission may by rule define what constitutes equipment, machinery, or software that
1266 functions similarly to an item listed in Subsections [~~(H5)~~] (117)(b)(i) through (vi).

1267 [~~(H6)~~] (118) "Telecommunications equipment, machinery, or software required for

1268 911 service" means equipment, machinery, or software that is required to comply with 47
1269 C.F.R. Sec. 20.18.

1270 [~~(H7)~~] (119) "Telecommunications maintenance or repair equipment, machinery, or
1271 software" means equipment, machinery, or software purchased or leased primarily to maintain
1272 or repair one or more of the following, regardless of whether the equipment, machinery, or
1273 software is purchased or leased as a spare part or as an upgrade or modification to one or more
1274 of the following:

- 1275 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1276 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1277 (c) telecommunications transmission equipment, machinery, or software.

1278 [~~(H8)~~] (120) (a) "Telecommunications service" means the electronic conveyance,
1279 routing, or transmission of audio, data, video, voice, or any other information or signal to a
1280 point, or among or between points.

1281 (b) "Telecommunications service" includes:

1282 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1283 processing application is used to act:

1284 (A) on the code, form, or protocol of the content;

1285 (B) for the purpose of electronic conveyance, routing, or transmission; and

1286 (C) regardless of whether the service:

1287 (I) is referred to as voice over Internet protocol service; or

1288 (II) is classified by the Federal Communications Commission as enhanced or value
1289 added;

1290 (ii) an 800 service;

1291 (iii) a 900 service;

1292 (iv) a fixed wireless service;

1293 (v) a mobile wireless service;

1294 (vi) a postpaid calling service;

1295 (vii) a prepaid calling service;

1296 (viii) a prepaid wireless calling service; or

1297 (ix) a private communications service.

1298 (c) "Telecommunications service" does not include:

- 1299 (i) advertising, including directory advertising;
- 1300 (ii) an ancillary service;
- 1301 (iii) a billing and collection service provided to a third party;
- 1302 (iv) a data processing and information service if:
 - 1303 (A) the data processing and information service allows data to be:
 - 1304 (I) (Aa) acquired;
 - 1305 (Bb) generated;
 - 1306 (Cc) processed;
 - 1307 (Dd) retrieved; or
 - 1308 (Ee) stored; and
 - 1309 (II) delivered by an electronic transmission to a purchaser; and
 - 1310 (B) the purchaser's primary purpose for the underlying transaction is the processed data
 - 1311 or information;
- 1312 (v) installation or maintenance of the following on a customer's premises:
 - 1313 (A) equipment; or
 - 1314 (B) wiring;
- 1315 (vi) Internet access service;
- 1316 (vii) a paging service;
- 1317 (viii) a product transferred electronically, including:
 - 1318 (A) music;
 - 1319 (B) reading material;
 - 1320 (C) a ring tone;
 - 1321 (D) software; or
 - 1322 (E) video;
- 1323 (ix) a radio and television audio and video programming service:
 - 1324 (A) regardless of the medium; and
 - 1325 (B) including:
 - 1326 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 1327 programming service by a programming service provider;
 - 1328 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 1329 (III) audio and video programming services delivered by a commercial mobile radio

1330 service provider as defined in 47 C.F.R. Sec. 20.3;

1331 (x) a value-added nonvoice data service; or

1332 (xi) tangible personal property.

1333 [~~(119)~~] (121) (a) "Telecommunications service provider" means a person that:

1334 (i) owns, controls, operates, or manages a telecommunications service; and

1335 (ii) engages in an activity described in Subsection [~~(119)~~] (121)(a)(i) for the shared use
1336 with or resale to any person of the telecommunications service.

1337 (b) A person described in Subsection [~~(119)~~] (121)(a) is a telecommunications service
1338 provider whether or not the Public Service Commission of Utah regulates:

1339 (i) that person; or

1340 (ii) the telecommunications service that the person owns, controls, operates, or
1341 manages.

1342 [~~(120)~~] (122) (a) "Telecommunications switching or routing equipment, machinery, or
1343 software" means an item listed in Subsection [~~(120)~~] (122)(b) if that item is purchased or
1344 leased primarily for switching or routing:

1345 (i) an ancillary service;

1346 (ii) data communications;

1347 (iii) voice communications; or

1348 (iv) telecommunications service.

1349 (b) The following apply to Subsection [~~(120)~~] (122)(a):

1350 (i) a bridge;

1351 (ii) a computer;

1352 (iii) a cross connect;

1353 (iv) a modem;

1354 (v) a multiplexer;

1355 (vi) plug in circuitry;

1356 (vii) a router;

1357 (viii) software;

1358 (ix) a switch; or

1359 (x) equipment, machinery, or software that functions similarly to an item listed in

1360 Subsections [~~(120)~~] (122)(b)(i) through (ix) as determined by the commission by rule made in

1361 accordance with Subsection [~~(120)~~] (122)(c).

1362 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1363 commission may by rule define what constitutes equipment, machinery, or software that
1364 functions similarly to an item listed in Subsections [~~(120)~~] (122)(b)(i) through (ix).

1365 [~~(121)~~] (123) (a) "Telecommunications transmission equipment, machinery, or
1366 software" means an item listed in Subsection [~~(121)~~] (123)(b) if that item is purchased or
1367 leased primarily for sending, receiving, or transporting:

1368 (i) an ancillary service;

1369 (ii) data communications;

1370 (iii) voice communications; or

1371 (iv) telecommunications service.

1372 (b) The following apply to Subsection [~~(121)~~] (123)(a):

1373 (i) an amplifier;

1374 (ii) a cable;

1375 (iii) a closure;

1376 (iv) a conduit;

1377 (v) a controller;

1378 (vi) a duplexer;

1379 (vii) a filter;

1380 (viii) an input device;

1381 (ix) an input/output device;

1382 (x) an insulator;

1383 (xi) microwave machinery or equipment;

1384 (xii) an oscillator;

1385 (xiii) an output device;

1386 (xiv) a pedestal;

1387 (xv) a power converter;

1388 (xvi) a power supply;

1389 (xvii) a radio channel;

1390 (xviii) a radio receiver;

1391 (xix) a radio transmitter;

1392 (xx) a repeater;
1393 (xxi) software;
1394 (xxii) a terminal;
1395 (xxiii) a timing unit;
1396 (xxiv) a transformer;
1397 (xxv) a wire; or
1398 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
1399 Subsections [~~(121)~~] (123)(b)(i) through (xxv) as determined by the commission by rule made in
1400 accordance with Subsection [~~(121)~~] (123)(c).

1401 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1402 commission may by rule define what constitutes equipment, machinery, or software that
1403 functions similarly to an item listed in Subsections [~~(121)~~] (123)(b)(i) through (xxv).

1404 [~~(122)~~] (124) (a) "Textbook for a higher education course" means a textbook or other
1405 printed material that is required for a course:

1406 (i) offered by an institution of higher education; and
1407 (ii) that the purchaser of the textbook or other printed material attends or will attend.

1408 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1409 [~~(123)~~] (125) "Tobacco" means:

- 1410 (a) a cigarette;
- 1411 (b) a cigar;
- 1412 (c) chewing tobacco;
- 1413 (d) pipe tobacco; or
- 1414 (e) any other item that contains tobacco.

1415 [~~(124)~~] (126) "Unassisted amusement device" means an amusement device, skill
1416 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
1417 operate the amusement device, skill device, or ride device.

1418 [~~(125)~~] (127) (a) "Use" means the exercise of any right or power over tangible personal
1419 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1420 incident to the ownership or the leasing of that tangible personal property, product transferred
1421 electronically, or service.

1422 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal

1423 property, a product transferred electronically, or a service in the regular course of business and
1424 held for resale.

