

**SALES AND USE TAX EXEMPTION FOR SHORT-TERM
LODGING CONSUMABLES**

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: Brad R. Wilson

LONG TITLE

General Description:

This bill provides a sales and use tax exemption for a short-term lodging consumable.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides a sales and use tax exemption for a short-term lodging consumable; 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59-12-102 (Superseded 07/01/14), as last amended by Laws of Utah 2012, Chapters 255, 312, 405, and 410

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

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



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

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 Section **59-12-102 (Superseded 07/01/14)** is amended to read:

30 **59-12-102 (Superseded 07/01/14). Definitions.**

31 As used in this chapter:

32 (1) "800 service" means a telecommunications service that:

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

34 (b) is typically marketed:

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

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

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

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

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

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

41 Federal Communications Commission.

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

43 (i) a subscriber purchases;

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

46 (A) prerecorded announcement; or

47 (B) live service; and

48 (iii) is typically marketed:

49 (A) under the name 900 service; or

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

51 Communications Commission.

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

53 (i) a collection service a seller of a telecommunications service provides to a
54 subscriber; or

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

56 (A) a product; or

57 (B) a service.

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

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

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

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

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

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

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

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

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

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

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

72 (e) Section 59-12-204;

73 (f) Section 59-12-401;

74 (g) Section 59-12-402;

75 (h) Section 59-12-703;

76 (i) Section 59-12-802;

77 (j) Section 59-12-804;

78 (k) Section 59-12-1102;

79 (l) Section 59-12-1302;

80 (m) Section 59-12-1402;

81 (n) Section 59-12-1802;

82 (o) Section 59-12-2003;

83 (p) Section 59-12-2103;

84 (q) Section 59-12-2213;

85 (r) Section 59-12-2214;

86 (s) Section 59-12-2215;

87 (t) Section 59-12-2216;

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

89 (v) Section 59-12-2218.

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

- 121 (c) hydroelectric energy;
- 122 (d) solar energy;
- 123 (e) wind energy; or
- 124 (f) energy that is derived from:
 - 125 (i) coal-to-liquids;
 - 126 (ii) nuclear fuel;
 - 127 (iii) oil-impregnated diatomaceous earth;
 - 128 (iv) oil sands;
 - 129 (v) oil shale; or
 - 130 (vi) petroleum coke.
- 131 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 132 facility" means a facility that:
 - 133 (i) uses alternative energy to produce electricity; and
 - 134 (ii) has a production capacity of 2 megawatts or greater.
- 135 (b) A facility is an alternative energy electricity production facility regardless of
- 136 whether the facility is:
 - 137 (i) connected to an electric grid; or
 - 138 (ii) located on the premises of an electricity consumer.
- 139 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 140 provision of telecommunications service.
 - 141 (b) "Ancillary service" includes:
 - 142 (i) a conference bridging service;
 - 143 (ii) a detailed communications billing service;
 - 144 (iii) directory assistance;
 - 145 (iv) a vertical service; or
 - 146 (v) a voice mail service.
- 147 (13) "Area agency on aging" is as defined in Section 62A-3-101.
- 148 (14) "Assisted amusement device" means an amusement device, skill device, or ride
- 149 device that is started and stopped by an individual:
 - 150 (a) who is not the purchaser or renter of the right to use or operate the amusement
 - 151 device, skill device, or ride device; and

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

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

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

159 (b) at the direction of the seller of the cleaning or washing of the tangible personal
160 property.

161 (16) "Authorized carrier" means:

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

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

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

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

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

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

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

174 (B) animal waste;

175 (C) methane produced:

176 (I) at landfills; or

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

178 (D) aquatic plants; and

179 (E) agricultural products.

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

181 (i) black liquor;

182 (ii) treated woods; or

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

214 (A) that retail sale includes:
215 (I) food and food ingredients;
216 (II) a drug;
217 (III) durable medical equipment;
218 (IV) mobility enhancing equipment;
219 (V) an over-the-counter drug;
220 (VI) a prosthetic device; or
221 (VII) a medical supply; and
222 (B) subject to Subsection (18)(f):
223 (I) the seller's purchase price of the tangible personal property subject to taxation under
224 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
225 (II) the seller's sales price of the tangible personal property subject to taxation under
226 this chapter is 50% or less of the seller's total sales price of that retail sale.
227 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
228 service that is distinct and identifiable does not include:
229 (A) packaging that:
230 (I) accompanies the sale of the tangible personal property, product, or service; and
231 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
232 service;
233 (B) tangible personal property, a product, or a service provided free of charge with the
234 purchase of another item of tangible personal property, a product, or a service; or
235 (C) an item of tangible personal property, a product, or a service included in the
236 definition of "purchase price."
237 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
238 product, or a service is provided free of charge with the purchase of another item of tangible
239 personal property, a product, or a service if the sales price of the purchased item of tangible
240 personal property, product, or service does not vary depending on the inclusion of the tangible
241 personal property, product, or service provided free of charge.
242 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
243 does not include a price that is separately identified by tangible personal property, product, or
244 service on the following, regardless of whether the following is in paper format or electronic

245 format:

246 (A) a binding sales document; or

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

248 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another

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

250 (A) a bill of sale;

251 (B) a contract;

252 (C) an invoice;

253 (D) a lease agreement;

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

255 (F) a price list;

256 (G) a rate card;

257 (H) a receipt; or

258 (I) a service agreement.

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

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

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

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

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

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

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

274 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
275 the seller's purchase price and the seller's sales price to determine if tangible personal property

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

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

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

282 (i) on a transaction; and

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

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

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

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

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

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

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

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

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

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

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

300 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
301 fuels that does not constitute industrial use under Subsection (51) or residential use under
302 Subsection (101).

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

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

307 passenger's place of employment.

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

311 (25) "Component part" includes:

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

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

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

317 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

341 (i) by a seller of:

342 (A) tangible personal property;

343 (B) a product transferred electronically; or

344 (C) services; and

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

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

349 (i) transportation;

350 (ii) shipping;

351 (iii) postage;

352 (iv) handling;

353 (v) crating; or

354 (vi) packing.

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

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

358 (a) is intended to supplement the diet;

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

360 (i) a vitamin;

361 (ii) a mineral;

362 (iii) an herb or other botanical;

363 (iv) an amino acid;

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

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

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

- 369 (A) tablet form;
- 370 (B) capsule form;
- 371 (C) powder form;
- 372 (D) softgel form;
- 373 (E) gelcap form; or
- 374 (F) liquid form; or
- 375 (ii) [~~notwithstanding Subsection (34)(c)(i),~~] if the product is not intended for ingestion
- 376 in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:

- 377 (A) as conventional food; and
- 378 (B) for use as a sole item of:
 - 379 (I) a meal; or
 - 380 (II) the diet; and
- 381 (d) is required to be labeled as a dietary supplement:
 - 382 (i) identifiable by the "Supplemental Facts" box found on the label; and
 - 383 (ii) as required by 21 C.F.R. Sec. 101.36.

384 (35) (a) "Direct mail" means printed material delivered or distributed by United States
385 mail or other delivery service:

- 386 (i) to:
 - 387 (A) a mass audience; or
 - 388 (B) addressees on a mailing list provided:
 - 389 (I) by a purchaser of the mailing list; or
 - 390 (II) at the discretion of the purchaser of the mailing list; and
 - 391 (ii) if the cost of the printed material is not billed directly to the recipients.

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

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

396 (36) "Directory assistance" means an ancillary service of providing:

- 397 (a) address information; or
- 398 (b) telephone number information.

399 (37) (a) "Disposable home medical equipment or supplies" means medical equipment

400 or supplies that:

- 401 (i) cannot withstand repeated use; and
- 402 (ii) are purchased by, for, or on behalf of a person other than:
 - 403 (A) a health care facility as defined in Section 26-21-2;
 - 404 (B) a health care provider as defined in Section 78B-3-403;
 - 405 (C) an office of a health care provider described in Subsection (37)(a)(ii)(B); or
 - 406 (D) a person similar to a person described in Subsections (37)(a)(ii)(A) through (C).

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

- 408 (i) a drug;
- 409 (ii) durable medical equipment;
- 410 (iii) a hearing aid;
- 411 (iv) a hearing aid accessory;
- 412 (v) mobility enhancing equipment; or
- 413 (vi) tangible personal property used to correct impaired vision, including:
 - 414 (A) eyeglasses; or
 - 415 (B) contact lenses.

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

418 (38) (a) "Drug" means a compound, substance, or preparation, or a component of a
419 compound, substance, or preparation that is:

- 420 (i) recognized in:
 - 421 (A) the official United States Pharmacopoeia;
 - 422 (B) the official Homeopathic Pharmacopoeia of the United States;
 - 423 (C) the official National Formulary; or
 - 424 (D) a supplement to a publication listed in Subsections (38)(a)(i)(A) through (C);
- 425 (ii) intended for use in the:
 - 426 (A) diagnosis of disease;
 - 427 (B) cure of disease;
 - 428 (C) mitigation of disease;
 - 429 (D) treatment of disease; or
 - 430 (E) prevention of disease; or

- 431 (iii) intended to affect:
- 432 (A) the structure of the body; or
- 433 (B) any function of the body.
- 434 (b) "Drug" does not include:
- 435 (i) food and food ingredients;
- 436 (ii) a dietary supplement;
- 437 (iii) an alcoholic beverage; or
- 438 (iv) a prosthetic device.
- 439 (39) (a) Except as provided in Subsection (39)(c), "durable medical equipment" means
- 440 equipment that:
- 441 (i) can withstand repeated use;
- 442 (ii) is primarily and customarily used to serve a medical purpose;
- 443 (iii) generally is not useful to a person in the absence of illness or injury; and
- 444 (iv) is not worn in or on the body.
- 445 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 446 equipment described in Subsection (39)(a).
- 447 (c) ~~[Notwithstanding Subsection (39)(a), "durable]~~ "Durable medical equipment" does
- 448 not include mobility enhancing equipment.
- 449 (40) "Electronic" means:
- 450 (a) relating to technology; and
- 451 (b) having:
- 452 (i) electrical capabilities;
- 453 (ii) digital capabilities;
- 454 (iii) magnetic capabilities;
- 455 (iv) wireless capabilities;
- 456 (v) optical capabilities;
- 457 (vi) electromagnetic capabilities; or
- 458 (vii) capabilities similar to Subsections (40)(b)(i) through (vi).
- 459 (41) "Employee" is as defined in Section 59-10-401.
- 460 (42) "Fixed guideway" means a public transit facility that uses and occupies:
- 461 (a) rail for the use of public transit; or

- 462 (b) a separate right-of-way for the use of public transit.
- 463 (43) "Fixed wing turbine powered aircraft" means an aircraft that:
- 464 (a) is powered by turbine engines;
- 465 (b) operates on jet fuel; and
- 466 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 467 (44) "Fixed wireless service" means a telecommunications service that provides radio
- 468 communication between fixed points.
- 469 (45) (a) "Food and food ingredients" means substances:
- 470 (i) regardless of whether the substances are in:
- 471 (A) liquid form;
- 472 (B) concentrated form;
- 473 (C) solid form;
- 474 (D) frozen form;
- 475 (E) dried form; or
- 476 (F) dehydrated form; and
- 477 (ii) that are:
- 478 (A) sold for:
- 479 (I) ingestion by humans; or
- 480 (II) chewing by humans; and
- 481 (B) consumed for the substance's:
- 482 (I) taste; or
- 483 (II) nutritional value.
- 484 (b) "Food and food ingredients" includes an item described in Subsection (86)(b)(iii).
- 485 (c) "Food and food ingredients" does not include:
- 486 (i) an alcoholic beverage;
- 487 (ii) tobacco; or
- 488 (iii) prepared food.
- 489 (46) (a) "Fundraising sales" means sales:
- 490 (i) (A) made by a school; or
- 491 (B) made by a school student;
- 492 (ii) that are for the purpose of raising funds for the school to purchase equipment,

493 materials, or provide transportation; and

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

495 (b) For purposes of Subsection (46)(a)(iii), "officially sanctioned school activity"

496 means a school activity:

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

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

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

503 (47) "Geothermal energy" means energy contained in heat that continuously flows
504 outward from the earth that is used as the sole source of energy to produce electricity.

505 (48) "Governing board of the agreement" means the governing board of the agreement
506 that is:

507 (a) authorized to administer the agreement; and

508 (b) established in accordance with the agreement.

509 (49) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

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

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

514 (iii) the legislative branch of the state, including the House of Representatives, the
515 Senate, the Legislative Printing Office, the Office of Legislative Research and General
516 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
517 Analyst;

518 (iv) the National Guard;

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

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

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

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

- 524 (ii) a school;
- 525 (iii) the State Board of Education;
- 526 (iv) the State Board of Regents; or
- 527 (v) an institution of higher education.
- 528 (50) "Hydroelectric energy" means water used as the sole source of energy to produce
- 529 electricity.
- 530 (51) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 531 other fuels:
- 532 (a) in mining or extraction of minerals;
- 533 (b) in agricultural operations to produce an agricultural product up to the time of
- 534 harvest or placing the agricultural product into a storage facility, including:
- 535 (i) commercial greenhouses;
- 536 (ii) irrigation pumps;
- 537 (iii) farm machinery;
- 538 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 539 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 540 (v) other farming activities;
- 541 (c) in manufacturing tangible personal property at an establishment described in SIC
- 542 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 543 Executive Office of the President, Office of Management and Budget;
- 544 (d) by a scrap recycler if:
- 545 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 546 one or more of the following items into prepared grades of processed materials for use in new
- 547 products:
- 548 (A) iron;
- 549 (B) steel;
- 550 (C) nonferrous metal;
- 551 (D) paper;
- 552 (E) glass;
- 553 (F) plastic;
- 554 (G) textile; or

555 (H) rubber; and
556 (ii) the new products under Subsection (51)(d)(i) would otherwise be made with
557 nonrecycled materials; or

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

560 (52) (a) Except as provided in Subsection (52)(b), "installation charge" means a charge
561 for installing:

562 (i) tangible personal property; or

563 (ii) a product transferred electronically.

564 (b) "Installation charge" does not include a charge for:

565 (i) repairs or renovations of:

566 (A) tangible personal property; or

567 (B) a product transferred electronically; or

568 (ii) attaching tangible personal property or a product transferred electronically:

569 (A) to other tangible personal property; and

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

571 (53) "Institution of higher education" means an institution of higher education listed in
572 Section 53B-2-101.

573 (54) (a) "Lease" or "rental" means a transfer of possession or control of tangible
574 personal property or a product transferred electronically for:

575 (i) (A) a fixed term; or

576 (B) an indeterminate term; and

577 (ii) consideration.

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

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

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

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

588 (A) upon completion of required payments; and

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

590 (I) \$100; or

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

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

595 (d) For purposes of Subsection (54)(c)(iii), an operator is necessary for equipment to
596 perform as designed if the operator's duties exceed the:

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

598 (ii) maintenance of tangible personal property; or

599 (iii) inspection of tangible personal property.

600 (55) "Life science establishment" means an establishment in this state that is classified
601 under the following NAICS codes of the 2007 North American Industry Classification System
602 of the federal Executive Office of the President, Office of Management and Budget:

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

604 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
605 Manufacturing; or

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

607 (56) "Life science research and development facility" means a facility owned, leased,
608 or rented by a life science establishment if research and development is performed in 51% or
609 more of the total area of the facility.

610 (57) "Load and leave" means delivery to a purchaser by use of a tangible storage media
611 if the tangible storage media is not physically transferred to the purchaser.

612 (58) "Local taxing jurisdiction" means a:

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

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

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

616 (59) "Manufactured home" is as defined in Section 15A-1-302.

- 617 (60) For purposes of Section 59-12-104, "manufacturing facility" means:
- 618 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
- 619 Industrial Classification Manual of the federal Executive Office of the President, Office of
- 620 Management and Budget;
- 621 (b) a scrap recycler if:
- 622 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 623 one or more of the following items into prepared grades of processed materials for use in new
- 624 products:
- 625 (A) iron;
- 626 (B) steel;
- 627 (C) nonferrous metal;
- 628 (D) paper;
- 629 (E) glass;
- 630 (F) plastic;
- 631 (G) textile; or
- 632 (H) rubber; and
- 633 (ii) the new products under Subsection (60)(b)(i) would otherwise be made with
- 634 nonrecycled materials; or
- 635 (c) a cogeneration facility as defined in Section 54-2-1.
- 636 (61) "Member of the immediate family of the producer" means a person who is related
- 637 to a producer described in Subsection 59-12-104(20)(a) as a:
- 638 (a) child or stepchild, regardless of whether the child or stepchild is:
- 639 (i) an adopted child or adopted stepchild; or
- 640 (ii) a foster child or foster stepchild;
- 641 (b) grandchild or stepgrandchild;
- 642 (c) grandparent or stepgrandparent;
- 643 (d) nephew or stepnephew;
- 644 (e) niece or stepniece;
- 645 (f) parent or stepparent;
- 646 (g) sibling or stepsibling;
- 647 (h) spouse;

648 (i) person who is the spouse of a person described in Subsections (61)(a) through (g);
649 or

650 (j) person similar to a person described in Subsections (61)(a) through (i) as
651 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
652 Administrative Rulemaking Act.

