

Senator Wayne A. Harper proposes the following substitute bill:

SALES AND USE TAX EXEMPTION FOR DATABASE

ACCESS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill enacts a sales and use tax exemption for amounts paid or charged to access a database.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ enacts a sales and use tax exemption for amounts paid or charged to access a database under certain circumstances; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides effective dates.

Utah Code Sections Affected:

AMENDS:

59-12-102 (Superseded 07/01/14), as last amended by Laws of Utah 2012, Chapters 255, 312, 405, and 410



26 **59-12-102 (Effective 07/01/14)**, as last amended by Laws of Utah 2012, Chapters 255,
27 312, 405, 410, and 424

28 **59-12-104**, as last amended by Laws of Utah 2012, Chapters 255, 399, 405, and 410

29

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

31 Section 1. Section **59-12-102 (Superseded 07/01/14)** is amended to read:

32 **59-12-102 (Superseded 07/01/14). Definitions.**

33 As used in this chapter:

34 (1) "800 service" means a telecommunications service that:

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

36 (b) is typically marketed:

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

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

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

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

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

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

43 Federal Communications Commission.

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

45 (i) a subscriber purchases;

46 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
47 the subscriber's:

48 (A) prerecorded announcement; or

49 (B) live service; and

50 (iii) is typically marketed:

51 (A) under the name 900 service; or

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

53 Communications Commission.

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

55 (i) a collection service a seller of a telecommunications service provides to a
56 subscriber; or

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

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

- 119 (b) contains .5% or more alcohol by volume.
- 120 (10) "Alternative energy" means:
- 121 (a) biomass energy;
- 122 (b) geothermal energy;
- 123 (c) hydroelectric energy;
- 124 (d) solar energy;
- 125 (e) wind energy; or
- 126 (f) energy that is derived from:
- 127 (i) coal-to-liquids;
- 128 (ii) nuclear fuel;
- 129 (iii) oil-impregnated diatomaceous earth;
- 130 (iv) oil sands;
- 131 (v) oil shale; or
- 132 (vi) petroleum coke.
- 133 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 134 facility" means a facility that:
- 135 (i) uses alternative energy to produce electricity; and
- 136 (ii) has a production capacity of 2 megawatts or greater.
- 137 (b) A facility is an alternative energy electricity production facility regardless of
- 138 whether the facility is:
- 139 (i) connected to an electric grid; or
- 140 (ii) located on the premises of an electricity consumer.
- 141 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 142 provision of telecommunications service.
- 143 (b) "Ancillary service" includes:
- 144 (i) a conference bridging service;
- 145 (ii) a detailed communications billing service;
- 146 (iii) directory assistance;
- 147 (iv) a vertical service; or
- 148 (v) a voice mail service.
- 149 (13) "Area agency on aging" is as defined in Section 62A-3-101.

150 (14) "Assisted amusement device" means an amusement device, skill device, or ride
151 device that is started and stopped by an individual:

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

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

156 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
157 washing of tangible personal property if the cleaning or washing labor is primarily performed
158 by an individual:

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

161 (b) at the direction of the seller of the cleaning or washing of the tangible personal
162 property.

163 (16) "Authorized carrier" means:

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

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

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

171 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
172 following that is used as the primary source of energy to produce fuel or electricity:

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

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

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

176 (B) animal waste;

177 (C) methane produced:

178 (I) at landfills; or

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

180 (D) aquatic plants; and

- 181 (E) agricultural products.
- 182 (b) "Biomass energy" does not include:
- 183 (i) black liquor;
- 184 (ii) treated woods; or
- 185 (iii) biomass from municipal solid waste other than methane produced:
- 186 (A) at landfills; or
- 187 (B) as a byproduct of the treatment of wastewater residuals.
- 188 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 189 property, products, or services if the tangible personal property, products, or services are:
- 190 (i) distinct and identifiable; and
- 191 (ii) sold for one nonitemized price.
- 192 (b) "Bundled transaction" does not include:
- 193 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 194 the basis of the selection by the purchaser of the items of tangible personal property included in
- 195 the transaction;
- 196 (ii) the sale of real property;
- 197 (iii) the sale of services to real property;
- 198 (iv) the retail sale of tangible personal property and a service if:
- 199 (A) the tangible personal property:
- 200 (I) is essential to the use of the service; and
- 201 (II) is provided exclusively in connection with the service; and
- 202 (B) the service is the true object of the transaction;
- 203 (v) the retail sale of two services if:
- 204 (A) one service is provided that is essential to the use or receipt of a second service;
- 205 (B) the first service is provided exclusively in connection with the second service; and
- 206 (C) the second service is the true object of the transaction;
- 207 (vi) a transaction that includes tangible personal property or a product subject to
- 208 taxation under this chapter and tangible personal property or a product that is not subject to
- 209 taxation under this chapter if the:
- 210 (A) seller's purchase price of the tangible personal property or product subject to
- 211 taxation under this chapter is de minimis; or

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

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

216 (A) that retail sale includes:

217 (I) food and food ingredients;

218 (II) a drug;

219 (III) durable medical equipment;

220 (IV) mobility enhancing equipment;

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

222 (VI) a prosthetic device; or

223 (VII) a medical supply; and

224 (B) subject to Subsection (18)(f):

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

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

229 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
230 service that is distinct and identifiable does not include:

231 (A) packaging that:

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

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

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

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

239 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
240 product, or a service is provided free of charge with the purchase of another item of tangible
241 personal property, a product, or a service if the sales price of the purchased item of tangible
242 personal property, product, or service does not vary depending on the inclusion of the tangible

243 personal property, product, or service provided free of charge.

244 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
245 does not include a price that is separately identified by tangible personal property, product, or
246 service on the following, regardless of whether the following is in paper format or electronic
247 format:

248 (A) a binding sales document; or

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

250 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
251 supporting sales-related document that is available to a purchaser includes:

252 (A) a bill of sale;

253 (B) a contract;

254 (C) an invoice;

255 (D) a lease agreement;

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

257 (F) a price list;

258 (G) a rate card;

259 (H) a receipt; or

260 (I) a service agreement.

261 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
262 property or a product subject to taxation under this chapter is de minimis if:

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

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

267 (ii) For purposes of Subsection (18)(b)(vi), a seller:

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

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

274 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
275 contract to determine if the sales price of tangible personal property or a product is de minimis.

276 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
277 the seller's purchase price and the seller's sales price to determine if tangible personal property
278 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
279 price of that retail sale.

280 (19) "Certified automated system" means software certified by the governing board of
281 the agreement that:

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

284 (i) on a transaction; and

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

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

288 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

289 (20) "Certified service provider" means an agent certified:

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

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

294 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
295 suitable for general use.

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

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

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

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

302 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
303 fuels that does not constitute industrial use under Subsection [~~(51)~~] (54) or residential use
304 under Subsection [~~(101)~~] (104).

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

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

310 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
311 Utah Administrative Rulemaking Act, the commission may make rules defining what
312 constitutes a person's place of employment.

313 (25) "Component part" includes:

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

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

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

319 (d) feed, seeds, and seedlings.

320 (26) "Computer" means an electronic device that accepts information:

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

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

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

324 (27) "Computer software" means a set of coded instructions designed to cause:

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

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

327 (28) "Computer software maintenance contract" means a contract that obligates a seller
328 of computer software to provide a customer with:

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

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

331 (c) a combination of Subsections (28)(a) and (b).

332 (29) (a) "Conference bridging service" means an ancillary service that links two or
333 more participants of an audio conference call or video conference call.

334 (b) "Conference bridging service" may include providing a telephone number as part of
335 the ancillary service described in Subsection (29)(a).

336 (c) "Conference bridging service" does not include a telecommunications service used
337 to reach the ancillary service described in Subsection (29)(a).

338 (30) "Construction materials" means any tangible personal property that will be
339 converted into real property.

340 (31) "Delivered electronically" means delivered to a purchaser by means other than
341 tangible storage media.

342 (32) (a) "Delivery charge" means a charge:

343 (i) by a seller of:

344 (A) tangible personal property;

345 (B) a product transferred electronically; or

346 (C) services; and

347 (ii) for preparation and delivery of the tangible personal property, product transferred
348 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
349 purchaser.

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

351 (i) transportation;

352 (ii) shipping;

353 (iii) postage;

354 (iv) handling;

355 (v) crating; or

356 (vi) packing.

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

359 (34) "Dietary supplement" means a product, other than tobacco, that:

360 (a) is intended to supplement the diet;

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

362 (i) a vitamin;

363 (ii) a mineral;

364 (iii) an herb or other botanical;

365 (iv) an amino acid;

366 (v) a dietary substance for use by humans to supplement the diet by increasing the total

367 dietary intake; or

368 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
369 described in Subsections (34)(b)(i) through (v);

370 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

371 (A) tablet form;

372 (B) capsule form;

373 (C) powder form;

374 (D) softgel form;

375 (E) gelcap form; or

376 (F) liquid form; or

377 (ii) notwithstanding Subsection (34)(c)(i), if the product is not intended for ingestion in
378 a form described in Subsections (34)(c)(i)(A) through (F), is not represented:

379 (A) as conventional food; and

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

381 (I) a meal; or

382 (II) the diet; and

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

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

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

386 (35) (a) "Digital audio work" means a work that results from the fixation of a series of
387 musical, spoken, or other sounds.

388 (b) "Digital audio work" includes a ringtone.

389 (36) "Digital audio-visual work" means a series of related images which, when shown
390 in succession, imparts an impression of motion, together with accompanying sounds, if any.

391 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
392 sense as a book.

393 [~~35~~] (38) (a) "Direct mail" means printed material delivered or distributed by United
394 States mail or other delivery service:

395 (i) to:

396 (A) a mass audience; or

397 (B) addressees on a mailing list provided:

- 398 (I) by a purchaser of the mailing list; or
- 399 (II) at the discretion of the purchaser of the mailing list; and
- 400 (ii) if the cost of the printed material is not billed directly to the recipients.
- 401 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 402 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 403 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 404 single address.
- 405 [~~36~~] (39) "Directory assistance" means an ancillary service of providing:
- 406 (a) address information; or
- 407 (b) telephone number information.
- 408 [~~37~~] (40) (a) "Disposable home medical equipment or supplies" means medical
- 409 equipment or supplies that:
- 410 (i) cannot withstand repeated use; and
- 411 (ii) are purchased by, for, or on behalf of a person other than:
- 412 (A) a health care facility as defined in Section 26-21-2;
- 413 (B) a health care provider as defined in Section 78B-3-403;
- 414 (C) an office of a health care provider described in Subsection [~~37~~] (40)(a)(ii)(B); or
- 415 (D) a person similar to a person described in Subsections [~~37~~] (40)(a)(ii)(A) through
- 416 (C).
- 417 (b) "Disposable home medical equipment or supplies" does not include:
- 418 (i) a drug;
- 419 (ii) durable medical equipment;
- 420 (iii) a hearing aid;
- 421 (iv) a hearing aid accessory;
- 422 (v) mobility enhancing equipment; or
- 423 (vi) tangible personal property used to correct impaired vision, including:
- 424 (A) eyeglasses; or
- 425 (B) contact lenses.
- 426 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 427 commission may by rule define what constitutes medical equipment or supplies.
- 428 [~~38~~] (41) (a) "Drug" means a compound, substance, or preparation, or a component of

429 a compound, substance, or preparation that is:

430 (i) recognized in:

431 (A) the official United States Pharmacopoeia;

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

433 (C) the official National Formulary; or

434 (D) a supplement to a publication listed in Subsections [~~38~~] (41)(a)(i)(A) through

435 (C);

436 (ii) intended for use in the:

437 (A) diagnosis of disease;

438 (B) cure of disease;

439 (C) mitigation of disease;

440 (D) treatment of disease; or

441 (E) prevention of disease; or

442 (iii) intended to affect:

443 (A) the structure of the body; or

444 (B) any function of the body.

445 (b) "Drug" does not include:

446 (i) food and food ingredients;

447 (ii) a dietary supplement;

448 (iii) an alcoholic beverage; or

449 (iv) a prosthetic device.

450 [~~39~~] (42) (a) Except as provided in Subsection [~~39~~] (42)(c), "durable medical

451 equipment" means equipment that:

452 (i) can withstand repeated use;

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

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

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

456 (b) "Durable medical equipment" includes parts used in the repair or replacement of the

457 equipment described in Subsection [~~39~~] (42)(a).

458 (c) Notwithstanding Subsection [~~39~~] (42)(a), "durable medical equipment" does not

459 include mobility enhancing equipment.

- 460 [~~(40)~~] (43) "Electronic" means:
- 461 (a) relating to technology; and
- 462 (b) having:
- 463 (i) electrical capabilities;
- 464 (ii) digital capabilities;
- 465 (iii) magnetic capabilities;
- 466 (iv) wireless capabilities;
- 467 (v) optical capabilities;
- 468 (vi) electromagnetic capabilities; or
- 469 (vii) capabilities similar to Subsections [~~(40)~~] (43)(b)(i) through (vi).
- 470 [~~(41)~~] (44) "Employee" is as defined in Section 59-10-401.
- 471 [~~(42)~~] (45) "Fixed guideway" means a public transit facility that uses and occupies:
- 472 (a) rail for the use of public transit; or
- 473 (b) a separate right-of-way for the use of public transit.
- 474 [~~(43)~~] (46) "Fixed wing turbine powered aircraft" means an aircraft that:
- 475 (a) is powered by turbine engines;
- 476 (b) operates on jet fuel; and
- 477 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 478 [~~(44)~~] (47) "Fixed wireless service" means a telecommunications service that provides
- 479 radio communication between fixed points.
- 480 [~~(45)~~] (48) (a) "Food and food ingredients" means substances:
- 481 (i) regardless of whether the substances are in:
- 482 (A) liquid form;
- 483 (B) concentrated form;
- 484 (C) solid form;
- 485 (D) frozen form;
- 486 (E) dried form; or
- 487 (F) dehydrated form; and
- 488 (ii) that are:
- 489 (A) sold for:
- 490 (I) ingestion by humans; or

491 (II) chewing by humans; and
492 (B) consumed for the substance's:
493 (I) taste; or
494 (II) nutritional value.
495 (b) "Food and food ingredients" includes an item described in Subsection [~~(86)~~
496 (89)(b)(iii).
497 (c) "Food and food ingredients" does not include:
498 (i) an alcoholic beverage;
499 (ii) tobacco; or
500 (iii) prepared food.
501 [~~(46)~~] (49) (a) "Fundraising sales" means sales:
502 (i) (A) made by a school; or
503 (B) made by a school student;
504 (ii) that are for the purpose of raising funds for the school to purchase equipment,
505 materials, or provide transportation; and
506 (iii) that are part of an officially sanctioned school activity.
507 (b) For purposes of Subsection [~~(46)~~] (49)(a)(iii), "officially sanctioned school activity"
508 means a school activity:
509 (i) that is conducted in accordance with a formal policy adopted by the school or school
510 district governing the authorization and supervision of fundraising activities;
511 (ii) that does not directly or indirectly compensate an individual teacher or other
512 educational personnel by direct payment, commissions, or payment in kind; and
513 (iii) the net or gross revenues from which are deposited in a dedicated account
514 controlled by the school or school district.
515 [~~(47)~~] (50) "Geothermal energy" means energy contained in heat that continuously
516 flows outward from the earth that is used as the sole source of energy to produce electricity.
517 [~~(48)~~] (51) "Governing board of the agreement" means the governing board of the
518 agreement that is:
519 (a) authorized to administer the agreement; and
520 (b) established in accordance with the agreement.
521 [~~(49)~~] (52) (a) For purposes of Subsection 59-12-104(41), "governmental entity"

522 means:

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

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

527 (iii) the legislative branch of the state, including the House of Representatives, the
528 Senate, the Legislative Printing Office, the Office of Legislative Research and General
529 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal

530 Analyst;

531 (iv) the National Guard;

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

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

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

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

537 (ii) a school;

538 (iii) the State Board of Education;

539 (iv) the State Board of Regents; or

540 (v) an institution of higher education.

541 [~~50~~] 53 "Hydroelectric energy" means water used as the sole source of energy to
542 produce electricity.

543 [~~51~~] 54 "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
544 or other fuels:

545 (a) in mining or extraction of minerals;

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

548 (i) commercial greenhouses;

549 (ii) irrigation pumps;

550 (iii) farm machinery;

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

- 553 (v) other farming activities;
- 554 (c) in manufacturing tangible personal property at an establishment described in SIC
- 555 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 556 Executive Office of the President, Office of Management and Budget;
- 557 (d) by a scrap recycler if:
- 558 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 559 one or more of the following items into prepared grades of processed materials for use in new
- 560 products:
- 561 (A) iron;
- 562 (B) steel;
- 563 (C) nonferrous metal;
- 564 (D) paper;
- 565 (E) glass;
- 566 (F) plastic;
- 567 (G) textile; or
- 568 (H) rubber; and
- 569 (ii) the new products under Subsection [~~(51)~~] (54)(d)(i) would otherwise be made with
- 570 nonrecycled materials; or
- 571 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
- 572 cogeneration facility as defined in Section 54-2-1.
- 573 [~~(52)~~] (55) (a) Except as provided in Subsection [~~(52)~~] (55)(b), "installation charge"
- 574 means a charge for installing:
- 575 (i) tangible personal property; or
- 576 (ii) a product transferred electronically.
- 577 (b) "Installation charge" does not include a charge for:
- 578 (i) repairs or renovations of:
- 579 (A) tangible personal property; or
- 580 (B) a product transferred electronically; or
- 581 (ii) attaching tangible personal property or a product transferred electronically:
- 582 (A) to other tangible personal property; and
- 583 (B) as part of a manufacturing or fabrication process.

584 [~~(53)~~] (56) "Institution of higher education" means an institution of higher education
585 listed in Section 53B-2-101.

586 [~~(54)~~] (57) (a) "Lease" or "rental" means a transfer of possession or control of tangible
587 personal property or a product transferred electronically for:

588 (i) (A) a fixed term; or
589 (B) an indeterminate term; and

590 (ii) consideration.

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

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

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

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

601 (A) upon completion of required payments; and

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

603 (I) \$100; or

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

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

608 (d) For purposes of Subsection [~~(54)~~] (57)(c)(iii), an operator is necessary for
609 equipment to perform as designed if the operator's duties exceed the:

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

611 (ii) maintenance of tangible personal property; or

612 (iii) inspection of tangible personal property.

613 [~~(55)~~] (58) "Life science establishment" means an establishment in this state that is
614 classified under the following NAICS codes of the 2007 North American Industry

615 Classification System of the federal Executive Office of the President, Office of Management
616 and Budget:

617 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

618 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

619 Manufacturing; or

620 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

621 [~~56~~] (59) "Life science research and development facility" means a facility owned,
622 leased, or rented by a life science establishment if research and development is performed in
623 51% or more of the total area of the facility.

624 [~~57~~] (60) "Load and leave" means delivery to a purchaser by use of a tangible storage
625 media if the tangible storage media is not physically transferred to the purchaser.

626 [~~58~~] (61) "Local taxing jurisdiction" means a:

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

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

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

630 [~~59~~] (62) "Manufactured home" is as defined in Section 15A-1-302.

631 [~~60~~] (63) For purposes of Section 59-12-104, "manufacturing facility" means:

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

633 Industrial Classification Manual of the federal Executive Office of the President, Office of
634 Management and Budget;

635 (b) a scrap recycler if:

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

639 (A) iron;

640 (B) steel;

641 (C) nonferrous metal;

642 (D) paper;

643 (E) glass;

644 (F) plastic;

645 (G) textile; or

- 646 (H) rubber; and
- 647 (ii) the new products under Subsection [~~(60)~~] (63)(b)(i) would otherwise be made with
- 648 nonrecycled materials; or
- 649 (c) a cogeneration facility as defined in Section 54-2-1.
- 650 [~~(61)~~] (64) "Member of the immediate family of the producer" means a person who is
- 651 related to a producer described in Subsection 59-12-104(20)(a) as a:
- 652 (a) child or stepchild, regardless of whether the child or stepchild is:
- 653 (i) an adopted child or adopted stepchild; or
- 654 (ii) a foster child or foster stepchild;
- 655 (b) grandchild or stepgrandchild;
- 656 (c) grandparent or stepgrandparent;
- 657 (d) nephew or stepnephew;
- 658 (e) niece or stepniece;
- 659 (f) parent or stepparent;
- 660 (g) sibling or stepsibling;
- 661 (h) spouse;
- 662 (i) person who is the spouse of a person described in Subsections [~~(61)~~] (64)(a) through
- 663 (g); or
- 664 (j) person similar to a person described in Subsections [~~(61)~~] (64)(a) through (i) as
- 665 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 666 Administrative Rulemaking Act.
- 667 [~~(62)~~] (65) "Mobile home" is as defined in Section 15A-1-302.
- 668 [~~(63)~~] (66) "Mobile telecommunications service" is as defined in the Mobile
- 669 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 670 [~~(64)~~] (67) (a) "Mobile wireless service" means a telecommunications service,
- 671 regardless of the technology used, if:
- 672 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 673 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 674 (iii) the origination point described in Subsection [~~(64)~~] (67)(a)(i) and the termination
- 675 point described in Subsection [~~(64)~~] (67)(a)(ii) are not fixed.
- 676 (b) "Mobile wireless service" includes a telecommunications service that is provided

677 by a commercial mobile radio service provider.