1425 ~~[(126)]~~ (128) "Value-added nonvoice data service" means a service:

1426 (a) that otherwise meets the definition of a telecommunications service except that a
1427 computer processing application is used to act primarily for a purpose other than conveyance,
1428 routing, or transmission; and

1429 (b) with respect to which a computer processing application is used to act on data or
1430 information:

- 1431 (i) code;
- 1432 (ii) content;
- 1433 (iii) form; or
- 1434 (iv) protocol.

1435 ~~[(127)]~~ (129) (a) Subject to Subsection ~~[(127)]~~ (129)(b), "vehicle" means the following
1436 that are required to be titled, registered, or titled and registered:

- 1437 (i) an aircraft as defined in Section 72-10-102;
- 1438 (ii) a vehicle as defined in Section 41-1a-102;
- 1439 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1440 (iv) a vessel as defined in Section 41-1a-102.

1441 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1442 (i) a vehicle described in Subsection ~~[(127)]~~ (129)(a); or
- 1443 (ii) (A) a locomotive;
- 1444 (B) a freight car;
- 1445 (C) railroad work equipment; or
- 1446 (D) other railroad rolling stock.

1447 ~~[(128)]~~ (130) "Vehicle dealer" means a person engaged in the business of buying,
1448 selling, or exchanging a vehicle as defined in Subsection ~~[(127)]~~ (129).

1449 ~~[(129)]~~ (131) (a) "Vertical service" means an ancillary service that:

- 1450 (i) is offered in connection with one or more telecommunications services; and
- 1451 (ii) offers an advanced calling feature that allows a customer to:
 - 1452 (A) identify a caller; and
 - 1453 (B) manage multiple calls and call connections.

1454 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1455 conference bridging service.

1456 ~~[(130)]~~ (132) (a) "Voice mail service" means an ancillary service that enables a
1457 customer to receive, send, or store a recorded message.

1458 (b) "Voice mail service" does not include a vertical service that a customer is required
1459 to have in order to utilize a voice mail service.

1460 ~~[(131)]~~ (133) (a) Except as provided in Subsection ~~[(131)]~~ (133)(b), "waste energy
1461 facility" means a facility that generates electricity:

1462 (i) using as the primary source of energy waste materials that would be placed in a
1463 landfill or refuse pit if it were not used to generate electricity, including:

1464 (A) tires;

1465 (B) waste coal; or

1466 (C) oil shale; and

1467 (ii) in amounts greater than actually required for the operation of the facility.

1468 (b) "Waste energy facility" does not include a facility that incinerates:

1469 (i) municipal solid waste;

1470 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

1471 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1472 ~~[(132)]~~ (134) "Watercraft" means a vessel as defined in Section 73-18-2.

1473 ~~[(133)]~~ (135) "Wind energy" means wind used as the sole source of energy to produce
1474 electricity.

1475 ~~[(134)]~~ (136) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
1476 geographic location by the United States Postal Service.

1477 Section 2. Section **59-12-103** is amended to read:

1478 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
1479 **tax revenues.**

1480 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
1481 charged for the following transactions:

1482 (a) retail sales of tangible personal property made within the state;

1483 (b) amounts paid for:

1484 (i) telecommunications service, other than mobile telecommunications service, that

1485 originates and terminates within the boundaries of this state;

1486 (ii) mobile telecommunications service that originates and terminates within the

1487 boundaries of one state only to the extent permitted by the Mobile Telecommunications

1488 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

1489 (iii) an ancillary service associated with a:

1490 (A) telecommunications service described in Subsection (1)(b)(i); or

1491 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

1492 (c) sales of the following for commercial use:

1493 (i) gas;

1494 (ii) electricity;

1495 (iii) heat;

1496 (iv) coal;

1497 (v) fuel oil; or

1498 (vi) other fuels;

1499 (d) sales of the following for residential use:

1500 (i) gas;

1501 (ii) electricity;

1502 (iii) heat;

1503 (iv) coal;

1504 (v) fuel oil; or

1505 (vi) other fuels;

1506 (e) sales of prepared food;

1507 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or

1508 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,

1509 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,

1510 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit

1511 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf

1512 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,

1513 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,

1514 horseback rides, sports activities, or any other amusement, entertainment, recreation,

1515 exhibition, cultural, or athletic activity;

1516 (g) amounts paid or charged for services for repairs or renovations of tangible personal
1517 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

1518 (i) the tangible personal property; and

1519 (ii) parts used in the repairs or renovations of the tangible personal property described
1520 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
1521 of that tangible personal property;

1522 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
1523 assisted cleaning or washing of tangible personal property;

1524 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
1525 accommodations and services that are regularly rented for less than 30 consecutive days;

1526 (j) amounts paid or charged for laundry or dry cleaning services;

1527 (k) amounts paid or charged for leases or rentals of tangible personal property if within
1528 this state the tangible personal property is:

1529 (i) stored;

1530 (ii) used; or

1531 (iii) otherwise consumed;

1532 (l) amounts paid or charged for tangible personal property if within this state the
1533 tangible personal property is:

1534 (i) stored;

1535 (ii) used; or

1536 (iii) consumed; and

1537 (m) amounts paid or charged for a sale:

1538 (i) (A) of a product transferred electronically; or

1539 (B) of a repair or renovation of a product transferred electronically; and

1540 (ii) regardless of whether the sale provides:

1541 (A) a right of permanent use of the product; or

1542 (B) a right to use the product that is less than a permanent use, including a right:

1543 (I) for a definite or specified length of time; and

1544 (II) that terminates upon the occurrence of a condition.

1545 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
1546 is imposed on a transaction described in Subsection (1) equal to the sum of:

1547 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
1548 (A) 4.70%; and
1549 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
1550 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
1551 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
1552 State Sales and Use Tax Act; and
1553 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
1554 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
1555 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
1556 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
1557 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1558 transaction under this chapter other than this part.
1559 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
1560 on a transaction described in Subsection (1)(d) equal to the sum of:
1561 (i) a state tax imposed on the transaction at a tax rate of 2%; and
1562 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1563 transaction under this chapter other than this part.
1564 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
1565 on amounts paid or charged for food and food ingredients equal to the sum of:
1566 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
1567 a tax rate of 1.75%; and
1568 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1569 amounts paid or charged for food and food ingredients under this chapter other than this part.
1570 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
1571 tangible personal property other than food and food ingredients, a state tax and a local tax is
1572 imposed on the entire bundled transaction equal to the sum of:
1573 (A) a state tax imposed on the entire bundled transaction equal to the sum of:
1574 (I) the tax rate described in Subsection (2)(a)(i)(A); and
1575 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
1576 Sales and Use Tax Act, if the location of the transaction as determined under Sections
1577 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,

1578 Additional State Sales and Use Tax Act; and

1579 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
1580 Sales and Use Tax Act, if the location of the transaction as determined under Sections
1581 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
1582 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1583 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
1584 described in Subsection (2)(a)(ii).

1585 (ii) If an optional computer software maintenance contract is a bundled transaction that
1586 consists of taxable and nontaxable products that are not separately itemized on an invoice or
1587 similar billing document, the purchase of the optional computer software maintenance contract
1588 is 40% taxable under this chapter and 60% nontaxable under this chapter.

1589 [~~(ii)~~] (iii) Subject to Subsection (2)(d)[~~(iii)~~](iv), for a bundled transaction other than a
1590 bundled transaction described in Subsection (2)(d)(i) or (ii):

1591 (A) if the sales price of the bundled transaction is attributable to tangible personal
1592 property, a product, or a service that is subject to taxation under this chapter and tangible
1593 personal property, a product, or service that is not subject to taxation under this chapter, the
1594 entire bundled transaction is subject to taxation under this chapter unless:

1595 (I) the seller is able to identify by reasonable and verifiable standards the tangible
1596 personal property, product, or service that is not subject to taxation under this chapter from the
1597 books and records the seller keeps in the seller's regular course of business; or

1598 (II) state or federal law provides otherwise; or

1599 (B) if the sales price of a bundled transaction is attributable to two or more items of
1600 tangible personal property, products, or services that are subject to taxation under this chapter
1601 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
1602 higher tax rate unless:

1603 (I) the seller is able to identify by reasonable and verifiable standards the tangible
1604 personal property, product, or service that is subject to taxation under this chapter at the lower
1605 tax rate from the books and records the seller keeps in the seller's regular course of business; or

1606 (II) state or federal law provides otherwise.