653 (62) "Mobile home" is as defined in Section 15A-1-302.

654 (63) "Mobile telecommunications service" is as defined in the Mobile
655 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

656 (64) (a) "Mobile wireless service" means a telecommunications service, regardless of
657 the technology used, if:

- 658 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 659 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 660 (iii) the origination point described in Subsection (64)(a)(i) and the termination point
661 described in Subsection (64)(a)(ii) are not fixed.

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

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

666 (65) (a) Except as provided in Subsection (65)(c), "mobility enhancing equipment"
667 means equipment that is:

- 668 (i) primarily and customarily used to provide or increase the ability to move from one
669 place to another;
- 670 (ii) appropriate for use in a:
 - 671 (A) home; or
 - 672 (B) motor vehicle; and
- 673 (iii) not generally used by persons with normal mobility.

674 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
675 the equipment described in Subsection (65)(a).

676 (c) [~~Notwithstanding Subsection (65)(a), "mobility~~] "Mobility enhancing equipment"
677 does not include:

- 678 (i) a motor vehicle;

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

681 (iii) durable medical equipment; or

682 (iv) a prosthetic device.

683 (66) "Model 1 seller" means a seller registered under the agreement that has selected a
684 certified service provider as the seller's agent to perform all of the seller's sales and use tax
685 functions for agreement sales and use taxes other than the seller's obligation under Section
686 59-12-124 to remit a tax on the seller's own purchases.

687 (67) "Model 2 seller" means a seller registered under the agreement that:

688 (a) except as provided in Subsection (67)(b), has selected a certified automated system
689 to perform the seller's sales tax functions for agreement sales and use taxes; and

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

692 (i) collected by the seller; and

693 (ii) to the appropriate local taxing jurisdiction.

694 (68) (a) Subject to Subsection (68)(b), "model 3 seller" means a seller registered under
695 the agreement that has:

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

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

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

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

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

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

702 (b) For purposes of Subsection (68)(a), "model 3 seller" includes an affiliated group of
703 sellers using the same proprietary system.

704 (69) "Model 4 seller" means a seller that is registered under the agreement and is not a
705 model 1 seller, model 2 seller, or model 3 seller.

706 (70) "Modular home" means a modular unit as defined in Section 15A-1-302.

707 (71) "Motor vehicle" is as defined in Section 41-1a-102.

708 (72) "Oil sands" means impregnated bituminous sands that:

709 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with

710 other hydrocarbons, or otherwise treated;

711 (b) yield mixtures of liquid hydrocarbon; and

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

714 (73) "Oil shale" means a group of fine black to dark brown shales containing kerogen
715 material that yields petroleum upon heating and distillation.

716 (74) "Optional computer software maintenance contract" means a computer software
717 maintenance contract that a customer is not obligated to purchase as a condition to the retail
718 sale of computer software.

719 (75) (a) "Other fuels" means products that burn independently to produce heat or
720 energy.

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

723 (76) (a) "Paging service" means a telecommunications service that provides
724 transmission of a coded radio signal for the purpose of activating a specific pager.

725 (b) For purposes of Subsection (76)(a), the transmission of a coded radio signal
726 includes a transmission by message or sound.

727 (77) "Pawnbroker" is as defined in Section 13-32a-102.

728 (78) "Pawn transaction" is as defined in Section 13-32a-102.

729 (79) (a) "Permanently attached to real property" means that for tangible personal
730 property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

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

746 property and real property are located; or

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

748 Subsection (79)(c)(iii) or (iv).

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

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

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

752 (A) convenience;

753 (B) stability; or

754 (C) for an obvious temporary purpose;

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

756 detachment described in Subsection (79)(b)(ii);

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

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

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

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

761 (A) a computer;

762 (B) a telephone;

763 (C) a television; or

764 (D) tangible personal property similar to Subsections (79)(c)(iii)(A) through (C) as

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

766 Administrative Rulemaking Act; or

767 (iv) an item listed in Subsection ~~[(117)]~~ (119)(c).

768 (80) "Person" includes any individual, firm, partnership, joint venture, association,

769 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,

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

771 combination acting as a unit.

772 (81) "Place of primary use":
773 (a) for telecommunications service other than mobile telecommunications service,
774 means the street address representative of where the customer's use of the telecommunications
775 service primarily occurs, which shall be:

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

780 (82) (a) "Postpaid calling service" means a telecommunications service a person
781 obtains by making a payment on a call-by-call basis:

- 782 (i) through the use of a:
 - 783 (A) bank card;
 - 784 (B) credit card;
 - 785 (C) debit card; or
 - 786 (D) travel card; or
- 787 (ii) by a charge made to a telephone number that is not associated with the origination
788 or termination of the telecommunications service.

789 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
790 service, that would be a prepaid wireless calling service if the service were exclusively a
791 telecommunications service.

792 (83) "Postproduction" means an activity related to the finishing or duplication of a
793 medium described in Subsection 59-12-104(54)(a).

794 (84) "Prepaid calling service" means a telecommunications service:

- 795 (a) that allows a purchaser access to telecommunications service that is exclusively
796 telecommunications service;
- 797 (b) that:
 - 798 (i) is paid for in advance; and
 - 799 (ii) enables the origination of a call using an:
 - 800 (A) access number; or
 - 801 (B) authorization code;
 - 802 (c) that is dialed:

- 803 (i) manually; or
- 804 (ii) electronically; and
- 805 (d) sold in predetermined units or dollars that decline:
- 806 (i) by a known amount; and
- 807 (ii) with use.
- 808 (85) "Prepaid wireless calling service" means a telecommunications service:
- 809 (a) that provides the right to utilize:
- 810 (i) mobile wireless service; and
- 811 (ii) other service that is not a telecommunications service, including:
- 812 (A) the download of a product transferred electronically;
- 813 (B) a content service; or
- 814 (C) an ancillary service;
- 815 (b) that:
- 816 (i) is paid for in advance; and
- 817 (ii) enables the origination of a call using an:
- 818 (A) access number; or
- 819 (B) authorization code;
- 820 (c) that is dialed:
- 821 (i) manually; or
- 822 (ii) electronically; and
- 823 (d) sold in predetermined units or dollars that decline:
- 824 (i) by a known amount; and
- 825 (ii) with use.
- 826 (86) (a) "Prepared food" means:
- 827 (i) food:
- 828 (A) sold in a heated state; or
- 829 (B) heated by a seller;
- 830 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 831 item; or
- 832 (iii) except as provided in Subsection (86)(c), food sold with an eating utensil provided
- 833 by the seller, including a:

- 834 (A) plate;
- 835 (B) knife;
- 836 (C) fork;
- 837 (D) spoon;
- 838 (E) glass;
- 839 (F) cup;
- 840 (G) napkin; or
- 841 (H) straw.
- 842 (b) "Prepared food" does not include:
- 843 (i) food that a seller only:
- 844 (A) cuts;
- 845 (B) repackages; or
- 846 (C) pasteurizes; or
- 847 (ii) (A) the following:
- 848 (I) raw egg;
- 849 (II) raw fish;
- 850 (III) raw meat;
- 851 (IV) raw poultry; or
- 852 (V) a food containing an item described in Subsections (86)(b)(ii)(A)(I) through (IV);
- 853 and
- 854 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 855 Food and Drug Administration's Food Code that a consumer cook the items described in
- 856 Subsection (86)(b)(ii)(A) to prevent food borne illness; or
- 857 (iii) the following if sold without eating utensils provided by the seller:
- 858 (A) food and food ingredients sold by a seller if the seller's proper primary
- 859 classification under the 2002 North American Industry Classification System of the federal
- 860 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 861 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 862 Manufacturing;
- 863 (B) food and food ingredients sold in an unheated state:
- 864 (I) by weight or volume; and

- 865 (II) as a single item; or
- 866 (C) a bakery item, including:
- 867 (I) a bagel;
- 868 (II) a bar;
- 869 (III) a biscuit;
- 870 (IV) bread;
- 871 (V) a bun;
- 872 (VI) a cake;
- 873 (VII) a cookie;
- 874 (VIII) a croissant;
- 875 (IX) a danish;
- 876 (X) a donut;
- 877 (XI) a muffin;
- 878 (XII) a pastry;
- 879 (XIII) a pie;
- 880 (XIV) a roll;
- 881 (XV) a tart;
- 882 (XVI) a torte; or
- 883 (XVII) a tortilla.

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

- 886 (i) a container; or
 - 887 (ii) packaging.
- 888 (87) "Prescription" means an order, formula, or recipe that is issued:
- 889 (a) (i) orally;
 - 890 (ii) in writing;
 - 891 (iii) electronically; or
 - 892 (iv) by any other manner of transmission; and
 - 893 (b) by a licensed practitioner authorized by the laws of a state.

894 (88) (a) Except as provided in Subsection (88)(b)(ii) or (iii), "prewritten computer
895 software" means computer software that is not designed and developed:

- 896 (i) by the author or other creator of the computer software; and
- 897 (ii) to the specifications of a specific purchaser.
- 898 (b) "Prewritten computer software" includes:
- 899 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 900 software is not designed and developed:
- 901 (A) by the author or other creator of the computer software; and
- 902 (B) to the specifications of a specific purchaser;
- 903 (ii) [~~notwithstanding Subsection (88)(a);~~] computer software designed and developed
- 904 by the author or other creator of the computer software to the specifications of a specific
- 905 purchaser if the computer software is sold to a person other than the purchaser; or
- 906 (iii) [~~notwithstanding Subsection (88)(a) and~~] except as provided in Subsection (88)(c),
- 907 prewritten computer software or a prewritten portion of prewritten computer software:
- 908 (A) that is modified or enhanced to any degree; and
- 909 (B) if the modification or enhancement described in Subsection (88)(b)(iii)(A) is
- 910 designed and developed to the specifications of a specific purchaser.
- 911 (c) [~~Notwithstanding Subsection (88)(b)(iii), "prewritten"~~] "Prewritten computer
- 912 software" does not include a modification or enhancement described in Subsection (88)(b)(iii)
- 913 if the charges for the modification or enhancement are:
- 914 (i) reasonable; and
- 915 (ii) separately stated on the invoice or other statement of price provided to the
- 916 purchaser.
- 917 (89) (a) "Private communication service" means a telecommunications service:
- 918 (i) that entitles a customer to exclusive or priority use of one or more communications
- 919 channels between or among termination points; and
- 920 (ii) regardless of the manner in which the one or more communications channels are
- 921 connected.
- 922 (b) "Private communications service" includes the following provided in connection
- 923 with the use of one or more communications channels:
- 924 (i) an extension line;
- 925 (ii) a station;
- 926 (iii) switching capacity; or

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

929 (90) (a) Except as provided in Subsection (90)(b), "product transferred electronically"
930 means a product transferred electronically that would be subject to a tax under this chapter if
931 that product was transferred in a manner other than electronically.

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

- 933 (i) an ancillary service;
- 934 (ii) computer software; or
- 935 (iii) a telecommunications service.

936 (91) (a) "Prosthetic device" means a device that is worn on or in the body to:

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

940 (b) "Prosthetic device" includes:

- 941 (i) parts used in the repairs or renovation of a prosthetic device;
- 942 (ii) replacement parts for a prosthetic device;
- 943 (iii) a dental prosthesis; or
- 944 (iv) a hearing aid.

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

- 946 (i) corrective eyeglasses; or
- 947 (ii) contact lenses.

948 (92) (a) "Protective equipment" means an item:

- 949 (i) for human wear; and
- 950 (ii) that is:
 - 951 (A) designed as protection:
 - 952 (I) to the wearer against injury or disease; or
 - 953 (II) against damage or injury of other persons or property; and
 - 954 (B) not suitable for general use.

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

- 957 (i) listing the items that constitute "protective equipment"; and

958 (ii) that are consistent with the list of items that constitute "protective equipment"
959 under the agreement.

960 (93) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
961 printed matter, other than a photocopy:

- 962 (i) regardless of:
 - 963 (A) characteristics;
 - 964 (B) copyright;
 - 965 (C) form;
 - 966 (D) format;
 - 967 (E) method of reproduction; or
 - 968 (F) source; and
- 969 (ii) made available in printed or electronic format.

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

972 (94) (a) "Purchase price" and "sales price" mean the total amount of consideration:

- 973 (i) valued in money; and
- 974 (ii) for which tangible personal property, a product transferred electronically, or
975 services are:

- 976 (A) sold;
- 977 (B) leased; or
- 978 (C) rented.

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

- 980 (i) the seller's cost of the tangible personal property, a product transferred
981 electronically, or services sold;
- 982 (ii) expenses of the seller, including:
 - 983 (A) the cost of materials used;
 - 984 (B) a labor cost;
 - 985 (C) a service cost;
 - 986 (D) interest;
 - 987 (E) a loss;
 - 988 (F) the cost of transportation to the seller; or

- 989 (G) a tax imposed on the seller;
- 990 (iii) a charge by the seller for any service necessary to complete the sale; or
- 991 (iv) consideration a seller receives from a person other than the purchaser if:
- 992 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 993 and
- 994 (II) the consideration described in Subsection (94)(b)(iv)(A)(I) is directly related to a
- 995 price reduction or discount on the sale;
- 996 (B) the seller has an obligation to pass the price reduction or discount through to the
- 997 purchaser;
- 998 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 999 the seller at the time of the sale to the purchaser; and
- 1000 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 1001 seller to claim a price reduction or discount; and
- 1002 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 1003 coupon, or other documentation with the understanding that the person other than the seller
- 1004 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 1005 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 1006 organization allowed a price reduction or discount, except that a preferred customer card that is
- 1007 available to any patron of a seller does not constitute membership in a group or organization
- 1008 allowed a price reduction or discount; or
- 1009 (III) the price reduction or discount is identified as a third party price reduction or
- 1010 discount on the:
- 1011 (Aa) invoice the purchaser receives; or
- 1012 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1013 (c) "Purchase price" and "sales price" do not include:
- 1014 (i) a discount:
- 1015 (A) in a form including:
- 1016 (I) cash;
- 1017 (II) term; or
- 1018 (III) coupon;
- 1019 (B) that is allowed by a seller;

- 1020 (C) taken by a purchaser on a sale; and
- 1021 (D) that is not reimbursed by a third party; or
- 1022 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 1023 provided to the purchaser:
 - 1024 (A) the following from credit extended on the sale of tangible personal property or
 - 1025 services:
 - 1026 (I) a carrying charge;
 - 1027 (II) a financing charge; or
 - 1028 (III) an interest charge;
 - 1029 (B) a delivery charge;
 - 1030 (C) an installation charge;
 - 1031 (D) a manufacturer rebate on a motor vehicle; or
 - 1032 (E) a tax or fee legally imposed directly on the consumer.
 - 1033 (95) "Purchaser" means a person to whom:
 - 1034 (a) a sale of tangible personal property is made;
 - 1035 (b) a product is transferred electronically; or
 - 1036 (c) a service is furnished.
 - 1037 (96) "Regularly rented" means:
 - 1038 (a) rented to a guest for value three or more times during a calendar year; or
 - 1039 (b) advertised or held out to the public as a place that is regularly rented to guests for
 - 1040 value.
 - 1041 (97) "Rental" is as defined in Subsection (54).
 - 1042 (98) (a) Except as provided in Subsection (98)(b), "repairs or renovations of tangible
 - 1043 personal property" means:
 - 1044 (i) a repair or renovation of tangible personal property that is not permanently attached
 - 1045 to real property; or
 - 1046 (ii) attaching tangible personal property or a product transferred electronically to other
 - 1047 tangible personal property or detaching tangible personal property or a product transferred
 - 1048 electronically from other tangible personal property if:
 - 1049 (A) the other tangible personal property to which the tangible personal property or
 - 1050 product transferred electronically is attached or from which the tangible personal property or

1051 product transferred electronically is detached is not permanently attached to real property; and

1052 (B) the attachment of tangible personal property or a product transferred electronically
1053 to other tangible personal property or detachment of tangible personal property or a product
1054 transferred electronically from other tangible personal property is made in conjunction with a
1055 repair or replacement of tangible personal property or a product transferred electronically.