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

680 [~~65~~] (68) (a) Except as provided in Subsection [~~65~~] (68)(c), "mobility enhancing
681 equipment" means equipment that is:

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

684 (ii) appropriate for use in a:

685 (A) home; or

686 (B) motor vehicle; and

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

688 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
689 the equipment described in Subsection [~~65~~] (68)(a).

690 (c) Notwithstanding Subsection [~~65~~] (68)(a), "mobility enhancing equipment" does
691 not include:

692 (i) a motor vehicle;

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

695 (iii) durable medical equipment; or

696 (iv) a prosthetic device.

697 [~~66~~] (69) "Model 1 seller" means a seller registered under the agreement that has
698 selected a certified service provider as the seller's agent to perform all of the seller's sales and
699 use tax functions for agreement sales and use taxes other than the seller's obligation under
700 Section 59-12-124 to remit a tax on the seller's own purchases.

701 [~~67~~] (70) "Model 2 seller" means a seller registered under the agreement that:

702 (a) except as provided in Subsection [~~67~~] (70)(b), has selected a certified automated
703 system to perform the seller's sales tax functions for agreement sales and use taxes; and

704 (b) notwithstanding Subsection [~~67~~] (70)(a), retains responsibility for remitting all of
705 the sales tax:

706 (i) collected by the seller; and

707 (ii) to the appropriate local taxing jurisdiction.

708 ~~[(68)]~~ (71) (a) Subject to Subsection ~~[(68)]~~ (71)(b), "model 3 seller" means a seller
709 registered under the agreement that has:

- 710 (i) sales in at least five states that are members of the agreement;
- 711 (ii) total annual sales revenues of at least \$500,000,000;
- 712 (iii) a proprietary system that calculates the amount of tax:
 - 713 (A) for an agreement sales and use tax; and
 - 714 (B) due to each local taxing jurisdiction; and
- 715 (iv) entered into a performance agreement with the governing board of the agreement.

716 (b) For purposes of Subsection ~~[(68)]~~ (71)(a), "model 3 seller" includes an affiliated
717 group of sellers using the same proprietary system.

718 ~~[(69)]~~ (72) "Model 4 seller" means a seller that is registered under the agreement and is
719 not a model 1 seller, model 2 seller, or model 3 seller.

720 ~~[(70)]~~ (73) "Modular home" means a modular unit as defined in Section 15A-1-302.

721 ~~[(71)]~~ (74) "Motor vehicle" is as defined in Section 41-1a-102.

722 ~~[(72)]~~ (75) "Oil sands" means impregnated bituminous sands that:

- 723 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
724 other hydrocarbons, or otherwise treated;
- 725 (b) yield mixtures of liquid hydrocarbon; and
- 726 (c) require further processing other than mechanical blending before becoming finished
727 petroleum products.

728 ~~[(73)]~~ (76) "Oil shale" means a group of fine black to dark brown shales containing
729 kerogen material that yields petroleum upon heating and distillation.

730 ~~[(74)]~~ (77) "Optional computer software maintenance contract" means a computer
731 software maintenance contract that a customer is not obligated to purchase as a condition to the
732 retail sale of computer software.

733 ~~[(75)]~~ (78) (a) "Other fuels" means products that burn independently to produce heat or
734 energy.

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

737 ~~[(76)]~~ (79) (a) "Paging service" means a telecommunications service that provides
738 transmission of a coded radio signal for the purpose of activating a specific pager.

739 (b) For purposes of Subsection [~~(76)~~] (79)(a), the transmission of a coded radio signal
740 includes a transmission by message or sound.

741 [~~(77)~~] (80) "Pawnbroker" is as defined in Section 13-32a-102.

742 [~~(78)~~] (81) "Pawn transaction" is as defined in Section 13-32a-102.

743 [~~(79)~~] (82) (a) "Permanently attached to real property" means that for tangible personal
744 property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

761 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
762 Subsection [~~(79)~~] (82)(c)(iii) or (iv).

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

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

766 (A) convenience;

767 (B) stability; or

768 (C) for an obvious temporary purpose;

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

770 detachment described in Subsection [~~79~~] (82)(b)(ii);

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

775 (A) a computer;

776 (B) a telephone;

777 (C) a television; or

778 (D) tangible personal property similar to Subsections [~~79~~] (82)(c)(iii)(A) through (C)
779 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
780 Administrative Rulemaking Act; or

781 (iv) an item listed in Subsection [~~117~~] (121)(c).

782 [~~80~~] (83) "Person" includes any individual, firm, partnership, joint venture,
783 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
784 city, municipality, district, or other local governmental entity of the state, or any group or
785 combination acting as a unit.

786 [~~81~~] (84) "Place of primary use":

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

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

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

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

794 [~~82~~] (85) (a) "Postpaid calling service" means a telecommunications service a person
795 obtains by making a payment on a call-by-call basis:

796 (i) through the use of a:

797 (A) bank card;

798 (B) credit card;

799 (C) debit card; or

800 (D) travel card; or

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

803 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
804 service, that would be a prepaid wireless calling service if the service were exclusively a
805 telecommunications service.

806 [~~83~~] (86) "Postproduction" means an activity related to the finishing or duplication of
807 a medium described in Subsection 59-12-104(54)(a).

808 [~~84~~] (87) "Prepaid calling service" means a telecommunications service:

809 (a) that allows a purchaser access to telecommunications service that is exclusively
810 telecommunications service;

811 (b) that:

812 (i) is paid for in advance; and

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

814 (A) access number; or

815 (B) authorization code;

816 (c) that is dialed:

817 (i) manually; or

818 (ii) electronically; and

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

820 (i) by a known amount; and

821 (ii) with use.

822 [~~85~~] (88) "Prepaid wireless calling service" means a telecommunications service:

823 (a) that provides the right to utilize:

824 (i) mobile wireless service; and

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

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

827 (B) a content service; or

828 (C) an ancillary service;

829 (b) that:

830 (i) is paid for in advance; and

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

- 832 (A) access number; or
- 833 (B) authorization code;
- 834 (c) that is dialed:
- 835 (i) manually; or
- 836 (ii) electronically; and
- 837 (d) sold in predetermined units or dollars that decline:
- 838 (i) by a known amount; and
- 839 (ii) with use.
- 840 [(86)] (89) (a) "Prepared food" means:
- 841 (i) food:
- 842 (A) sold in a heated state; or
- 843 (B) heated by a seller;
- 844 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 845 item; or
- 846 (iii) except as provided in Subsection [(86)] (89)(c), food sold with an eating utensil
- 847 provided by the seller, including a:
- 848 (A) plate;
- 849 (B) knife;
- 850 (C) fork;
- 851 (D) spoon;
- 852 (E) glass;
- 853 (F) cup;
- 854 (G) napkin; or
- 855 (H) straw.
- 856 (b) "Prepared food" does not include:
- 857 (i) food that a seller only:
- 858 (A) cuts;
- 859 (B) repackages; or
- 860 (C) pasteurizes; or
- 861 (ii) (A) the following:
- 862 (I) raw egg;

- 863 (II) raw fish;
- 864 (III) raw meat;
- 865 (IV) raw poultry; or
- 866 (V) a food containing an item described in Subsections [~~86~~] (89)(b)(ii)(A)(I) through
- 867 (IV); and
- 868 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 869 Food and Drug Administration's Food Code that a consumer cook the items described in
- 870 Subsection [~~86~~] (89)(b)(ii)(A) to prevent food borne illness; or
- 871 (iii) the following if sold without eating utensils provided by the seller:
- 872 (A) food and food ingredients sold by a seller if the seller's proper primary
- 873 classification under the 2002 North American Industry Classification System of the federal
- 874 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 875 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 876 Manufacturing;
- 877 (B) food and food ingredients sold in an unheated state:
- 878 (I) by weight or volume; and
- 879 (II) as a single item; or
- 880 (C) a bakery item, including:
- 881 (I) a bagel;
- 882 (II) a bar;
- 883 (III) a biscuit;
- 884 (IV) bread;
- 885 (V) a bun;
- 886 (VI) a cake;
- 887 (VII) a cookie;
- 888 (VIII) a croissant;
- 889 (IX) a danish;
- 890 (X) a donut;
- 891 (XI) a muffin;
- 892 (XII) a pastry;
- 893 (XIII) a pie;

894 (XIV) a roll;

895 (XV) a tart;

896 (XVI) a torte; or

897 (XVII) a tortilla.

898 (c) Notwithstanding Subsection [~~86~~] (89)(a)(iii), an eating utensil provided by the
899 seller does not include the following used to transport the food:

900 (i) a container; or

901 (ii) packaging.

902 [~~87~~] (90) "Prescription" means an order, formula, or recipe that is issued:

903 (a) (i) orally;

904 (ii) in writing;

905 (iii) electronically; or

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

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

908 [~~88~~] (91) (a) Except as provided in Subsection [~~88~~] (91)(b)(ii) or (iii), "prewritten
909 computer software" means computer software that is not designed and developed:

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

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

912 (b) "Prewritten computer software" includes:

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

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

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

917 (ii) notwithstanding Subsection [~~88~~] (91)(a), computer software designed and
918 developed by the author or other creator of the computer software to the specifications of a
919 specific purchaser if the computer software is sold to a person other than the purchaser; or

920 (iii) notwithstanding Subsection [~~88~~] (91)(a) and except as provided in Subsection
921 [~~88~~] (91)(c), prewritten computer software or a prewritten portion of prewritten computer
922 software:

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

924 (B) if the modification or enhancement described in Subsection [~~88~~] (91)(b)(iii)(A) is

925 designed and developed to the specifications of a specific purchaser.

926 (c) Notwithstanding Subsection [~~(88)~~] (91)(b)(iii), "prewritten computer software"
927 does not include a modification or enhancement described in Subsection [~~(88)~~] (91)(b)(iii) if
928 the charges for the modification or enhancement are:

929 (i) reasonable; and

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

932 [~~(89)~~] (92) (a) "Private communication service" means a telecommunications service:

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

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

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

939 (i) an extension line;

940 (ii) a station;

941 (iii) switching capacity; or

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

944 [~~(90)~~] (93) (a) Except as provided in Subsection [~~(90)~~] (93)(b), "product transferred
945 electronically" means a product transferred electronically that would be subject to a tax under
946 this chapter if that product was transferred in a manner other than electronically.

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

948 (i) an ancillary service;

949 (ii) computer software; or

950 (iii) a telecommunications service.

951 [~~(91)~~] (94) (a) "Prosthetic device" means a device that is worn on or in the body to:

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

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

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

955 (b) "Prosthetic device" includes:

- 956 (i) parts used in the repairs or renovation of a prosthetic device;
- 957 (ii) replacement parts for a prosthetic device;
- 958 (iii) a dental prosthesis; or
- 959 (iv) a hearing aid.
- 960 (c) "Prosthetic device" does not include:
- 961 (i) corrective eyeglasses; or
- 962 (ii) contact lenses.
- 963 [~~92~~] (95) (a) "Protective equipment" means an item:
- 964 (i) for human wear; and
- 965 (ii) that is:
- 966 (A) designed as protection:
- 967 (I) to the wearer against injury or disease; or
- 968 (II) against damage or injury of other persons or property; and
- 969 (B) not suitable for general use.
- 970 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 971 commission shall make rules:
- 972 (i) listing the items that constitute "protective equipment"; and
- 973 (ii) that are consistent with the list of items that constitute "protective equipment"
- 974 under the agreement.
- 975 [~~93~~] (96) (a) For purposes of Subsection 59-12-104(41), "publication" means any
- 976 written or printed matter, other than a photocopy:
- 977 (i) regardless of:
- 978 (A) characteristics;
- 979 (B) copyright;
- 980 (C) form;
- 981 (D) format;
- 982 (E) method of reproduction; or
- 983 (F) source; and
- 984 (ii) made available in printed or electronic format.
- 985 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 986 commission may by rule define the term "photocopy."

987 [~~94~~] (97) (a) "Purchase price" and "sales price" mean the total amount of
988 consideration:
989 (i) valued in money; and
990 (ii) for which tangible personal property, a product transferred electronically, or
991 services are:
992 (A) sold;
993 (B) leased; or
994 (C) rented.
995 (b) "Purchase price" and "sales price" include:
996 (i) the seller's cost of the tangible personal property, a product transferred
997 electronically, or services sold;
998 (ii) expenses of the seller, including:
999 (A) the cost of materials used;
1000 (B) a labor cost;
1001 (C) a service cost;
1002 (D) interest;
1003 (E) a loss;
1004 (F) the cost of transportation to the seller; or
1005 (G) a tax imposed on the seller;
1006 (iii) a charge by the seller for any service necessary to complete the sale; or
1007 (iv) consideration a seller receives from a person other than the purchaser if:
1008 (A) (I) the seller actually receives consideration from a person other than the purchaser;
1009 and
1010 (II) the consideration described in Subsection [~~94~~] (97)(b)(iv)(A)(I) is directly related
1011 to a price reduction or discount on the sale;
1012 (B) the seller has an obligation to pass the price reduction or discount through to the
1013 purchaser;
1014 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1015 the seller at the time of the sale to the purchaser; and
1016 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1017 seller to claim a price reduction or discount; and

1018 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1019 coupon, or other documentation with the understanding that the person other than the seller
1020 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1021 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1022 organization allowed a price reduction or discount, except that a preferred customer card that is
1023 available to any patron of a seller does not constitute membership in a group or organization
1024 allowed a price reduction or discount; or

1025 (III) the price reduction or discount is identified as a third party price reduction or
1026 discount on the:

1027 (Aa) invoice the purchaser receives; or

1028 (Bb) certificate, coupon, or other documentation the purchaser presents.

1029 (c) "Purchase price" and "sales price" do not include:

1030 (i) a discount:

1031 (A) in a form including:

1032 (I) cash;

1033 (II) term; or

1034 (III) coupon;

1035 (B) that is allowed by a seller;

1036 (C) taken by a purchaser on a sale; and

1037 (D) that is not reimbursed by a third party; or

1038 (ii) the following if separately stated on an invoice, bill of sale, or similar document
1039 provided to the purchaser:

1040 (A) the following from credit extended on the sale of tangible personal property or
1041 services:

1042 (I) a carrying charge;

1043 (II) a financing charge; or

1044 (III) an interest charge;

1045 (B) a delivery charge;

1046 (C) an installation charge;

1047 (D) a manufacturer rebate on a motor vehicle; or

1048 (E) a tax or fee legally imposed directly on the consumer.

1049 [~~95~~] (98) "Purchaser" means a person to whom:

1050 (a) a sale of tangible personal property is made;

1051 (b) a product is transferred electronically; or

1052 (c) a service is furnished.

1053 [~~96~~] (99) "Regularly rented" means:

1054 (a) rented to a guest for value three or more times during a calendar year; or

1055 (b) advertised or held out to the public as a place that is regularly rented to guests for
1056 value.

1057 [~~97~~] (100) "Rental" is as defined in Subsection [~~54~~] (57).

1058 **§→** [~~98~~] (101) **←§** (a) Except as provided in Subsection [~~98~~] (101)(b), "repairs or
1058a renovations of

1059 tangible personal property" means:

1060 (i) a repair or renovation of tangible personal property that is not permanently attached
1061 to real property; or

1062 (ii) attaching tangible personal property or a product transferred electronically to other
1063 tangible personal property or detaching tangible personal property or a product transferred
1064 electronically from other tangible personal property if:

1065 (A) the other tangible personal property to which the tangible personal property or
1066 product transferred electronically is attached or from which the tangible personal property or
1067 product transferred electronically is detached is not permanently attached to real property; and

1068 (B) the attachment of tangible personal property or a product transferred electronically
1069 to other tangible personal property or detachment of tangible personal property or a product
1070 transferred electronically from other tangible personal property is made in conjunction with a
1071 repair or replacement of tangible personal property or a product transferred electronically.

1072 (b) "Repairs or renovations of tangible personal property" does not include:

1073 (i) attaching prewritten computer software to other tangible personal property if the
1074 other tangible personal property to which the prewritten computer software is attached is not
1075 permanently attached to real property; or

1076 (ii) detaching prewritten computer software from other tangible personal property if the
1077 other tangible personal property from which the prewritten computer software is detached is
1078 not permanently attached to real property.

1079 [~~99~~] (102) "Research and development" means the process of inquiry or

1080 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
1081 process of preparing those devices, technologies, or applications for marketing.

1082 ~~[(100)]~~ (103) (a) "Residential telecommunications services" means a
1083 telecommunications service or an ancillary service that is provided to an individual for personal
1084 use:

1085 (i) at a residential address; or

1086 (ii) at an institution, including a nursing home or a school, if the telecommunications
1087 service or ancillary service is provided to and paid for by the individual residing at the
1088 institution rather than the institution.

1089 (b) For purposes of Subsection ~~[(100)]~~ (103)(a)(i), a residential address includes an:

1090 (i) apartment; or

1091 (ii) other individual dwelling unit.

1092 ~~[(101)]~~ (104) "Residential use" means the use in or around a home, apartment building,
1093 sleeping quarters, and similar facilities or accommodations.

1094 ~~[(102)]~~ (105) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
1095 other than:

1096 (a) resale;

1097 (b) sublease; or

1098 (c) subrent.

1099 ~~[(103)]~~ (106) (a) "Retailer" means any person engaged in a regularly organized
1100 business in tangible personal property or any other taxable transaction under Subsection
1101 59-12-103(1), and who is selling to the user or consumer and not for resale.

1102 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1103 engaged in the business of selling to users or consumers within the state.

1104 ~~[(104)]~~ (107) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1105 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1106 Subsection 59-12-103(1), for consideration.

1107 (b) "Sale" includes:

1108 (i) installment and credit sales;

1109 (ii) any closed transaction constituting a sale;

1110 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this

1111 chapter;

1112 (iv) any transaction if the possession of property is transferred but the seller retains the
1113 title as security for the payment of the price; and

1114 (v) any transaction under which right to possession, operation, or use of any article of
1115 tangible personal property is granted under a lease or contract and the transfer of possession
1116 would be taxable if an outright sale were made.

1117 [~~(105)~~] (108) "Sale at retail" is as defined in Subsection [~~(102)~~] (105).

1118 [~~(106)~~] (109) "Sale-leaseback transaction" means a transaction by which title to
1119 tangible personal property or a product transferred electronically that is subject to a tax under
1120 this chapter is transferred:

1121 (a) by a purchaser-lessee;

1122 (b) to a lessor;

1123 (c) for consideration; and

1124 (d) if:

1125 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1126 of the tangible personal property or product transferred electronically;

1127 (ii) the sale of the tangible personal property or product transferred electronically to the
1128 lessor is intended as a form of financing:

1129 (A) for the tangible personal property or product transferred electronically; and

1130 (B) to the purchaser-lessee; and

1131 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1132 is required to:

1133 (A) capitalize the tangible personal property or product transferred electronically for
1134 financial reporting purposes; and

1135 (B) account for the lease payments as payments made under a financing arrangement.

1136 [~~(107)~~] (110) "Sales price" is as defined in Subsection [~~(94)~~] (97).