1607 [~~(iii)~~] (iv) For purposes of Subsection (2)(d)[~~(ii)~~](iii), books and records that a seller
1608 keeps in the seller's regular course of business includes books and records the seller keeps in

1609 the regular course of business for nontax purposes.

1610 (e) Subject to Subsections (2)(f) and (g), a tax rate repeal or tax rate change for a tax
1611 rate imposed under the following shall take effect on the first day of a calendar quarter:

1612 (i) Subsection (2)(a)(i)(A);

1613 (ii) Subsection (2)(b)(i);

1614 (iii) Subsection (2)(c)(i); or

1615 (iv) Subsection (2)(d)(i)(A)(I).

1616 (f) (i) A tax rate increase shall take effect on the first day of the first billing period that
1617 begins after the effective date of the tax rate increase if the billing period for the transaction
1618 begins before the effective date of a tax rate increase imposed under:

1619 (A) Subsection (2)(a)(i)(A);

1620 (B) Subsection (2)(b)(i);

1621 (C) Subsection (2)(c)(i); or

1622 (D) Subsection (2)(d)(i)(A)(I).

1623 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
1624 billing period that began before the effective date of the repeal of the tax or the tax rate
1625 decrease if the billing period for the transaction begins before the effective date of the repeal of
1626 the tax or the tax rate decrease imposed under:

1627 (A) Subsection (2)(a)(i)(A);

1628 (B) Subsection (2)(b)(i);

1629 (C) Subsection (2)(c)(i); or

1630 (D) Subsection (2)(d)(i)(A)(I).

1631 (g) (i) For a tax rate described in Subsection (2)(g)(ii), if a tax due on a catalogue sale
1632 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal
1633 or change in a tax rate takes effect:

1634 (A) on the first day of a calendar quarter; and

1635 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

1636 (ii) Subsection (2)(g)(i) applies to the tax rates described in the following:

1637 (A) Subsection (2)(a)(i)(A);

1638 (B) Subsection (2)(b)(i);

1639 (C) Subsection (2)(c)(i); or

1640 (D) Subsection (2)(d)(i)(A)(I).
1641 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1642 the commission may by rule define the term "catalogue sale."
1643 (3) (a) The following state taxes shall be deposited into the General Fund:
1644 (i) the tax imposed by Subsection (2)(a)(i)(A);
1645 (ii) the tax imposed by Subsection (2)(b)(i);
1646 (iii) the tax imposed by Subsection (2)(c)(i); or
1647 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
1648 (b) The following local taxes shall be distributed to a county, city, or town as provided
1649 in this chapter:
1650 (i) the tax imposed by Subsection (2)(a)(ii);
1651 (ii) the tax imposed by Subsection (2)(b)(ii);
1652 (iii) the tax imposed by Subsection (2)(c)(ii); and
1653 (iv) the tax imposed by Subsection (2)(d)(i)(B).
1654 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1655 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
1656 through (g):
1657 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
1658 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
1659 (B) for the fiscal year; or
1660 (ii) \$17,500,000.
1661 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
1662 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
1663 Department of Natural Resources to:
1664 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
1665 protect sensitive plant and animal species; or
1666 (B) award grants, up to the amount authorized by the Legislature in an appropriations
1667 act, to political subdivisions of the state to implement the measures described in Subsections
1668 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
1669 (ii) Money transferred to the Department of Natural Resources under Subsection
1670 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other

1671 person to list or attempt to have listed a species as threatened or endangered under the
1672 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1673 (iii) At the end of each fiscal year:

1674 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1675 Conservation and Development Fund created in Section 73-10-24;

1676 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1677 Program Subaccount created in Section 73-10c-5; and

1678 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1679 Program Subaccount created in Section 73-10c-5.

1680 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1681 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
1682 created in Section 4-18-6.

1683 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
1684 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
1685 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
1686 water rights.

1687 (ii) At the end of each fiscal year:

1688 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1689 Conservation and Development Fund created in Section 73-10-24;

1690 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1691 Program Subaccount created in Section 73-10c-5; and

1692 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1693 Program Subaccount created in Section 73-10c-5.

1694 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
1695 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
1696 Fund created in Section 73-10-24 for use by the Division of Water Resources.

1697 (ii) In addition to the uses allowed of the Water Resources Conservation and
1698 Development Fund under Section 73-10-24, the Water Resources Conservation and
1699 Development Fund may also be used to:

1700 (A) conduct hydrologic and geotechnical investigations by the Division of Water
1701 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of

1702 quantifying surface and ground water resources and describing the hydrologic systems of an
1703 area in sufficient detail so as to enable local and state resource managers to plan for and
1704 accommodate growth in water use without jeopardizing the resource;

1705 (B) fund state required dam safety improvements; and

1706 (C) protect the state's interest in interstate water compact allocations, including the
1707 hiring of technical and legal staff.

1708 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1709 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
1710 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1711 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1712 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
1713 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1714 (i) provide for the installation and repair of collection, treatment, storage, and
1715 distribution facilities for any public water system, as defined in Section 19-4-102;

1716 (ii) develop underground sources of water, including springs and wells; and

1717 (iii) develop surface water sources.

1718 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1719 2006, the difference between the following amounts shall be expended as provided in this
1720 Subsection (5), if that difference is greater than \$1:

1721 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
1722 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

1723 (ii) \$17,500,000.

1724 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

1725 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
1726 credits; and

1727 (B) expended by the Department of Natural Resources for watershed rehabilitation or
1728 restoration.

1729 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1730 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
1731 created in Section 73-10-24.

1732 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the

1733 remaining difference described in Subsection (5)(a) shall be:

1734 (A) transferred each fiscal year to the Division of Water Resources as dedicated
1735 credits; and

1736 (B) expended by the Division of Water Resources for cloud-seeding projects
1737 authorized by Title 73, Chapter 15, Modification of Weather.

1738 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1739 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
1740 created in Section 73-10-24.

1741 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
1742 remaining difference described in Subsection (5)(a) shall be deposited into the Water
1743 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
1744 Division of Water Resources for:

1745 (i) preconstruction costs:

1746 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
1747 26, Bear River Development Act; and

1748 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
1749 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

1750 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
1751 Chapter 26, Bear River Development Act;

1752 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
1753 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

1754 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
1755 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

1756 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
1757 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
1758 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
1759 incurred for employing additional technical staff for the administration of water rights.

1760 (f) At the end of each fiscal year, any unexpended dedicated credits described in
1761 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
1762 Fund created in Section 73-10-24.

1763 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

1764 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
1765 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
1766 the Transportation Fund created by Section 72-2-102.

1767 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,
1768 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial
1769 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed
1770 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable
1771 transactions under Subsection (1).

1772 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds
1773 have been paid off and the highway projects completed that are intended to be paid from
1774 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the
1775 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of
1776 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
1777 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
1778 by a 1/64% tax rate on the taxable transactions under Subsection (1).