1056 (b) "Repairs or renovations of tangible personal property" does not include:

1057 (i) attaching prewritten computer software to other tangible personal property if the
1058 other tangible personal property to which the prewritten computer software is attached is not
1059 permanently attached to real property; or

1060 (ii) detaching prewritten computer software from other tangible personal property if the
1061 other tangible personal property from which the prewritten computer software is detached is
1062 not permanently attached to real property.

1063 (99) "Research and development" means the process of inquiry or experimentation
1064 aimed at the discovery of facts, devices, technologies, or applications and the process of
1065 preparing those devices, technologies, or applications for marketing.

1066 (100) (a) "Residential telecommunications services" means a telecommunications
1067 service or an ancillary service that is provided to an individual for personal use:

1068 (i) at a residential address; or

1069 (ii) at an institution, including a nursing home or a school, if the telecommunications
1070 service or ancillary service is provided to and paid for by the individual residing at the
1071 institution rather than the institution.

1072 (b) For purposes of Subsection (100)(a)(i), a residential address includes an:

1073 (i) apartment; or

1074 (ii) other individual dwelling unit.

1075 (101) "Residential use" means the use in or around a home, apartment building,
1076 sleeping quarters, and similar facilities or accommodations.

1077 (102) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1078 than:

1079 (a) resale;

1080 (b) sublease; or

1081 (c) subrent.

1082 (103) (a) "Retailer" means any person engaged in a regularly organized business in
1083 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1084 who is selling to the user or consumer and not for resale.

1085 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1086 engaged in the business of selling to users or consumers within the state.

1087 (104) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1088 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1089 Subsection 59-12-103(1), for consideration.

1090 (b) "Sale" includes:

1091 (i) installment and credit sales;

1092 (ii) any closed transaction constituting a sale;

1093 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1094 chapter;

1095 (iv) any transaction if the possession of property is transferred but the seller retains the
1096 title as security for the payment of the price; and

1097 (v) any transaction under which right to possession, operation, or use of any article of
1098 tangible personal property is granted under a lease or contract and the transfer of possession
1099 would be taxable if an outright sale were made.

1100 (105) "Sale at retail" is as defined in Subsection (102).

1101 (106) "Sale-leaseback transaction" means a transaction by which title to tangible
1102 personal property or a product transferred electronically that is subject to a tax under this
1103 chapter is transferred:

1104 (a) by a purchaser-lessee;

1105 (b) to a lessor;

1106 (c) for consideration; and

1107 (d) if:

1108 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1109 of the tangible personal property or product transferred electronically;

1110 (ii) the sale of the tangible personal property or product transferred electronically to the
1111 lessor is intended as a form of financing:

1112 (A) for the tangible personal property or product transferred electronically; and

- 1113 (B) to the purchaser-lessee; and
- 1114 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
- 1115 is required to:
- 1116 (A) capitalize the tangible personal property or product transferred electronically for
- 1117 financial reporting purposes; and
- 1118 (B) account for the lease payments as payments made under a financing arrangement.
- 1119 (107) "Sales price" is as defined in Subsection (94).
- 1120 (108) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
- 1121 amounts charged by a school:
- 1122 (i) sales that are directly related to the school's educational functions or activities
- 1123 including:
- 1124 (A) the sale of:
- 1125 (I) textbooks;
- 1126 (II) textbook fees;
- 1127 (III) laboratory fees;
- 1128 (IV) laboratory supplies; or
- 1129 (V) safety equipment;
- 1130 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 1131 that:
- 1132 (I) a student is specifically required to wear as a condition of participation in a
- 1133 school-related event or school-related activity; and
- 1134 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 1135 place of ordinary clothing;
- 1136 (C) sales of the following if the net or gross revenues generated by the sales are
- 1137 deposited into a school district fund or school fund dedicated to school meals:
- 1138 (I) food and food ingredients; or
- 1139 (II) prepared food; or
- 1140 (D) transportation charges for official school activities; or
- 1141 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1142 event or school-related activity.
- 1143 (b) "Sales relating to schools" does not include:

- 1144 (i) bookstore sales of items that are not educational materials or supplies;
- 1145 (ii) except as provided in Subsection (108)(a)(i)(B):
- 1146 (A) clothing;
- 1147 (B) clothing accessories or equipment;
- 1148 (C) protective equipment; or
- 1149 (D) sports or recreational equipment; or
- 1150 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1151 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1152 (A) other than a:
- 1153 (I) school;
- 1154 (II) nonprofit organization authorized by a school board or a governing body of a
- 1155 private school to organize and direct a competitive secondary school activity; or
- 1156 (III) nonprofit association authorized by a school board or a governing body of a
- 1157 private school to organize and direct a competitive secondary school activity; and
- 1158 (B) that is required to collect sales and use taxes under this chapter.
- 1159 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1160 commission may make rules defining the term "passed through."
- 1161 (109) For purposes of this section and Section 59-12-104, "school":
- 1162 (a) means:
- 1163 (i) an elementary school or a secondary school that:
- 1164 (A) is a:
- 1165 (I) public school; or
- 1166 (II) private school; and
- 1167 (B) provides instruction for one or more grades kindergarten through 12; or
- 1168 (ii) a public school district; and
- 1169 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1170 (110) "Seller" means a person that makes a sale, lease, or rental of:
- 1171 (a) tangible personal property;
- 1172 (b) a product transferred electronically; or
- 1173 (c) a service.
- 1174 (111) (a) "Semiconductor fabricating, processing, research, or development materials"

1175 means tangible personal property or a product transferred electronically if the tangible personal
1176 property or product transferred electronically is:

1177 (i) used primarily in the process of:

1178 (A) (I) manufacturing a semiconductor;

1179 (II) fabricating a semiconductor; or

1180 (III) research or development of a:

1181 (Aa) semiconductor; or

1182 (Bb) semiconductor manufacturing process; or

1183 (B) maintaining an environment suitable for a semiconductor; or

1184 (ii) consumed primarily in the process of:

1185 (A) (I) manufacturing a semiconductor;

1186 (II) fabricating a semiconductor; or

1187 (III) research or development of a:

1188 (Aa) semiconductor; or

1189 (Bb) semiconductor manufacturing process; or

1190 (B) maintaining an environment suitable for a semiconductor.

1191 (b) "Semiconductor fabricating, processing, research, or development materials"

1192 includes:

1193 (i) parts used in the repairs or renovations of tangible personal property or a product
1194 transferred electronically described in Subsection (111)(a); or

1195 (ii) a chemical, catalyst, or other material used to:

1196 (A) produce or induce in a semiconductor a:

1197 (I) chemical change; or

1198 (II) physical change;

1199 (B) remove impurities from a semiconductor; or

1200 (C) improve the marketable condition of a semiconductor.

1201 (112) "Senior citizen center" means a facility having the primary purpose of providing
1202 services to the aged as defined in Section 62A-3-101.

1203 (113) (a) Subject to Subsections (113)(b) and (c), "short-term lodging consumable"

1204 means tangible personal property that:

1205 (i) a business that provides accommodations and services described in Subsection

1206 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
1207 to a purchaser;
1208 (ii) is intended to be consumed by the purchaser; and
1209 (iii) is:
1210 (A) included in the purchase price of the accommodations and services; and
1211 (B) not separately stated on an invoice, bill of sale, or other similar document provided
1212 to the purchaser.
1213 (b) "Short-term lodging consumable" includes:
1214 (i) a beverage;
1215 (ii) a brush or comb;
1216 (iii) a cosmetic;
1217 (iv) a hair care product;
1218 (v) lotion;
1219 (vi) a magazine;
1220 (vii) makeup;
1221 (viii) a meal;
1222 (ix) mouthwash;
1223 (x) nail polish remover;
1224 (xi) a newspaper;
1225 (xii) a notepad;
1226 (xiii) a pen;
1227 (xiv) a pencil;
1228 (xv) a razor;
1229 (xvi) saline solution;
1230 (xvii) a sewing kit;
1231 (xviii) shaving cream;
1232 (xix) a shoe shine kit;
1233 (xx) a shower cap;
1234 (xxi) a snack item;
1235 (xxii) soap;
1236 (xxiii) toilet paper;

1237 (xxiv) a toothbrush;
 1238 (xxv) toothpaste; or
 1239 (xxvi) an item similar to Subsections (113)(b)(i) through (xxv) as the commission may
 1240 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
 1241 Rulemaking Act.

1242 (c) "Short-term lodging consumable" does not include:
 1243 (i) tangible personal property that is cleaned or washed to allow the tangible personal
 1244 property to be reused; or

1245 (ii) a product transferred electronically.
 1246 [~~(H3)~~] (114) "Simplified electronic return" means the electronic return:
 1247 (a) described in Section 318(C) of the agreement; and
 1248 (b) approved by the governing board of the agreement.

1249 [~~(H4)~~] (115) "Solar energy" means the sun used as the sole source of energy for
 1250 producing electricity.

1251 [~~(H5)~~] (116) (a) "Sports or recreational equipment" means an item:

- 1252 (i) designed for human use; and
- 1253 (ii) that is:
 - 1254 (A) worn in conjunction with:
 - 1255 (I) an athletic activity; or
 - 1256 (II) a recreational activity; and
 - 1257 (B) not suitable for general use.

1258 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 1259 commission shall make rules:

- 1260 (i) listing the items that constitute "sports or recreational equipment"; and
- 1261 (ii) that are consistent with the list of items that constitute "sports or recreational
 1262 equipment" under the agreement.

1263 [~~(H6)~~] (117) "State" means the state of Utah, its departments, and agencies.

1264 [~~(H7)~~] (118) "Storage" means any keeping or retention of tangible personal property or
 1265 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
 1266 except sale in the regular course of business.

1267 [~~(H8)~~] (119) (a) Except as provided in Subsection [~~(H8)~~] (119)(d) or (e), "tangible

1268 personal property" means personal property that:

1269 (i) may be:

1270 (A) seen;

1271 (B) weighed;

1272 (C) measured;

1273 (D) felt; or

1274 (E) touched; or

1275 (ii) is in any manner perceptible to the senses.

1276 (b) "Tangible personal property" includes:

1277 (i) electricity;

1278 (ii) water;

1279 (iii) gas;

1280 (iv) steam; or

1281 (v) prewritten computer software, regardless of the manner in which the prewritten

1282 computer software is transferred.

1283 (c) "Tangible personal property" includes the following regardless of whether the item

1284 is attached to real property:

1285 (i) a dishwasher;

1286 (ii) a dryer;

1287 (iii) a freezer;

1288 (iv) a microwave;

1289 (v) a refrigerator;

1290 (vi) a stove;

1291 (vii) a washer; or

1292 (viii) an item similar to Subsections [~~(118)~~] (119)(c)(i) through (vii) as determined by

1293 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

1294 Rulemaking Act.

1295 (d) "Tangible personal property" does not include a product that is transferred

1296 electronically.

1297 (e) "Tangible personal property" does not include the following if attached to real

1298 property, regardless of whether the attachment to real property is only through a line that

1299 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1300 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1301 Rulemaking Act:

- 1302 (i) a hot water heater;
- 1303 (ii) a water filtration system; or
- 1304 (iii) a water softener system.

1305 [~~(119)~~] (120) (a) "Telecommunications enabling or facilitating equipment, machinery,
1306 or software" means an item listed in Subsection [~~(119)~~] (120)(b) if that item is purchased or
1307 leased primarily to enable or facilitate one or more of the following to function:

- 1308 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1309 (ii) telecommunications transmission equipment, machinery, or software.

1310 (b) The following apply to Subsection [~~(119)~~] (120)(a):

- 1311 (i) a pole;
- 1312 (ii) software;
- 1313 (iii) a supplementary power supply;
- 1314 (iv) temperature or environmental equipment or machinery;
- 1315 (v) test equipment;
- 1316 (vi) a tower; or

1317 (vii) equipment, machinery, or software that functions similarly to an item listed in
1318 Subsections [~~(119)~~] (120)(b)(i) through (vi) as determined by the commission by rule made in
1319 accordance with Subsection [~~(119)~~] (120)(c).

1320 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1321 commission may by rule define what constitutes equipment, machinery, or software that
1322 functions similarly to an item listed in Subsections [~~(119)~~] (120)(b)(i) through (vi).

1323 [~~(120)~~] (121) "Telecommunications equipment, machinery, or software required for
1324 911 service" means equipment, machinery, or software that is required to comply with 47
1325 C.F.R. Sec. 20.18.

1326 [~~(121)~~] (122) "Telecommunications maintenance or repair equipment, machinery, or
1327 software" means equipment, machinery, or software purchased or leased primarily to maintain
1328 or repair one or more of the following, regardless of whether the equipment, machinery, or
1329 software is purchased or leased as a spare part or as an upgrade or modification to one or more

1330 of the following:

1331 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1332 (b) telecommunications switching or routing equipment, machinery, or software; or

1333 (c) telecommunications transmission equipment, machinery, or software.

1334 [~~122~~] (123) (a) "Telecommunications service" means the electronic conveyance,
1335 routing, or transmission of audio, data, video, voice, or any other information or signal to a
1336 point, or among or between points.

1337 (b) "Telecommunications service" includes:

1338 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1339 processing application is used to act:

1340 (A) on the code, form, or protocol of the content;

1341 (B) for the purpose of electronic conveyance, routing, or transmission; and

1342 (C) regardless of whether the service:

1343 (I) is referred to as voice over Internet protocol service; or

1344 (II) is classified by the Federal Communications Commission as enhanced or value
1345 added;

1346 (ii) an 800 service;

1347 (iii) a 900 service;

1348 (iv) a fixed wireless service;

1349 (v) a mobile wireless service;

1350 (vi) a postpaid calling service;

1351 (vii) a prepaid calling service;

1352 (viii) a prepaid wireless calling service; or

1353 (ix) a private communications service.

1354 (c) "Telecommunications service" does not include:

1355 (i) advertising, including directory advertising;

1356 (ii) an ancillary service;

1357 (iii) a billing and collection service provided to a third party;

1358 (iv) a data processing and information service if:

1359 (A) the data processing and information service allows data to be:

1360 (I) (Aa) acquired;

- 1361 (Bb) generated;
- 1362 (Cc) processed;
- 1363 (Dd) retrieved; or
- 1364 (Ee) stored; and
- 1365 (II) delivered by an electronic transmission to a purchaser; and
- 1366 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1367 or information;
- 1368 (v) installation or maintenance of the following on a customer's premises:
- 1369 (A) equipment; or
- 1370 (B) wiring;
- 1371 (vi) Internet access service;
- 1372 (vii) a paging service;
- 1373 (viii) a product transferred electronically, including:
- 1374 (A) music;
- 1375 (B) reading material;
- 1376 (C) a ring tone;
- 1377 (D) software; or
- 1378 (E) video;
- 1379 (ix) a radio and television audio and video programming service:
- 1380 (A) regardless of the medium; and
- 1381 (B) including:
- 1382 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1383 programming service by a programming service provider;
- 1384 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1385 (III) audio and video programming services delivered by a commercial mobile radio
- 1386 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1387 (x) a value-added nonvoice data service; or
- 1388 (xi) tangible personal property.
- 1389 [~~(123)~~] (124) (a) "Telecommunications service provider" means a person that:
- 1390 (i) owns, controls, operates, or manages a telecommunications service; and
- 1391 (ii) engages in an activity described in Subsection [~~(123)~~] (124)(a)(i) for the shared use

1392 with or resale to any person of the telecommunications service.

1393 (b) A person described in Subsection [~~(123)~~] (124)(a) is a telecommunications service
1394 provider whether or not the Public Service Commission of Utah regulates:

1395 (i) that person; or

1396 (ii) the telecommunications service that the person owns, controls, operates, or
1397 manages.

1398 [~~(124)~~] (125) (a) "Telecommunications switching or routing equipment, machinery, or
1399 software" means an item listed in Subsection [~~(124)~~] (125)(b) if that item is purchased or
1400 leased primarily for switching or routing:

1401 (i) an ancillary service;

1402 (ii) data communications;

1403 (iii) voice communications; or

1404 (iv) telecommunications service.

1405 (b) The following apply to Subsection [~~(124)~~] (125)(a):

1406 (i) a bridge;

1407 (ii) a computer;

1408 (iii) a cross connect;

1409 (iv) a modem;

1410 (v) a multiplexer;

1411 (vi) plug in circuitry;

1412 (vii) a router;

1413 (viii) software;

1414 (ix) a switch; or

1415 (x) equipment, machinery, or software that functions similarly to an item listed in

1416 Subsections [~~(124)~~] (125)(b)(i) through (ix) as determined by the commission by rule made in
1417 accordance with Subsection [~~(124)~~] (125)(c).