1137 [~~(108)~~] (111) (a) "Sales relating to schools" means the following sales by, amounts
1138 paid to, or amounts charged by a school:

1139 (i) sales that are directly related to the school's educational functions or activities
1140 including:

1141 (A) the sale of:

- 1142 (I) textbooks;
- 1143 (II) textbook fees;
- 1144 (III) laboratory fees;
- 1145 (IV) laboratory supplies; or
- 1146 (V) safety equipment;
- 1147 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 1148 that:
- 1149 (I) a student is specifically required to wear as a condition of participation in a
- 1150 school-related event or school-related activity; and
- 1151 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 1152 place of ordinary clothing;
- 1153 (C) sales of the following if the net or gross revenues generated by the sales are
- 1154 deposited into a school district fund or school fund dedicated to school meals:
- 1155 (I) food and food ingredients; or
- 1156 (II) prepared food; or
- 1157 (D) transportation charges for official school activities; or
- 1158 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1159 event or school-related activity.
- 1160 (b) "Sales relating to schools" does not include:
- 1161 (i) bookstore sales of items that are not educational materials or supplies;
- 1162 (ii) except as provided in Subsection [~~(108)~~] (111)(a)(i)(B):
- 1163 (A) clothing;
- 1164 (B) clothing accessories or equipment;
- 1165 (C) protective equipment; or
- 1166 (D) sports or recreational equipment; or
- 1167 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1168 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1169 (A) other than a:
- 1170 (I) school;
- 1171 (II) nonprofit organization authorized by a school board or a governing body of a
- 1172 private school to organize and direct a competitive secondary school activity; or

1173 (III) nonprofit association authorized by a school board or a governing body of a
1174 private school to organize and direct a competitive secondary school activity; and

1175 (B) that is required to collect sales and use taxes under this chapter.

1176 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1177 commission may make rules defining the term "passed through."

1178 [~~(109)~~] (112) For purposes of this section and Section 59-12-104, "school":

1179 (a) means:

1180 (i) an elementary school or a secondary school that:

1181 (A) is a:

1182 (I) public school; or

1183 (II) private school; and

1184 (B) provides instruction for one or more grades kindergarten through 12; or

1185 (ii) a public school district; and

1186 (b) includes the Electronic High School as defined in Section 53A-15-1002.

1187 [~~(110)~~] (113) "Seller" means a person that makes a sale, lease, or rental of:

1188 (a) tangible personal property;

1189 (b) a product transferred electronically; or

1190 (c) a service.

1191 [~~(111)~~] (114) (a) "Semiconductor fabricating, processing, research, or development
1192 materials" means tangible personal property or a product transferred electronically if the
1193 tangible personal property or product transferred electronically is:

1194 (i) used primarily in the process of:

1195 (A) (I) manufacturing a semiconductor;

1196 (II) fabricating a semiconductor; or

1197 (III) research or development of a:

1198 (Aa) semiconductor; or

1199 (Bb) semiconductor manufacturing process; or

1200 (B) maintaining an environment suitable for a semiconductor; or

1201 (ii) consumed primarily in the process of:

1202 (A) (I) manufacturing a semiconductor;

1203 (II) fabricating a semiconductor; or

- 1204 (III) research or development of a:
- 1205 (Aa) semiconductor; or
- 1206 (Bb) semiconductor manufacturing process; or
- 1207 (B) maintaining an environment suitable for a semiconductor.
- 1208 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1209 includes:
- 1210 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1211 transferred electronically described in Subsection [~~(111)~~] (114)(a); or
- 1212 (ii) a chemical, catalyst, or other material used to:
- 1213 (A) produce or induce in a semiconductor a:
- 1214 (I) chemical change; or
- 1215 (II) physical change;
- 1216 (B) remove impurities from a semiconductor; or
- 1217 (C) improve the marketable condition of a semiconductor.
- 1218 [~~(112)~~] (115) "Senior citizen center" means a facility having the primary purpose of
- 1219 providing services to the aged as defined in Section 62A-3-101.
- 1220 [~~(113)~~] (116) "Simplified electronic return" means the electronic return:
- 1221 (a) described in Section 318(C) of the agreement; and
- 1222 (b) approved by the governing board of the agreement.
- 1223 [~~(114)~~] (117) "Solar energy" means the sun used as the sole source of energy for
- 1224 producing electricity.
- 1225 [~~(115)~~] (118) (a) "Sports or recreational equipment" means an item:
- 1226 (i) designed for human use; and
- 1227 (ii) that is:
- 1228 (A) worn in conjunction with:
- 1229 (I) an athletic activity; or
- 1230 (II) a recreational activity; and
- 1231 (B) not suitable for general use.
- 1232 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1233 commission shall make rules:
- 1234 (i) listing the items that constitute "sports or recreational equipment"; and

1235 (ii) that are consistent with the list of items that constitute "sports or recreational
1236 equipment" under the agreement.

1237 [~~(116)~~] (119) "State" means the state of Utah, its departments, and agencies.

1238 [~~(117)~~] (120) "Storage" means any keeping or retention of tangible personal property or
1239 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
1240 except sale in the regular course of business.

1241 [~~(118)~~] (121) (a) Except as provided in Subsection [~~(118)~~] (121)(d) or (e), "tangible
1242 personal property" means personal property that:

1243 (i) may be:

1244 (A) seen;

1245 (B) weighed;

1246 (C) measured;

1247 (D) felt; or

1248 (E) touched; or

1249 (ii) is in any manner perceptible to the senses.

1250 (b) "Tangible personal property" includes:

1251 (i) electricity;

1252 (ii) water;

1253 (iii) gas;

1254 (iv) steam; or

1255 (v) prewritten computer software, regardless of the manner in which the prewritten
1256 computer software is transferred.

1257 (c) "Tangible personal property" includes the following regardless of whether the item
1258 is attached to real property:

1259 (i) a dishwasher;

1260 (ii) a dryer;

1261 (iii) a freezer;

1262 (iv) a microwave;

1263 (v) a refrigerator;

1264 (vi) a stove;

1265 (vii) a washer; or

1266 (viii) an item similar to Subsections [~~(118)~~] (121)(c)(i) through (vii) as determined by
1267 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1268 Rulemaking Act.

1269 (d) "Tangible personal property" does not include a product that is transferred
1270 electronically.

1271 (e) "Tangible personal property" does not include the following if attached to real
1272 property, regardless of whether the attachment to real property is only through a line that
1273 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1274 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1275 Rulemaking Act:

1276 (i) a hot water heater;

1277 (ii) a water filtration system; or

1278 (iii) a water softener system.

1279 [~~(119)~~] (122) (a) "Telecommunications enabling or facilitating equipment, machinery,
1280 or software" means an item listed in Subsection [~~(119)~~] (122)(b) if that item is purchased or
1281 leased primarily to enable or facilitate one or more of the following to function:

1282 (i) telecommunications switching or routing equipment, machinery, or software; or

1283 (ii) telecommunications transmission equipment, machinery, or software.

1284 (b) The following apply to Subsection [~~(119)~~] (122)(a):

1285 (i) a pole;

1286 (ii) software;

1287 (iii) a supplementary power supply;

1288 (iv) temperature or environmental equipment or machinery;

1289 (v) test equipment;

1290 (vi) a tower; or

1291 (vii) equipment, machinery, or software that functions similarly to an item listed in
1292 Subsections [~~(119)~~] (122)(b)(i) through (vi) as determined by the commission by rule made in
1293 accordance with Subsection [~~(119)~~] (122)(c).

1294 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1295 commission may by rule define what constitutes equipment, machinery, or software that
1296 functions similarly to an item listed in Subsections [~~(119)~~] (122)(b)(i) through (vi).

1297 [~~(120)~~] (123) "Telecommunications equipment, machinery, or software required for
1298 911 service" means equipment, machinery, or software that is required to comply with 47
1299 C.F.R. Sec. 20.18.

1300 [~~(121)~~] (124) "Telecommunications maintenance or repair equipment, machinery, or
1301 software" means equipment, machinery, or software purchased or leased primarily to maintain
1302 or repair one or more of the following, regardless of whether the equipment, machinery, or
1303 software is purchased or leased as a spare part or as an upgrade or modification to one or more
1304 of the following:

- 1305 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1306 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1307 (c) telecommunications transmission equipment, machinery, or software.

1308 [~~(122)~~] (125) (a) "Telecommunications service" means the electronic conveyance,
1309 routing, or transmission of audio, data, video, voice, or any other information or signal to a
1310 point, or among or between points.

1311 (b) "Telecommunications service" includes:

1312 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1313 processing application is used to act:

1314 (A) on the code, form, or protocol of the content;

1315 (B) for the purpose of electronic conveyance, routing, or transmission; and

1316 (C) regardless of whether the service:

1317 (I) is referred to as voice over Internet protocol service; or

1318 (II) is classified by the Federal Communications Commission as enhanced or value
1319 added;

1320 (ii) an 800 service;

1321 (iii) a 900 service;

1322 (iv) a fixed wireless service;

1323 (v) a mobile wireless service;

1324 (vi) a postpaid calling service;

1325 (vii) a prepaid calling service;

1326 (viii) a prepaid wireless calling service; or

1327 (ix) a private communications service.

- 1328 (c) "Telecommunications service" does not include:
- 1329 (i) advertising, including directory advertising;
- 1330 (ii) an ancillary service;
- 1331 (iii) a billing and collection service provided to a third party;
- 1332 (iv) a data processing and information service if:
- 1333 (A) the data processing and information service allows data to be:
- 1334 (I) (Aa) acquired;
- 1335 (Bb) generated;
- 1336 (Cc) processed;
- 1337 (Dd) retrieved; or
- 1338 (Ee) stored; and
- 1339 (II) delivered by an electronic transmission to a purchaser; and
- 1340 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1341 or information;
- 1342 (v) installation or maintenance of the following on a customer's premises:
- 1343 (A) equipment; or
- 1344 (B) wiring;
- 1345 (vi) Internet access service;
- 1346 (vii) a paging service;
- 1347 (viii) a product transferred electronically, including:
- 1348 (A) music;
- 1349 (B) reading material;
- 1350 (C) a ring tone;
- 1351 (D) software; or
- 1352 (E) video;
- 1353 (ix) a radio and television audio and video programming service:
- 1354 (A) regardless of the medium; and
- 1355 (B) including:
- 1356 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1357 programming service by a programming service provider;
- 1358 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or

1359 (III) audio and video programming services delivered by a commercial mobile radio
1360 service provider as defined in 47 C.F.R. Sec. 20.3;

1361 (x) a value-added nonvoice data service; or

1362 (xi) tangible personal property.

1363 [~~(123)~~] (126) (a) "Telecommunications service provider" means a person that:

1364 (i) owns, controls, operates, or manages a telecommunications service; and

1365 (ii) engages in an activity described in Subsection [~~(123)~~] (126)(a)(i) for the shared use
1366 with or resale to any person of the telecommunications service.

1367 (b) A person described in Subsection [~~(123)~~] (126)(a) is a telecommunications service
1368 provider whether or not the Public Service Commission of Utah regulates:

1369 (i) that person; or

1370 (ii) the telecommunications service that the person owns, controls, operates, or
1371 manages.

1372 [~~(124)~~] (127) (a) "Telecommunications switching or routing equipment, machinery, or
1373 software" means an item listed in Subsection [~~(124)~~] (127)(b) if that item is purchased or
1374 leased primarily for switching or routing:

1375 (i) an ancillary service;

1376 (ii) data communications;

1377 (iii) voice communications; or

1378 (iv) telecommunications service.

1379 (b) The following apply to Subsection [~~(124)~~] (127)(a):

1380 (i) a bridge;

1381 (ii) a computer;

1382 (iii) a cross connect;

1383 (iv) a modem;

1384 (v) a multiplexer;

1385 (vi) plug in circuitry;

1386 (vii) a router;

1387 (viii) software;

1388 (ix) a switch; or

1389 (x) equipment, machinery, or software that functions similarly to an item listed in

1390 Subsections [~~(124)~~] (127)(b)(i) through (ix) as determined by the commission by rule made in
1391 accordance with Subsection [~~(124)~~] (127)(c).

1392 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1393 commission may by rule define what constitutes equipment, machinery, or software that
1394 functions similarly to an item listed in Subsections [~~(124)~~] (127)(b)(i) through (ix).

1395 [~~(125)~~] (128) (a) "Telecommunications transmission equipment, machinery, or
1396 software" means an item listed in Subsection [~~(125)~~] (128)(b) if that item is purchased or
1397 leased primarily for sending, receiving, or transporting:

1398 (i) an ancillary service;

1399 (ii) data communications;

1400 (iii) voice communications; or

1401 (iv) telecommunications service.

1402 (b) The following apply to Subsection [~~(125)~~] (128)(a):

1403 (i) an amplifier;

1404 (ii) a cable;

1405 (iii) a closure;

1406 (iv) a conduit;

1407 (v) a controller;

1408 (vi) a duplexer;

1409 (vii) a filter;

1410 (viii) an input device;

1411 (ix) an input/output device;

1412 (x) an insulator;

1413 (xi) microwave machinery or equipment;

1414 (xii) an oscillator;

1415 (xiii) an output device;

1416 (xiv) a pedestal;

1417 (xv) a power converter;

1418 (xvi) a power supply;

1419 (xvii) a radio channel;

1420 (xviii) a radio receiver;

1421 (xix) a radio transmitter;

1422 (xx) a repeater;

1423 (xxi) software;

1424 (xxii) a terminal;

1425 (xxiii) a timing unit;

1426 (xxiv) a transformer;

1427 (xxv) a wire; or

1428 (xxvi) equipment, machinery, or software that functions similarly to an item listed in

1429 Subsections [~~(125)~~] (128)(b)(i) through (xxv) as determined by the commission by rule made in
1430 accordance with Subsection [~~(125)~~] (128)(c).

1431 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1432 commission may by rule define what constitutes equipment, machinery, or software that
1433 functions similarly to an item listed in Subsections [~~(125)~~] (128)(b)(i) through (xxv).

1434 [~~(126)~~] (129) (a) "Textbook for a higher education course" means a textbook or other
1435 printed material that is required for a course:

1436 (i) offered by an institution of higher education; and

1437 (ii) that the purchaser of the textbook or other printed material attends or will attend.

1438 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1439 [~~(127)~~] (130) "Tobacco" means:

1440 (a) a cigarette;

1441 (b) a cigar;

1442 (c) chewing tobacco;

1443 (d) pipe tobacco; or

1444 (e) any other item that contains tobacco.

1445 [~~(128)~~] (131) "Unassisted amusement device" means an amusement device, skill

1446 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
1447 operate the amusement device, skill device, or ride device.

1448 [~~(129)~~] (132) (a) "Use" means the exercise of any right or power over tangible personal
1449 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1450 incident to the ownership or the leasing of that tangible personal property, product transferred
1451 electronically, or service.

1452 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1453 property, a product transferred electronically, or a service in the regular course of business and
1454 held for resale.

1455 [~~(130)~~] (133) "Value-added nonvoice data service" means a service:

1456 (a) that otherwise meets the definition of a telecommunications service except that a
1457 computer processing application is used to act primarily for a purpose other than conveyance,
1458 routing, or transmission; and

1459 (b) with respect to which a computer processing application is used to act on data or
1460 information:

- 1461 (i) code;
- 1462 (ii) content;
- 1463 (iii) form; or
- 1464 (iv) protocol.

1465 [~~(131)~~] (134) (a) Subject to Subsection [~~(131)~~] (134)(b), "vehicle" means the following
1466 that are required to be titled, registered, or titled and registered:

- 1467 (i) an aircraft as defined in Section 72-10-102;
- 1468 (ii) a vehicle as defined in Section 41-1a-102;
- 1469 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1470 (iv) a vessel as defined in Section 41-1a-102.

1471 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1472 (i) a vehicle described in Subsection [~~(131)~~] (134)(a); or
- 1473 (ii) (A) a locomotive;
- 1474 (B) a freight car;
- 1475 (C) railroad work equipment; or
- 1476 (D) other railroad rolling stock.

1477 [~~(132)~~] (135) "Vehicle dealer" means a person engaged in the business of buying,
1478 selling, or exchanging a vehicle as defined in Subsection [~~(131)~~] (134).

1479 [~~(133)~~] (136) (a) "Vertical service" means an ancillary service that:

- 1480 (i) is offered in connection with one or more telecommunications services; and
- 1481 (ii) offers an advanced calling feature that allows a customer to:
1482 (A) identify a caller; and

1483 (B) manage multiple calls and call connections.

1484 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1485 conference bridging service.

1486 [~~(134)~~] (137) (a) "Voice mail service" means an ancillary service that enables a
1487 customer to receive, send, or store a recorded message.

1488 (b) "Voice mail service" does not include a vertical service that a customer is required
1489 to have in order to utilize a voice mail service.

1490 [~~(135)~~] (138) (a) Except as provided in Subsection [~~(135)~~] (138)(b), "waste energy
1491 facility" means a facility that generates electricity:

1492 (i) using as the primary source of energy waste materials that would be placed in a
1493 landfill or refuse pit if it were not used to generate electricity, including:

1494 (A) tires;

1495 (B) waste coal;

1496 (C) oil shale; or

1497 (D) municipal solid waste; and

1498 (ii) in amounts greater than actually required for the operation of the facility.

1499 (b) "Waste energy facility" does not include a facility that incinerates:

1500 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1501 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1502 [~~(136)~~] (139) "Watercraft" means a vessel as defined in Section 73-18-2.

1503 [~~(137)~~] (140) "Wind energy" means wind used as the sole source of energy to produce
1504 electricity.

1505 [~~(138)~~] (141) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
1506 geographic location by the United States Postal Service.

1507 Section 2. Section **59-12-102 (Effective 07/01/14)** is amended to read:

1508 **59-12-102 (Effective 07/01/14). Definitions.**

1509 As used in this chapter:

1510 (1) "800 service" means a telecommunications service that:

1511 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

1512 (b) is typically marketed:

1513 (i) under the name 800 toll-free calling;

- 1514 (ii) under the name 855 toll-free calling;
- 1515 (iii) under the name 866 toll-free calling;
- 1516 (iv) under the name 877 toll-free calling;
- 1517 (v) under the name 888 toll-free calling; or
- 1518 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
- 1519 Federal Communications Commission.
- 1520 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 1521 (i) a subscriber purchases;
- 1522 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 1523 the subscriber's:
- 1524 (A) prerecorded announcement; or
- 1525 (B) live service; and
- 1526 (iii) is typically marketed:
- 1527 (A) under the name 900 service; or
- 1528 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 1529 Communications Commission.
- 1530 (b) "900 service" does not include a charge for:
- 1531 (i) a collection service a seller of a telecommunications service provides to a
- 1532 subscriber; or
- 1533 (ii) the following a subscriber sells to the subscriber's customer:
- 1534 (A) a product; or
- 1535 (B) a service.
- 1536 (3) (a) "Admission or user fees" includes season passes.
- 1537 (b) "Admission or user fees" does not include annual membership dues to private
- 1538 organizations.
- 1539 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 1540 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 1541 Agreement after November 12, 2002.
- 1542 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 1543 (a) listed under Subsection (6); and
- 1544 (b) that are imposed within a local taxing jurisdiction.