1779 (8) (a) Notwithstanding Subsection (3)(a) and in addition to the amount deposited in
1780 Subsection (7)(a), for the 2010-11 fiscal year only, the Division of Finance shall deposit into
1781 the Centennial Highway Fund Restricted Account created by Section 72-2-118 a portion of the
1782 taxes listed under Subsection (3)(a) equal to 1.93% of the revenues collected from the
1783 following taxes, which represents a portion of the approximately 17% of sales and use tax
1784 revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

- 1785 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 1786 (ii) the tax imposed by Subsection (2)(b)(i);
- 1787 (iii) the tax imposed by Subsection (2)(c)(i); and
- 1788 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

1789 (b) Notwithstanding Subsection (3)(a), in addition to the amount deposited in
1790 Subsection (7)(a), and until Subsection (8)(c) applies, for the 2011-12 fiscal year only, the
1791 Division of Finance shall deposit into the Centennial Highway Fund Restricted Account
1792 created by Section 72-2-118 a portion of the taxes listed under Subsection (3)(a) equal to 8.3%
1793 of the revenues collected from the following taxes, which represents a portion of the
1794 approximately 17% of sales and use tax revenues generated annually by the sales and use tax

1795 on vehicles and vehicle-related products:

1796 (i) the tax imposed by Subsection (2)(a)(i)(A);

1797 (ii) the tax imposed by Subsection (2)(b)(i);

1798 (iii) the tax imposed by Subsection (2)(c)(i); and

1799 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

1800 (c) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under

1801 Subsection (7)(b), and until Subsection (8)(d) or (e) applies, when the highway general

1802 obligation bonds have been paid off and the highway projects completed that are intended to be

1803 paid from revenues deposited in the Centennial Highway Fund Restricted Account as

1804 determined by the Executive Appropriations Committee under Subsection 72-2-118(6)(d), the

1805 Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by

1806 Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 8.3% of the

1807 revenues collected from the following taxes, which represents a portion of the approximately

1808 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and

1809 vehicle-related products:

1810 (i) the tax imposed by Subsection (2)(a)(i)(A);

1811 (ii) the tax imposed by Subsection (2)(b)(i);

1812 (iii) the tax imposed by Subsection (2)(c)(i); and

1813 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

1814 (d) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in

1815 Subsection (7)(a), until Subsection (8)(e) applies, and subject to Subsection (8)(f), for a fiscal

1816 year beginning on or after July 1, 2012, the Division of Finance shall deposit into the

1817 Centennial Highway Fund Restricted Account created by Section 72-2-118:

1818 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of

1819 the revenues collected from the following taxes, which represents a portion of the

1820 approximately 17% of sales and use tax revenues generated annually by the sales and use tax

1821 on vehicles and vehicle-related products:

1822 (A) the tax imposed by Subsection (2)(a)(i)(A);

1823 (B) the tax imposed by Subsection (2)(b)(i);

1824 (C) the tax imposed by Subsection (2)(c)(i); and

1825 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

1826 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
1827 current fiscal year from the sales and use taxes described in Subsections (8)(d)(i)(A) through
1828 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
1829 (8)(d)(i)(A) through (D) in the 2010-11 fiscal year.

1830 (e) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
1831 Subsection (7)(b), and subject to Subsection (8)(f), when the highway general obligation bonds
1832 have been paid off and the highway projects completed that are intended to be paid from
1833 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the
1834 Executive Appropriations Committee under Subsection 72-2-118(6)(d), for a fiscal year
1835 beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation
1836 Investment Fund of 2005 created by Section 72-2-124:

1837 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
1838 the revenues collected from the following taxes, which represents a portion of the
1839 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
1840 on vehicles and vehicle-related products:

- 1841 (A) the tax imposed by Subsection (2)(a)(i)(A);
- 1842 (B) the tax imposed by Subsection (2)(b)(i);
- 1843 (C) the tax imposed by Subsection (2)(c)(i); and
- 1844 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

1845 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
1846 current fiscal year from the sales and use taxes described in Subsections (8)(e)(i)(A) through
1847 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
1848 (8)(e)(i)(A) through (D) in the 2010-11 fiscal year.

1849 (f) (i) Subject to Subsections (8)(f)(ii) and (iii), in any fiscal year that the portion of the
1850 sales and use taxes deposited under Subsection (8)(d) or (e) represents an amount that is a total
1851 lower percentage of the sales and use taxes described in Subsections (8)(e)(i)(A) through (D)
1852 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
1853 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
1854 (8)(d) or (e) equal to the product of:

- 1855 (A) the total percentage of sales and use taxes deposited under Subsection (8)(d) or (e)
1856 in the previous fiscal year; and

1857 (B) the total sales and use tax revenue generated by the taxes described in Subsections
1858 (8)(e)(i)(A) through (D) in the current fiscal year.

1859 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
1860 Subsection (8)(d) or (e) would exceed 17% of the revenues collected from the sales and use
1861 taxes described in Subsections (8)(e)(i)(A) through (D) in the current fiscal year, the Division
1862 of Finance shall deposit 17% of the revenues collected from the sales and use taxes described
1863 in Subsections (8)(e)(i)(A) through (D) for the current fiscal year under Subsection (8)(d) or
1864 (e).

1865 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
1866 from the sales and use taxes described in Subsections (8)(e)(i)(A) through (D) was deposited
1867 under Subsection (8)(d) or (e), the Division of Finance shall annually deposit 17% of the
1868 revenues collected from the sales and use taxes described in Subsections (8)(e)(i)(A) through
1869 (D) in the current fiscal year under Subsection (8)(d) or (e).

1870 (9) (a) Notwithstanding Subsection (3)(a) and for the fiscal year 2008-09 only, the
1871 Division of Finance shall deposit \$55,000,000 of the revenues generated by the taxes listed
1872 under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

1873 (b) Notwithstanding Subsection (3)(a) and until Subsection (9)(c) applies, for a fiscal
1874 year beginning on or after July 1, 2009, the Division of Finance shall annually deposit
1875 \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
1876 Critical Highway Needs Fund created by Section 72-2-125.

1877 (c) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under
1878 Subsections (7) and (8), when the general obligation bonds authorized by Section 63B-16-101
1879 have been paid off and the highway projects completed that are included in the prioritized
1880 project list under Subsection 72-2-125(4) as determined in accordance with Subsection
1881 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues
1882 generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund
1883 of 2005 created by Section 72-2-124.

1884 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
1885 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
1886 created by Section 9-4-1409 and expended as provided in Section 9-4-1409.

1887 (11) (a) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection

1888 (11)(a)(ii), and until Subsection (11)(b) applies, beginning on January 1, 2009, the Division of
1889 Finance shall deposit into the Critical Highway Needs Fund created by Section 72-2-125 the
1890 amount of tax revenue generated by a .025% tax rate on the transactions described in
1891 Subsection (1).

1892 (ii) For purposes of Subsection (11)(a)(i), the Division of Finance may not deposit into
1893 the Critical Highway Needs Fund any tax revenue generated by amounts paid or charged for
1894 food and food ingredients, except for tax revenue generated by a bundled transaction
1895 attributable to food and food ingredients and tangible personal property other than food and
1896 food ingredients described in Subsection (2)(e).

1897 (b) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b)(ii),
1898 and in addition to any amounts deposited under Subsections (7), (9), and (10), when the general
1899 obligation bonds authorized by Section 63B-16-101 have been paid off and the highway
1900 projects completed that are included in the prioritized project list under Subsection 72-2-125(4)
1901 as determined in accordance with Subsection 72-2-125(6), the Division of Finance shall
1902 deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
1903 amount of tax revenue generated by a .025% tax rate on the transactions described in
1904 Subsection (1).

1905 (ii) For purposes of Subsection (11)(b)(i), the Division of Finance may not deposit into
1906 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
1907 charged for food and food ingredients, except for tax revenue generated by a bundled
1908 transaction attributable to food and food ingredients and tangible personal property other than
1909 food and food ingredients described in Subsection (2)(e).

1910 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
1911 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
1912 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
1913 .025% tax rate on the transactions described in Subsection (1) to be expended to address
1914 chokepoints in construction management.

1915 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
1916 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
1917 food ingredients, except for tax revenue generated by a bundled transaction attributable to food
1918 and food ingredients and tangible personal property other than food and food ingredients

1919 described in Subsection (2)(e).