1418 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1419 commission may by rule define what constitutes equipment, machinery, or software that
1420 functions similarly to an item listed in Subsections [~~(124)~~] (125)(b)(i) through (ix).

1421 [~~(125)~~] (126) (a) "Telecommunications transmission equipment, machinery, or

1422 software" means an item listed in Subsection [~~(125)~~] (126)(b) if that item is purchased or

- 1423 leased primarily for sending, receiving, or transporting:
- 1424 (i) an ancillary service;
 - 1425 (ii) data communications;
 - 1426 (iii) voice communications; or
 - 1427 (iv) telecommunications service.
- 1428 (b) The following apply to Subsection [~~(125)~~] (126)(a):
- 1429 (i) an amplifier;
 - 1430 (ii) a cable;
 - 1431 (iii) a closure;
 - 1432 (iv) a conduit;
 - 1433 (v) a controller;
 - 1434 (vi) a duplexer;
 - 1435 (vii) a filter;
 - 1436 (viii) an input device;
 - 1437 (ix) an input/output device;
 - 1438 (x) an insulator;
 - 1439 (xi) microwave machinery or equipment;
 - 1440 (xii) an oscillator;
 - 1441 (xiii) an output device;
 - 1442 (xiv) a pedestal;
 - 1443 (xv) a power converter;
 - 1444 (xvi) a power supply;
 - 1445 (xvii) a radio channel;
 - 1446 (xviii) a radio receiver;
 - 1447 (xix) a radio transmitter;
 - 1448 (xx) a repeater;
 - 1449 (xxi) software;
 - 1450 (xxii) a terminal;
 - 1451 (xxiii) a timing unit;
 - 1452 (xxiv) a transformer;
 - 1453 (xxv) a wire; or

1454 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
1455 Subsections [~~(125)~~] (126)(b)(i) through (xxv) as determined by the commission by rule made in
1456 accordance with Subsection [~~(125)~~] (126)(c).

1457 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1458 commission may by rule define what constitutes equipment, machinery, or software that
1459 functions similarly to an item listed in Subsections [~~(125)~~] (126)(b)(i) through (xxv).

1460 [~~(126)~~] (127) (a) "Textbook for a higher education course" means a textbook or other
1461 printed material that is required for a course:

- 1462 (i) offered by an institution of higher education; and
- 1463 (ii) that the purchaser of the textbook or other printed material attends or will attend.

1464 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1465 [~~(127)~~] (128) "Tobacco" means:

- 1466 (a) a cigarette;
- 1467 (b) a cigar;
- 1468 (c) chewing tobacco;
- 1469 (d) pipe tobacco; or
- 1470 (e) any other item that contains tobacco.

1471 [~~(128)~~] (129) "Unassisted amusement device" means an amusement device, skill
1472 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
1473 operate the amusement device, skill device, or ride device.

1474 [~~(129)~~] (130) (a) "Use" means the exercise of any right or power over tangible personal
1475 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1476 incident to the ownership or the leasing of that tangible personal property, product transferred
1477 electronically, or service.

1478 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1479 property, a product transferred electronically, or a service in the regular course of business and
1480 held for resale.

1481 [~~(130)~~] (131) "Value-added nonvoice data service" means a service:

- 1482 (a) that otherwise meets the definition of a telecommunications service except that a
1483 computer processing application is used to act primarily for a purpose other than conveyance,
1484 routing, or transmission; and

1485 (b) with respect to which a computer processing application is used to act on data or
1486 information:

- 1487 (i) code;
- 1488 (ii) content;
- 1489 (iii) form; or
- 1490 (iv) protocol.

1491 ~~[(131)]~~ (132) (a) Subject to Subsection ~~[(131)]~~ (132)(b), "vehicle" means the following
1492 that are required to be titled, registered, or titled and registered:

- 1493 (i) an aircraft as defined in Section 72-10-102;
- 1494 (ii) a vehicle as defined in Section 41-1a-102;
- 1495 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1496 (iv) a vessel as defined in Section 41-1a-102.

1497 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1498 (i) a vehicle described in Subsection ~~[(131)]~~ (132)(a); or
- 1499 (ii) (A) a locomotive;
- 1500 (B) a freight car;
- 1501 (C) railroad work equipment; or
- 1502 (D) other railroad rolling stock.

1503 ~~[(132)]~~ (133) "Vehicle dealer" means a person engaged in the business of buying,
1504 selling, or exchanging a vehicle as defined in Subsection ~~[(131)]~~ (132).

1505 ~~[(133)]~~ (134) (a) "Vertical service" means an ancillary service that:

- 1506 (i) is offered in connection with one or more telecommunications services; and
- 1507 (ii) offers an advanced calling feature that allows a customer to:
 - 1508 (A) identify a caller; and
 - 1509 (B) manage multiple calls and call connections.

1510 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1511 conference bridging service.

1512 ~~[(134)]~~ (135) (a) "Voice mail service" means an ancillary service that enables a
1513 customer to receive, send, or store a recorded message.

1514 (b) "Voice mail service" does not include a vertical service that a customer is required
1515 to have in order to utilize a voice mail service.

1516 [~~(135)~~] (136) (a) Except as provided in Subsection [~~(135)~~] (136)(b), "waste energy
1517 facility" means a facility that generates electricity:

1518 (i) using as the primary source of energy waste materials that would be placed in a
1519 landfill or refuse pit if it were not used to generate electricity, including:

1520 (A) tires;

1521 (B) waste coal;

1522 (C) oil shale; or

1523 (D) municipal solid waste; and

1524 (ii) in amounts greater than actually required for the operation of the facility.

1525 (b) "Waste energy facility" does not include a facility that incinerates:

1526 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1527 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1528 [~~(136)~~] (137) "Watercraft" means a vessel as defined in Section 73-18-2.

1529 [~~(137)~~] (138) "Wind energy" means wind used as the sole source of energy to produce
1530 electricity.

1531 [~~(138)~~] (139) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
1532 geographic location by the United States Postal Service.

1533 Section 2. Section **59-12-102 (Effective 07/01/14)** is amended to read:

1534 **59-12-102 (Effective 07/01/14). Definitions.**

1535 As used in this chapter:

1536 (1) "800 service" means a telecommunications service that:

1537 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

1538 (b) is typically marketed:

1539 (i) under the name 800 toll-free calling;

1540 (ii) under the name 855 toll-free calling;

1541 (iii) under the name 866 toll-free calling;

1542 (iv) under the name 877 toll-free calling;

1543 (v) under the name 888 toll-free calling; or

1544 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
1545 Federal Communications Commission.

1546 (2) (a) "900 service" means an inbound toll telecommunications service that:

- 1547 (i) a subscriber purchases;
- 1548 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 1549 the subscriber's:
 - 1550 (A) prerecorded announcement; or
 - 1551 (B) live service; and
- 1552 (iii) is typically marketed:
 - 1553 (A) under the name 900 service; or
 - 1554 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
 - 1555 Communications Commission.
- 1556 (b) "900 service" does not include a charge for:
 - 1557 (i) a collection service a seller of a telecommunications service provides to a
 - 1558 subscriber; or
 - 1559 (ii) the following a subscriber sells to the subscriber's customer:
 - 1560 (A) a product; or
 - 1561 (B) a service.
- 1562 (3) (a) "Admission or user fees" includes season passes.
- 1563 (b) "Admission or user fees" does not include annual membership dues to private
- 1564 organizations.
- 1565 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 1566 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 1567 Agreement after November 12, 2002.
- 1568 (5) "Agreement combined tax rate" means the sum of the tax rates:
 - 1569 (a) listed under Subsection (6); and
 - 1570 (b) that are imposed within a local taxing jurisdiction.
- 1571 (6) "Agreement sales and use tax" means a tax imposed under:
 - 1572 (a) Subsection 59-12-103(2)(a)(i)(A);
 - 1573 (b) Subsection 59-12-103(2)(b)(i);
 - 1574 (c) Subsection 59-12-103(2)(c)(i);
 - 1575 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
 - 1576 (e) Section 59-12-204;
 - 1577 (f) Section 59-12-401;

- 1578 (g) Section 59-12-402;
- 1579 (h) Section 59-12-703;
- 1580 (i) Section 59-12-802;
- 1581 (j) Section 59-12-804;
- 1582 (k) Section 59-12-1102;
- 1583 (l) Section 59-12-1302;
- 1584 (m) Section 59-12-1402;
- 1585 (n) Section 59-12-1802;
- 1586 (o) Section 59-12-2003;
- 1587 (p) Section 59-12-2103;
- 1588 (q) Section 59-12-2213;
- 1589 (r) Section 59-12-2214;
- 1590 (s) Section 59-12-2215;
- 1591 (t) Section 59-12-2216;
- 1592 (u) Section 59-12-2217; or
- 1593 (v) Section 59-12-2218.
- 1594 (7) "Aircraft" is as defined in Section 72-10-102.
- 1595 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 1596 (a) except for:
- 1597 (i) an airline as defined in Section 59-2-102; or
- 1598 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 1599 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 1600 state, of an airline; and
- 1601 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 1602 whether the business entity performs the following in this state:
- 1603 (i) check, diagnose, overhaul, and repair:
- 1604 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 1605 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 1606 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 1607 engine;
- 1608 (iii) perform at least the following maintenance on a fixed wing turbine powered

- 1609 aircraft:
- 1610 (A) an inspection;
- 1611 (B) a repair, including a structural repair or modification;
- 1612 (C) changing landing gear; and
- 1613 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 1614 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 1615 completely apply new paint to the fixed wing turbine powered aircraft; and
- 1616 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 1617 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 1618 authority that certifies the fixed wing turbine powered aircraft.
- 1619 (9) "Alcoholic beverage" means a beverage that:
- 1620 (a) is suitable for human consumption; and
- 1621 (b) contains .5% or more alcohol by volume.
- 1622 (10) "Alternative energy" means:
- 1623 (a) biomass energy;
- 1624 (b) geothermal energy;
- 1625 (c) hydroelectric energy;
- 1626 (d) solar energy;
- 1627 (e) wind energy; or
- 1628 (f) energy that is derived from:
- 1629 (i) coal-to-liquids;
- 1630 (ii) nuclear fuel;
- 1631 (iii) oil-impregnated diatomaceous earth;
- 1632 (iv) oil sands;
- 1633 (v) oil shale; or
- 1634 (vi) petroleum coke.
- 1635 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 1636 facility" means a facility that:
- 1637 (i) uses alternative energy to produce electricity; and
- 1638 (ii) has a production capacity of 2 megawatts or greater.
- 1639 (b) A facility is an alternative energy electricity production facility regardless of

1640 whether the facility is:

1641 (i) connected to an electric grid; or

1642 (ii) located on the premises of an electricity consumer.

1643 (12) (a) "Ancillary service" means a service associated with, or incidental to, the

1644 provision of telecommunications service.

1645 (b) "Ancillary service" includes:

1646 (i) a conference bridging service;

1647 (ii) a detailed communications billing service;

1648 (iii) directory assistance;

1649 (iv) a vertical service; or

1650 (v) a voice mail service.

1651 (13) "Area agency on aging" is as defined in Section 62A-3-101.

1652 (14) "Assisted amusement device" means an amusement device, skill device, or ride
1653 device that is started and stopped by an individual:

1654 (a) who is not the purchaser or renter of the right to use or operate the amusement
1655 device, skill device, or ride device; and

1656 (b) at the direction of the seller of the right to use the amusement device, skill device,
1657 or ride device.

1658 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
1659 washing of tangible personal property if the cleaning or washing labor is primarily performed
1660 by an individual:

1661 (a) who is not the purchaser of the cleaning or washing of the tangible personal
1662 property; and

1663 (b) at the direction of the seller of the cleaning or washing of the tangible personal
1664 property.

1665 (16) "Authorized carrier" means:

1666 (a) in the case of vehicles operated over public highways, the holder of credentials
1667 indicating that the vehicle is or will be operated pursuant to both the International Registration
1668 Plan and the International Fuel Tax Agreement;

1669 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
1670 certificate or air carrier's operating certificate; or

1671 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
1672 stock, the holder of a certificate issued by the United States Surface Transportation Board.

1673 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
1674 following that is used as the primary source of energy to produce fuel or electricity:

1675 (i) material from a plant or tree; or

1676 (ii) other organic matter that is available on a renewable basis, including:

1677 (A) slash and brush from forests and woodlands;

1678 (B) animal waste;

1679 (C) methane produced:

1680 (I) at landfills; or

1681 (II) as a byproduct of the treatment of wastewater residuals;

1682 (D) aquatic plants; and

1683 (E) agricultural products.

1684 (b) "Biomass energy" does not include:

1685 (i) black liquor;

1686 (ii) treated woods; or

1687 (iii) biomass from municipal solid waste other than methane produced:

1688 (A) at landfills; or

1689 (B) as a byproduct of the treatment of wastewater residuals.

1690 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
1691 property, products, or services if the tangible personal property, products, or services are:

1692 (i) distinct and identifiable; and

1693 (ii) sold for one nonitemized price.

1694 (b) "Bundled transaction" does not include:

1695 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on

1696 the basis of the selection by the purchaser of the items of tangible personal property included in
1697 the transaction;

1698 (ii) the sale of real property;

1699 (iii) the sale of services to real property;

1700 (iv) the retail sale of tangible personal property and a service if:

1701 (A) the tangible personal property:

- 1702 (I) is essential to the use of the service; and
- 1703 (II) is provided exclusively in connection with the service; and
- 1704 (B) the service is the true object of the transaction;
- 1705 (v) the retail sale of two services if:
- 1706 (A) one service is provided that is essential to the use or receipt of a second service;
- 1707 (B) the first service is provided exclusively in connection with the second service; and
- 1708 (C) the second service is the true object of the transaction;
- 1709 (vi) a transaction that includes tangible personal property or a product subject to
- 1710 taxation under this chapter and tangible personal property or a product that is not subject to
- 1711 taxation under this chapter if the:
- 1712 (A) seller's purchase price of the tangible personal property or product subject to
- 1713 taxation under this chapter is de minimis; or
- 1714 (B) seller's sales price of the tangible personal property or product subject to taxation
- 1715 under this chapter is de minimis; and
- 1716 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 1717 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 1718 (A) that retail sale includes:
- 1719 (I) food and food ingredients;
- 1720 (II) a drug;
- 1721 (III) durable medical equipment;
- 1722 (IV) mobility enhancing equipment;
- 1723 (V) an over-the-counter drug;
- 1724 (VI) a prosthetic device; or
- 1725 (VII) a medical supply; and
- 1726 (B) subject to Subsection (18)(f):
- 1727 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 1728 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 1729 (II) the seller's sales price of the tangible personal property subject to taxation under
- 1730 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 1731 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
- 1732 service that is distinct and identifiable does not include:

- 1733 (A) packaging that:
- 1734 (I) accompanies the sale of the tangible personal property, product, or service; and
- 1735 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
- 1736 service;
- 1737 (B) tangible personal property, a product, or a service provided free of charge with the
- 1738 purchase of another item of tangible personal property, a product, or a service; or
- 1739 (C) an item of tangible personal property, a product, or a service included in the
- 1740 definition of "purchase price."
- 1741 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
- 1742 product, or a service is provided free of charge with the purchase of another item of tangible
- 1743 personal property, a product, or a service if the sales price of the purchased item of tangible
- 1744 personal property, product, or service does not vary depending on the inclusion of the tangible
- 1745 personal property, product, or service provided free of charge.
- 1746 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
- 1747 does not include a price that is separately identified by tangible personal property, product, or
- 1748 service on the following, regardless of whether the following is in paper format or electronic
- 1749 format:
- 1750 (A) a binding sales document; or
- 1751 (B) another supporting sales-related document that is available to a purchaser.
- 1752 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
- 1753 supporting sales-related document that is available to a purchaser includes:
- 1754 (A) a bill of sale;
- 1755 (B) a contract;
- 1756 (C) an invoice;
- 1757 (D) a lease agreement;
- 1758 (E) a periodic notice of rates and services;
- 1759 (F) a price list;
- 1760 (G) a rate card;
- 1761 (H) a receipt; or
- 1762 (I) a service agreement.
- 1763 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal

1764 property or a product subject to taxation under this chapter is de minimis if:

1765 (A) the seller's purchase price of the tangible personal property or product is 10% or
1766 less of the seller's total purchase price of the bundled transaction; or

1767 (B) the seller's sales price of the tangible personal property or product is 10% or less of
1768 the seller's total sales price of the bundled transaction.