- 1545 (6) "Agreement sales and use tax" means a tax imposed under:
- 1546 (a) Subsection 59-12-103(2)(a)(i)(A);
- 1547 (b) Subsection 59-12-103(2)(b)(i);
- 1548 (c) Subsection 59-12-103(2)(c)(i);
- 1549 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 1550 (e) Section 59-12-204;
- 1551 (f) Section 59-12-401;
- 1552 (g) Section 59-12-402;
- 1553 (h) Section 59-12-703;
- 1554 (i) Section 59-12-802;
- 1555 (j) Section 59-12-804;
- 1556 (k) Section 59-12-1102;
- 1557 (l) Section 59-12-1302;
- 1558 (m) Section 59-12-1402;
- 1559 (n) Section 59-12-1802;
- 1560 (o) Section 59-12-2003;
- 1561 (p) Section 59-12-2103;
- 1562 (q) Section 59-12-2213;
- 1563 (r) Section 59-12-2214;
- 1564 (s) Section 59-12-2215;
- 1565 (t) Section 59-12-2216;
- 1566 (u) Section 59-12-2217; or
- 1567 (v) Section 59-12-2218.
- 1568 (7) "Aircraft" is as defined in Section 72-10-102.
- 1569 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 1570 (a) except for:
- 1571 (i) an airline as defined in Section 59-2-102; or
- 1572 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 1573 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 1574 state, of an airline; and
- 1575 (b) that has the workers, expertise, and facilities to perform the following, regardless of

- 1576 whether the business entity performs the following in this state:
- 1577 (i) check, diagnose, overhaul, and repair:
- 1578 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 1579 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 1580 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 1581 engine;
- 1582 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 1583 aircraft:
- 1584 (A) an inspection;
- 1585 (B) a repair, including a structural repair or modification;
- 1586 (C) changing landing gear; and
- 1587 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 1588 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 1589 completely apply new paint to the fixed wing turbine powered aircraft; and
- 1590 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 1591 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 1592 authority that certifies the fixed wing turbine powered aircraft.
- 1593 (9) "Alcoholic beverage" means a beverage that:
- 1594 (a) is suitable for human consumption; and
- 1595 (b) contains .5% or more alcohol by volume.
- 1596 (10) "Alternative energy" means:
- 1597 (a) biomass energy;
- 1598 (b) geothermal energy;
- 1599 (c) hydroelectric energy;
- 1600 (d) solar energy;
- 1601 (e) wind energy; or
- 1602 (f) energy that is derived from:
- 1603 (i) coal-to-liquids;
- 1604 (ii) nuclear fuel;
- 1605 (iii) oil-impregnated diatomaceous earth;
- 1606 (iv) oil sands;

- 1607 (v) oil shale; or
- 1608 (vi) petroleum coke.
- 1609 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 1610 facility" means a facility that:
- 1611 (i) uses alternative energy to produce electricity; and
- 1612 (ii) has a production capacity of 2 megawatts or greater.
- 1613 (b) A facility is an alternative energy electricity production facility regardless of
- 1614 whether the facility is:
- 1615 (i) connected to an electric grid; or
- 1616 (ii) located on the premises of an electricity consumer.
- 1617 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 1618 provision of telecommunications service.
- 1619 (b) "Ancillary service" includes:
- 1620 (i) a conference bridging service;
- 1621 (ii) a detailed communications billing service;
- 1622 (iii) directory assistance;
- 1623 (iv) a vertical service; or
- 1624 (v) a voice mail service.
- 1625 (13) "Area agency on aging" is as defined in Section 62A-3-101.
- 1626 (14) "Assisted amusement device" means an amusement device, skill device, or ride
- 1627 device that is started and stopped by an individual:
- 1628 (a) who is not the purchaser or renter of the right to use or operate the amusement
- 1629 device, skill device, or ride device; and
- 1630 (b) at the direction of the seller of the right to use the amusement device, skill device,
- 1631 or ride device.
- 1632 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
- 1633 washing of tangible personal property if the cleaning or washing labor is primarily performed
- 1634 by an individual:
- 1635 (a) who is not the purchaser of the cleaning or washing of the tangible personal
- 1636 property; and
- 1637 (b) at the direction of the seller of the cleaning or washing of the tangible personal

1638 property.

1639 (16) "Authorized carrier" means:

1640 (a) in the case of vehicles operated over public highways, the holder of credentials
1641 indicating that the vehicle is or will be operated pursuant to both the International Registration
1642 Plan and the International Fuel Tax Agreement;

1643 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
1644 certificate or air carrier's operating certificate; or

1645 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
1646 stock, the holder of a certificate issued by the United States Surface Transportation Board.

1647 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
1648 following that is used as the primary source of energy to produce fuel or electricity:

1649 (i) material from a plant or tree; or

1650 (ii) other organic matter that is available on a renewable basis, including:

1651 (A) slash and brush from forests and woodlands;

1652 (B) animal waste;

1653 (C) methane produced:

1654 (I) at landfills; or

1655 (II) as a byproduct of the treatment of wastewater residuals;

1656 (D) aquatic plants; and

1657 (E) agricultural products.

1658 (b) "Biomass energy" does not include:

1659 (i) black liquor;

1660 (ii) treated woods; or

1661 (iii) biomass from municipal solid waste other than methane produced:

1662 (A) at landfills; or

1663 (B) as a byproduct of the treatment of wastewater residuals.

1664 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
1665 property, products, or services if the tangible personal property, products, or services are:

1666 (i) distinct and identifiable; and

1667 (ii) sold for one nonitemized price.

1668 (b) "Bundled transaction" does not include:

1669 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
1670 the basis of the selection by the purchaser of the items of tangible personal property included in
1671 the transaction;

1672 (ii) the sale of real property;

1673 (iii) the sale of services to real property;

1674 (iv) the retail sale of tangible personal property and a service if:

1675 (A) the tangible personal property:

1676 (I) is essential to the use of the service; and

1677 (II) is provided exclusively in connection with the service; and

1678 (B) the service is the true object of the transaction;

1679 (v) the retail sale of two services if:

1680 (A) one service is provided that is essential to the use or receipt of a second service;

1681 (B) the first service is provided exclusively in connection with the second service; and

1682 (C) the second service is the true object of the transaction;

1683 (vi) a transaction that includes tangible personal property or a product subject to
1684 taxation under this chapter and tangible personal property or a product that is not subject to
1685 taxation under this chapter if the:

1686 (A) seller's purchase price of the tangible personal property or product subject to
1687 taxation under this chapter is de minimis; or

1688 (B) seller's sales price of the tangible personal property or product subject to taxation
1689 under this chapter is de minimis; and

1690 (vii) the retail sale of tangible personal property that is not subject to taxation under
1691 this chapter and tangible personal property that is subject to taxation under this chapter if:

1692 (A) that retail sale includes:

1693 (I) food and food ingredients;

1694 (II) a drug;

1695 (III) durable medical equipment;

1696 (IV) mobility enhancing equipment;

1697 (V) an over-the-counter drug;

1698 (VI) a prosthetic device; or

1699 (VII) a medical supply; and

- 1700 (B) subject to Subsection (18)(f):
- 1701 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 1702 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 1703 (II) the seller's sales price of the tangible personal property subject to taxation under
- 1704 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 1705 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
- 1706 service that is distinct and identifiable does not include:
- 1707 (A) packaging that:
- 1708 (I) accompanies the sale of the tangible personal property, product, or service; and
- 1709 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
- 1710 service;
- 1711 (B) tangible personal property, a product, or a service provided free of charge with the
- 1712 purchase of another item of tangible personal property, a product, or a service; or
- 1713 (C) an item of tangible personal property, a product, or a service included in the
- 1714 definition of "purchase price."
- 1715 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
- 1716 product, or a service is provided free of charge with the purchase of another item of tangible
- 1717 personal property, a product, or a service if the sales price of the purchased item of tangible
- 1718 personal property, product, or service does not vary depending on the inclusion of the tangible
- 1719 personal property, product, or service provided free of charge.
- 1720 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
- 1721 does not include a price that is separately identified by tangible personal property, product, or
- 1722 service on the following, regardless of whether the following is in paper format or electronic
- 1723 format:
- 1724 (A) a binding sales document; or
- 1725 (B) another supporting sales-related document that is available to a purchaser.
- 1726 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
- 1727 supporting sales-related document that is available to a purchaser includes:
- 1728 (A) a bill of sale;
- 1729 (B) a contract;
- 1730 (C) an invoice;

- 1731 (D) a lease agreement;
- 1732 (E) a periodic notice of rates and services;
- 1733 (F) a price list;
- 1734 (G) a rate card;
- 1735 (H) a receipt; or
- 1736 (I) a service agreement.
- 1737 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
- 1738 property or a product subject to taxation under this chapter is de minimis if:
- 1739 (A) the seller's purchase price of the tangible personal property or product is 10% or
- 1740 less of the seller's total purchase price of the bundled transaction; or
- 1741 (B) the seller's sales price of the tangible personal property or product is 10% or less of
- 1742 the seller's total sales price of the bundled transaction.
- 1743 (ii) For purposes of Subsection (18)(b)(vi), a seller:
- 1744 (A) shall use the seller's purchase price or the seller's sales price to determine if the
- 1745 purchase price or sales price of the tangible personal property or product subject to taxation
- 1746 under this chapter is de minimis; and
- 1747 (B) may not use a combination of the seller's purchase price and the seller's sales price
- 1748 to determine if the purchase price or sales price of the tangible personal property or product
- 1749 subject to taxation under this chapter is de minimis.
- 1750 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
- 1751 contract to determine if the sales price of tangible personal property or a product is de minimis.
- 1752 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
- 1753 the seller's purchase price and the seller's sales price to determine if tangible personal property
- 1754 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
- 1755 price of that retail sale.
- 1756 (19) "Certified automated system" means software certified by the governing board of
- 1757 the agreement that:
- 1758 (a) calculates the agreement sales and use tax imposed within a local taxing
- 1759 jurisdiction:
- 1760 (i) on a transaction; and
- 1761 (ii) in the states that are members of the agreement;

1762 (b) determines the amount of agreement sales and use tax to remit to a state that is a
1763 member of the agreement; and

1764 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

1765 (20) "Certified service provider" means an agent certified:

1766 (a) by the governing board of the agreement; and

1767 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
1768 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
1769 own purchases.

1770 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
1771 suitable for general use.

1772 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1773 commission shall make rules:

1774 (i) listing the items that constitute "clothing"; and

1775 (ii) that are consistent with the list of items that constitute "clothing" under the
1776 agreement.

1777 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

1778 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
1779 fuels that does not constitute industrial use under Subsection [~~51~~] (54) or residential use
1780 under Subsection [~~101~~] (104).

1781 (24) (a) "Common carrier" means a person engaged in or transacting the business of
1782 transporting passengers, freight, merchandise, or other property for hire within this state.

1783 (b) (i) "Common carrier" does not include a person who, at the time the person is
1784 traveling to or from that person's place of employment, transports a passenger to or from the
1785 passenger's place of employment.

1786 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
1787 Utah Administrative Rulemaking Act, the commission may make rules defining what
1788 constitutes a person's place of employment.

1789 (25) "Component part" includes:

1790 (a) poultry, dairy, and other livestock feed, and their components;

1791 (b) baling ties and twine used in the baling of hay and straw;

1792 (c) fuel used for providing temperature control of orchards and commercial

1793 greenhouses doing a majority of their business in wholesale sales, and for providing power for
1794 off-highway type farm machinery; and

1795 (d) feed, seeds, and seedlings.

1796 (26) "Computer" means an electronic device that accepts information:

1797 (a) (i) in digital form; or

1798 (ii) in a form similar to digital form; and

1799 (b) manipulates that information for a result based on a sequence of instructions.

1800 (27) "Computer software" means a set of coded instructions designed to cause:

1801 (a) a computer to perform a task; or

1802 (b) automatic data processing equipment to perform a task.

1803 (28) "Computer software maintenance contract" means a contract that obligates a seller
1804 of computer software to provide a customer with:

1805 (a) future updates or upgrades to computer software;

1806 (b) support services with respect to computer software; or

1807 (c) a combination of Subsections (28)(a) and (b).

1808 (29) (a) "Conference bridging service" means an ancillary service that links two or
1809 more participants of an audio conference call or video conference call.

1810 (b) "Conference bridging service" may include providing a telephone number as part of
1811 the ancillary service described in Subsection (29)(a).

1812 (c) "Conference bridging service" does not include a telecommunications service used
1813 to reach the ancillary service described in Subsection (29)(a).

1814 (30) "Construction materials" means any tangible personal property that will be
1815 converted into real property.

1816 (31) "Delivered electronically" means delivered to a purchaser by means other than
1817 tangible storage media.

1818 (32) (a) "Delivery charge" means a charge:

1819 (i) by a seller of:

1820 (A) tangible personal property;

1821 (B) a product transferred electronically; or

1822 (C) services; and

1823 (ii) for preparation and delivery of the tangible personal property, product transferred

1824 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
1825 purchaser.

1826 (b) "Delivery charge" includes a charge for the following:

1827 (i) transportation;

1828 (ii) shipping;

1829 (iii) postage;

1830 (iv) handling;

1831 (v) crating; or

1832 (vi) packing.

1833 (33) "Detailed telecommunications billing service" means an ancillary service of
1834 separately stating information pertaining to individual calls on a customer's billing statement.

1835 (34) "Dietary supplement" means a product, other than tobacco, that:

1836 (a) is intended to supplement the diet;

1837 (b) contains one or more of the following dietary ingredients:

1838 (i) a vitamin;

1839 (ii) a mineral;

1840 (iii) an herb or other botanical;

1841 (iv) an amino acid;

1842 (v) a dietary substance for use by humans to supplement the diet by increasing the total
1843 dietary intake; or

1844 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
1845 described in Subsections (34)(b)(i) through (v);

1846 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

1847 (A) tablet form;

1848 (B) capsule form;

1849 (C) powder form;

1850 (D) softgel form;

1851 (E) gelcap form; or

1852 (F) liquid form; or

1853 (ii) notwithstanding Subsection (34)(c)(i), if the product is not intended for ingestion in
1854 a form described in Subsections (34)(c)(i)(A) through (F), is not represented:

1855 (A) as conventional food; and

1856 (B) for use as a sole item of:

1857 (I) a meal; or

1858 (II) the diet; and

1859 (d) is required to be labeled as a dietary supplement:

1860 (i) identifiable by the "Supplemental Facts" box found on the label; and

1861 (ii) as required by 21 C.F.R. Sec. 101.36.

1862 (35) (a) "Digital audio work" means a work that results from the fixation of a series of
1863 musical, spoken, or other sounds.

1864 (b) "Digital audio work" includes a ringtone.

1865 (36) "Digital audio-visual work" means a series of related images which, when shown
1866 in succession, imparts an impression of motion, together with accompanying sounds, if any.

1867 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
1868 sense as a book.

1869 [~~35~~] (38) (a) "Direct mail" means printed material delivered or distributed by United
1870 States mail or other delivery service:

1871 (i) to:

1872 (A) a mass audience; or

1873 (B) addressees on a mailing list provided:

1874 (I) by a purchaser of the mailing list; or

1875 (II) at the discretion of the purchaser of the mailing list; and

1876 (ii) if the cost of the printed material is not billed directly to the recipients.

1877 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
1878 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

1879 (c) "Direct mail" does not include multiple items of printed material delivered to a
1880 single address.

1881 [~~36~~] (39) "Directory assistance" means an ancillary service of providing:

1882 (a) address information; or

1883 (b) telephone number information.

1884 [~~37~~] (40) (a) "Disposable home medical equipment or supplies" means medical
1885 equipment or supplies that:

- 1886 (i) cannot withstand repeated use; and
- 1887 (ii) are purchased by, for, or on behalf of a person other than:
- 1888 (A) a health care facility as defined in Section 26-21-2;
- 1889 (B) a health care provider as defined in Section 78B-3-403;
- 1890 (C) an office of a health care provider described in Subsection [~~37~~] (40)(a)(ii)(B); or
- 1891 (D) a person similar to a person described in Subsections [~~37~~] (40)(a)(ii)(A) through
- 1892 (C).
- 1893 (b) "Disposable home medical equipment or supplies" does not include:
- 1894 (i) a drug;
- 1895 (ii) durable medical equipment;
- 1896 (iii) a hearing aid;
- 1897 (iv) a hearing aid accessory;
- 1898 (v) mobility enhancing equipment; or
- 1899 (vi) tangible personal property used to correct impaired vision, including:
- 1900 (A) eyeglasses; or
- 1901 (B) contact lenses.
- 1902 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1903 commission may by rule define what constitutes medical equipment or supplies.
- 1904 [~~38~~] (41) (a) "Drug" means a compound, substance, or preparation, or a component of
- 1905 a compound, substance, or preparation that is:
- 1906 (i) recognized in:
- 1907 (A) the official United States Pharmacopoeia;
- 1908 (B) the official Homeopathic Pharmacopoeia of the United States;
- 1909 (C) the official National Formulary; or
- 1910 (D) a supplement to a publication listed in Subsections [~~38~~] (41)(a)(i)(A) through
- 1911 (C);
- 1912 (ii) intended for use in the:
- 1913 (A) diagnosis of disease;
- 1914 (B) cure of disease;
- 1915 (C) mitigation of disease;
- 1916 (D) treatment of disease; or

- 1917 (E) prevention of disease; or
- 1918 (iii) intended to affect:
- 1919 (A) the structure of the body; or
- 1920 (B) any function of the body.
- 1921 (b) "Drug" does not include:
- 1922 (i) food and food ingredients;
- 1923 (ii) a dietary supplement;
- 1924 (iii) an alcoholic beverage; or
- 1925 (iv) a prosthetic device.
- 1926 [~~39~~] (42) (a) Except as provided in Subsection [~~39~~] (42)(c), "durable medical
- 1927 equipment" means equipment that:
- 1928 (i) can withstand repeated use;
- 1929 (ii) is primarily and customarily used to serve a medical purpose;
- 1930 (iii) generally is not useful to a person in the absence of illness or injury; and
- 1931 (iv) is not worn in or on the body.
- 1932 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 1933 equipment described in Subsection [~~39~~] (42)(a).
- 1934 (c) Notwithstanding Subsection [~~39~~] (42)(a), "durable medical equipment" does not
- 1935 include mobility enhancing equipment.
- 1936 [~~40~~] (43) "Electronic" means:
- 1937 (a) relating to technology; and
- 1938 (b) having:
- 1939 (i) electrical capabilities;
- 1940 (ii) digital capabilities;
- 1941 (iii) magnetic capabilities;
- 1942 (iv) wireless capabilities;
- 1943 (v) optical capabilities;
- 1944 (vi) electromagnetic capabilities; or
- 1945 (vii) capabilities similar to Subsections [~~40~~] (43)(b)(i) through (vi).
- 1946 [~~41~~] (44) "Employee" is as defined in Section 59-10-401.
- 1947 [~~42~~] (45) "Fixed guideway" means a public transit facility that uses and occupies:

- 1948 (a) rail for the use of public transit; or
- 1949 (b) a separate right-of-way for the use of public transit.
- 1950 [~~(43)~~] (46) "Fixed wing turbine powered aircraft" means an aircraft that:
- 1951 (a) is powered by turbine engines;
- 1952 (b) operates on jet fuel; and
- 1953 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 1954 [~~(44)~~] (47) "Fixed wireless service" means a telecommunications service that provides
- 1955 radio communication between fixed points.
- 1956 [~~(45)~~] (48) (a) "Food and food ingredients" means substances:
- 1957 (i) regardless of whether the substances are in:
- 1958 (A) liquid form;
- 1959 (B) concentrated form;
- 1960 (C) solid form;
- 1961 (D) frozen form;
- 1962 (E) dried form; or
- 1963 (F) dehydrated form; and
- 1964 (ii) that are:
- 1965 (A) sold for:
- 1966 (I) ingestion by humans; or
- 1967 (II) chewing by humans; and
- 1968 (B) consumed for the substance's:
- 1969 (I) taste; or
- 1970 (II) nutritional value.
- 1971 (b) "Food and food ingredients" includes an item described in Subsection [~~(86)~~]
- 1972 (89)(b)(iii).
- 1973 (c) "Food and food ingredients" does not include:
- 1974 (i) an alcoholic beverage;
- 1975 (ii) tobacco; or
- 1976 (iii) prepared food.
- 1977 [~~(46)~~] (49) (a) "Fundraising sales" means sales:
- 1978 (i) (A) made by a school; or

- 1979 (B) made by a school student;
- 1980 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 1981 materials, or provide transportation; and
- 1982 (iii) that are part of an officially sanctioned school activity.
- 1983 (b) For purposes of Subsection [~~(46)~~] (49)(a)(iii), "officially sanctioned school activity"
- 1984 means a school activity:
- 1985 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 1986 district governing the authorization and supervision of fundraising activities;
- 1987 (ii) that does not directly or indirectly compensate an individual teacher or other
- 1988 educational personnel by direct payment, commissions, or payment in kind; and
- 1989 (iii) the net or gross revenues from which are deposited in a dedicated account
- 1990 controlled by the school or school district.
- 1991 [~~(47)~~] (50) "Geothermal energy" means energy contained in heat that continuously
- 1992 flows outward from the earth that is used as the sole source of energy to produce electricity.
- 1993 [~~(48)~~] (51) "Governing board of the agreement" means the governing board of the
- 1994 agreement that is:
- 1995 (a) authorized to administer the agreement; and
- 1996 (b) established in accordance with the agreement.
- 1997 [~~(49)~~] (52) (a) For purposes of Subsection 59-12-104(41), "governmental entity"
- 1998 means:
- 1999 (i) the executive branch of the state, including all departments, institutions, boards,
- 2000 divisions, bureaus, offices, commissions, and committees;
- 2001 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
- 2002 Office of the Court Administrator, and similar administrative units in the judicial branch;
- 2003 (iii) the legislative branch of the state, including the House of Representatives, the
- 2004 Senate, the Legislative Printing Office, the Office of Legislative Research and General
- 2005 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
- 2006 Analyst;
- 2007 (iv) the National Guard;
- 2008 (v) an independent entity as defined in Section 63E-1-102; or
- 2009 (vi) a political subdivision as defined in Section 17B-1-102.