1920 Section 3. Section **59-12-104** is amended to read:

1921 **59-12-104. Exemptions.**

1922 The following sales and uses are exempt from the taxes imposed by this chapter:

1923 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
1924 under Chapter 13, Motor and Special Fuel Tax Act;

1925 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
1926 subdivisions; however, this exemption does not apply to sales of:

1927 (a) construction materials except:

1928 (i) construction materials purchased by or on behalf of institutions of the public
1929 education system as defined in Utah Constitution Article X, Section 2, provided the
1930 construction materials are clearly identified and segregated and installed or converted to real
1931 property which is owned by institutions of the public education system; and

1932 (ii) construction materials purchased by the state, its institutions, or its political
1933 subdivisions which are installed or converted to real property by employees of the state, its
1934 institutions, or its political subdivisions; or

1935 (b) tangible personal property in connection with the construction, operation,
1936 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
1937 providing additional project capacity, as defined in Section 11-13-103;

1938 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

1939 (i) the proceeds of each sale do not exceed \$1; and

1940 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
1941 the cost of the item described in Subsection (3)(b) as goods consumed; and

1942 (b) Subsection (3)(a) applies to:

1943 (i) food and food ingredients; or

1944 (ii) prepared food;

1945 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

1946 (i) alcoholic beverages;

1947 (ii) food and food ingredients; or

1948 (iii) prepared food;

1949 (b) sales of tangible personal property or a product transferred electronically:

1950 (i) to a passenger;

1951 (ii) by a commercial airline carrier; and

1952 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

1953 (c) services related to Subsection (4)(a) or (b);

1954 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts

1955 and equipment:

1956 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002

1957 North American Industry Classification System of the federal Executive Office of the

1958 President, Office of Management and Budget; and

1959 (II) for:

1960 (Aa) installation in an aircraft, including services relating to the installation of parts or

1961 equipment in the aircraft;

1962 (Bb) renovation of an aircraft; or

1963 (Cc) repair of an aircraft; or

1964 (B) for installation in an aircraft operated by a common carrier in interstate or foreign

1965 commerce; or

1966 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an

1967 aircraft operated by a common carrier in interstate or foreign commerce; and

1968 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,

1969 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a

1970 refund:

1971 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

1972 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

1973 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for

1974 the sale prior to filing for the refund;

1975 (iv) for sales and use taxes paid under this chapter on the sale;

1976 (v) in accordance with Section 59-1-1410; and

1977 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if

1978 the person files for the refund on or before September 30, 2011;

1979 (6) sales of commercials, motion picture films, prerecorded audio program tapes or

1980 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture

- 1981 exhibitor, distributor, or commercial television or radio broadcaster;
- 1982 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
1983 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
1984 washing of tangible personal property;
- 1985 (b) if a seller that sells at the same business location assisted cleaning or washing of
1986 tangible personal property and cleaning or washing of tangible personal property that is not
1987 assisted cleaning or washing of tangible personal property, the exemption described in
1988 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
1989 or washing of the tangible personal property; and
- 1990 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
1991 Utah Administrative Rulemaking Act, the commission may make rules:
- 1992 (i) governing the circumstances under which sales are at the same business location;
1993 and
- 1994 (ii) establishing the procedures and requirements for a seller to separately account for
1995 sales of assisted cleaning or washing of tangible personal property;
- 1996 (8) sales made to or by religious or charitable institutions in the conduct of their regular
1997 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
1998 fulfilled;
- 1999 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
2000 this state if the vehicle is:
- 2001 (a) not registered in this state; and
- 2002 (b) (i) not used in this state; or
- 2003 (ii) used in this state:
- 2004 (A) if the vehicle is not used to conduct business, for a time period that does not
2005 exceed the longer of:
- 2006 (I) 30 days in any calendar year; or
- 2007 (II) the time period necessary to transport the vehicle to the borders of this state; or
- 2008 (B) if the vehicle is used to conduct business, for the time period necessary to transport
2009 the vehicle to the borders of this state;
- 2010 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 2011 (i) the item is intended for human use; and

2012 (ii) (A) a prescription was issued for the item; or
2013 (B) the item was purchased by a hospital or other medical facility; and
2014 (b) (i) Subsection (10)(a) applies to:
2015 (A) a drug;
2016 (B) a syringe; or
2017 (C) a stoma supply; and
2018 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2019 commission may by rule define the terms:
2020 (A) "syringe"; or
2021 (B) "stoma supply";
2022 (11) sales or use of property, materials, or services used in the construction of or
2023 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
2024 (12) (a) sales of an item described in Subsection (12)(c) served by:
2025 (i) the following if the item described in Subsection (12)(c) is not available to the
2026 general public:
2027 (A) a church; or
2028 (B) a charitable institution;
2029 (ii) an institution of higher education if:
2030 (A) the item described in Subsection (12)(c) is not available to the general public; or
2031 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
2032 offered by the institution of higher education; or
2033 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
2034 (i) a medical facility; or
2035 (ii) a nursing facility; and
2036 (c) Subsections (12)(a) and (b) apply to:
2037 (i) food and food ingredients;
2038 (ii) prepared food; or
2039 (iii) alcoholic beverages;
2040 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
2041 or a product transferred electronically by a person:
2042 (i) regardless of the number of transactions involving the sale of that tangible personal

2043 property or product transferred electronically by that person; and
2044 (ii) not regularly engaged in the business of selling that type of tangible personal
2045 property or product transferred electronically;
2046 (b) this Subsection (13) does not apply if:
2047 (i) the sale is one of a series of sales of a character to indicate that the person is
2048 regularly engaged in the business of selling that type of tangible personal property or product
2049 transferred electronically;
2050 (ii) the person holds that person out as regularly engaged in the business of selling that
2051 type of tangible personal property or product transferred electronically;
2052 (iii) the person sells an item of tangible personal property or product transferred
2053 electronically that the person purchased as a sale that is exempt under Subsection (25); or
2054 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
2055 this state in which case the tax is based upon:
2056 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
2057 sold; or
2058 (B) in the absence of a bill of sale or other written evidence of value, the fair market
2059 value of the vehicle or vessel being sold at the time of the sale as determined by the
2060 commission; and
2061 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2062 commission shall make rules establishing the circumstances under which:
2063 (i) a person is regularly engaged in the business of selling a type of tangible personal
2064 property or product transferred electronically;
2065 (ii) a sale of tangible personal property or a product transferred electronically is one of
2066 a series of sales of a character to indicate that a person is regularly engaged in the business of
2067 selling that type of tangible personal property or product transferred electronically; or
2068 (iii) a person holds that person out as regularly engaged in the business of selling a type
2069 of tangible personal property or product transferred electronically;
2070 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
2071 July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration
2072 facility, of the following:
2073 (i) machinery and equipment that:

2074 (A) are used:

2075 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
2076 recycler described in Subsection 59-12-102[~~(55)~~](56)(b):

2077 (Aa) in the manufacturing process;

2078 (Bb) to manufacture an item sold as tangible personal property; and

2079 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
2080 (14)(a)(i)(A)(I) in the state; or

2081 (II) for a manufacturing facility that is a scrap recycler described in Subsection
2082 59-12-102[~~(55)~~](56)(b):

2083 (Aa) to process an item sold as tangible personal property; and

2084 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
2085 (14)(a)(i)(A)(II) in the state; and

2086 (B) have an economic life of three or more years; and

2087 (ii) normal operating repair or replacement parts that:

2088 (A) have an economic life of three or more years; and

2089 (B) are used:

2090 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
2091 recycler described in Subsection 59-12-102[~~(55)~~](56)(b):

2092 (Aa) in the manufacturing process; and

2093 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
2094 state; or

2095 (II) for a manufacturing facility that is a scrap recycler described in Subsection
2096 59-12-102[~~(55)~~](56)(b):

2097 (Aa) to process an item sold as tangible personal property; and

2098 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
2099 state;

2100 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
2101 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
2102 of the following:

2103 (i) machinery and equipment that:

2104 (A) are used:

- 2105 (I) in the manufacturing process;
- 2106 (II) to manufacture an item sold as tangible personal property; and
- 2107 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
- 2108 (14)(b) in the state; and
- 2109 (B) have an economic life of three or more years; and
- 2110 (ii) normal operating repair or replacement parts that:
- 2111 (A) are used:
- 2112 (I) in the manufacturing process; and
- 2113 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and
- 2114 (B) have an economic life of three or more years;
- 2115 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
- 2116 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
- 2117 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
- 2118 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
- 2119 of the 2002 North American Industry Classification System of the federal Executive Office of
- 2120 the President, Office of Management and Budget, of the following:
- 2121 (i) machinery and equipment that:
- 2122 (A) are used:
- 2123 (I) (Aa) in the production process, other than the production of real property; or
- 2124 (Bb) in research and development; and
- 2125 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)
- 2126 in the state; and
- 2127 (B) have an economic life of three or more years; and
- 2128 (ii) normal operating repair or replacement parts that:
- 2129 (A) have an economic life of three or more years; and
- 2130 (B) are used in:
- 2131 (I) (Aa) the production process, except for the production of real property; and
- 2132 (Bb) an establishment described in this Subsection (14)(c) in the state; or
- 2133 (II) (Aa) research and development; and
- 2134 (Bb) in an establishment described in this Subsection (14)(c) in the state;
- 2135 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,

2136 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web
2137 Search Portals, of the 2002 North American Industry Classification System of the federal
2138 Executive Office of the President, Office of Management and Budget, of the following:

2139 (A) machinery and equipment that:

2140 (I) are used in the operation of the web search portal;

2141 (II) have an economic life of three or more years; and

2142 (III) are used in a new or expanding establishment described in this Subsection (14)(d)

2143 in the state; and

2144 (B) normal operating repair or replacement parts that:

2145 (I) are used in the operation of the web search portal;

2146 (II) have an economic life of three or more years; and

2147 (III) are used in a new or expanding establishment described in this Subsection (14)(d)

2148 in the state; or

2149 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by

2150 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North

2151 American Industry Classification System of the federal Executive Office of the President,

2152 Office of Management and Budget, of the following:

2153 (A) machinery and equipment that:

2154 (I) are used in the operation of the web search portal; and

2155 (II) have an economic life of three or more years; and

2156 (B) normal operating repair or replacement parts that:

2157 (I) are used in the operation of the web search portal; and

2158 (II) have an economic life of three or more years;

2159 (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,

2160 Utah Administrative Rulemaking Act, the commission:

2161 (i) shall by rule define the term "establishment"; and

2162 (ii) may by rule define what constitutes:

2163 (A) processing an item sold as tangible personal property;

2164 (B) the production process, except for the production of real property;

2165 (C) research and development; or

2166 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and

2167 (f) on or before October 1, 2011, and every five years after October 1, 2011, the
2168 commission shall:

2169 (i) review the exemptions described in this Subsection (14) and make
2170 recommendations to the Revenue and Taxation Interim Committee concerning whether the
2171 exemptions should be continued, modified, or repealed; and

2172 (ii) include in its report:

2173 (A) an estimate of the cost of the exemptions;

2174 (B) the purpose and effectiveness of the exemptions; and

2175 (C) the benefits of the exemptions to the state;

2176 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

2177 (i) tooling;

2178 (ii) special tooling;

2179 (iii) support equipment;

2180 (iv) special test equipment; or

2181 (v) parts used in the repairs or renovations of tooling or equipment described in
2182 Subsections (15)(a)(i) through (iv); and

2183 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

2184 (i) the tooling, equipment, or parts are used or consumed exclusively in the
2185 performance of any aerospace or electronics industry contract with the United States
2186 government or any subcontract under that contract; and

2187 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
2188 title to the tooling, equipment, or parts is vested in the United States government as evidenced
2189 by:

2190 (A) a government identification tag placed on the tooling, equipment, or parts; or

2191 (B) listing on a government-approved property record if placing a government
2192 identification tag on the tooling, equipment, or parts is impractical;

2193 (16) sales of newspapers or newspaper subscriptions;

2194 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
2195 product transferred electronically traded in as full or part payment of the purchase price, except
2196 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
2197 trade-ins are limited to other vehicles only, and the tax is based upon:

2198 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
2199 vehicle being traded in; or

2200 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
2201 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
2202 commission; and

2203 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
2204 following items of tangible personal property or products transferred electronically traded in as
2205 full or part payment of the purchase price:

2206 (i) money;

2207 (ii) electricity;

2208 (iii) water;

2209 (iv) gas; or

2210 (v) steam;

2211 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
2212 or a product transferred electronically used or consumed primarily and directly in farming
2213 operations, regardless of whether the tangible personal property or product transferred
2214 electronically:

2215 (A) becomes part of real estate; or

2216 (B) is installed by a:

2217 (I) farmer;

2218 (II) contractor; or

2219 (III) subcontractor; or

2220 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
2221 product transferred electronically if the tangible personal property or product transferred
2222 electronically is exempt under Subsection (18)(a)(i); and

2223 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are
2224 subject to the taxes imposed by this chapter:

2225 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
2226 incidental to farming:

2227 (I) machinery;

2228 (II) equipment;

2229 (III) materials; or
2230 (IV) supplies; and
2231 (B) tangible personal property that is considered to be used in a manner that is
2232 incidental to farming includes:
2233 (I) hand tools; or
2234 (II) maintenance and janitorial equipment and supplies;
2235 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
2236 transferred electronically if the tangible personal property or product transferred electronically
2237 is used in an activity other than farming; and
2238 (B) tangible personal property or a product transferred electronically that is considered
2239 to be used in an activity other than farming includes:
2240 (I) office equipment and supplies; or
2241 (II) equipment and supplies used in:
2242 (Aa) the sale or distribution of farm products;
2243 (Bb) research; or
2244 (Cc) transportation; or
2245 (iii) a vehicle required to be registered by the laws of this state during the period
2246 ending two years after the date of the vehicle's purchase;
2247 (19) sales of hay;
2248 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
2249 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
2250 garden, farm, or other agricultural produce is sold by:
2251 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
2252 agricultural produce;
2253 (b) an employee of the producer described in Subsection (20)(a); or
2254 (c) a member of the immediate family of the producer described in Subsection (20)(a);
2255 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
2256 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;;
2257 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
2258 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
2259 wholesaler, or retailer for use in packaging tangible personal property to be sold by that

2260 manufacturer, processor, wholesaler, or retailer;

2261 (23) a product stored in the state for resale;

2262 (24) (a) purchases of a product if:

2263 (i) the product is:

2264 (A) purchased outside of this state;

2265 (B) brought into this state:

2266 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

2267 (II) by a nonresident person who is not living or working in this state at the time of the

2268 purchase;

2269 (C) used for the personal use or enjoyment of the nonresident person described in

2270 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

2271 (D) not used in conducting business in this state; and

2272 (ii) for:

2273 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of

2274 the product for a purpose for which the product is designed occurs outside of this state;

2275 (B) a boat, the boat is registered outside of this state; or

2276 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

2277 outside of this state;

2278 (b) the exemption provided for in Subsection (24)(a) does not apply to:

2279 (i) a lease or rental of a product; or

2280 (ii) a sale of a vehicle exempt under Subsection (33); and

2281 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

2282 purposes of Subsection (24)(a), the commission may by rule define what constitutes the

2283 following:

2284 (i) conducting business in this state if that phrase has the same meaning in this

2285 Subsection (24) as in Subsection (63);

2286 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)

2287 as in Subsection (63); or

2288 (iii) a purpose for which a product is designed if that phrase has the same meaning in

2289 this Subsection (24) as in Subsection (63);

2290 (25) a product purchased for resale in this state, in the regular course of business, either

2291 in its original form or as an ingredient or component part of a manufactured or compounded
2292 product;

2293 (26) a product upon which a sales or use tax was paid to some other state, or one of its
2294 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
2295 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
2296 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
2297 Act;

2298 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
2299 person for use in compounding a service taxable under the subsections;

2300 (28) purchases made in accordance with the special supplemental nutrition program for
2301 women, infants, and children established in 42 U.S.C. Sec. 1786;

2302 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
2303 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
2304 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
2305 Manual of the federal Executive Office of the President, Office of Management and Budget;