1769 (ii) For purposes of Subsection (18)(b)(vi), a seller:

1770 (A) shall use the seller's purchase price or the seller's sales price to determine if the
1771 purchase price or sales price of the tangible personal property or product subject to taxation
1772 under this chapter is de minimis; and

1773 (B) may not use a combination of the seller's purchase price and the seller's sales price
1774 to determine if the purchase price or sales price of the tangible personal property or product
1775 subject to taxation under this chapter is de minimis.

1776 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
1777 contract to determine if the sales price of tangible personal property or a product is de minimis.

1778 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
1779 the seller's purchase price and the seller's sales price to determine if tangible personal property
1780 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
1781 price of that retail sale.

1782 (19) "Certified automated system" means software certified by the governing board of
1783 the agreement that:

1784 (a) calculates the agreement sales and use tax imposed within a local taxing
1785 jurisdiction:

1786 (i) on a transaction; and

1787 (ii) in the states that are members of the agreement;

1788 (b) determines the amount of agreement sales and use tax to remit to a state that is a
1789 member of the agreement; and

1790 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

1791 (20) "Certified service provider" means an agent certified:

1792 (a) by the governing board of the agreement; and

1793 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
1794 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's

1795 own purchases.

1796 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
1797 suitable for general use.

1798 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1799 commission shall make rules:

1800 (i) listing the items that constitute "clothing"; and

1801 (ii) that are consistent with the list of items that constitute "clothing" under the
1802 agreement.

1803 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

1804 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
1805 fuels that does not constitute industrial use under Subsection (51) or residential use under
1806 Subsection (101).

1807 (24) (a) "Common carrier" means a person engaged in or transacting the business of
1808 transporting passengers, freight, merchandise, or other property for hire within this state.

1809 (b) (i) "Common carrier" does not include a person who, at the time the person is
1810 traveling to or from that person's place of employment, transports a passenger to or from the
1811 passenger's place of employment.

1812 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
1813 Utah Administrative Rulemaking Act, the commission may make rules defining what
1814 constitutes a person's place of employment.

1815 (25) "Component part" includes:

1816 (a) poultry, dairy, and other livestock feed, and their components;

1817 (b) baling ties and twine used in the baling of hay and straw;

1818 (c) fuel used for providing temperature control of orchards and commercial
1819 greenhouses doing a majority of their business in wholesale sales, and for providing power for
1820 off-highway type farm machinery; and

1821 (d) feed, seeds, and seedlings.

1822 (26) "Computer" means an electronic device that accepts information:

1823 (a) (i) in digital form; or

1824 (ii) in a form similar to digital form; and

1825 (b) manipulates that information for a result based on a sequence of instructions.

- 1826 (27) "Computer software" means a set of coded instructions designed to cause:
1827 (a) a computer to perform a task; or
1828 (b) automatic data processing equipment to perform a task.
- 1829 (28) "Computer software maintenance contract" means a contract that obligates a seller
1830 of computer software to provide a customer with:
1831 (a) future updates or upgrades to computer software;
1832 (b) support services with respect to computer software; or
1833 (c) a combination of Subsections (28)(a) and (b).
- 1834 (29) (a) "Conference bridging service" means an ancillary service that links two or
1835 more participants of an audio conference call or video conference call.
1836 (b) "Conference bridging service" may include providing a telephone number as part of
1837 the ancillary service described in Subsection (29)(a).
1838 (c) "Conference bridging service" does not include a telecommunications service used
1839 to reach the ancillary service described in Subsection (29)(a).
- 1840 (30) "Construction materials" means any tangible personal property that will be
1841 converted into real property.
- 1842 (31) "Delivered electronically" means delivered to a purchaser by means other than
1843 tangible storage media.
- 1844 (32) (a) "Delivery charge" means a charge:
1845 (i) by a seller of:
1846 (A) tangible personal property;
1847 (B) a product transferred electronically; or
1848 (C) services; and
1849 (ii) for preparation and delivery of the tangible personal property, product transferred
1850 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
1851 purchaser.
- 1852 (b) "Delivery charge" includes a charge for the following:
1853 (i) transportation;
1854 (ii) shipping;
1855 (iii) postage;
1856 (iv) handling;

- 1857 (v) crating; or
- 1858 (vi) packing.
- 1859 (33) "Detailed telecommunications billing service" means an ancillary service of
- 1860 separately stating information pertaining to individual calls on a customer's billing statement.
- 1861 (34) "Dietary supplement" means a product, other than tobacco, that:
- 1862 (a) is intended to supplement the diet;
- 1863 (b) contains one or more of the following dietary ingredients:
- 1864 (i) a vitamin;
- 1865 (ii) a mineral;
- 1866 (iii) an herb or other botanical;
- 1867 (iv) an amino acid;
- 1868 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 1869 dietary intake; or
- 1870 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 1871 described in Subsections (34)(b)(i) through (v);
- 1872 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 1873 (A) tablet form;
- 1874 (B) capsule form;
- 1875 (C) powder form;
- 1876 (D) softgel form;
- 1877 (E) gelcap form; or
- 1878 (F) liquid form; or
- 1879 (ii) [~~notwithstanding Subsection (34)(c)(i),~~] if the product is not intended for ingestion
- 1880 in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:
- 1881 (A) as conventional food; and
- 1882 (B) for use as a sole item of:
- 1883 (I) a meal; or
- 1884 (II) the diet; and
- 1885 (d) is required to be labeled as a dietary supplement:
- 1886 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 1887 (ii) as required by 21 C.F.R. Sec. 101.36.

1888 (35) (a) "Direct mail" means printed material delivered or distributed by United States
1889 mail or other delivery service:

1890 (i) to:

1891 (A) a mass audience; or

1892 (B) addressees on a mailing list provided:

1893 (I) by a purchaser of the mailing list; or

1894 (II) at the discretion of the purchaser of the mailing list; and

1895 (ii) if the cost of the printed material is not billed directly to the recipients.

1896 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
1897 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

1898 (c) "Direct mail" does not include multiple items of printed material delivered to a
1899 single address.

1900 (36) "Directory assistance" means an ancillary service of providing:

1901 (a) address information; or

1902 (b) telephone number information.

1903 (37) (a) "Disposable home medical equipment or supplies" means medical equipment
1904 or supplies that:

1905 (i) cannot withstand repeated use; and

1906 (ii) are purchased by, for, or on behalf of a person other than:

1907 (A) a health care facility as defined in Section 26-21-2;

1908 (B) a health care provider as defined in Section 78B-3-403;

1909 (C) an office of a health care provider described in Subsection (37)(a)(ii)(B); or

1910 (D) a person similar to a person described in Subsections (37)(a)(ii)(A) through (C).

1911 (b) "Disposable home medical equipment or supplies" does not include:

1912 (i) a drug;

1913 (ii) durable medical equipment;

1914 (iii) a hearing aid;

1915 (iv) a hearing aid accessory;

1916 (v) mobility enhancing equipment; or

1917 (vi) tangible personal property used to correct impaired vision, including:

1918 (A) eyeglasses; or

- 1919 (B) contact lenses.
- 1920 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1921 commission may by rule define what constitutes medical equipment or supplies.
- 1922 (38) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 1923 compound, substance, or preparation that is:
 - 1924 (i) recognized in:
 - 1925 (A) the official United States Pharmacopoeia;
 - 1926 (B) the official Homeopathic Pharmacopoeia of the United States;
 - 1927 (C) the official National Formulary; or
 - 1928 (D) a supplement to a publication listed in Subsections (38)(a)(i)(A) through (C);
 - 1929 (ii) intended for use in the:
 - 1930 (A) diagnosis of disease;
 - 1931 (B) cure of disease;
 - 1932 (C) mitigation of disease;
 - 1933 (D) treatment of disease; or
 - 1934 (E) prevention of disease; or
 - 1935 (iii) intended to affect:
 - 1936 (A) the structure of the body; or
 - 1937 (B) any function of the body.
- 1938 (b) "Drug" does not include:
 - 1939 (i) food and food ingredients;
 - 1940 (ii) a dietary supplement;
 - 1941 (iii) an alcoholic beverage; or
 - 1942 (iv) a prosthetic device.
- 1943 (39) (a) Except as provided in Subsection (39)(c), "durable medical equipment" means
- 1944 equipment that:
 - 1945 (i) can withstand repeated use;
 - 1946 (ii) is primarily and customarily used to serve a medical purpose;
 - 1947 (iii) generally is not useful to a person in the absence of illness or injury; and
 - 1948 (iv) is not worn in or on the body.
- 1949 (b) "Durable medical equipment" includes parts used in the repair or replacement of the

1950 equipment described in Subsection (39)(a).

1951 (c) [~~Notwithstanding Subsection (39)(a), "durable"~~] "Durable medical equipment" does
1952 not include mobility enhancing equipment.

1953 (40) "Electronic" means:

1954 (a) relating to technology; and

1955 (b) having:

1956 (i) electrical capabilities;

1957 (ii) digital capabilities;

1958 (iii) magnetic capabilities;

1959 (iv) wireless capabilities;

1960 (v) optical capabilities;

1961 (vi) electromagnetic capabilities; or

1962 (vii) capabilities similar to Subsections (40)(b)(i) through (vi).

1963 (41) "Employee" is as defined in Section 59-10-401.

1964 (42) "Fixed guideway" means a public transit facility that uses and occupies:

1965 (a) rail for the use of public transit; or

1966 (b) a separate right-of-way for the use of public transit.

1967 (43) "Fixed wing turbine powered aircraft" means an aircraft that:

1968 (a) is powered by turbine engines;

1969 (b) operates on jet fuel; and

1970 (c) has wings that are permanently attached to the fuselage of the aircraft.

1971 (44) "Fixed wireless service" means a telecommunications service that provides radio
1972 communication between fixed points.

1973 (45) (a) "Food and food ingredients" means substances:

1974 (i) regardless of whether the substances are in:

1975 (A) liquid form;

1976 (B) concentrated form;

1977 (C) solid form;

1978 (D) frozen form;

1979 (E) dried form; or

1980 (F) dehydrated form; and

- 1981 (ii) that are:
- 1982 (A) sold for:
- 1983 (I) ingestion by humans; or
- 1984 (II) chewing by humans; and
- 1985 (B) consumed for the substance's:
- 1986 (I) taste; or
- 1987 (II) nutritional value.
- 1988 (b) "Food and food ingredients" includes an item described in Subsection (86)(b)(iii).
- 1989 (c) "Food and food ingredients" does not include:
- 1990 (i) an alcoholic beverage;
- 1991 (ii) tobacco; or
- 1992 (iii) prepared food.
- 1993 (46) (a) "Fundraising sales" means sales:
- 1994 (i) (A) made by a school; or
- 1995 (B) made by a school student;
- 1996 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 1997 materials, or provide transportation; and
- 1998 (iii) that are part of an officially sanctioned school activity.
- 1999 (b) For purposes of Subsection (46)(a)(iii), "officially sanctioned school activity"
- 2000 means a school activity:
- 2001 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 2002 district governing the authorization and supervision of fundraising activities;
- 2003 (ii) that does not directly or indirectly compensate an individual teacher or other
- 2004 educational personnel by direct payment, commissions, or payment in kind; and
- 2005 (iii) the net or gross revenues from which are deposited in a dedicated account
- 2006 controlled by the school or school district.
- 2007 (47) "Geothermal energy" means energy contained in heat that continuously flows
- 2008 outward from the earth that is used as the sole source of energy to produce electricity.
- 2009 (48) "Governing board of the agreement" means the governing board of the agreement
- 2010 that is:
- 2011 (a) authorized to administer the agreement; and

2012 (b) established in accordance with the agreement.

2013 (49) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

2014 (i) the executive branch of the state, including all departments, institutions, boards,

2015 divisions, bureaus, offices, commissions, and committees;

2016 (ii) the judicial branch of the state, including the courts, the Judicial Council, the

2017 Office of the Court Administrator, and similar administrative units in the judicial branch;

2018 (iii) the legislative branch of the state, including the House of Representatives, the

2019 Senate, the Legislative Printing Office, the Office of Legislative Research and General

2020 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal

2021 Analyst;

2022 (iv) the National Guard;

2023 (v) an independent entity as defined in Section 63E-1-102; or

2024 (vi) a political subdivision as defined in Section 17B-1-102.

2025 (b) "Governmental entity" does not include the state systems of public and higher

2026 education, including:

2027 (i) a college campus of the Utah College of Applied Technology;

2028 (ii) a school;

2029 (iii) the State Board of Education;

2030 (iv) the State Board of Regents; or

2031 (v) an institution of higher education.

2032 (50) "Hydroelectric energy" means water used as the sole source of energy to produce

2033 electricity.

2034 (51) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or

2035 other fuels:

2036 (a) in mining or extraction of minerals;

2037 (b) in agricultural operations to produce an agricultural product up to the time of

2038 harvest or placing the agricultural product into a storage facility, including:

2039 (i) commercial greenhouses;

2040 (ii) irrigation pumps;

2041 (iii) farm machinery;

2042 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not

2043 registered under Title 41, Chapter 1a, Part 2, Registration; and
2044 (v) other farming activities;
2045 (c) in manufacturing tangible personal property at an establishment described in SIC
2046 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
2047 Executive Office of the President, Office of Management and Budget;
2048 (d) by a scrap recycler if:
2049 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2050 one or more of the following items into prepared grades of processed materials for use in new
2051 products:
2052 (A) iron;
2053 (B) steel;
2054 (C) nonferrous metal;
2055 (D) paper;
2056 (E) glass;
2057 (F) plastic;
2058 (G) textile; or
2059 (H) rubber; and
2060 (ii) the new products under Subsection (51)(d)(i) would otherwise be made with
2061 nonrecycled materials; or
2062 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
2063 cogeneration facility as defined in Section 54-2-1.
2064 (52) (a) Except as provided in Subsection (52)(b), "installation charge" means a charge
2065 for installing:
2066 (i) tangible personal property; or
2067 (ii) a product transferred electronically.
2068 (b) "Installation charge" does not include a charge for:
2069 (i) repairs or renovations of:
2070 (A) tangible personal property; or
2071 (B) a product transferred electronically; or
2072 (ii) attaching tangible personal property or a product transferred electronically:
2073 (A) to other tangible personal property; and

2074 (B) as part of a manufacturing or fabrication process.
2075 (53) "Institution of higher education" means an institution of higher education listed in
2076 Section 53B-2-101.
2077 (54) (a) "Lease" or "rental" means a transfer of possession or control of tangible
2078 personal property or a product transferred electronically for:
2079 (i) (A) a fixed term; or
2080 (B) an indeterminate term; and
2081 (ii) consideration.
2082 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
2083 amount of consideration may be increased or decreased by reference to the amount realized
2084 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
2085 Code.
2086 (c) "Lease" or "rental" does not include:
2087 (i) a transfer of possession or control of property under a security agreement or
2088 deferred payment plan that requires the transfer of title upon completion of the required
2089 payments;
2090 (ii) a transfer of possession or control of property under an agreement that requires the
2091 transfer of title:
2092 (A) upon completion of required payments; and
2093 (B) if the payment of an option price does not exceed the greater of:
2094 (I) \$100; or
2095 (II) 1% of the total required payments; or
2096 (iii) providing tangible personal property along with an operator for a fixed period of
2097 time or an indeterminate period of time if the operator is necessary for equipment to perform as
2098 designed.
2099 (d) For purposes of Subsection (54)(c)(iii), an operator is necessary for equipment to
2100 perform as designed if the operator's duties exceed the:
2101 (i) set-up of tangible personal property;
2102 (ii) maintenance of tangible personal property; or
2103 (iii) inspection of tangible personal property.
2104 (55) "Life science establishment" means an establishment in this state that is classified

2105 under the following NAICS codes of the 2007 North American Industry Classification System
2106 of the federal Executive Office of the President, Office of Management and Budget:

2107 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

2108 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

2109 Manufacturing; or

2110 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

2111 (56) "Life science research and development facility" means a facility owned, leased,

2112 or rented by a life science establishment if research and development is performed in 51% or

2113 more of the total area of the facility.

2114 (57) "Load and leave" means delivery to a purchaser by use of a tangible storage media

2115 if the tangible storage media is not physically transferred to the purchaser.

2116 (58) "Local taxing jurisdiction" means a:

2117 (a) county that is authorized to impose an agreement sales and use tax;

2118 (b) city that is authorized to impose an agreement sales and use tax; or

2119 (c) town that is authorized to impose an agreement sales and use tax.