2010 (b) "Governmental entity" does not include the state systems of public and higher
2011 education, including:

2012 (i) a college campus of the Utah College of Applied Technology;

2013 (ii) a school;

2014 (iii) the State Board of Education;

2015 (iv) the State Board of Regents; or

2016 (v) an institution of higher education.

2017 [~~50~~] (53) "Hydroelectric energy" means water used as the sole source of energy to
2018 produce electricity.

2019 [~~51~~] (54) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
2020 or other fuels:

2021 (a) in mining or extraction of minerals;

2022 (b) in agricultural operations to produce an agricultural product up to the time of
2023 harvest or placing the agricultural product into a storage facility, including:

2024 (i) commercial greenhouses;

2025 (ii) irrigation pumps;

2026 (iii) farm machinery;

2027 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
2028 registered under Title 41, Chapter 1a, Part 2, Registration; and

2029 (v) other farming activities;

2030 (c) in manufacturing tangible personal property at an establishment described in SIC
2031 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
2032 Executive Office of the President, Office of Management and Budget;

2033 (d) by a scrap recycler if:

2034 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2035 one or more of the following items into prepared grades of processed materials for use in new
2036 products:

2037 (A) iron;

2038 (B) steel;

2039 (C) nonferrous metal;

2040 (D) paper;

- 2041 (E) glass;
- 2042 (F) plastic;
- 2043 (G) textile; or
- 2044 (H) rubber; and
- 2045 (ii) the new products under Subsection [~~(51)~~] (54)(d)(i) would otherwise be made with
- 2046 nonrecycled materials; or
- 2047 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
- 2048 cogeneration facility as defined in Section 54-2-1.
- 2049 [~~(52)~~] (55) (a) Except as provided in Subsection [~~(52)~~] (55)(b), "installation charge"
- 2050 means a charge for installing:
 - 2051 (i) tangible personal property; or
 - 2052 (ii) a product transferred electronically.
- 2053 (b) "Installation charge" does not include a charge for:
 - 2054 (i) repairs or renovations of:
 - 2055 (A) tangible personal property; or
 - 2056 (B) a product transferred electronically; or
 - 2057 (ii) attaching tangible personal property or a product transferred electronically:
 - 2058 (A) to other tangible personal property; and
 - 2059 (B) as part of a manufacturing or fabrication process.
- 2060 [~~(53)~~] (56) "Institution of higher education" means an institution of higher education
- 2061 listed in Section 53B-2-101.
- 2062 [~~(54)~~] (57) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 2063 personal property or a product transferred electronically for:
 - 2064 (i) (A) a fixed term; or
 - 2065 (B) an indeterminate term; and
 - 2066 (ii) consideration.
- 2067 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 2068 amount of consideration may be increased or decreased by reference to the amount realized
- 2069 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 2070 Code.
- 2071 (c) "Lease" or "rental" does not include:

2072 (i) a transfer of possession or control of property under a security agreement or
2073 deferred payment plan that requires the transfer of title upon completion of the required
2074 payments;

2075 (ii) a transfer of possession or control of property under an agreement that requires the
2076 transfer of title:

2077 (A) upon completion of required payments; and

2078 (B) if the payment of an option price does not exceed the greater of:

2079 (I) \$100; or

2080 (II) 1% of the total required payments; or

2081 (iii) providing tangible personal property along with an operator for a fixed period of
2082 time or an indeterminate period of time if the operator is necessary for equipment to perform as
2083 designed.

2084 (d) For purposes of Subsection [~~54~~] 57(c)(iii), an operator is necessary for
2085 equipment to perform as designed if the operator's duties exceed the:

2086 (i) set-up of tangible personal property;

2087 (ii) maintenance of tangible personal property; or

2088 (iii) inspection of tangible personal property.

2089 [~~55~~] 58 "Life science establishment" means an establishment in this state that is
2090 classified under the following NAICS codes of the 2007 North American Industry
2091 Classification System of the federal Executive Office of the President, Office of Management
2092 and Budget:

2093 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

2094 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
2095 Manufacturing; or

2096 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

2097 [~~56~~] 59 "Life science research and development facility" means a facility owned,
2098 leased, or rented by a life science establishment if research and development is performed in
2099 51% or more of the total area of the facility.

2100 [~~57~~] 60 "Load and leave" means delivery to a purchaser by use of a tangible storage
2101 media if the tangible storage media is not physically transferred to the purchaser.

2102 [~~58~~] 61 "Local taxing jurisdiction" means a:

- 2103 (a) county that is authorized to impose an agreement sales and use tax;
- 2104 (b) city that is authorized to impose an agreement sales and use tax; or
- 2105 (c) town that is authorized to impose an agreement sales and use tax.
- 2106 [~~(59)~~] (62) "Manufactured home" is as defined in Section 15A-1-302.
- 2107 [~~(60)~~] (63) For purposes of Section 59-12-104, "manufacturing facility" means:
- 2108 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
- 2109 Industrial Classification Manual of the federal Executive Office of the President, Office of
- 2110 Management and Budget;
- 2111 (b) a scrap recycler if:
- 2112 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 2113 one or more of the following items into prepared grades of processed materials for use in new
- 2114 products:
- 2115 (A) iron;
- 2116 (B) steel;
- 2117 (C) nonferrous metal;
- 2118 (D) paper;
- 2119 (E) glass;
- 2120 (F) plastic;
- 2121 (G) textile; or
- 2122 (H) rubber; and
- 2123 (ii) the new products under Subsection [~~(60)~~] (63)(b)(i) would otherwise be made with
- 2124 nonrecycled materials; or
- 2125 (c) a cogeneration facility as defined in Section 54-2-1.
- 2126 [~~(61)~~] (64) "Member of the immediate family of the producer" means a person who is
- 2127 related to a producer described in Subsection 59-12-104(20)(a) as a:
- 2128 (a) child or stepchild, regardless of whether the child or stepchild is:
- 2129 (i) an adopted child or adopted stepchild; or
- 2130 (ii) a foster child or foster stepchild;
- 2131 (b) grandchild or stepgrandchild;
- 2132 (c) grandparent or stepgrandparent;
- 2133 (d) nephew or stepnephew;

- 2134 (e) niece or stepniece;
- 2135 (f) parent or stepparent;
- 2136 (g) sibling or stepsibling;
- 2137 (h) spouse;
- 2138 (i) person who is the spouse of a person described in Subsections [~~(61)~~] (64)(a) through
- 2139 (g); or
- 2140 (j) person similar to a person described in Subsections [~~(61)~~] (64)(a) through (i) as
- 2141 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 2142 Administrative Rulemaking Act.
- 2143 [~~(62)~~] (65) "Mobile home" is as defined in Section 15A-1-302.
- 2144 [~~(63)~~] (66) "Mobile telecommunications service" is as defined in the Mobile
- 2145 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 2146 [~~(64)~~] (67) (a) "Mobile wireless service" means a telecommunications service,
- 2147 regardless of the technology used, if:
- 2148 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 2149 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 2150 (iii) the origination point described in Subsection [~~(64)~~] (67)(a)(i) and the termination
- 2151 point described in Subsection [~~(64)~~] (67)(a)(ii) are not fixed.
- 2152 (b) "Mobile wireless service" includes a telecommunications service that is provided
- 2153 by a commercial mobile radio service provider.
- 2154 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2155 commission may by rule define "commercial mobile radio service provider."
- 2156 [~~(65)~~] (68) (a) Except as provided in Subsection [~~(65)~~] (68)(c), "mobility enhancing
- 2157 equipment" means equipment that is:
- 2158 (i) primarily and customarily used to provide or increase the ability to move from one
- 2159 place to another;
- 2160 (ii) appropriate for use in a:
- 2161 (A) home; or
- 2162 (B) motor vehicle; and
- 2163 (iii) not generally used by persons with normal mobility.
- 2164 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of

2165 the equipment described in Subsection [~~(65)~~] (68)(a).

2166 (c) Notwithstanding Subsection [~~(65)~~] (68)(a), "mobility enhancing equipment" does
2167 not include:

2168 (i) a motor vehicle;

2169 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
2170 vehicle manufacturer;

2171 (iii) durable medical equipment; or

2172 (iv) a prosthetic device.

2173 [~~(66)~~] (69) "Model 1 seller" means a seller registered under the agreement that has
2174 selected a certified service provider as the seller's agent to perform all of the seller's sales and
2175 use tax functions for agreement sales and use taxes other than the seller's obligation under
2176 Section 59-12-124 to remit a tax on the seller's own purchases.

2177 [~~(67)~~] (70) "Model 2 seller" means a seller registered under the agreement that:

2178 (a) except as provided in Subsection [~~(67)~~] (70)(b), has selected a certified automated
2179 system to perform the seller's sales tax functions for agreement sales and use taxes; and

2180 (b) notwithstanding Subsection [~~(67)~~] (70)(a), retains responsibility for remitting all of
2181 the sales tax:

2182 (i) collected by the seller; and

2183 (ii) to the appropriate local taxing jurisdiction.

2184 [~~(68)~~] (71) (a) Subject to Subsection [~~(68)~~] (71)(b), "model 3 seller" means a seller
2185 registered under the agreement that has:

2186 (i) sales in at least five states that are members of the agreement;

2187 (ii) total annual sales revenues of at least \$500,000,000;

2188 (iii) a proprietary system that calculates the amount of tax:

2189 (A) for an agreement sales and use tax; and

2190 (B) due to each local taxing jurisdiction; and

2191 (iv) entered into a performance agreement with the governing board of the agreement.

2192 (b) For purposes of Subsection [~~(68)~~] (71)(a), "model 3 seller" includes an affiliated
2193 group of sellers using the same proprietary system.

2194 [~~(69)~~] (72) "Model 4 seller" means a seller that is registered under the agreement and is
2195 not a model 1 seller, model 2 seller, or model 3 seller.

2196 [~~(70)~~] (73) "Modular home" means a modular unit as defined in Section 15A-1-302.

2197 [~~(71)~~] (74) "Motor vehicle" is as defined in Section 41-1a-102.

2198 [~~(72)~~] (75) "Oil sands" means impregnated bituminous sands that:

2199 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
2200 other hydrocarbons, or otherwise treated;

2201 (b) yield mixtures of liquid hydrocarbon; and

2202 (c) require further processing other than mechanical blending before becoming finished
2203 petroleum products.

2204 [~~(73)~~] (76) "Oil shale" means a group of fine black to dark brown shales containing
2205 kerogen material that yields petroleum upon heating and distillation.

2206 [~~(74)~~] (77) "Optional computer software maintenance contract" means a computer
2207 software maintenance contract that a customer is not obligated to purchase as a condition to the
2208 retail sale of computer software.

2209 [~~(75)~~] (78) (a) "Other fuels" means products that burn independently to produce heat or
2210 energy.

2211 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
2212 personal property.

2213 [~~(76)~~] (79) (a) "Paging service" means a telecommunications service that provides
2214 transmission of a coded radio signal for the purpose of activating a specific pager.

2215 (b) For purposes of Subsection [~~(76)~~] (79)(a), the transmission of a coded radio signal
2216 includes a transmission by message or sound.

2217 [~~(77)~~] (80) "Pawnbroker" is as defined in Section 13-32a-102.

2218 [~~(78)~~] (81) "Pawn transaction" is as defined in Section 13-32a-102.

2219 [~~(79)~~] (82) (a) "Permanently attached to real property" means that for tangible personal
2220 property attached to real property:

2221 (i) the attachment of the tangible personal property to the real property:

2222 (A) is essential to the use of the tangible personal property; and

2223 (B) suggests that the tangible personal property will remain attached to the real
2224 property in the same place over the useful life of the tangible personal property; or

2225 (ii) if the tangible personal property is detached from the real property, the detachment
2226 would:

- 2227 (A) cause substantial damage to the tangible personal property; or
- 2228 (B) require substantial alteration or repair of the real property to which the tangible
- 2229 personal property is attached.
- 2230 (b) "Permanently attached to real property" includes:
- 2231 (i) the attachment of an accessory to the tangible personal property if the accessory is:
- 2232 (A) essential to the operation of the tangible personal property; and
- 2233 (B) attached only to facilitate the operation of the tangible personal property;
- 2234 (ii) a temporary detachment of tangible personal property from real property for a
- 2235 repair or renovation if the repair or renovation is performed where the tangible personal
- 2236 property and real property are located; or
- 2237 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
- 2238 Subsection [~~(79)~~] (82)(c)(iii) or (iv).
- 2239 (c) "Permanently attached to real property" does not include:
- 2240 (i) the attachment of portable or movable tangible personal property to real property if
- 2241 that portable or movable tangible personal property is attached to real property only for:
- 2242 (A) convenience;
- 2243 (B) stability; or
- 2244 (C) for an obvious temporary purpose;
- 2245 (ii) the detachment of tangible personal property from real property except for the
- 2246 detachment described in Subsection [~~(79)~~] (82)(b)(ii);
- 2247 (iii) an attachment of the following tangible personal property to real property if the
- 2248 attachment to real property is only through a line that supplies water, electricity, gas,
- 2249 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 2250 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 2251 (A) a computer;
- 2252 (B) a telephone;
- 2253 (C) a television; or
- 2254 (D) tangible personal property similar to Subsections [~~(79)~~] (82)(c)(iii)(A) through (C)
- 2255 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 2256 Administrative Rulemaking Act; or
- 2257 (iv) an item listed in Subsection [~~(117)~~] (120)(c).

2258 [~~(80)~~] (83) "Person" includes any individual, firm, partnership, joint venture,
2259 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
2260 city, municipality, district, or other local governmental entity of the state, or any group or
2261 combination acting as a unit.

2262 [~~(81)~~] (84) "Place of primary use":

2263 (a) for telecommunications service other than mobile telecommunications service,
2264 means the street address representative of where the customer's use of the telecommunications
2265 service primarily occurs, which shall be:

2266 (i) the residential street address of the customer; or

2267 (ii) the primary business street address of the customer; or

2268 (b) for mobile telecommunications service, is as defined in the Mobile
2269 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2270 [~~(82)~~] (85) (a) "Postpaid calling service" means a telecommunications service a person
2271 obtains by making a payment on a call-by-call basis:

2272 (i) through the use of a:

2273 (A) bank card;

2274 (B) credit card;

2275 (C) debit card; or

2276 (D) travel card; or

2277 (ii) by a charge made to a telephone number that is not associated with the origination
2278 or termination of the telecommunications service.

2279 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
2280 service, that would be a prepaid wireless calling service if the service were exclusively a
2281 telecommunications service.

2282 [~~(83)~~] (86) "Postproduction" means an activity related to the finishing or duplication of
2283 a medium described in Subsection 59-12-104(54)(a).

2284 [~~(84)~~] (87) "Prepaid calling service" means a telecommunications service:

2285 (a) that allows a purchaser access to telecommunications service that is exclusively
2286 telecommunications service;

2287 (b) that:

2288 (i) is paid for in advance; and

- 2289 (ii) enables the origination of a call using an:
- 2290 (A) access number; or
- 2291 (B) authorization code;
- 2292 (c) that is dialed:
- 2293 (i) manually; or
- 2294 (ii) electronically; and
- 2295 (d) sold in predetermined units or dollars that decline:
- 2296 (i) by a known amount; and
- 2297 (ii) with use.
- 2298 [~~(85)~~] (88) "Prepaid wireless calling service" means a telecommunications service:
- 2299 (a) that provides the right to utilize:
- 2300 (i) mobile wireless service; and
- 2301 (ii) other service that is not a telecommunications service, including:
- 2302 (A) the download of a product transferred electronically;
- 2303 (B) a content service; or
- 2304 (C) an ancillary service;
- 2305 (b) that:
- 2306 (i) is paid for in advance; and
- 2307 (ii) enables the origination of a call using an:
- 2308 (A) access number; or
- 2309 (B) authorization code;
- 2310 (c) that is dialed:
- 2311 (i) manually; or
- 2312 (ii) electronically; and
- 2313 (d) sold in predetermined units or dollars that decline:
- 2314 (i) by a known amount; and
- 2315 (ii) with use.
- 2316 [~~(86)~~] (89) (a) "Prepared food" means:
- 2317 (i) food:
- 2318 (A) sold in a heated state; or
- 2319 (B) heated by a seller;

2320 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
2321 item; or

2322 (iii) except as provided in Subsection [~~86~~] (89)(c), food sold with an eating utensil
2323 provided by the seller, including a:

2324 (A) plate;

2325 (B) knife;

2326 (C) fork;

2327 (D) spoon;

2328 (E) glass;

2329 (F) cup;

2330 (G) napkin; or

2331 (H) straw.

2332 (b) "Prepared food" does not include:

2333 (i) food that a seller only:

2334 (A) cuts;

2335 (B) repackages; or

2336 (C) pasteurizes; or

2337 (ii) (A) the following:

2338 (I) raw egg;

2339 (II) raw fish;

2340 (III) raw meat;

2341 (IV) raw poultry; or

2342 (V) a food containing an item described in Subsections [~~86~~] (89)(b)(ii)(A)(I) through
2343 (IV); and

2344 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
2345 Food and Drug Administration's Food Code that a consumer cook the items described in
2346 Subsection [~~86~~] (89)(b)(ii)(A) to prevent food borne illness; or

2347 (iii) the following if sold without eating utensils provided by the seller:

2348 (A) food and food ingredients sold by a seller if the seller's proper primary
2349 classification under the 2002 North American Industry Classification System of the federal
2350 Executive Office of the President, Office of Management and Budget, is manufacturing in

- 2351 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
2352 Manufacturing;
- 2353 (B) food and food ingredients sold in an unheated state:
2354 (I) by weight or volume; and
2355 (II) as a single item; or
2356 (C) a bakery item, including:
2357 (I) a bagel;
2358 (II) a bar;
2359 (III) a biscuit;
2360 (IV) bread;
2361 (V) a bun;
2362 (VI) a cake;
2363 (VII) a cookie;
2364 (VIII) a croissant;
2365 (IX) a danish;
2366 (X) a donut;
2367 (XI) a muffin;
2368 (XII) a pastry;
2369 (XIII) a pie;
2370 (XIV) a roll;
2371 (XV) a tart;
2372 (XVI) a torte; or
2373 (XVII) a tortilla.
- 2374 (c) Notwithstanding Subsection [~~(86)~~] (89)(a)(iii), an eating utensil provided by the
2375 seller does not include the following used to transport the food:
2376 (i) a container; or
2377 (ii) packaging.
- 2378 [~~(87)~~] (90) "Prescription" means an order, formula, or recipe that is issued:
2379 (a) (i) orally;
2380 (ii) in writing;
2381 (iii) electronically; or

2382 (iv) by any other manner of transmission; and
2383 (b) by a licensed practitioner authorized by the laws of a state.
2384 [~~(88)~~] (91) (a) Except as provided in Subsection [~~(88)~~] (91)(b)(ii) or (iii), "prewritten
2385 computer software" means computer software that is not designed and developed:
2386 (i) by the author or other creator of the computer software; and
2387 (ii) to the specifications of a specific purchaser.
2388 (b) "Prewritten computer software" includes:
2389 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
2390 software is not designed and developed:
2391 (A) by the author or other creator of the computer software; and
2392 (B) to the specifications of a specific purchaser;
2393 (ii) notwithstanding Subsection [~~(88)~~] (91)(a), computer software designed and
2394 developed by the author or other creator of the computer software to the specifications of a
2395 specific purchaser if the computer software is sold to a person other than the purchaser; or
2396 (iii) notwithstanding Subsection [~~(88)~~] (91)(a) and except as provided in Subsection
2397 [~~(88)~~] (91)(c), prewritten computer software or a prewritten portion of prewritten computer
2398 software:
2399 (A) that is modified or enhanced to any degree; and
2400 (B) if the modification or enhancement described in Subsection [~~(88)~~] (91)(b)(iii)(A) is
2401 designed and developed to the specifications of a specific purchaser.
2402 (c) Notwithstanding Subsection [~~(88)~~] (91)(b)(iii), "prewritten computer software"
2403 does not include a modification or enhancement described in Subsection [~~(88)~~] (91)(b)(iii) if
2404 the charges for the modification or enhancement are:
2405 (i) reasonable; and
2406 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
2407 invoice or other statement of price provided to the purchaser at the time of sale or later, as
2408 demonstrated by:
2409 (A) the books and records the seller keeps at the time of the transaction in the regular
2410 course of business, including books and records the seller keeps at the time of the transaction in
2411 the regular course of business for nontax purposes;
2412 (B) a preponderance of the facts and circumstances at the time of the transaction; and