2306 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
2307 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

2308 (a) not registered in this state; and

2309 (b) (i) not used in this state; or

2310 (ii) used in this state:

2311 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
2312 time period that does not exceed the longer of:

2313 (I) 30 days in any calendar year; or

2314 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
2315 the borders of this state; or

2316 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
2317 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
2318 state;

2319 (31) sales of aircraft manufactured in Utah;

2320 (32) amounts paid for the purchase of telecommunications service for purposes of
2321 providing telecommunications service;

- 2322 (33) sales, leases, or uses of the following:
- 2323 (a) a vehicle by an authorized carrier; or
- 2324 (b) tangible personal property that is installed on a vehicle:
- 2325 (i) sold or leased to or used by an authorized carrier; and
- 2326 (ii) before the vehicle is placed in service for the first time;
- 2327 (34) (a) 45% of the sales price of any new manufactured home; and
- 2328 (b) 100% of the sales price of any used manufactured home;
- 2329 (35) sales relating to schools and fundraising sales;
- 2330 (36) sales or rentals of durable medical equipment if:
- 2331 (a) a person presents a prescription for the durable medical equipment; and
- 2332 (b) the durable medical equipment is used for home use only;
- 2333 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 2334 Section 72-11-102; and
- 2335 (b) the commission shall by rule determine the method for calculating sales exempt
- 2336 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 2337 (38) sales to a ski resort of:
- 2338 (a) snowmaking equipment;
- 2339 (b) ski slope grooming equipment;
- 2340 (c) passenger ropeways as defined in Section 72-11-102; or
- 2341 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 2342 described in Subsections (38)(a) through (c);
- 2343 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 2344 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 2345 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 2346 59-12-102;
- 2347 (b) if a seller that sells or rents at the same business location the right to use or operate
- 2348 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 2349 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 2350 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 2351 amusement, entertainment, or recreation for the assisted amusement devices; and
- 2352 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,

- 2353 Utah Administrative Rulemaking Act, the commission may make rules:
- 2354 (i) governing the circumstances under which sales are at the same business location;
- 2355 and
- 2356 (ii) establishing the procedures and requirements for a seller to separately account for
- 2357 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
- 2358 assisted amusement devices;
- 2359 (41) (a) sales of photocopies by:
- 2360 (i) a governmental entity; or
- 2361 (ii) an entity within the state system of public education, including:
- 2362 (A) a school; or
- 2363 (B) the State Board of Education; or
- 2364 (b) sales of publications by a governmental entity;
- 2365 (42) amounts paid for admission to an athletic event at an institution of higher
- 2366 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 2367 20 U.S.C. Sec. 1681 et seq.;
- 2368 (43) (a) sales made to or by:
- 2369 (i) an area agency on aging; or
- 2370 (ii) a senior citizen center owned by a county, city, or town; or
- 2371 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 2372 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 2373 materials regardless of whether the semiconductor fabricating, processing, research, or
- 2374 development materials:
- 2375 (a) actually come into contact with a semiconductor; or
- 2376 (b) ultimately become incorporated into real property;
- 2377 (45) an amount paid by or charged to a purchaser for accommodations and services
- 2378 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
- 2379 59-12-104.2;
- 2380 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
- 2381 sports event registration certificate in accordance with Section 41-3-306 for the event period
- 2382 specified on the temporary sports event registration certificate;
- 2383 (47) sales or uses of electricity, if the sales or uses are:

2384 (a) made under a tariff adopted by the Public Service Commission of Utah only for
2385 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
2386 source, as designated in the tariff by the Public Service Commission of Utah; and

2387 (b) for an amount of electricity that is:

2388 (i) unrelated to the amount of electricity used by the person purchasing the electricity
2389 under the tariff described in Subsection (47)(a); and

2390 (ii) equivalent to the number of kilowatthours specified in the tariff described in
2391 Subsection (47)(a) that may be purchased under the tariff described in Subsection (47)(a);

2392 (48) sales or rentals of mobility enhancing equipment if a person presents a
2393 prescription for the mobility enhancing equipment;

2394 (49) sales of water in a:

2395 (a) pipe;

2396 (b) conduit;

2397 (c) ditch; or

2398 (d) reservoir;

2399 (50) sales of currency or coinage that constitute legal tender of the United States or of a
2400 foreign nation;

2401 (51) (a) sales of an item described in Subsection (51)(b) if the item:

2402 (i) does not constitute legal tender of any nation; and

2403 (ii) has a gold, silver, or platinum content of 80% or more; and

2404 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

2405 (i) ingot;

2406 (ii) bar;

2407 (iii) medallion; or

2408 (iv) decorative coin;

2409 (52) amounts paid on a sale-leaseback transaction;

2410 (53) sales of a prosthetic device:

2411 (a) for use on or in a human; and

2412 (b) (i) for which a prescription is required; or

2413 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

2414 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of

2415 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
2416 or equipment is primarily used in the production or postproduction of the following media for
2417 commercial distribution:

- 2418 (i) a motion picture;
- 2419 (ii) a television program;
- 2420 (iii) a movie made for television;
- 2421 (iv) a music video;
- 2422 (v) a commercial;
- 2423 (vi) a documentary; or
- 2424 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the

2425 commission by administrative rule made in accordance with Subsection (54)(d); or

- 2426 (b) notwithstanding Subsection (54)(a), purchases, leases, or rentals of machinery or
2427 equipment by an establishment described in Subsection (54)(c) that is used for the production
2428 or postproduction of the following are subject to the taxes imposed by this chapter:

- 2429 (i) a live musical performance;
- 2430 (ii) a live news program; or
- 2431 (iii) a live sporting event;

2432 (c) the following establishments listed in the 1997 North American Industry
2433 Classification System of the federal Executive Office of the President, Office of Management
2434 and Budget, apply to Subsections (54)(a) and (b):

- 2435 (i) NAICS Code 512110; or
- 2436 (ii) NAICS Code 51219; and

2437 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2438 commission may by rule:

- 2439 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

2440 or

- 2441 (ii) define:

- 2442 (A) "commercial distribution";
- 2443 (B) "live musical performance";
- 2444 (C) "live news program"; or
- 2445 (D) "live sporting event";

2446 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
2447 on or before June 30, 2019, of machinery or equipment that:
2448 (i) is leased or purchased for or by a facility that:
2449 (A) is a renewable energy production facility;
2450 (B) is located in the state; and
2451 (C) (I) becomes operational on or after July 1, 2004; or
2452 (II) has its generation capacity increased by one or more megawatts on or after July 1,
2453 2004, as a result of the use of the machinery or equipment;
2454 (ii) has an economic life of five or more years; and
2455 (iii) is used to make the facility or the increase in capacity of the facility described in
2456 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
2457 transmission grid including:
2458 (A) a wind turbine;
2459 (B) generating equipment;
2460 (C) a control and monitoring system;
2461 (D) a power line;
2462 (E) substation equipment;
2463 (F) lighting;
2464 (G) fencing;
2465 (H) pipes; or
2466 (I) other equipment used for locating a power line or pole; and
2467 (b) this Subsection (55) does not apply to:
2468 (i) machinery or equipment used in construction of:
2469 (A) a new renewable energy production facility; or
2470 (B) the increase in the capacity of a renewable energy production facility;
2471 (ii) contracted services required for construction and routine maintenance activities;
2472 and
2473 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
2474 of the facility described in Subsection (55)(a)(i)(C)(II), machinery or equipment used or
2475 acquired after:
2476 (A) the renewable energy production facility described in Subsection (55)(a)(i) is