2120 (59) "Manufactured home" is as defined in Section 15A-1-302.

2121 (60) For purposes of Section 59-12-104, "manufacturing facility" means:

2122 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard

2123 Industrial Classification Manual of the federal Executive Office of the President, Office of

2124 Management and Budget;

2125 (b) a scrap recycler if:

2126 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

2127 one or more of the following items into prepared grades of processed materials for use in new

2128 products:

2129 (A) iron;

2130 (B) steel;

2131 (C) nonferrous metal;

2132 (D) paper;

2133 (E) glass;

2134 (F) plastic;

2135 (G) textile; or

- 2136 (H) rubber; and
- 2137 (ii) the new products under Subsection (60)(b)(i) would otherwise be made with
- 2138 nonrecycled materials; or
- 2139 (c) a cogeneration facility as defined in Section 54-2-1.
- 2140 (61) "Member of the immediate family of the producer" means a person who is related
- 2141 to a producer described in Subsection 59-12-104(20)(a) as a:
 - 2142 (a) child or stepchild, regardless of whether the child or stepchild is:
 - 2143 (i) an adopted child or adopted stepchild; or
 - 2144 (ii) a foster child or foster stepchild;
 - 2145 (b) grandchild or stepgrandchild;
 - 2146 (c) grandparent or stepgrandparent;
 - 2147 (d) nephew or stepnephew;
 - 2148 (e) niece or stepniece;
 - 2149 (f) parent or stepparent;
 - 2150 (g) sibling or stepsibling;
 - 2151 (h) spouse;
 - 2152 (i) person who is the spouse of a person described in Subsections (61)(a) through (g);
 - 2153 or
 - 2154 (j) person similar to a person described in Subsections (61)(a) through (i) as
 - 2155 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
 - 2156 Administrative Rulemaking Act.
- 2157 (62) "Mobile home" is as defined in Section 15A-1-302.
- 2158 (63) "Mobile telecommunications service" is as defined in the Mobile
- 2159 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 2160 (64) (a) "Mobile wireless service" means a telecommunications service, regardless of
- 2161 the technology used, if:
 - 2162 (i) the origination point of the conveyance, routing, or transmission is not fixed;
 - 2163 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
 - 2164 (iii) the origination point described in Subsection (64)(a)(i) and the termination point
 - 2165 described in Subsection (64)(a)(ii) are not fixed.
- 2166 (b) "Mobile wireless service" includes a telecommunications service that is provided

2167 by a commercial mobile radio service provider.

2168 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2169 commission may by rule define "commercial mobile radio service provider."

2170 (65) (a) Except as provided in Subsection (65)(c), "mobility enhancing equipment"
2171 means equipment that is:

2172 (i) primarily and customarily used to provide or increase the ability to move from one
2173 place to another;

2174 (ii) appropriate for use in a:

2175 (A) home; or

2176 (B) motor vehicle; and

2177 (iii) not generally used by persons with normal mobility.

2178 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
2179 the equipment described in Subsection (65)(a).

2180 (c) [~~Notwithstanding Subsection (65)(a), "mobility~~] "Mobility enhancing equipment"
2181 does not include:

2182 (i) a motor vehicle;

2183 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
2184 vehicle manufacturer;

2185 (iii) durable medical equipment; or

2186 (iv) a prosthetic device.

2187 (66) "Model 1 seller" means a seller registered under the agreement that has selected a
2188 certified service provider as the seller's agent to perform all of the seller's sales and use tax
2189 functions for agreement sales and use taxes other than the seller's obligation under Section
2190 59-12-124 to remit a tax on the seller's own purchases.

2191 (67) "Model 2 seller" means a seller registered under the agreement that:

2192 (a) except as provided in Subsection (67)(b), has selected a certified automated system
2193 to perform the seller's sales tax functions for agreement sales and use taxes; and

2194 (b) [~~notwithstanding Subsection (67)(a),~~] retains responsibility for remitting all of the
2195 sales tax:

2196 (i) collected by the seller; and

2197 (ii) to the appropriate local taxing jurisdiction.

2198 (68) (a) Subject to Subsection (68)(b), "model 3 seller" means a seller registered under
2199 the agreement that has:

2200 (i) sales in at least five states that are members of the agreement;

2201 (ii) total annual sales revenues of at least \$500,000,000;

2202 (iii) a proprietary system that calculates the amount of tax:

2203 (A) for an agreement sales and use tax; and

2204 (B) due to each local taxing jurisdiction; and

2205 (iv) entered into a performance agreement with the governing board of the agreement.

2206 (b) For purposes of Subsection (68)(a), "model 3 seller" includes an affiliated group of
2207 sellers using the same proprietary system.

2208 (69) "Model 4 seller" means a seller that is registered under the agreement and is not a
2209 model 1 seller, model 2 seller, or model 3 seller.

2210 (70) "Modular home" means a modular unit as defined in Section 15A-1-302.

2211 (71) "Motor vehicle" is as defined in Section 41-1a-102.

2212 (72) "Oil sands" means impregnated bituminous sands that:

2213 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
2214 other hydrocarbons, or otherwise treated;

2215 (b) yield mixtures of liquid hydrocarbon; and

2216 (c) require further processing other than mechanical blending before becoming finished
2217 petroleum products.

2218 (73) "Oil shale" means a group of fine black to dark brown shales containing kerogen
2219 material that yields petroleum upon heating and distillation.

2220 (74) "Optional computer software maintenance contract" means a computer software
2221 maintenance contract that a customer is not obligated to purchase as a condition to the retail
2222 sale of computer software.

2223 (75) (a) "Other fuels" means products that burn independently to produce heat or
2224 energy.

2225 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
2226 personal property.

2227 (76) (a) "Paging service" means a telecommunications service that provides
2228 transmission of a coded radio signal for the purpose of activating a specific pager.

- 2229 (b) For purposes of Subsection (76)(a), the transmission of a coded radio signal
- 2230 includes a transmission by message or sound.
- 2231 (77) "Pawnbroker" is as defined in Section 13-32a-102.
- 2232 (78) "Pawn transaction" is as defined in Section 13-32a-102.
- 2233 (79) (a) "Permanently attached to real property" means that for tangible personal
- 2234 property attached to real property:
- 2235 (i) the attachment of the tangible personal property to the real property:
- 2236 (A) is essential to the use of the tangible personal property; and
- 2237 (B) suggests that the tangible personal property will remain attached to the real
- 2238 property in the same place over the useful life of the tangible personal property; or
- 2239 (ii) if the tangible personal property is detached from the real property, the detachment
- 2240 would:
- 2241 (A) cause substantial damage to the tangible personal property; or
- 2242 (B) require substantial alteration or repair of the real property to which the tangible
- 2243 personal property is attached.
- 2244 (b) "Permanently attached to real property" includes:
- 2245 (i) the attachment of an accessory to the tangible personal property if the accessory is:
- 2246 (A) essential to the operation of the tangible personal property; and
- 2247 (B) attached only to facilitate the operation of the tangible personal property;
- 2248 (ii) a temporary detachment of tangible personal property from real property for a
- 2249 repair or renovation if the repair or renovation is performed where the tangible personal
- 2250 property and real property are located; or
- 2251 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
- 2252 Subsection (79)(c)(iii) or (iv).
- 2253 (c) "Permanently attached to real property" does not include:
- 2254 (i) the attachment of portable or movable tangible personal property to real property if
- 2255 that portable or movable tangible personal property is attached to real property only for:
- 2256 (A) convenience;
- 2257 (B) stability; or
- 2258 (C) for an obvious temporary purpose;
- 2259 (ii) the detachment of tangible personal property from real property except for the

2260 detachment described in Subsection (79)(b)(ii);

2261 (iii) an attachment of the following tangible personal property to real property if the

2262 attachment to real property is only through a line that supplies water, electricity, gas,

2263 telecommunications, cable, or supplies a similar item as determined by the commission by rule

2264 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

2265 (A) a computer;

2266 (B) a telephone;

2267 (C) a television; or

2268 (D) tangible personal property similar to Subsections (79)(c)(iii)(A) through (C) as

2269 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

2270 Administrative Rulemaking Act; or

2271 (iv) an item listed in Subsection [~~(117)~~] (119)(c).

2272 (80) "Person" includes any individual, firm, partnership, joint venture, association,

2273 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,

2274 municipality, district, or other local governmental entity of the state, or any group or

2275 combination acting as a unit.

2276 (81) "Place of primary use":

2277 (a) for telecommunications service other than mobile telecommunications service,

2278 means the street address representative of where the customer's use of the telecommunications

2279 service primarily occurs, which shall be:

2280 (i) the residential street address of the customer; or

2281 (ii) the primary business street address of the customer; or

2282 (b) for mobile telecommunications service, is as defined in the Mobile

2283 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2284 (82) (a) "Postpaid calling service" means a telecommunications service a person

2285 obtains by making a payment on a call-by-call basis:

2286 (i) through the use of a:

2287 (A) bank card;

2288 (B) credit card;

2289 (C) debit card; or

2290 (D) travel card; or

2291 (ii) by a charge made to a telephone number that is not associated with the origination
2292 or termination of the telecommunications service.

2293 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
2294 service, that would be a prepaid wireless calling service if the service were exclusively a
2295 telecommunications service.

2296 (83) "Postproduction" means an activity related to the finishing or duplication of a
2297 medium described in Subsection 59-12-104(54)(a).

2298 (84) "Prepaid calling service" means a telecommunications service:

2299 (a) that allows a purchaser access to telecommunications service that is exclusively
2300 telecommunications service;

2301 (b) that:

2302 (i) is paid for in advance; and

2303 (ii) enables the origination of a call using an:

2304 (A) access number; or

2305 (B) authorization code;

2306 (c) that is dialed:

2307 (i) manually; or

2308 (ii) electronically; and

2309 (d) sold in predetermined units or dollars that decline:

2310 (i) by a known amount; and

2311 (ii) with use.

2312 (85) "Prepaid wireless calling service" means a telecommunications service:

2313 (a) that provides the right to utilize:

2314 (i) mobile wireless service; and

2315 (ii) other service that is not a telecommunications service, including:

2316 (A) the download of a product transferred electronically;

2317 (B) a content service; or

2318 (C) an ancillary service;

2319 (b) that:

2320 (i) is paid for in advance; and

2321 (ii) enables the origination of a call using an:

- 2322 (A) access number; or
- 2323 (B) authorization code;
- 2324 (c) that is dialed:
- 2325 (i) manually; or
- 2326 (ii) electronically; and
- 2327 (d) sold in predetermined units or dollars that decline:
- 2328 (i) by a known amount; and
- 2329 (ii) with use.
- 2330 (86) (a) "Prepared food" means:
- 2331 (i) food:
- 2332 (A) sold in a heated state; or
- 2333 (B) heated by a seller;
- 2334 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 2335 item; or
- 2336 (iii) except as provided in Subsection (86)(c), food sold with an eating utensil provided
- 2337 by the seller, including a:
- 2338 (A) plate;
- 2339 (B) knife;
- 2340 (C) fork;
- 2341 (D) spoon;
- 2342 (E) glass;
- 2343 (F) cup;
- 2344 (G) napkin; or
- 2345 (H) straw.
- 2346 (b) "Prepared food" does not include:
- 2347 (i) food that a seller only:
- 2348 (A) cuts;
- 2349 (B) repackages; or
- 2350 (C) pasteurizes; or
- 2351 (ii) (A) the following:
- 2352 (I) raw egg;

- 2353 (II) raw fish;
- 2354 (III) raw meat;
- 2355 (IV) raw poultry; or
- 2356 (V) a food containing an item described in Subsections (86)(b)(ii)(A)(I) through (IV);
- 2357 and
- 2358 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 2359 Food and Drug Administration's Food Code that a consumer cook the items described in
- 2360 Subsection (86)(b)(ii)(A) to prevent food borne illness; or
- 2361 (iii) the following if sold without eating utensils provided by the seller:
- 2362 (A) food and food ingredients sold by a seller if the seller's proper primary
- 2363 classification under the 2002 North American Industry Classification System of the federal
- 2364 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 2365 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 2366 Manufacturing;
- 2367 (B) food and food ingredients sold in an unheated state:
- 2368 (I) by weight or volume; and
- 2369 (II) as a single item; or
- 2370 (C) a bakery item, including:
- 2371 (I) a bagel;
- 2372 (II) a bar;
- 2373 (III) a biscuit;
- 2374 (IV) bread;
- 2375 (V) a bun;
- 2376 (VI) a cake;
- 2377 (VII) a cookie;
- 2378 (VIII) a croissant;
- 2379 (IX) a danish;
- 2380 (X) a donut;
- 2381 (XI) a muffin;
- 2382 (XII) a pastry;
- 2383 (XIII) a pie;

2384 (XIV) a roll;

2385 (XV) a tart;

2386 (XVI) a torte; or

2387 (XVII) a tortilla.

2388 (c) ~~[Notwithstanding Subsection (86)(a)(iii), an]~~ An eating utensil provided by the

2389 seller does not include the following used to transport the food:

2390 (i) a container; or

2391 (ii) packaging.

2392 (87) "Prescription" means an order, formula, or recipe that is issued:

2393 (a) (i) orally;

2394 (ii) in writing;

2395 (iii) electronically; or

2396 (iv) by any other manner of transmission; and

2397 (b) by a licensed practitioner authorized by the laws of a state.

2398 (88) (a) Except as provided in Subsection (88)(b)(ii) or (iii), "prewritten computer

2399 software" means computer software that is not designed and developed:

2400 (i) by the author or other creator of the computer software; and

2401 (ii) to the specifications of a specific purchaser.

2402 (b) "Prewritten computer software" includes:

2403 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer

2404 software is not designed and developed:

2405 (A) by the author or other creator of the computer software; and

2406 (B) to the specifications of a specific purchaser;

2407 (ii) ~~[notwithstanding Subsection (88)(a);]~~ computer software designed and developed

2408 by the author or other creator of the computer software to the specifications of a specific

2409 purchaser if the computer software is sold to a person other than the purchaser; or

2410 (iii) ~~[notwithstanding Subsection (88)(a) and]~~ except as provided in Subsection (88)(c),

2411 prewritten computer software or a prewritten portion of prewritten computer software:

2412 (A) that is modified or enhanced to any degree; and

2413 (B) if the modification or enhancement described in Subsection (88)(b)(iii)(A) is

2414 designed and developed to the specifications of a specific purchaser.

2415 (c) [~~Notwithstanding Subsection (88)(b)(iii), "prewritten]~~ Prewritten computer
2416 software" does not include a modification or enhancement described in Subsection (88)(b)(iii)
2417 if the charges for the modification or enhancement are:

2418 (i) reasonable; and

2419 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
2420 invoice or other statement of price provided to the purchaser at the time of sale or later, as
2421 demonstrated by:

2422 (A) the books and records the seller keeps at the time of the transaction in the regular
2423 course of business, including books and records the seller keeps at the time of the transaction in
2424 the regular course of business for nontax purposes;

2425 (B) a preponderance of the facts and circumstances at the time of the transaction; and

2426 (C) the understanding of all of the parties to the transaction.

2427 (89) (a) "Private communication service" means a telecommunications service:

2428 (i) that entitles a customer to exclusive or priority use of one or more communications
2429 channels between or among termination points; and

2430 (ii) regardless of the manner in which the one or more communications channels are
2431 connected.

2432 (b) "Private communications service" includes the following provided in connection
2433 with the use of one or more communications channels:

2434 (i) an extension line;

2435 (ii) a station;

2436 (iii) switching capacity; or

2437 (iv) another associated service that is provided in connection with the use of one or
2438 more communications channels as defined in Section 59-12-215.

2439 (90) (a) Except as provided in Subsection (90)(b), "product transferred electronically"
2440 means a product transferred electronically that would be subject to a tax under this chapter if
2441 that product was transferred in a manner other than electronically.

2442 (b) "Product transferred electronically" does not include:

2443 (i) an ancillary service;

2444 (ii) computer software; or

2445 (iii) a telecommunications service.