- 2413 (C) the understanding of all of the parties to the transaction.
- 2414 [~~(89)~~] (92) (a) "Private communication service" means a telecommunications service:
- 2415 (i) that entitles a customer to exclusive or priority use of one or more communications
- 2416 channels between or among termination points; and
- 2417 (ii) regardless of the manner in which the one or more communications channels are
- 2418 connected.
- 2419 (b) "Private communications service" includes the following provided in connection
- 2420 with the use of one or more communications channels:
- 2421 (i) an extension line;
- 2422 (ii) a station;
- 2423 (iii) switching capacity; or
- 2424 (iv) another associated service that is provided in connection with the use of one or
- 2425 more communications channels as defined in Section 59-12-215.
- 2426 [~~(90)~~] (93) (a) Except as provided in Subsection [~~(90)~~] (93)(b), "product transferred
- 2427 electronically" means a product transferred electronically that would be subject to a tax under
- 2428 this chapter if that product was transferred in a manner other than electronically.
- 2429 (b) "Product transferred electronically" does not include:
- 2430 (i) an ancillary service;
- 2431 (ii) computer software; or
- 2432 (iii) a telecommunications service.
- 2433 [~~(91)~~] (94) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 2434 (i) artificially replace a missing portion of the body;
- 2435 (ii) prevent or correct a physical deformity or physical malfunction; or
- 2436 (iii) support a weak or deformed portion of the body.
- 2437 (b) "Prosthetic device" includes:
- 2438 (i) parts used in the repairs or renovation of a prosthetic device;
- 2439 (ii) replacement parts for a prosthetic device;
- 2440 (iii) a dental prosthesis; or
- 2441 (iv) a hearing aid.
- 2442 (c) "Prosthetic device" does not include:
- 2443 (i) corrective eyeglasses; or

- 2444 (ii) contact lenses.
- 2445 [~~92~~] (95) (a) "Protective equipment" means an item:
- 2446 (i) for human wear; and
- 2447 (ii) that is:
- 2448 (A) designed as protection:
- 2449 (I) to the wearer against injury or disease; or
- 2450 (II) against damage or injury of other persons or property; and
- 2451 (B) not suitable for general use.
- 2452 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2453 commission shall make rules:
- 2454 (i) listing the items that constitute "protective equipment"; and
- 2455 (ii) that are consistent with the list of items that constitute "protective equipment"
- 2456 under the agreement.
- 2457 [~~93~~] (96) (a) For purposes of Subsection 59-12-104(41), "publication" means any
- 2458 written or printed matter, other than a photocopy:
- 2459 (i) regardless of:
- 2460 (A) characteristics;
- 2461 (B) copyright;
- 2462 (C) form;
- 2463 (D) format;
- 2464 (E) method of reproduction; or
- 2465 (F) source; and
- 2466 (ii) made available in printed or electronic format.
- 2467 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2468 commission may by rule define the term "photocopy."
- 2469 [~~94~~] (97) (a) "Purchase price" and "sales price" mean the total amount of
- 2470 consideration:
- 2471 (i) valued in money; and
- 2472 (ii) for which tangible personal property, a product transferred electronically, or
- 2473 services are:
- 2474 (A) sold;

- 2475 (B) leased; or
- 2476 (C) rented.
- 2477 (b) "Purchase price" and "sales price" include:
- 2478 (i) the seller's cost of the tangible personal property, a product transferred
- 2479 electronically, or services sold;
- 2480 (ii) expenses of the seller, including:
- 2481 (A) the cost of materials used;
- 2482 (B) a labor cost;
- 2483 (C) a service cost;
- 2484 (D) interest;
- 2485 (E) a loss;
- 2486 (F) the cost of transportation to the seller; or
- 2487 (G) a tax imposed on the seller;
- 2488 (iii) a charge by the seller for any service necessary to complete the sale; or
- 2489 (iv) consideration a seller receives from a person other than the purchaser if:
- 2490 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 2491 and
- 2492 (II) the consideration described in Subsection [~~(94)~~] (97)(b)(iv)(A)(I) is directly related
- 2493 to a price reduction or discount on the sale;
- 2494 (B) the seller has an obligation to pass the price reduction or discount through to the
- 2495 purchaser;
- 2496 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 2497 the seller at the time of the sale to the purchaser; and
- 2498 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 2499 seller to claim a price reduction or discount; and
- 2500 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 2501 coupon, or other documentation with the understanding that the person other than the seller
- 2502 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 2503 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 2504 organization allowed a price reduction or discount, except that a preferred customer card that is
- 2505 available to any patron of a seller does not constitute membership in a group or organization

2506 allowed a price reduction or discount; or
2507 (III) the price reduction or discount is identified as a third party price reduction or
2508 discount on the:
2509 (Aa) invoice the purchaser receives; or
2510 (Bb) certificate, coupon, or other documentation the purchaser presents.
2511 (c) "Purchase price" and "sales price" do not include:
2512 (i) a discount:
2513 (A) in a form including:
2514 (I) cash;
2515 (II) term; or
2516 (III) coupon;
2517 (B) that is allowed by a seller;
2518 (C) taken by a purchaser on a sale; and
2519 (D) that is not reimbursed by a third party; or
2520 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
2521 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
2522 sale or later, as demonstrated by the books and records the seller keeps at the time of the
2523 transaction in the regular course of business, including books and records the seller keeps at the
2524 time of the transaction in the regular course of business for nontax purposes, by a
2525 preponderance of the facts and circumstances at the time of the transaction, and by the
2526 understanding of all of the parties to the transaction:
2527 (A) the following from credit extended on the sale of tangible personal property or
2528 services:
2529 (I) a carrying charge;
2530 (II) a financing charge; or
2531 (III) an interest charge;
2532 (B) a delivery charge;
2533 (C) an installation charge;
2534 (D) a manufacturer rebate on a motor vehicle; or
2535 (E) a tax or fee legally imposed directly on the consumer.
2536 [~~95~~] (98) "Purchaser" means a person to whom:

2537 (a) a sale of tangible personal property is made;

2538 (b) a product is transferred electronically; or

2539 (c) a service is furnished.

2540 [~~96~~] (99) "Regularly rented" means:

2541 (a) rented to a guest for value three or more times during a calendar year; or

2542 (b) advertised or held out to the public as a place that is regularly rented to guests for
2543 value.

2544 [~~97~~] (100) "Rental" is as defined in Subsection [~~54~~] (57).

2545 [~~98~~] (101) (a) Except as provided in Subsection [~~98~~] (101)(b), "repairs or
2546 renovations of tangible personal property" means:

2547 (i) a repair or renovation of tangible personal property that is not permanently attached
2548 to real property; or

2549 (ii) attaching tangible personal property or a product transferred electronically to other
2550 tangible personal property or detaching tangible personal property or a product transferred
2551 electronically from other tangible personal property if:

2552 (A) the other tangible personal property to which the tangible personal property or
2553 product transferred electronically is attached or from which the tangible personal property or
2554 product transferred electronically is detached is not permanently attached to real property; and

2555 (B) the attachment of tangible personal property or a product transferred electronically
2556 to other tangible personal property or detachment of tangible personal property or a product
2557 transferred electronically from other tangible personal property is made in conjunction with a
2558 repair or replacement of tangible personal property or a product transferred electronically.

2559 (b) "Repairs or renovations of tangible personal property" does not include:

2560 (i) attaching prewritten computer software to other tangible personal property if the
2561 other tangible personal property to which the prewritten computer software is attached is not
2562 permanently attached to real property; or

2563 (ii) detaching prewritten computer software from other tangible personal property if the
2564 other tangible personal property from which the prewritten computer software is detached is
2565 not permanently attached to real property.

2566 [~~99~~] (102) "Research and development" means the process of inquiry or
2567 experimentation aimed at the discovery of facts, devices, technologies, or applications and the

2568 process of preparing those devices, technologies, or applications for marketing.

2569 ~~[(100)]~~ (103) (a) "Residential telecommunications services" means a
2570 telecommunications service or an ancillary service that is provided to an individual for personal
2571 use:

2572 (i) at a residential address; or

2573 (ii) at an institution, including a nursing home or a school, if the telecommunications
2574 service or ancillary service is provided to and paid for by the individual residing at the
2575 institution rather than the institution.

2576 (b) For purposes of Subsection ~~[(100)]~~ (103)(a)(i), a residential address includes an:

2577 (i) apartment; or

2578 (ii) other individual dwelling unit.

2579 ~~[(101)]~~ (104) "Residential use" means the use in or around a home, apartment building,
2580 sleeping quarters, and similar facilities or accommodations.

2581 ~~[(102)]~~ (105) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
2582 other than:

2583 (a) resale;

2584 (b) sublease; or

2585 (c) subrent.

2586 ~~[(103)]~~ (106) (a) "Retailer" means any person engaged in a regularly organized
2587 business in tangible personal property or any other taxable transaction under Subsection
2588 59-12-103(1), and who is selling to the user or consumer and not for resale.

2589 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
2590 engaged in the business of selling to users or consumers within the state.

2591 ~~[(104)]~~ (107) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
2592 otherwise, in any manner, of tangible personal property or any other taxable transaction under
2593 Subsection 59-12-103(1), for consideration.

2594 (b) "Sale" includes:

2595 (i) installment and credit sales;

2596 (ii) any closed transaction constituting a sale;

2597 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
2598 chapter;

2599 (iv) any transaction if the possession of property is transferred but the seller retains the
2600 title as security for the payment of the price; and

2601 (v) any transaction under which right to possession, operation, or use of any article of
2602 tangible personal property is granted under a lease or contract and the transfer of possession
2603 would be taxable if an outright sale were made.

2604 [~~(105)~~] (108) "Sale at retail" is as defined in Subsection [~~(102)~~] (105).

2605 [~~(106)~~] (109) "Sale-leaseback transaction" means a transaction by which title to
2606 tangible personal property or a product transferred electronically that is subject to a tax under
2607 this chapter is transferred:

2608 (a) by a purchaser-lessee;

2609 (b) to a lessor;

2610 (c) for consideration; and

2611 (d) if:

2612 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
2613 of the tangible personal property or product transferred electronically;

2614 (ii) the sale of the tangible personal property or product transferred electronically to the
2615 lessor is intended as a form of financing:

2616 (A) for the tangible personal property or product transferred electronically; and

2617 (B) to the purchaser-lessee; and

2618 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
2619 is required to:

2620 (A) capitalize the tangible personal property or product transferred electronically for
2621 financial reporting purposes; and

2622 (B) account for the lease payments as payments made under a financing arrangement.

2623 [~~(107)~~] (110) "Sales price" is as defined in Subsection [~~(94)~~] (97).

2624 [~~(108)~~] (111) (a) "Sales relating to schools" means the following sales by, amounts
2625 paid to, or amounts charged by a school:

2626 (i) sales that are directly related to the school's educational functions or activities
2627 including:

2628 (A) the sale of:

2629 (I) textbooks;

- 2630 (II) textbook fees;
- 2631 (III) laboratory fees;
- 2632 (IV) laboratory supplies; or
- 2633 (V) safety equipment;
- 2634 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 2635 that:
- 2636 (I) a student is specifically required to wear as a condition of participation in a
- 2637 school-related event or school-related activity; and
- 2638 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 2639 place of ordinary clothing;
- 2640 (C) sales of the following if the net or gross revenues generated by the sales are
- 2641 deposited into a school district fund or school fund dedicated to school meals:
- 2642 (I) food and food ingredients; or
- 2643 (II) prepared food; or
- 2644 (D) transportation charges for official school activities; or
- 2645 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 2646 event or school-related activity.
- 2647 (b) "Sales relating to schools" does not include:
- 2648 (i) bookstore sales of items that are not educational materials or supplies;
- 2649 (ii) except as provided in Subsection [~~(108)~~] (111)(a)(i)(B):
- 2650 (A) clothing;
- 2651 (B) clothing accessories or equipment;
- 2652 (C) protective equipment; or
- 2653 (D) sports or recreational equipment; or
- 2654 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 2655 event or school-related activity if the amounts paid or charged are passed through to a person:
- 2656 (A) other than a:
- 2657 (I) school;
- 2658 (II) nonprofit organization authorized by a school board or a governing body of a
- 2659 private school to organize and direct a competitive secondary school activity; or
- 2660 (III) nonprofit association authorized by a school board or a governing body of a

- 2661 private school to organize and direct a competitive secondary school activity; and
- 2662 (B) that is required to collect sales and use taxes under this chapter.
- 2663 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2664 commission may make rules defining the term "passed through."
- 2665 [~~(109)~~] (112) For purposes of this section and Section 59-12-104, "school":
- 2666 (a) means:
- 2667 (i) an elementary school or a secondary school that:
- 2668 (A) is a:
- 2669 (I) public school; or
- 2670 (II) private school; and
- 2671 (B) provides instruction for one or more grades kindergarten through 12; or
- 2672 (ii) a public school district; and
- 2673 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 2674 [~~(110)~~] (113) "Seller" means a person that makes a sale, lease, or rental of:
- 2675 (a) tangible personal property;
- 2676 (b) a product transferred electronically; or
- 2677 (c) a service.
- 2678 [~~(111)~~] (114) (a) "Semiconductor fabricating, processing, research, or development
- 2679 materials" means tangible personal property or a product transferred electronically if the
- 2680 tangible personal property or product transferred electronically is:
- 2681 (i) used primarily in the process of:
- 2682 (A) (I) manufacturing a semiconductor;
- 2683 (II) fabricating a semiconductor; or
- 2684 (III) research or development of a:
- 2685 (Aa) semiconductor; or
- 2686 (Bb) semiconductor manufacturing process; or
- 2687 (B) maintaining an environment suitable for a semiconductor; or
- 2688 (ii) consumed primarily in the process of:
- 2689 (A) (I) manufacturing a semiconductor;
- 2690 (II) fabricating a semiconductor; or
- 2691 (III) research or development of a:

- 2692 (Aa) semiconductor; or
- 2693 (Bb) semiconductor manufacturing process; or
- 2694 (B) maintaining an environment suitable for a semiconductor.
- 2695 (b) "Semiconductor fabricating, processing, research, or development materials"
- 2696 includes:
- 2697 (i) parts used in the repairs or renovations of tangible personal property or a product
- 2698 transferred electronically described in Subsection [~~(114)~~] (114)(a); or
- 2699 (ii) a chemical, catalyst, or other material used to:
- 2700 (A) produce or induce in a semiconductor a:
- 2701 (I) chemical change; or
- 2702 (II) physical change;
- 2703 (B) remove impurities from a semiconductor; or
- 2704 (C) improve the marketable condition of a semiconductor.
- 2705 [~~(112)~~] (115) "Senior citizen center" means a facility having the primary purpose of
- 2706 providing services to the aged as defined in Section 62A-3-101.
- 2707 [~~(113)~~] (116) "Simplified electronic return" means the electronic return:
- 2708 (a) described in Section 318(C) of the agreement; and
- 2709 (b) approved by the governing board of the agreement.
- 2710 [~~(114)~~] (117) "Solar energy" means the sun used as the sole source of energy for
- 2711 producing electricity.
- 2712 [~~(115)~~] (118) (a) "Sports or recreational equipment" means an item:
- 2713 (i) designed for human use; and
- 2714 (ii) that is:
- 2715 (A) worn in conjunction with:
- 2716 (I) an athletic activity; or
- 2717 (II) a recreational activity; and
- 2718 (B) not suitable for general use.
- 2719 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2720 commission shall make rules:
- 2721 (i) listing the items that constitute "sports or recreational equipment"; and
- 2722 (ii) that are consistent with the list of items that constitute "sports or recreational

2723 equipment" under the agreement.

2724 [~~(116)~~] (119) "State" means the state of Utah, its departments, and agencies.

2725 [~~(117)~~] (120) "Storage" means any keeping or retention of tangible personal property or

2726 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose

2727 except sale in the regular course of business.

2728 [~~(118)~~] (121) (a) Except as provided in Subsection [~~(118)~~] (121)(d) or (e), "tangible

2729 personal property" means personal property that:

2730 (i) may be:

2731 (A) seen;

2732 (B) weighed;

2733 (C) measured;

2734 (D) felt; or

2735 (E) touched; or

2736 (ii) is in any manner perceptible to the senses.

2737 (b) "Tangible personal property" includes:

2738 (i) electricity;

2739 (ii) water;

2740 (iii) gas;

2741 (iv) steam; or

2742 (v) prewritten computer software, regardless of the manner in which the prewritten

2743 computer software is transferred.

2744 (c) "Tangible personal property" includes the following regardless of whether the item

2745 is attached to real property:

2746 (i) a dishwasher;

2747 (ii) a dryer;

2748 (iii) a freezer;

2749 (iv) a microwave;

2750 (v) a refrigerator;

2751 (vi) a stove;

2752 (vii) a washer; or

2753 (viii) an item similar to Subsections [~~(118)~~] (121)(c)(i) through (vii) as determined by

2754 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2755 Rulemaking Act.

2756 (d) "Tangible personal property" does not include a product that is transferred
2757 electronically.

2758 (e) "Tangible personal property" does not include the following if attached to real
2759 property, regardless of whether the attachment to real property is only through a line that
2760 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
2761 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2762 Rulemaking Act:

2763 (i) a hot water heater;

2764 (ii) a water filtration system; or

2765 (iii) a water softener system.

2766 [~~(119)~~] (122) (a) "Telecommunications enabling or facilitating equipment, machinery,
2767 or software" means an item listed in Subsection [~~(119)~~] (122)(b) if that item is purchased or
2768 leased primarily to enable or facilitate one or more of the following to function:

2769 (i) telecommunications switching or routing equipment, machinery, or software; or

2770 (ii) telecommunications transmission equipment, machinery, or software.

2771 (b) The following apply to Subsection [~~(119)~~] (122)(a):

2772 (i) a pole;

2773 (ii) software;

2774 (iii) a supplementary power supply;

2775 (iv) temperature or environmental equipment or machinery;

2776 (v) test equipment;

2777 (vi) a tower; or

2778 (vii) equipment, machinery, or software that functions similarly to an item listed in
2779 Subsections [~~(119)~~] (122)(b)(i) through (vi) as determined by the commission by rule made in
2780 accordance with Subsection [~~(119)~~] (122)(c).

2781 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2782 commission may by rule define what constitutes equipment, machinery, or software that
2783 functions similarly to an item listed in Subsections [~~(119)~~] (122)(b)(i) through (vi).

2784 [~~(120)~~] (123) "Telecommunications equipment, machinery, or software required for

2785 911 service" means equipment, machinery, or software that is required to comply with 47
2786 C.F.R. Sec. 20.18.

2787 ~~[(121)]~~ (124) "Telecommunications maintenance or repair equipment, machinery, or
2788 software" means equipment, machinery, or software purchased or leased primarily to maintain
2789 or repair one or more of the following, regardless of whether the equipment, machinery, or
2790 software is purchased or leased as a spare part or as an upgrade or modification to one or more
2791 of the following:

- 2792 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 2793 (b) telecommunications switching or routing equipment, machinery, or software; or
- 2794 (c) telecommunications transmission equipment, machinery, or software.

2795 ~~[(122)]~~ (125) (a) "Telecommunications service" means the electronic conveyance,
2796 routing, or transmission of audio, data, video, voice, or any other information or signal to a
2797 point, or among or between points.

2798 (b) "Telecommunications service" includes:

2799 (i) an electronic conveyance, routing, or transmission with respect to which a computer
2800 processing application is used to act:

- 2801 (A) on the code, form, or protocol of the content;
- 2802 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 2803 (C) regardless of whether the service:
 - 2804 (I) is referred to as voice over Internet protocol service; or
 - 2805 (II) is classified by the Federal Communications Commission as enhanced or value
2806 added;

2807 (ii) an 800 service;

2808 (iii) a 900 service;

2809 (iv) a fixed wireless service;

2810 (v) a mobile wireless service;

2811 (vi) a postpaid calling service;

2812 (vii) a prepaid calling service;

2813 (viii) a prepaid wireless calling service; or

2814 (ix) a private communications service.