2477 operational as described in Subsection (55)(a)(iii); or
2478 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
2479 in Subsection (55)(a)(iii);
2480 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
2481 on or before June 30, 2019, of machinery or equipment that:
2482 (i) is leased or purchased for or by a facility that:
2483 (A) is a waste energy production facility;
2484 (B) is located in the state; and
2485 (C) (I) becomes operational on or after July 1, 2004; or
2486 (II) has its generation capacity increased by one or more megawatts on or after July 1,
2487 2004, as a result of the use of the machinery or equipment;
2488 (ii) has an economic life of five or more years; and
2489 (iii) is used to make the facility or the increase in capacity of the facility described in
2490 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
2491 transmission grid including:
2492 (A) generating equipment;
2493 (B) a control and monitoring system;
2494 (C) a power line;
2495 (D) substation equipment;
2496 (E) lighting;
2497 (F) fencing;
2498 (G) pipes; or
2499 (H) other equipment used for locating a power line or pole; and
2500 (b) this Subsection (56) does not apply to:
2501 (i) machinery or equipment used in construction of:
2502 (A) a new waste energy facility; or
2503 (B) the increase in the capacity of a waste energy facility;
2504 (ii) contracted services required for construction and routine maintenance activities;
2505 and
2506 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
2507 described in Subsection (56)(a)(i)(C)(II), machinery or equipment used or acquired after:

- 2508 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
2509 described in Subsection (56)(a)(iii); or
- 2510 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
2511 in Subsection (56)(a)(iii);
- 2512 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
2513 or before June 30, 2019, of machinery or equipment that:
- 2514 (i) is leased or purchased for or by a facility that:
- 2515 (A) is located in the state;
- 2516 (B) produces fuel from biomass energy including:
- 2517 (I) methanol; or
- 2518 (II) ethanol; and
- 2519 (C) (I) becomes operational on or after July 1, 2004; or
- 2520 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
2521 a result of the installation of the machinery or equipment;
- 2522 (ii) has an economic life of five or more years; and
- 2523 (iii) is installed on the facility described in Subsection (57)(a)(i);
- 2524 (b) this Subsection (57) does not apply to:
- 2525 (i) machinery or equipment used in construction of:
- 2526 (A) a new facility described in Subsection (57)(a)(i); or
- 2527 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
- 2528 (ii) contracted services required for construction and routine maintenance activities;
- 2529 and
- 2530 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
2531 described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or acquired after:
- 2532 (A) the facility described in Subsection (57)(a)(i) is operational; or
- 2533 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
- 2534 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
2535 product transferred electronically to a person within this state if that tangible personal property
2536 or product transferred electronically is subsequently shipped outside the state and incorporated
2537 pursuant to contract into and becomes a part of real property located outside of this state;
- 2538 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other

2539 state or political entity to which the tangible personal property is shipped imposes a sales, use,
2540 gross receipts, or other similar transaction excise tax on the transaction against which the other
2541 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

2542 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
2543 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
2544 refund:

2545 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

2546 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
2547 which the sale is made;

2548 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
2549 sale prior to filing for the refund;

2550 (iv) for sales and use taxes paid under this chapter on the sale;

2551 (v) in accordance with Section 59-1-1410; and

2552 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
2553 the person files for the refund on or before June 30, 2011;

2554 (59) purchases:

2555 (a) of one or more of the following items in printed or electronic format:

2556 (i) a list containing information that includes one or more:

2557 (A) names; or

2558 (B) addresses; or

2559 (ii) a database containing information that includes one or more:

2560 (A) names; or

2561 (B) addresses; and

2562 (b) used to send direct mail;

2563 (60) redemptions or repurchases of a product by a person if that product was:

2564 (a) delivered to a pawnbroker as part of a pawn transaction; and

2565 (b) redeemed or repurchased within the time period established in a written agreement
2566 between the person and the pawnbroker for redeeming or repurchasing the product;

2567 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

2568 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

2569 and

2570 (ii) has a useful economic life of one or more years; and
2571 (b) the following apply to Subsection (61)(a):
2572 (i) telecommunications enabling or facilitating equipment, machinery, or software;
2573 (ii) telecommunications equipment, machinery, or software required for 911 service;
2574 (iii) telecommunications maintenance or repair equipment, machinery, or software;
2575 (iv) telecommunications switching or routing equipment, machinery, or software; or
2576 (v) telecommunications transmission equipment, machinery, or software;
2577 (62) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of tangible
2578 personal property or a product transferred electronically that are used in the research and
2579 development of coal-to-liquids, oil shale, or tar sands technology; and
2580 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2581 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
2582 purchases of tangible personal property or a product transferred electronically that are used in
2583 the research and development of coal-to-liquids, oil shale, and tar sands technology;
2584 (63) (a) purchases of tangible personal property or a product transferred electronically
2585 if:
2586 (i) the tangible personal property or product transferred electronically is:
2587 (A) purchased outside of this state;
2588 (B) brought into this state at any time after the purchase described in Subsection
2589 (63)(a)(i)(A); and
2590 (C) used in conducting business in this state; and
2591 (ii) for:
2592 (A) tangible personal property or a product transferred electronically other than the
2593 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
2594 for a purpose for which the property is designed occurs outside of this state; or
2595 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
2596 outside of this state;
2597 (b) the exemption provided for in Subsection (63)(a) does not apply to:
2598 (i) a lease or rental of tangible personal property or a product transferred electronically;
2599 or
2600 (ii) a sale of a vehicle exempt under Subsection (33); and

2601 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2602 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
2603 following:

2604 (i) conducting business in this state if that phrase has the same meaning in this
2605 Subsection (63) as in Subsection (24);

2606 (ii) the first use of tangible personal property or a product transferred electronically if
2607 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

2608 (iii) a purpose for which tangible personal property or a product transferred
2609 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
2610 Subsection (24);

2611 (64) sales of disposable home medical equipment or supplies if:

2612 (a) a person presents a prescription for the disposable home medical equipment or
2613 supplies;

2614 (b) the disposable home medical equipment or supplies are used exclusively by the
2615 person to whom the prescription described in Subsection (64)(a) is issued; and

2616 (c) the disposable home medical equipment and supplies are listed as eligible for
2617 payment under:

2618 (i) Title XVIII, federal Social Security Act; or

2619 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

2620 (65) sales:

2621 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
2622 District Act; or

2623 (b) of tangible personal property to a subcontractor of a public transit district, if the
2624 tangible personal property is:

2625 (i) clearly identified; and

2626 (ii) installed or converted to real property owned by the public transit district;

2627 (66) sales of construction materials:

2628 (a) purchased on or after July 1, 2010;

2629 (b) purchased by, on behalf of, or for the benefit of an international airport:

2630 (i) located within a county of the first class; and

2631 (ii) that has a United States customs office on its premises; and

- 2632 (c) if the construction materials are:
- 2633 (i) clearly identified;
- 2634 (ii) segregated; and
- 2635 (iii) installed or converted to real property:
- 2636 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 2637 (B) located at the international airport described in Subsection (66)(b);
- 2638 (67) sales of construction materials:
- 2639 (a) purchased on or after July 1, 2008;
- 2640 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 2641 (i) located within a county of the second class; and
- 2642 (ii) that is owned or operated by a city in which an airline as defined in Section
- 2643 59-2-102 is headquartered; and
- 2644 (c) if the construction materials are:
- 2645 (i) clearly identified;
- 2646 (ii) segregated; and
- 2647 (iii) installed or converted to real property:
- 2648 (A) owned or operated by the new airport described in Subsection (67)(b);
- 2649 (B) located at the new airport described in Subsection (67)(b); and
- 2650 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 2651 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 2652 (69) purchases and sales described in Section 63H-4-111;
- 2653 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 2654 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 2655 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2656 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2657 powered aircraft; or
- 2658 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 2659 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 2660 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2661 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2662 powered aircraft;

2663 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
2664 (a) to a person admitted to an institution of higher education; and
2665 (b) by a seller, other than a bookstore owned by an institution of higher education, if
2666 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
2667 textbook for a higher education course; and
2668 (72) a license fee or tax a municipality imposes in accordance with Subsection
2669 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
2670 level of municipal services.
2671 Section 4. **Effective date.**
2672 This bill takes effect on July 1, 2012.

Legislative Review Note
as of 11-17-11 2:22 PM

Office of Legislative Research and General Counsel