- 2446 (91) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 2447 (i) artificially replace a missing portion of the body;
- 2448 (ii) prevent or correct a physical deformity or physical malfunction; or
- 2449 (iii) support a weak or deformed portion of the body.
- 2450 (b) "Prosthetic device" includes:
- 2451 (i) parts used in the repairs or renovation of a prosthetic device;
- 2452 (ii) replacement parts for a prosthetic device;
- 2453 (iii) a dental prosthesis; or
- 2454 (iv) a hearing aid.
- 2455 (c) "Prosthetic device" does not include:
- 2456 (i) corrective eyeglasses; or
- 2457 (ii) contact lenses.
- 2458 (92) (a) "Protective equipment" means an item:
- 2459 (i) for human wear; and
- 2460 (ii) that is:
- 2461 (A) designed as protection:
- 2462 (I) to the wearer against injury or disease; or
- 2463 (II) against damage or injury of other persons or property; and
- 2464 (B) not suitable for general use.
- 2465 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2466 commission shall make rules:
- 2467 (i) listing the items that constitute "protective equipment"; and
- 2468 (ii) that are consistent with the list of items that constitute "protective equipment"
- 2469 under the agreement.
- 2470 (93) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 2471 printed matter, other than a photocopy:
- 2472 (i) regardless of:
- 2473 (A) characteristics;
- 2474 (B) copyright;
- 2475 (C) form;
- 2476 (D) format;

2477 (E) method of reproduction; or
2478 (F) source; and
2479 (ii) made available in printed or electronic format.
2480 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2481 commission may by rule define the term "photocopy."
2482 (94) (a) "Purchase price" and "sales price" mean the total amount of consideration:
2483 (i) valued in money; and
2484 (ii) for which tangible personal property, a product transferred electronically, or
2485 services are:
2486 (A) sold;
2487 (B) leased; or
2488 (C) rented.
2489 (b) "Purchase price" and "sales price" include:
2490 (i) the seller's cost of the tangible personal property, a product transferred
2491 electronically, or services sold;
2492 (ii) expenses of the seller, including:
2493 (A) the cost of materials used;
2494 (B) a labor cost;
2495 (C) a service cost;
2496 (D) interest;
2497 (E) a loss;
2498 (F) the cost of transportation to the seller; or
2499 (G) a tax imposed on the seller;
2500 (iii) a charge by the seller for any service necessary to complete the sale; or
2501 (iv) consideration a seller receives from a person other than the purchaser if:
2502 (A) (I) the seller actually receives consideration from a person other than the purchaser;
2503 and
2504 (II) the consideration described in Subsection (94)(b)(iv)(A)(I) is directly related to a
2505 price reduction or discount on the sale;
2506 (B) the seller has an obligation to pass the price reduction or discount through to the
2507 purchaser;

2508 (C) the amount of the consideration attributable to the sale is fixed and determinable by
2509 the seller at the time of the sale to the purchaser; and

2510 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
2511 seller to claim a price reduction or discount; and

2512 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
2513 coupon, or other documentation with the understanding that the person other than the seller
2514 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

2515 (II) the purchaser identifies that purchaser to the seller as a member of a group or
2516 organization allowed a price reduction or discount, except that a preferred customer card that is
2517 available to any patron of a seller does not constitute membership in a group or organization
2518 allowed a price reduction or discount; or

2519 (III) the price reduction or discount is identified as a third party price reduction or
2520 discount on the:

2521 (Aa) invoice the purchaser receives; or

2522 (Bb) certificate, coupon, or other documentation the purchaser presents.

2523 (c) "Purchase price" and "sales price" do not include:

2524 (i) a discount:

2525 (A) in a form including:

2526 (I) cash;

2527 (II) term; or

2528 (III) coupon;

2529 (B) that is allowed by a seller;

2530 (C) taken by a purchaser on a sale; and

2531 (D) that is not reimbursed by a third party; or

2532 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
2533 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
2534 sale or later, as demonstrated by the books and records the seller keeps at the time of the
2535 transaction in the regular course of business, including books and records the seller keeps at the
2536 time of the transaction in the regular course of business for nontax purposes, by a
2537 preponderance of the facts and circumstances at the time of the transaction, and by the
2538 understanding of all of the parties to the transaction:

2539 (A) the following from credit extended on the sale of tangible personal property or
2540 services:

2541 (I) a carrying charge;

2542 (II) a financing charge; or

2543 (III) an interest charge;

2544 (B) a delivery charge;

2545 (C) an installation charge;

2546 (D) a manufacturer rebate on a motor vehicle; or

2547 (E) a tax or fee legally imposed directly on the consumer.

2548 (95) "Purchaser" means a person to whom:

2549 (a) a sale of tangible personal property is made;

2550 (b) a product is transferred electronically; or

2551 (c) a service is furnished.

2552 (96) "Regularly rented" means:

2553 (a) rented to a guest for value three or more times during a calendar year; or

2554 (b) advertised or held out to the public as a place that is regularly rented to guests for
2555 value.

2556 (97) "Rental" is as defined in Subsection (54).

2557 (98) (a) Except as provided in Subsection (98)(b), "repairs or renovations of tangible
2558 personal property" means:

2559 (i) a repair or renovation of tangible personal property that is not permanently attached
2560 to real property; or

2561 (ii) attaching tangible personal property or a product transferred electronically to other
2562 tangible personal property or detaching tangible personal property or a product transferred
2563 electronically from other tangible personal property if:

2564 (A) the other tangible personal property to which the tangible personal property or
2565 product transferred electronically is attached or from which the tangible personal property or
2566 product transferred electronically is detached is not permanently attached to real property; and

2567 (B) the attachment of tangible personal property or a product transferred electronically
2568 to other tangible personal property or detachment of tangible personal property or a product
2569 transferred electronically from other tangible personal property is made in conjunction with a

2570 repair or replacement of tangible personal property or a product transferred electronically.

2571 (b) "Repairs or renovations of tangible personal property" does not include:

2572 (i) attaching prewritten computer software to other tangible personal property if the
2573 other tangible personal property to which the prewritten computer software is attached is not
2574 permanently attached to real property; or

2575 (ii) detaching prewritten computer software from other tangible personal property if the
2576 other tangible personal property from which the prewritten computer software is detached is
2577 not permanently attached to real property.

2578 (99) "Research and development" means the process of inquiry or experimentation
2579 aimed at the discovery of facts, devices, technologies, or applications and the process of
2580 preparing those devices, technologies, or applications for marketing.

2581 (100) (a) "Residential telecommunications services" means a telecommunications
2582 service or an ancillary service that is provided to an individual for personal use:

2583 (i) at a residential address; or

2584 (ii) at an institution, including a nursing home or a school, if the telecommunications
2585 service or ancillary service is provided to and paid for by the individual residing at the
2586 institution rather than the institution.

2587 (b) For purposes of Subsection (100)(a)(i), a residential address includes an:

2588 (i) apartment; or

2589 (ii) other individual dwelling unit.

2590 (101) "Residential use" means the use in or around a home, apartment building,
2591 sleeping quarters, and similar facilities or accommodations.

2592 (102) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
2593 than:

2594 (a) resale;

2595 (b) sublease; or

2596 (c) subrent.

2597 (103) (a) "Retailer" means any person engaged in a regularly organized business in
2598 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
2599 who is selling to the user or consumer and not for resale.

2600 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly

2601 engaged in the business of selling to users or consumers within the state.

2602 (104) (a) "Sale" means any transfer of title, exchange, or barter, conditional or

2603 otherwise, in any manner, of tangible personal property or any other taxable transaction under

2604 Subsection 59-12-103(1), for consideration.

2605 (b) "Sale" includes:

2606 (i) installment and credit sales;

2607 (ii) any closed transaction constituting a sale;

2608 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this

2609 chapter;

2610 (iv) any transaction if the possession of property is transferred but the seller retains the

2611 title as security for the payment of the price; and

2612 (v) any transaction under which right to possession, operation, or use of any article of

2613 tangible personal property is granted under a lease or contract and the transfer of possession

2614 would be taxable if an outright sale were made.

2615 (105) "Sale at retail" is as defined in Subsection (102).

2616 (106) "Sale-leaseback transaction" means a transaction by which title to tangible

2617 personal property or a product transferred electronically that is subject to a tax under this

2618 chapter is transferred:

2619 (a) by a purchaser-lessee;

2620 (b) to a lessor;

2621 (c) for consideration; and

2622 (d) if:

2623 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase

2624 of the tangible personal property or product transferred electronically;

2625 (ii) the sale of the tangible personal property or product transferred electronically to the

2626 lessor is intended as a form of financing:

2627 (A) for the tangible personal property or product transferred electronically; and

2628 (B) to the purchaser-lessee; and

2629 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

2630 is required to:

2631 (A) capitalize the tangible personal property or product transferred electronically for

2632 financial reporting purposes; and
2633 (B) account for the lease payments as payments made under a financing arrangement.
2634 (107) "Sales price" is as defined in Subsection (94).
2635 (108) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
2636 amounts charged by a school:
2637 (i) sales that are directly related to the school's educational functions or activities
2638 including:
2639 (A) the sale of:
2640 (I) textbooks;
2641 (II) textbook fees;
2642 (III) laboratory fees;
2643 (IV) laboratory supplies; or
2644 (V) safety equipment;
2645 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
2646 that:
2647 (I) a student is specifically required to wear as a condition of participation in a
2648 school-related event or school-related activity; and
2649 (II) is not readily adaptable to general or continued usage to the extent that it takes the
2650 place of ordinary clothing;
2651 (C) sales of the following if the net or gross revenues generated by the sales are
2652 deposited into a school district fund or school fund dedicated to school meals:
2653 (I) food and food ingredients; or
2654 (II) prepared food; or
2655 (D) transportation charges for official school activities; or
2656 (ii) amounts paid to or amounts charged by a school for admission to a school-related
2657 event or school-related activity.
2658 (b) "Sales relating to schools" does not include:
2659 (i) bookstore sales of items that are not educational materials or supplies;
2660 (ii) except as provided in Subsection (108)(a)(i)(B):
2661 (A) clothing;
2662 (B) clothing accessories or equipment;

- 2663 (C) protective equipment; or
- 2664 (D) sports or recreational equipment; or
- 2665 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 2666 event or school-related activity if the amounts paid or charged are passed through to a person:
- 2667 (A) other than a:
- 2668 (I) school;
- 2669 (II) nonprofit organization authorized by a school board or a governing body of a
- 2670 private school to organize and direct a competitive secondary school activity; or
- 2671 (III) nonprofit association authorized by a school board or a governing body of a
- 2672 private school to organize and direct a competitive secondary school activity; and
- 2673 (B) that is required to collect sales and use taxes under this chapter.
- 2674 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2675 commission may make rules defining the term "passed through."
- 2676 (109) For purposes of this section and Section 59-12-104, "school":
- 2677 (a) means:
- 2678 (i) an elementary school or a secondary school that:
- 2679 (A) is a:
- 2680 (I) public school; or
- 2681 (II) private school; and
- 2682 (B) provides instruction for one or more grades kindergarten through 12; or
- 2683 (ii) a public school district; and
- 2684 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 2685 (110) "Seller" means a person that makes a sale, lease, or rental of:
- 2686 (a) tangible personal property;
- 2687 (b) a product transferred electronically; or
- 2688 (c) a service.
- 2689 (111) (a) "Semiconductor fabricating, processing, research, or development materials"
- 2690 means tangible personal property or a product transferred electronically if the tangible personal
- 2691 property or product transferred electronically is:
- 2692 (i) used primarily in the process of:
- 2693 (A) (I) manufacturing a semiconductor;

- 2694 (II) fabricating a semiconductor; or
- 2695 (III) research or development of a:
- 2696 (Aa) semiconductor; or
- 2697 (Bb) semiconductor manufacturing process; or
- 2698 (B) maintaining an environment suitable for a semiconductor; or
- 2699 (ii) consumed primarily in the process of:
- 2700 (A) (I) manufacturing a semiconductor;
- 2701 (II) fabricating a semiconductor; or
- 2702 (III) research or development of a:
- 2703 (Aa) semiconductor; or
- 2704 (Bb) semiconductor manufacturing process; or
- 2705 (B) maintaining an environment suitable for a semiconductor.
- 2706 (b) "Semiconductor fabricating, processing, research, or development materials"
- 2707 includes:
- 2708 (i) parts used in the repairs or renovations of tangible personal property or a product
- 2709 transferred electronically described in Subsection (111)(a); or
- 2710 (ii) a chemical, catalyst, or other material used to:
- 2711 (A) produce or induce in a semiconductor a:
- 2712 (I) chemical change; or
- 2713 (II) physical change;
- 2714 (B) remove impurities from a semiconductor; or
- 2715 (C) improve the marketable condition of a semiconductor.
- 2716 (112) "Senior citizen center" means a facility having the primary purpose of providing
- 2717 services to the aged as defined in Section 62A-3-101.
- 2718 (113) (a) Subject to Subsections (113)(b) and (c), "short-term lodging consumable"
- 2719 means tangible personal property that:
- 2720 (i) a business that provides accommodations and services described in Subsection
- 2721 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
- 2722 to a purchaser;
- 2723 (ii) is intended to be consumed by the purchaser; and
- 2724 (iii) is:

- 2725 (A) included in the purchase price of the accommodations and services; and
- 2726 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 2727 to the purchaser.
- 2728 (b) "Short-term lodging consumable" includes:
- 2729 (i) a beverage;
- 2730 (ii) a brush or comb;
- 2731 (iii) a cosmetic;
- 2732 (iv) a hair care product;
- 2733 (v) lotion;
- 2734 (vi) a magazine;
- 2735 (vii) makeup;
- 2736 (viii) a meal;
- 2737 (ix) mouthwash;
- 2738 (x) nail polish remover;
- 2739 (xi) a newspaper;
- 2740 (xii) a notepad;
- 2741 (xiii) a pen;
- 2742 (xiv) a pencil;
- 2743 (xv) a razor;
- 2744 (xvi) saline solution;
- 2745 (xvii) a sewing kit;
- 2746 (xviii) shaving cream;
- 2747 (xix) a shoe shine kit;
- 2748 (xx) a shower cap;
- 2749 (xxi) a snack item;
- 2750 (xxii) soap;
- 2751 (xxiii) toilet paper;
- 2752 (xxiv) a toothbrush;
- 2753 (xxv) toothpaste; or
- 2754 (xxvi) an item similar to Subsections (113)(b)(i) through (xxv) as the commission may
- 2755 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

2756 Rulemaking Act.

2757 (c) "Short-term lodging consumable" does not include:

2758 (i) tangible personal property that is cleaned or washed to allow the tangible personal
2759 property to be reused; or

2760 (ii) a product transferred electronically.

2761 [~~(113)~~] (114) "Simplified electronic return" means the electronic return:

2762 (a) described in Section 318(C) of the agreement; and

2763 (b) approved by the governing board of the agreement.

2764 [~~(114)~~] (115) "Solar energy" means the sun used as the sole source of energy for
2765 producing electricity.

2766 [~~(115)~~] (116) (a) "Sports or recreational equipment" means an item:

2767 (i) designed for human use; and

2768 (ii) that is:

2769 (A) worn in conjunction with:

2770 (I) an athletic activity; or

2771 (II) a recreational activity; and

2772 (B) not suitable for general use.

2773 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2774 commission shall make rules:

2775 (i) listing the items that constitute "sports or recreational equipment"; and

2776 (ii) that are consistent with the list of items that constitute "sports or recreational
2777 equipment" under the agreement.

2778 [~~(116)~~] (117) "State" means the state of Utah, its departments, and agencies.

2779 [~~(117)~~] (118) "Storage" means any keeping or retention of tangible personal property or
2780 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
2781 except sale in the regular course of business.

2782 [~~(118)~~] (119) (a) Except as provided in Subsection [~~(118)~~] (119)(d) or (e), "tangible
2783 personal property" means personal property that:

2784 (i) may be:

2785 (A) seen;

2786 (B) weighed;

- 2787 (C) measured;
- 2788 (D) felt; or
- 2789 (E) touched; or
- 2790 (ii) is in any manner perceptible to the senses.
- 2791 (b) "Tangible personal property" includes:
- 2792 (i) electricity;
- 2793 (ii) water;
- 2794 (iii) gas;
- 2795 (iv) steam; or
- 2796 (v) prewritten computer software, regardless of the manner in which the prewritten
- 2797 computer software is transferred.
- 2798 (c) "Tangible personal property" includes the following regardless of whether the item
- 2799 is attached to real property:
- 2800 (i) a dishwasher;
- 2801 (ii) a dryer;
- 2802 (iii) a freezer;
- 2803 (iv) a microwave;
- 2804 (v) a refrigerator;
- 2805 (vi) a stove;
- 2806 (vii) a washer; or
- 2807 (viii) an item similar to Subsections [~~(118)~~] (119)(c)(i) through (vii) as determined by
- 2808 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 2809 Rulemaking Act.
- 2810 (d) "Tangible personal property" does not include a product that is transferred
- 2811 electronically.
- 2812 (e) "Tangible personal property" does not include the following if attached to real
- 2813 property, regardless of whether the attachment to real property is only through a line that
- 2814 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 2815 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 2816 Rulemaking Act:
- 2817 (i) a hot water heater;

2818 (ii) a water filtration system; or

2819 (iii) a water softener system.