2815 (c) "Telecommunications service" does not include:

- 2816 (i) advertising, including directory advertising;
- 2817 (ii) an ancillary service;
- 2818 (iii) a billing and collection service provided to a third party;
- 2819 (iv) a data processing and information service if:
 - 2820 (A) the data processing and information service allows data to be:
 - 2821 (I) (Aa) acquired;
 - 2822 (Bb) generated;
 - 2823 (Cc) processed;
 - 2824 (Dd) retrieved; or
 - 2825 (Ee) stored; and
 - 2826 (II) delivered by an electronic transmission to a purchaser; and
 - 2827 (B) the purchaser's primary purpose for the underlying transaction is the processed data
 - 2828 or information;
- 2829 (v) installation or maintenance of the following on a customer's premises:
 - 2830 (A) equipment; or
 - 2831 (B) wiring;
- 2832 (vi) Internet access service;
- 2833 (vii) a paging service;
- 2834 (viii) a product transferred electronically, including:
 - 2835 (A) music;
 - 2836 (B) reading material;
 - 2837 (C) a ring tone;
 - 2838 (D) software; or
 - 2839 (E) video;
- 2840 (ix) a radio and television audio and video programming service:
 - 2841 (A) regardless of the medium; and
 - 2842 (B) including:
 - 2843 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 2844 programming service by a programming service provider;
 - 2845 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 2846 (III) audio and video programming services delivered by a commercial mobile radio

2847 service provider as defined in 47 C.F.R. Sec. 20.3;

2848 (x) a value-added nonvoice data service; or

2849 (xi) tangible personal property.

2850 [~~(123)~~] (126) (a) "Telecommunications service provider" means a person that:

2851 (i) owns, controls, operates, or manages a telecommunications service; and

2852 (ii) engages in an activity described in Subsection [~~(123)~~] (126)(a)(i) for the shared use

2853 with or resale to any person of the telecommunications service.

2854 (b) A person described in Subsection [~~(123)~~] (126)(a) is a telecommunications service

2855 provider whether or not the Public Service Commission of Utah regulates:

2856 (i) that person; or

2857 (ii) the telecommunications service that the person owns, controls, operates, or

2858 manages.

2859 [~~(124)~~] (127) (a) "Telecommunications switching or routing equipment, machinery, or

2860 software" means an item listed in Subsection [~~(124)~~] (127)(b) if that item is purchased or

2861 leased primarily for switching or routing:

2862 (i) an ancillary service;

2863 (ii) data communications;

2864 (iii) voice communications; or

2865 (iv) telecommunications service.

2866 (b) The following apply to Subsection [~~(124)~~] (127)(a):

2867 (i) a bridge;

2868 (ii) a computer;

2869 (iii) a cross connect;

2870 (iv) a modem;

2871 (v) a multiplexer;

2872 (vi) plug in circuitry;

2873 (vii) a router;

2874 (viii) software;

2875 (ix) a switch; or

2876 (x) equipment, machinery, or software that functions similarly to an item listed in

2877 Subsections [~~(124)~~] (127)(b)(i) through (ix) as determined by the commission by rule made in

2878 accordance with Subsection [~~(124)~~] (127)(c).

2879 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2880 commission may by rule define what constitutes equipment, machinery, or software that
2881 functions similarly to an item listed in Subsections [~~(124)~~] (127)(b)(i) through (ix).

2882 [~~(125)~~] (128) (a) "Telecommunications transmission equipment, machinery, or
2883 software" means an item listed in Subsection [~~(125)~~] (128)(b) if that item is purchased or
2884 leased primarily for sending, receiving, or transporting:

2885 (i) an ancillary service;

2886 (ii) data communications;

2887 (iii) voice communications; or

2888 (iv) telecommunications service.

2889 (b) The following apply to Subsection [~~(125)~~] (128)(a):

2890 (i) an amplifier;

2891 (ii) a cable;

2892 (iii) a closure;

2893 (iv) a conduit;

2894 (v) a controller;

2895 (vi) a duplexer;

2896 (vii) a filter;

2897 (viii) an input device;

2898 (ix) an input/output device;

2899 (x) an insulator;

2900 (xi) microwave machinery or equipment;

2901 (xii) an oscillator;

2902 (xiii) an output device;

2903 (xiv) a pedestal;

2904 (xv) a power converter;

2905 (xvi) a power supply;

2906 (xvii) a radio channel;

2907 (xviii) a radio receiver;

2908 (xix) a radio transmitter;

2909 (xx) a repeater;
2910 (xxi) software;
2911 (xxii) a terminal;
2912 (xxiii) a timing unit;
2913 (xxiv) a transformer;
2914 (xxv) a wire; or
2915 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
2916 Subsections [~~(125)~~] (128)(b)(i) through (xxv) as determined by the commission by rule made in
2917 accordance with Subsection [~~(125)~~] (128)(c).

2918 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2919 commission may by rule define what constitutes equipment, machinery, or software that
2920 functions similarly to an item listed in Subsections [~~(125)~~] (128)(b)(i) through (xxv).

2921 [~~(126)~~] (129) (a) "Textbook for a higher education course" means a textbook or other
2922 printed material that is required for a course:

2923 (i) offered by an institution of higher education; and
2924 (ii) that the purchaser of the textbook or other printed material attends or will attend.

2925 (b) "Textbook for a higher education course" includes a textbook in electronic format.

2926 [~~(127)~~] (130) "Tobacco" means:

- 2927 (a) a cigarette;
- 2928 (b) a cigar;
- 2929 (c) chewing tobacco;
- 2930 (d) pipe tobacco; or
- 2931 (e) any other item that contains tobacco.

2932 [~~(128)~~] (131) "Unassisted amusement device" means an amusement device, skill
2933 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
2934 operate the amusement device, skill device, or ride device.

2935 [~~(129)~~] (132) (a) "Use" means the exercise of any right or power over tangible personal
2936 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
2937 incident to the ownership or the leasing of that tangible personal property, product transferred
2938 electronically, or service.

2939 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal

2940 property, a product transferred electronically, or a service in the regular course of business and
2941 held for resale.

2942 [~~(130)~~] (133) "Value-added nonvoice data service" means a service:

2943 (a) that otherwise meets the definition of a telecommunications service except that a
2944 computer processing application is used to act primarily for a purpose other than conveyance,
2945 routing, or transmission; and

2946 (b) with respect to which a computer processing application is used to act on data or
2947 information:

- 2948 (i) code;
- 2949 (ii) content;
- 2950 (iii) form; or
- 2951 (iv) protocol.

2952 [~~(131)~~] (134) (a) Subject to Subsection [~~(131)~~] (134)(b), "vehicle" means the following
2953 that are required to be titled, registered, or titled and registered:

- 2954 (i) an aircraft as defined in Section 72-10-102;
- 2955 (ii) a vehicle as defined in Section 41-1a-102;
- 2956 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 2957 (iv) a vessel as defined in Section 41-1a-102.

2958 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 2959 (i) a vehicle described in Subsection [~~(131)~~] (134)(a); or
- 2960 (ii) (A) a locomotive;
- 2961 (B) a freight car;
- 2962 (C) railroad work equipment; or
- 2963 (D) other railroad rolling stock.

2964 [~~(132)~~] (135) "Vehicle dealer" means a person engaged in the business of buying,
2965 selling, or exchanging a vehicle as defined in Subsection [~~(131)~~] (134).

2966 [~~(133)~~] (136) (a) "Vertical service" means an ancillary service that:

- 2967 (i) is offered in connection with one or more telecommunications services; and
- 2968 (ii) offers an advanced calling feature that allows a customer to:
 - 2969 (A) identify a caller; and
 - 2970 (B) manage multiple calls and call connections.

2971 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
2972 conference bridging service.

2973 ~~[(134)]~~ (137) (a) "Voice mail service" means an ancillary service that enables a
2974 customer to receive, send, or store a recorded message.

2975 (b) "Voice mail service" does not include a vertical service that a customer is required
2976 to have in order to utilize a voice mail service.

2977 ~~[(135)]~~ (138) (a) Except as provided in Subsection ~~[(135)]~~ (138)(b), "waste energy
2978 facility" means a facility that generates electricity:

2979 (i) using as the primary source of energy waste materials that would be placed in a
2980 landfill or refuse pit if it were not used to generate electricity, including:

2981 (A) tires;

2982 (B) waste coal;

2983 (C) oil shale; or

2984 (D) municipal solid waste; and

2985 (ii) in amounts greater than actually required for the operation of the facility.

2986 (b) "Waste energy facility" does not include a facility that incinerates:

2987 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

2988 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

2989 ~~[(136)]~~ (139) "Watercraft" means a vessel as defined in Section 73-18-2.

2990 ~~[(137)]~~ (140) "Wind energy" means wind used as the sole source of energy to produce
2991 electricity.

2992 ~~[(138)]~~ (141) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
2993 geographic location by the United States Postal Service.

2994 Section 3. Section **59-12-104** is amended to read:

2995 **59-12-104. Exemptions.**

2996 The following sales and uses are exempt from the taxes imposed by this chapter:

2997 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
2998 under Chapter 13, Motor and Special Fuel Tax Act;

2999 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
3000 subdivisions; however, this exemption does not apply to sales of:

3001 (a) construction materials except:

3002 (i) construction materials purchased by or on behalf of institutions of the public
3003 education system as defined in Utah Constitution Article X, Section 2, provided the
3004 construction materials are clearly identified and segregated and installed or converted to real
3005 property which is owned by institutions of the public education system; and

3006 (ii) construction materials purchased by the state, its institutions, or its political
3007 subdivisions which are installed or converted to real property by employees of the state, its
3008 institutions, or its political subdivisions; or

3009 (b) tangible personal property in connection with the construction, operation,
3010 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
3011 providing additional project capacity, as defined in Section 11-13-103;

3012 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

3013 (i) the proceeds of each sale do not exceed \$1; and

3014 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
3015 the cost of the item described in Subsection (3)(b) as goods consumed; and

3016 (b) Subsection (3)(a) applies to:

3017 (i) food and food ingredients; or

3018 (ii) prepared food;

3019 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

3020 (i) alcoholic beverages;

3021 (ii) food and food ingredients; or

3022 (iii) prepared food;

3023 (b) sales of tangible personal property or a product transferred electronically:

3024 (i) to a passenger;

3025 (ii) by a commercial airline carrier; and

3026 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

3027 (c) services related to Subsection (4)(a) or (b);

3028 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
3029 and equipment:

3030 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
3031 North American Industry Classification System of the federal Executive Office of the
3032 President, Office of Management and Budget; and

3033 (II) for:
3034 (Aa) installation in an aircraft, including services relating to the installation of parts or
3035 equipment in the aircraft;
3036 (Bb) renovation of an aircraft; or
3037 (Cc) repair of an aircraft; or
3038 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
3039 commerce; or
3040 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
3041 aircraft operated by a common carrier in interstate or foreign commerce; and
3042 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
3043 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
3044 refund:
3045 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
3046 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
3047 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
3048 the sale prior to filing for the refund;
3049 (iv) for sales and use taxes paid under this chapter on the sale;
3050 (v) in accordance with Section 59-1-1410; and
3051 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
3052 the person files for the refund on or before September 30, 2011;
3053 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
3054 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
3055 exhibitor, distributor, or commercial television or radio broadcaster;
3056 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
3057 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
3058 washing of tangible personal property;
3059 (b) if a seller that sells at the same business location assisted cleaning or washing of
3060 tangible personal property and cleaning or washing of tangible personal property that is not
3061 assisted cleaning or washing of tangible personal property, the exemption described in
3062 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
3063 or washing of the tangible personal property; and

3064 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
3065 Utah Administrative Rulemaking Act, the commission may make rules:
3066 (i) governing the circumstances under which sales are at the same business location;
3067 and
3068 (ii) establishing the procedures and requirements for a seller to separately account for
3069 sales of assisted cleaning or washing of tangible personal property;
3070 (8) sales made to or by religious or charitable institutions in the conduct of their regular
3071 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
3072 fulfilled;
3073 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
3074 this state if the vehicle is:
3075 (a) not registered in this state; and
3076 (b) (i) not used in this state; or
3077 (ii) used in this state:
3078 (A) if the vehicle is not used to conduct business, for a time period that does not
3079 exceed the longer of:
3080 (I) 30 days in any calendar year; or
3081 (II) the time period necessary to transport the vehicle to the borders of this state; or
3082 (B) if the vehicle is used to conduct business, for the time period necessary to transport
3083 the vehicle to the borders of this state;
3084 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
3085 (i) the item is intended for human use; and
3086 (ii) (A) a prescription was issued for the item; or
3087 (B) the item was purchased by a hospital or other medical facility; and
3088 (b) (i) Subsection (10)(a) applies to:
3089 (A) a drug;
3090 (B) a syringe; or
3091 (C) a stoma supply; and
3092 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3093 commission may by rule define the terms:
3094 (A) "syringe"; or

- 3095 (B) "stoma supply";
- 3096 (11) sales or use of property, materials, or services used in the construction of or
- 3097 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
- 3098 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 3099 (i) the following if the item described in Subsection (12)(c) is not available to the
- 3100 general public:
- 3101 (A) a church; or
- 3102 (B) a charitable institution;
- 3103 (ii) an institution of higher education if:
- 3104 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 3105 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 3106 offered by the institution of higher education; or
- 3107 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 3108 (i) a medical facility; or
- 3109 (ii) a nursing facility; and
- 3110 (c) Subsections (12)(a) and (b) apply to:
- 3111 (i) food and food ingredients;
- 3112 (ii) prepared food; or
- 3113 (iii) alcoholic beverages;
- 3114 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 3115 or a product transferred electronically by a person:
- 3116 (i) regardless of the number of transactions involving the sale of that tangible personal
- 3117 property or product transferred electronically by that person; and
- 3118 (ii) not regularly engaged in the business of selling that type of tangible personal
- 3119 property or product transferred electronically;
- 3120 (b) this Subsection (13) does not apply if:
- 3121 (i) the sale is one of a series of sales of a character to indicate that the person is
- 3122 regularly engaged in the business of selling that type of tangible personal property or product
- 3123 transferred electronically;
- 3124 (ii) the person holds that person out as regularly engaged in the business of selling that
- 3125 type of tangible personal property or product transferred electronically;

3126 (iii) the person sells an item of tangible personal property or product transferred
3127 electronically that the person purchased as a sale that is exempt under Subsection (25); or
3128 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
3129 this state in which case the tax is based upon:
3130 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
3131 sold; or
3132 (B) in the absence of a bill of sale or other written evidence of value, the fair market
3133 value of the vehicle or vessel being sold at the time of the sale as determined by the
3134 commission; and
3135 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3136 commission shall make rules establishing the circumstances under which:
3137 (i) a person is regularly engaged in the business of selling a type of tangible personal
3138 property or product transferred electronically;
3139 (ii) a sale of tangible personal property or a product transferred electronically is one of
3140 a series of sales of a character to indicate that a person is regularly engaged in the business of
3141 selling that type of tangible personal property or product transferred electronically; or
3142 (iii) a person holds that person out as regularly engaged in the business of selling a type
3143 of tangible personal property or product transferred electronically;
3144 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
3145 July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration
3146 facility, of the following:
3147 (i) machinery and equipment that:
3148 (A) are used:
3149 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
3150 recycler described in Subsection 59-12-102(60)(b):
3151 (Aa) in the manufacturing process;
3152 (Bb) to manufacture an item sold as tangible personal property; and
3153 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
3154 (14)(a)(i)(A)(I) in the state; or
3155 (II) for a manufacturing facility that is a scrap recycler described in Subsection
3156 59-12-102(60)(b):

3157 (Aa) to process an item sold as tangible personal property; and
3158 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
3159 (14)(a)(i)(A)(II) in the state; and
3160 (B) have an economic life of three or more years; and
3161 (ii) normal operating repair or replacement parts that:
3162 (A) have an economic life of three or more years; and
3163 (B) are used:
3164 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
3165 recycler described in Subsection 59-12-102(60)(b):
3166 (Aa) in the manufacturing process; and
3167 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
3168 state; or
3169 (II) for a manufacturing facility that is a scrap recycler described in Subsection
3170 59-12-102(60)(b):
3171 (Aa) to process an item sold as tangible personal property; and
3172 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
3173 state;
3174 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
3175 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
3176 of the following:
3177 (i) machinery and equipment that:
3178 (A) are used:
3179 (I) in the manufacturing process;
3180 (II) to manufacture an item sold as tangible personal property; and
3181 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
3182 (14)(b) in the state; and
3183 (B) have an economic life of three or more years; and
3184 (ii) normal operating repair or replacement parts that:
3185 (A) are used:
3186 (I) in the manufacturing process; and
3187 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and

3188 (B) have an economic life of three or more years;

3189 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,

3190 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or

3191 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for

3192 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,

3193 of the 2002 North American Industry Classification System of the federal Executive Office of

3194 the President, Office of Management and Budget, of the following:

3195 (i) machinery and equipment that:

3196 (A) are used:

3197 (I) (Aa) in the production process, other than the production of real property; or

3198 (Bb) in research and development; and

3199 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)

3200 in the state; and

3201 (B) have an economic life of three or more years; and

3202 (ii) normal operating repair or replacement parts that:

3203 (A) have an economic life of three or more years; and

3204 (B) are used in:

3205 (I) (Aa) the production process, except for the production of real property; and

3206 (Bb) an establishment described in this Subsection (14)(c) in the state; or

3207 (II) (Aa) research and development; and

3208 (Bb) in an establishment described in this Subsection (14)(c) in the state;

3209 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,

3210 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web

3211 Search Portals, of the 2002 North American Industry Classification System of the federal

3212 Executive Office of the President, Office of Management and Budget, of the following:

3213 (A) machinery and equipment that:

3214 (I) are used in the operation of the web search portal;

3215 (II) have an economic life of three or more years; and

3216 (III) are used in a new or expanding establishment described in this Subsection (14)(d)

3217 in the state; and

3218 (B) normal operating repair or replacement parts that:

- 3219 (I) are used in the operation of the web search portal;
- 3220 (II) have an economic life of three or more years; and
- 3221 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
- 3222 in the state; or
- 3223 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by
- 3224 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North
- 3225 American Industry Classification System of the federal Executive Office of the President,
- 3226 Office of Management and Budget, of the following:
- 3227 (A) machinery and equipment that:
- 3228 (I) are used in the operation of the web search portal; and
- 3229 (II) have an economic life of three or more years; and
- 3230 (B) normal operating repair or replacement parts that:
- 3231 (I) are used in the operation of the web search portal; and
- 3232 (II) have an economic life of three or more years;
- 3233 (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
- 3234 Utah Administrative Rulemaking Act, the commission:
- 3235 (i) shall by rule define the term "establishment"; and
- 3236 (ii) may by rule define what constitutes:
- 3237 (A) processing an item sold as tangible personal property;
- 3238 (B) the production process, except for the production of real property;
- 3239 (C) research and development; or
- 3240 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and
- 3241 (f) on or before October 1, 2011, and every five years after October 1, 2011, the
- 3242 commission shall:
- 3243 (i) review the exemptions described in this Subsection (14) and make
- 3244 recommendations to the Revenue and Taxation Interim Committee concerning whether the
- 3245 exemptions should be continued, modified, or repealed; and
- 3246 (ii) include in its report:
- 3247 (A) an estimate of the cost of the exemptions;
- 3248 (B) the purpose and effectiveness of the exemptions; and
- 3249 (C) the benefits of the exemptions to the state;

- 3250 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
- 3251 (i) tooling;
- 3252 (ii) special tooling;
- 3253 (iii) support equipment;
- 3254 (iv) special test equipment; or
- 3255 (v) parts used in the repairs or renovations of tooling or equipment described in
- 3256 Subsections (15)(a)(i) through (iv); and
- 3257 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
- 3258 (i) the tooling, equipment, or parts are used or consumed exclusively in the
- 3259 performance of any aerospace or electronics industry contract with the United States
- 3260 government or any subcontract under that contract; and
- 3261 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
- 3262 title to the tooling, equipment, or parts is vested in the United States government as evidenced
- 3263 by:
- 3264 (A) a government identification tag placed on the tooling, equipment, or parts; or
- 3265 (B) listing on a government-approved property record if placing a government
- 3266 identification tag on the tooling, equipment, or parts is impractical;
- 3267 (16) sales of newspapers or newspaper subscriptions;
- 3268 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
- 3269 product transferred electronically traded in as full or part payment of the purchase price, except
- 3270 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
- 3271 trade-ins are limited to other vehicles only, and the tax is based upon:
- 3272 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
- 3273 vehicle being traded in; or
- 3274 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
- 3275 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
- 3276 commission; and
- 3277 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
- 3278 following items of tangible personal property or products transferred electronically traded in as
- 3279 full or part payment of the purchase price:
- 3280 (i) money;

3281 (ii) electricity;

3282 (iii) water;

3283 (iv) gas; or

3284 (v) steam;

3285 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property

3286 or a product transferred electronically used or consumed primarily and directly in farming

3287 operations, regardless of whether the tangible personal property or product transferred

3288 electronically:

3289 (A) becomes part of real estate; or

3290 (B) is installed by a:

3291 (I) farmer;

3292 (II) contractor; or

3293 (III) subcontractor; or

3294 (ii) sales of parts used in the repairs or renovations of tangible personal property or a

3295 product transferred electronically if the tangible personal property or product transferred

3296 electronically is exempt under Subsection (18)(a)(i); and

3297 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are

3298 subject to the taxes imposed by this chapter:

3299 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is

3300 incidental to farming:

3301 (I) machinery;

3302 (II) equipment;

3303 (III) materials; or

3304 (IV) supplies; and

3305 (B) tangible personal property that is considered to be used in a manner that is

3306 incidental to farming includes:

3307 (I) hand tools; or

3308 (II) maintenance and janitorial equipment and supplies;

3309 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product

3310 transferred electronically if the tangible personal property or product transferred electronically

3311 is used in an activity other than farming; and

3312 (B) tangible personal property or a product transferred electronically that is considered
3313 to be used in an activity other than farming includes:
3314 (I) office equipment and supplies; or
3315 (II) equipment and supplies used in:
3316 (Aa) the sale or distribution of farm products;
3317 (Bb) research; or
3318 (Cc) transportation; or
3319 (iii) a vehicle required to be registered by the laws of this state during the period
3320 ending two years after the date of the vehicle's purchase;
3321 (19) sales of hay;
3322 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
3323 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
3324 garden, farm, or other agricultural produce is sold by:
3325 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
3326 agricultural produce;
3327 (b) an employee of the producer described in Subsection (20)(a); or
3328 (c) a member of the immediate family of the producer described in Subsection (20)(a);
3329 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
3330 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

3331 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
3332 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
3333 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
3334 manufacturer, processor, wholesaler, or retailer;

3335 (23) a product stored in the state for resale;

3336 (24) (a) purchases of a product if:
3337 (i) the product is:
3338 (A) purchased outside of this state;
3339 (B) brought into this state:
3340 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
3341 (II) by a nonresident person who is not living or working in this state at the time of the
3342 purchase;

3343 (C) used for the personal use or enjoyment of the nonresident person described in
3344 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
3345 (D) not used in conducting business in this state; and
3346 (ii) for:
3347 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
3348 the product for a purpose for which the product is designed occurs outside of this state;
3349 (B) a boat, the boat is registered outside of this state; or
3350 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
3351 outside of this state;
3352 (b) the exemption provided for in Subsection (24)(a) does not apply to:
3353 (i) a lease or rental of a product; or
3354 (ii) a sale of a vehicle exempt under Subsection (33); and
3355 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
3356 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
3357 following:
3358 (i) conducting business in this state if that phrase has the same meaning in this
3359 Subsection (24) as in Subsection (63);
3360 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
3361 as in Subsection (63); or
3362 (iii) a purpose for which a product is designed if that phrase has the same meaning in
3363 this Subsection (24) as in Subsection (63);
3364 (25) a product purchased for resale in this state, in the regular course of business, either
3365 in its original form or as an ingredient or component part of a manufactured or compounded
3366 product;
3367 (26) a product upon which a sales or use tax was paid to some other state, or one of its
3368 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
3369 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
3370 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
3371 Act;
3372 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
3373 person for use in compounding a service taxable under the subsections;

3374 (28) purchases made in accordance with the special supplemental nutrition program for
3375 women, infants, and children established in 42 U.S.C. Sec. 1786;

3376 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
3377 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
3378 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
3379 Manual of the federal Executive Office of the President, Office of Management and Budget;

3380 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
3381 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

3382 (a) not registered in this state; and

3383 (b) (i) not used in this state; or

3384 (ii) used in this state:

3385 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
3386 time period that does not exceed the longer of:

3387 (I) 30 days in any calendar year; or

3388 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
3389 the borders of this state; or

3390 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
3391 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
3392 state;

3393 (31) sales of aircraft manufactured in Utah;

3394 (32) amounts paid for the purchase of telecommunications service for purposes of
3395 providing telecommunications service;

3396 (33) sales, leases, or uses of the following:

3397 (a) a vehicle by an authorized carrier; or

3398 (b) tangible personal property that is installed on a vehicle:

3399 (i) sold or leased to or used by an authorized carrier; and

3400 (ii) before the vehicle is placed in service for the first time;

3401 (34) (a) 45% of the sales price of any new manufactured home; and

3402 (b) 100% of the sales price of any used manufactured home;

3403 (35) sales relating to schools and fundraising sales;

3404 (36) sales or rentals of durable medical equipment if:

- 3405 (a) a person presents a prescription for the durable medical equipment; and
- 3406 (b) the durable medical equipment is used for home use only;
- 3407 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 3408 Section 72-11-102; and
- 3409 (b) the commission shall by rule determine the method for calculating sales exempt
- 3410 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 3411 (38) sales to a ski resort of:
- 3412 (a) snowmaking equipment;
- 3413 (b) ski slope grooming equipment;
- 3414 (c) passenger ropeways as defined in Section 72-11-102; or
- 3415 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 3416 described in Subsections (38)(a) through (c);
- 3417 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 3418 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 3419 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 3420 59-12-102;
- 3421 (b) if a seller that sells or rents at the same business location the right to use or operate
- 3422 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 3423 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 3424 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 3425 amusement, entertainment, or recreation for the assisted amusement devices; and
- 3426 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
- 3427 Utah Administrative Rulemaking Act, the commission may make rules:
- 3428 (i) governing the circumstances under which sales are at the same business location;
- 3429 and
- 3430 (ii) establishing the procedures and requirements for a seller to separately account for
- 3431 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
- 3432 assisted amusement devices;
- 3433 (41) (a) sales of photocopies by:
- 3434 (i) a governmental entity; or
- 3435 (ii) an entity within the state system of public education, including:

- 3436 (A) a school; or
- 3437 (B) the State Board of Education; or
- 3438 (b) sales of publications by a governmental entity;
- 3439 (42) amounts paid for admission to an athletic event at an institution of higher
- 3440 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 3441 20 U.S.C. Sec. 1681 et seq.;
- 3442 (43) (a) sales made to or by:
- 3443 (i) an area agency on aging; or
- 3444 (ii) a senior citizen center owned by a county, city, or town; or
- 3445 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 3446 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 3447 materials regardless of whether the semiconductor fabricating, processing, research, or
- 3448 development materials:
- 3449 (a) actually come into contact with a semiconductor; or
- 3450 (b) ultimately become incorporated into real property;
- 3451 (45) an amount paid by or charged to a purchaser for accommodations and services
- 3452 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
- 3453 59-12-104.2;
- 3454 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
- 3455 sports event registration certificate in accordance with Section 41-3-306 for the event period
- 3456 specified on the temporary sports event registration certificate;
- 3457 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted
- 3458 by the Public Service Commission of Utah only for purchase of electricity produced from a
- 3459 new alternative energy source, as designated in the tariff by the Public Service Commission of
- 3460 Utah; and
- 3461 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a
- 3462 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under
- 3463 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;
- 3464 (48) sales or rentals of mobility enhancing equipment if a person presents a
- 3465 prescription for the mobility enhancing equipment;
- 3466 (49) sales of water in a:

- 3467 (a) pipe;
- 3468 (b) conduit;
- 3469 (c) ditch; or
- 3470 (d) reservoir;
- 3471 (50) sales of currency or coins that constitute legal tender of a state, the United States,
- 3472 or a foreign nation;
- 3473 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 3474 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 3475 (ii) has a gold, silver, or platinum content of 50% or more; and
- 3476 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 3477 (i) ingot;
- 3478 (ii) bar;
- 3479 (iii) medallion; or
- 3480 (iv) decorative coin;
- 3481 (52) amounts paid on a sale-leaseback transaction;
- 3482 (53) sales of a prosthetic device:
- 3483 (a) for use on or in a human; and
- 3484 (b) (i) for which a prescription is required; or
- 3485 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 3486 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 3487 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 3488 or equipment is primarily used in the production or postproduction of the following media for
- 3489 commercial distribution:
- 3490 (i) a motion picture;
- 3491 (ii) a television program;
- 3492 (iii) a movie made for television;
- 3493 (iv) a music video;
- 3494 (v) a commercial;
- 3495 (vi) a documentary; or
- 3496 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
- 3497 commission by administrative rule made in accordance with Subsection (54)(d); or

3498 (b) notwithstanding Subsection (54)(a), purchases, leases, or rentals of machinery or
3499 equipment by an establishment described in Subsection (54)(c) that is used for the production
3500 or postproduction of the following are subject to the taxes imposed by this chapter:

3501 (i) a live musical performance;

3502 (ii) a live news program; or

3503 (iii) a live sporting event;

3504 (c) the following establishments listed in the 1997 North American Industry
3505 Classification System of the federal Executive Office of the President, Office of Management
3506 and Budget, apply to Subsections (54)(a) and (b):

3507 (i) NAICS Code 512110; or

3508 (ii) NAICS Code 51219; and

3509 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3510 commission may by rule:

3511 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

3512 or

3513 (ii) define:

3514 (A) "commercial distribution";

3515 (B) "live musical performance";

3516 (C) "live news program"; or

3517 (D) "live sporting event";

3518 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
3519 on or before June 30, 2027, of tangible personal property that:

3520 (i) is leased or purchased for or by a facility that:

3521 (A) is an alternative energy electricity production facility;

3522 (B) is located in the state; and

3523 (C) (I) becomes operational on or after July 1, 2004; or

3524 (II) has its generation capacity increased by one or more megawatts on or after July 1,
3525 2004, as a result of the use of the tangible personal property;

3526 (ii) has an economic life of five or more years; and

3527 (iii) is used to make the facility or the increase in capacity of the facility described in
3528 Subsection (55)(a)(i) operational up to the point of interconnection with an existing

3529 transmission grid including:

3530 (A) a wind turbine;

3531 (B) generating equipment;

3532 (C) a control and monitoring system;

3533 (D) a power line;

3534 (E) substation equipment;

3535 (F) lighting;

3536 (G) fencing;

3537 (H) pipes; or

3538 (I) other equipment used for locating a power line or pole; and

3539 (b) this Subsection (55) does not apply to:

3540 (i) tangible personal property used in construction of:

3541 (A) a new alternative energy electricity production facility; or

3542 (B) the increase in the capacity of an alternative energy electricity production facility;

3543 (ii) contracted services required for construction and routine maintenance activities;

3544 and

3545 (iii) unless the tangible personal property is used or acquired for an increase in capacity

3546 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or

3547 acquired after:

3548 (A) the alternative energy electricity production facility described in Subsection

3549 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

3550 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described

3551 in Subsection (55)(a)(iii);

3552 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but

3553 on or before June 30, 2027, of tangible personal property that:

3554 (i) is leased or purchased for or by a facility that:

3555 (A) is a waste energy production facility;

3556 (B) is located in the state; and

3557 (C) (I) becomes operational on or after July 1, 2004; or

3558 (II) has its generation capacity increased by one or more megawatts on or after July 1,

3559 2004, as a result of the use of the tangible personal property;

- 3560 (ii) has an economic life of five or more years; and
- 3561 (iii) is used to make the facility or the increase in capacity of the facility described in
- 3562 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
- 3563 transmission grid including:
 - 3564 (A) generating equipment;
 - 3565 (B) a control and monitoring system;
 - 3566 (C) a power line;
 - 3567 (D) substation equipment;
 - 3568 (E) lighting;
 - 3569 (F) fencing;
 - 3570 (G) pipes; or
 - 3571 (H) other equipment used for locating a power line or pole; and
- 3572 (b) this Subsection (56) does not apply to:
 - 3573 (i) tangible personal property used in construction of:
 - 3574 (A) a new waste energy facility; or
 - 3575 (B) the increase in the capacity of a waste energy facility;
 - 3576 (ii) contracted services required for construction and routine maintenance activities;
- 3577 and
- 3578 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 3579 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
 - 3580 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
 - 3581 described in Subsection (56)(a)(iii); or
 - 3582 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
 - 3583 in Subsection (56)(a)(iii);
- 3584 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
- 3585 or before June 30, 2027, of tangible personal property that:
 - 3586 (i) is leased or purchased for or by a facility that:
 - 3587 (A) is located in the state;
 - 3588 (B) produces fuel from alternative energy, including:
 - 3589 (I) methanol; or
 - 3590 (II) ethanol; and

3591 (C) (I) becomes operational on or after July 1, 2004; or
3592 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
3593 a result of the installation of the tangible personal property;
3594 (ii) has an economic life of five or more years; and
3595 (iii) is installed on the facility described in Subsection (57)(a)(i);
3596 (b) this Subsection (57) does not apply to:
3597 (i) tangible personal property used in construction of:
3598 (A) a new facility described in Subsection (57)(a)(i); or
3599 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
3600 (ii) contracted services required for construction and routine maintenance activities;
3601 and
3602 (iii) unless the tangible personal property is used or acquired for an increase in capacity
3603 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
3604 (A) the facility described in Subsection (57)(a)(i) is operational; or
3605 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
3606 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
3607 product transferred electronically to a person within this state if that tangible personal property
3608 or product transferred electronically is subsequently shipped outside the state and incorporated
3609 pursuant to contract into and becomes a part of real property located outside of this state;
3610 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
3611 state or political entity to which the tangible personal property is shipped imposes a sales, use,
3612 gross receipts, or other similar transaction excise tax on the transaction against which the other
3613 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
3614 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
3615 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
3616 refund:
3617 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
3618 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
3619 which the sale is made;
3620 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
3621 sale prior to filing for the refund;

- 3622 (iv) for sales and use taxes paid under this chapter on the sale;
- 3623 (v) in accordance with Section 59-1-1410; and
- 3624 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
- 3625 the person files for the refund on or before June 30, 2011;
- 3626 (59) purchases:
- 3627 (a) of one or more of the following items in printed or electronic format:
- 3628 (i) a list containing information that includes one or more:
- 3629 (A) names; or
- 3630 (B) addresses; or
- 3631 (ii) a database containing information that includes one or more:
- 3632 (A) names; or
- 3633 (B) addresses; and
- 3634 (b) used to send direct mail;
- 3635 (60) redemptions or repurchases of a product by a person if that product was:
- 3636 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 3637 (b) redeemed or repurchased within the time period established in a written agreement
- 3638 between the person and the pawnbroker for redeeming or repurchasing the product;
- 3639 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 3640 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 3641 and
- 3642 (ii) has a useful economic life of one or more years; and
- 3643 (b) the following apply to Subsection (61)(a):
- 3644 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 3645 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 3646 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 3647 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 3648 (v) telecommunications transmission equipment, machinery, or software;
- 3649 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
- 3650 personal property or a product transferred electronically that are used in the research and
- 3651 development of alternative energy technology; and
- 3652 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3653 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
3654 purchases of tangible personal property or a product transferred electronically that are used in
3655 the research and development of alternative energy technology;

3656 (63) (a) purchases of tangible personal property or a product transferred electronically
3657 if:

3658 (i) the tangible personal property or product transferred electronically is:

3659 (A) purchased outside of this state;

3660 (B) brought into this state at any time after the purchase described in Subsection

3661 (63)(a)(i)(A); and

3662 (C) used in conducting business in this state; and

3663 (ii) for:

3664 (A) tangible personal property or a product transferred electronically other than the

3665 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property

3666 for a purpose for which the property is designed occurs outside of this state; or

3667 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
3668 outside of this state;

3669 (b) the exemption provided for in Subsection (63)(a) does not apply to:

3670 (i) a lease or rental of tangible personal property or a product transferred electronically;

3671 or

3672 (ii) a sale of a vehicle exempt under Subsection (33); and

3673 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

3674 purposes of Subsection (63)(a), the commission may by rule define what constitutes the

3675 following:

3676 (i) conducting business in this state if that phrase has the same meaning in this

3677 Subsection (63) as in Subsection (24);

3678 (ii) the first use of tangible personal property or a product transferred electronically if

3679 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

3680 (iii) a purpose for which tangible personal property or a product transferred

3681 electronically is designed if that phrase has the same meaning in this Subsection (63) as in

3682 Subsection (24);

3683 (64) sales of disposable home medical equipment or supplies if:

- 3684 (a) a person presents a prescription for the disposable home medical equipment or
3685 supplies;
- 3686 (b) the disposable home medical equipment or supplies are used exclusively by the
3687 person to whom the prescription described in Subsection (64)(a) is issued; and
- 3688 (c) the disposable home medical equipment and supplies are listed as eligible for
3689 payment under:
- 3690 (i) Title XVIII, federal Social Security Act; or
3691 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 3692 (65) sales:
- 3693 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
3694 District Act; or
- 3695 (b) of tangible personal property to a subcontractor of a public transit district, if the
3696 tangible personal property is:
- 3697 (i) clearly identified; and
3698 (ii) installed or converted to real property owned by the public transit district;
- 3699 (66) sales of construction materials:
- 3700 (a) purchased on or after July 1, 2010;
3701 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 3702 (i) located within a county of the first class; and
3703 (ii) that has a United States customs office on its premises; and
- 3704 (c) if the construction materials are:
- 3705 (i) clearly identified;
3706 (ii) segregated; and
3707 (iii) installed or converted to real property:
- 3708 (A) owned or operated by the international airport described in Subsection (66)(b); and
3709 (B) located at the international airport described in Subsection (66)(b);
- 3710 (67) sales of construction materials:
- 3711 (a) purchased on or after July 1, 2008;
3712 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 3713 (i) located within a county of the second class; and
3714 (ii) that is owned or operated by a city in which an airline as defined in Section

3715 59-2-102 is headquartered; and
3716 (c) if the construction materials are:
3717 (i) clearly identified;
3718 (ii) segregated; and
3719 (iii) installed or converted to real property:
3720 (A) owned or operated by the new airport described in Subsection (67)(b);
3721 (B) located at the new airport described in Subsection (67)(b); and
3722 (C) as part of the construction of the new airport described in Subsection (67)(b);
3723 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
3724 (69) purchases and sales described in Section 63H-4-111;
3725 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
3726 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
3727 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
3728 lists a state or country other than this state as the location of registry of the fixed wing turbine
3729 powered aircraft; or
3730 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
3731 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
3732 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
3733 lists a state or country other than this state as the location of registry of the fixed wing turbine
3734 powered aircraft;
3735 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
3736 (a) to a person admitted to an institution of higher education; and
3737 (b) by a seller, other than a bookstore owned by an institution of higher education, if
3738 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
3739 textbook for a higher education course;
3740 (72) a license fee or tax a municipality imposes in accordance with Subsection
3741 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
3742 level of municipal services;
3743 (73) amounts paid or charged for construction materials used in the construction of a
3744 new or expanding life science research and development facility in the state, if the construction
3745 materials are:

- 3746 (a) clearly identified;
- 3747 (b) segregated; and
- 3748 (c) installed or converted to real property; [~~and~~]
- 3749 (74) amounts paid or charged for:
- 3750 (a) a purchase or lease of machinery and equipment that:
- 3751 (i) are used in performing qualified research:
- 3752 (A) as defined in Section 59-7-612;
- 3753 (B) in the state; and
- 3754 (C) with respect to which the purchaser pays or incurs a qualified research expense as
- 3755 defined in Section 59-7-612; and
- 3756 (ii) have an economic life of three or more years; and
- 3757 (b) normal operating repair or replacement parts:
- 3758 (i) for the machinery and equipment described in Subsection (74)(a); and
- 3759 (ii) that have an economic life of three or more years[-]; and
- 3760 (75) amounts paid or charged to access a database:
- 3761 (a) if the primary purpose for accessing the database is to view or retrieve information
- 3762 from the database; and
- 3763 (b) ~~§~~ → [except for] not including ← ~~§~~ amounts paid or charged for a:
- 3764 (i) digital audiowork;
- 3765 (ii) digital audio-visual work; or
- 3766 (iii) digital book.
- 3767 Section 4. **Effective dates.**
- 3768 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2013.
- 3769 (2) The actions affecting Section 59-12-102 (Effective 07/01/14) take effect on July 1,
- 3770 2014.