2820 [~~(119)~~] (120) (a) "Telecommunications enabling or facilitating equipment, machinery,

2821 or software" means an item listed in Subsection [~~(119)~~] (120)(b) if that item is purchased or

2822 leased primarily to enable or facilitate one or more of the following to function:

2823 (i) telecommunications switching or routing equipment, machinery, or software; or

2824 (ii) telecommunications transmission equipment, machinery, or software.

2825 (b) The following apply to Subsection [~~(119)~~] (120)(a):

2826 (i) a pole;

2827 (ii) software;

2828 (iii) a supplementary power supply;

2829 (iv) temperature or environmental equipment or machinery;

2830 (v) test equipment;

2831 (vi) a tower; or

2832 (vii) equipment, machinery, or software that functions similarly to an item listed in

2833 Subsections [~~(119)~~] (120)(b)(i) through (vi) as determined by the commission by rule made in

2834 accordance with Subsection [~~(119)~~] (120)(c).

2835 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2836 commission may by rule define what constitutes equipment, machinery, or software that

2837 functions similarly to an item listed in Subsections [~~(119)~~] (120)(b)(i) through (vi).

2838 [~~(120)~~] (121) "Telecommunications equipment, machinery, or software required for

2839 911 service" means equipment, machinery, or software that is required to comply with 47

2840 C.F.R. Sec. 20.18.

2841 [~~(121)~~] (122) "Telecommunications maintenance or repair equipment, machinery, or

2842 software" means equipment, machinery, or software purchased or leased primarily to maintain

2843 or repair one or more of the following, regardless of whether the equipment, machinery, or

2844 software is purchased or leased as a spare part or as an upgrade or modification to one or more

2845 of the following:

2846 (a) telecommunications enabling or facilitating equipment, machinery, or software;

2847 (b) telecommunications switching or routing equipment, machinery, or software; or

2848 (c) telecommunications transmission equipment, machinery, or software.

2849 [~~(122)~~] (123) (a) "Telecommunications service" means the electronic conveyance,
2850 routing, or transmission of audio, data, video, voice, or any other information or signal to a
2851 point, or among or between points.

2852 (b) "Telecommunications service" includes:

2853 (i) an electronic conveyance, routing, or transmission with respect to which a computer
2854 processing application is used to act:

2855 (A) on the code, form, or protocol of the content;

2856 (B) for the purpose of electronic conveyance, routing, or transmission; and

2857 (C) regardless of whether the service:

2858 (I) is referred to as voice over Internet protocol service; or

2859 (II) is classified by the Federal Communications Commission as enhanced or value
2860 added;

2861 (ii) an 800 service;

2862 (iii) a 900 service;

2863 (iv) a fixed wireless service;

2864 (v) a mobile wireless service;

2865 (vi) a postpaid calling service;

2866 (vii) a prepaid calling service;

2867 (viii) a prepaid wireless calling service; or

2868 (ix) a private communications service.

2869 (c) "Telecommunications service" does not include:

2870 (i) advertising, including directory advertising;

2871 (ii) an ancillary service;

2872 (iii) a billing and collection service provided to a third party;

2873 (iv) a data processing and information service if:

2874 (A) the data processing and information service allows data to be:

2875 (I) (Aa) acquired;

2876 (Bb) generated;

2877 (Cc) processed;

2878 (Dd) retrieved; or

2879 (Ee) stored; and

- 2880 (II) delivered by an electronic transmission to a purchaser; and
- 2881 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 2882 or information;
- 2883 (v) installation or maintenance of the following on a customer's premises:
- 2884 (A) equipment; or
- 2885 (B) wiring;
- 2886 (vi) Internet access service;
- 2887 (vii) a paging service;
- 2888 (viii) a product transferred electronically, including:
- 2889 (A) music;
- 2890 (B) reading material;
- 2891 (C) a ring tone;
- 2892 (D) software; or
- 2893 (E) video;
- 2894 (ix) a radio and television audio and video programming service:
- 2895 (A) regardless of the medium; and
- 2896 (B) including:
- 2897 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 2898 programming service by a programming service provider;
- 2899 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 2900 (III) audio and video programming services delivered by a commercial mobile radio
- 2901 service provider as defined in 47 C.F.R. Sec. 20.3;
- 2902 (x) a value-added nonvoice data service; or
- 2903 (xi) tangible personal property.
- 2904 [~~(123)~~] (124) (a) "Telecommunications service provider" means a person that:
- 2905 (i) owns, controls, operates, or manages a telecommunications service; and
- 2906 (ii) engages in an activity described in Subsection [~~(123)~~] (124)(a)(i) for the shared use
- 2907 with or resale to any person of the telecommunications service.
- 2908 (b) A person described in Subsection [~~(123)~~] (124)(a) is a telecommunications service
- 2909 provider whether or not the Public Service Commission of Utah regulates:
- 2910 (i) that person; or

2911 (ii) the telecommunications service that the person owns, controls, operates, or
2912 manages.

2913 [~~(124)~~] (125) (a) "Telecommunications switching or routing equipment, machinery, or
2914 software" means an item listed in Subsection [~~(124)~~] (125)(b) if that item is purchased or
2915 leased primarily for switching or routing:

- 2916 (i) an ancillary service;
- 2917 (ii) data communications;
- 2918 (iii) voice communications; or
- 2919 (iv) telecommunications service.

2920 (b) The following apply to Subsection [~~(124)~~] (125)(a):

- 2921 (i) a bridge;
- 2922 (ii) a computer;
- 2923 (iii) a cross connect;
- 2924 (iv) a modem;
- 2925 (v) a multiplexer;
- 2926 (vi) plug in circuitry;
- 2927 (vii) a router;
- 2928 (viii) software;
- 2929 (ix) a switch; or
- 2930 (x) equipment, machinery, or software that functions similarly to an item listed in

2931 Subsections [~~(124)~~] (125)(b)(i) through (ix) as determined by the commission by rule made in
2932 accordance with Subsection [~~(124)~~] (125)(c).

2933 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2934 commission may by rule define what constitutes equipment, machinery, or software that
2935 functions similarly to an item listed in Subsections [~~(124)~~] (125)(b)(i) through (ix).

2936 [~~(125)~~] (126) (a) "Telecommunications transmission equipment, machinery, or
2937 software" means an item listed in Subsection [~~(125)~~] (126)(b) if that item is purchased or
2938 leased primarily for sending, receiving, or transporting:

- 2939 (i) an ancillary service;
- 2940 (ii) data communications;
- 2941 (iii) voice communications; or

- 2942 (iv) telecommunications service.
- 2943 (b) The following apply to Subsection [~~(125)~~] (126)(a):
- 2944 (i) an amplifier;
- 2945 (ii) a cable;
- 2946 (iii) a closure;
- 2947 (iv) a conduit;
- 2948 (v) a controller;
- 2949 (vi) a duplexer;
- 2950 (vii) a filter;
- 2951 (viii) an input device;
- 2952 (ix) an input/output device;
- 2953 (x) an insulator;
- 2954 (xi) microwave machinery or equipment;
- 2955 (xii) an oscillator;
- 2956 (xiii) an output device;
- 2957 (xiv) a pedestal;
- 2958 (xv) a power converter;
- 2959 (xvi) a power supply;
- 2960 (xvii) a radio channel;
- 2961 (xviii) a radio receiver;
- 2962 (xix) a radio transmitter;
- 2963 (xx) a repeater;
- 2964 (xxi) software;
- 2965 (xxii) a terminal;
- 2966 (xxiii) a timing unit;
- 2967 (xxiv) a transformer;
- 2968 (xxv) a wire; or
- 2969 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 2970 Subsections [~~(125)~~] (126)(b)(i) through (xxv) as determined by the commission by rule made in
- 2971 accordance with Subsection [~~(125)~~] (126)(c).
- 2972 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2973 commission may by rule define what constitutes equipment, machinery, or software that
2974 functions similarly to an item listed in Subsections ~~[(125)]~~ (126)(b)(i) through (xxv).

2975 ~~[(126)]~~ (127) (a) "Textbook for a higher education course" means a textbook or other
2976 printed material that is required for a course:

2977 (i) offered by an institution of higher education; and

2978 (ii) that the purchaser of the textbook or other printed material attends or will attend.

2979 (b) "Textbook for a higher education course" includes a textbook in electronic format.

2980 ~~[(127)]~~ (128) "Tobacco" means:

2981 (a) a cigarette;

2982 (b) a cigar;

2983 (c) chewing tobacco;

2984 (d) pipe tobacco; or

2985 (e) any other item that contains tobacco.

2986 ~~[(128)]~~ (129) "Unassisted amusement device" means an amusement device, skill

2987 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
2988 operate the amusement device, skill device, or ride device.

2989 ~~[(129)]~~ (130) (a) "Use" means the exercise of any right or power over tangible personal
2990 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
2991 incident to the ownership or the leasing of that tangible personal property, product transferred
2992 electronically, or service.

2993 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
2994 property, a product transferred electronically, or a service in the regular course of business and
2995 held for resale.

2996 ~~[(130)]~~ (131) "Value-added nonvoice data service" means a service:

2997 (a) that otherwise meets the definition of a telecommunications service except that a
2998 computer processing application is used to act primarily for a purpose other than conveyance,
2999 routing, or transmission; and

3000 (b) with respect to which a computer processing application is used to act on data or
3001 information:

3002 (i) code;

3003 (ii) content;

3004 (iii) form; or

3005 (iv) protocol.

3006 [~~(131)~~] (132) (a) Subject to Subsection [~~(131)~~] (132)(b), "vehicle" means the following
3007 that are required to be titled, registered, or titled and registered:

3008 (i) an aircraft as defined in Section 72-10-102;

3009 (ii) a vehicle as defined in Section 41-1a-102;

3010 (iii) an off-highway vehicle as defined in Section 41-22-2; or

3011 (iv) a vessel as defined in Section 41-1a-102.

3012 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

3013 (i) a vehicle described in Subsection [~~(131)~~] (132)(a); or

3014 (ii) (A) a locomotive;

3015 (B) a freight car;

3016 (C) railroad work equipment; or

3017 (D) other railroad rolling stock.

3018 [~~(132)~~] (133) "Vehicle dealer" means a person engaged in the business of buying,
3019 selling, or exchanging a vehicle as defined in Subsection [~~(131)~~] (132).

3020 [~~(133)~~] (134) (a) "Vertical service" means an ancillary service that:

3021 (i) is offered in connection with one or more telecommunications services; and

3022 (ii) offers an advanced calling feature that allows a customer to:

3023 (A) identify a caller; and

3024 (B) manage multiple calls and call connections.

3025 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
3026 conference bridging service.

3027 [~~(134)~~] (135) (a) "Voice mail service" means an ancillary service that enables a
3028 customer to receive, send, or store a recorded message.

3029 (b) "Voice mail service" does not include a vertical service that a customer is required
3030 to have in order to utilize a voice mail service.

3031 [~~(135)~~] (136) (a) Except as provided in Subsection [~~(135)~~] (136)(b), "waste energy
3032 facility" means a facility that generates electricity:

3033 (i) using as the primary source of energy waste materials that would be placed in a
3034 landfill or refuse pit if it were not used to generate electricity, including:

- 3035 (A) tires;
- 3036 (B) waste coal;
- 3037 (C) oil shale; or
- 3038 (D) municipal solid waste; and
- 3039 (ii) in amounts greater than actually required for the operation of the facility.
- 3040 (b) "Waste energy facility" does not include a facility that incinerates:
- 3041 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 3042 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 3043 [~~136~~] (137) "Watercraft" means a vessel as defined in Section 73-18-2.
- 3044 [~~137~~] (138) "Wind energy" means wind used as the sole source of energy to produce
- 3045 electricity.
- 3046 [~~138~~] (139) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
- 3047 geographic location by the United States Postal Service.
- 3048 Section 3. Section **59-12-104** is amended to read:
- 3049 **59-12-104. Exemptions.**
- 3050 The following sales and uses are exempt from the taxes imposed by this chapter:
- 3051 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
- 3052 under Chapter 13, Motor and Special Fuel Tax Act;
- 3053 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
- 3054 subdivisions; however, this exemption does not apply to sales of:
- 3055 (a) construction materials except:
- 3056 (i) construction materials purchased by or on behalf of institutions of the public
- 3057 education system as defined in Utah Constitution Article X, Section 2, provided the
- 3058 construction materials are clearly identified and segregated and installed or converted to real
- 3059 property which is owned by institutions of the public education system; and
- 3060 (ii) construction materials purchased by the state, its institutions, or its political
- 3061 subdivisions which are installed or converted to real property by employees of the state, its
- 3062 institutions, or its political subdivisions; or
- 3063 (b) tangible personal property in connection with the construction, operation,
- 3064 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
- 3065 providing additional project capacity, as defined in Section 11-13-103;

- 3066 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
- 3067 (i) the proceeds of each sale do not exceed \$1; and
- 3068 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
- 3069 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 3070 (b) Subsection (3)(a) applies to:
- 3071 (i) food and food ingredients; or
- 3072 (ii) prepared food;
- 3073 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
- 3074 (i) alcoholic beverages;
- 3075 (ii) food and food ingredients; or
- 3076 (iii) prepared food;
- 3077 (b) sales of tangible personal property or a product transferred electronically:
- 3078 (i) to a passenger;
- 3079 (ii) by a commercial airline carrier; and
- 3080 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 3081 (c) services related to Subsection (4)(a) or (b);
- 3082 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
- 3083 and equipment:
- 3084 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
- 3085 North American Industry Classification System of the federal Executive Office of the
- 3086 President, Office of Management and Budget; and
- 3087 (II) for:
- 3088 (Aa) installation in an aircraft, including services relating to the installation of parts or
- 3089 equipment in the aircraft;
- 3090 (Bb) renovation of an aircraft; or
- 3091 (Cc) repair of an aircraft; or
- 3092 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
- 3093 commerce; or
- 3094 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
- 3095 aircraft operated by a common carrier in interstate or foreign commerce; and
- 3096 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,

3097 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
3098 refund:

3099 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

3100 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

3101 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
3102 the sale prior to filing for the refund;

3103 (iv) for sales and use taxes paid under this chapter on the sale;

3104 (v) in accordance with Section 59-1-1410; and

3105 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
3106 the person files for the refund on or before September 30, 2011;

3107 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
3108 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
3109 exhibitor, distributor, or commercial television or radio broadcaster;

3110 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
3111 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
3112 washing of tangible personal property;

3113 (b) if a seller that sells at the same business location assisted cleaning or washing of
3114 tangible personal property and cleaning or washing of tangible personal property that is not
3115 assisted cleaning or washing of tangible personal property, the exemption described in
3116 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
3117 or washing of the tangible personal property; and

3118 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
3119 Utah Administrative Rulemaking Act, the commission may make rules:

3120 (i) governing the circumstances under which sales are at the same business location;
3121 and

3122 (ii) establishing the procedures and requirements for a seller to separately account for
3123 sales of assisted cleaning or washing of tangible personal property;

3124 (8) sales made to or by religious or charitable institutions in the conduct of their regular
3125 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
3126 fulfilled;

3127 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of

3128 this state if the vehicle is:

3129 (a) not registered in this state; and

3130 (b) (i) not used in this state; or

3131 (ii) used in this state:

3132 (A) if the vehicle is not used to conduct business, for a time period that does not

3133 exceed the longer of:

3134 (I) 30 days in any calendar year; or

3135 (II) the time period necessary to transport the vehicle to the borders of this state; or

3136 (B) if the vehicle is used to conduct business, for the time period necessary to transport

3137 the vehicle to the borders of this state;

3138 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

3139 (i) the item is intended for human use; and

3140 (ii) (A) a prescription was issued for the item; or

3141 (B) the item was purchased by a hospital or other medical facility; and

3142 (b) (i) Subsection (10)(a) applies to:

3143 (A) a drug;

3144 (B) a syringe; or

3145 (C) a stoma supply; and

3146 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3147 commission may by rule define the terms:

3148 (A) "syringe"; or

3149 (B) "stoma supply";

3150 (11) sales or use of property, materials, or services used in the construction of or

3151 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

3152 (12) (a) sales of an item described in Subsection (12)(c) served by:

3153 (i) the following if the item described in Subsection (12)(c) is not available to the

3154 general public:

3155 (A) a church; or

3156 (B) a charitable institution;

3157 (ii) an institution of higher education if:

3158 (A) the item described in Subsection (12)(c) is not available to the general public; or

3159 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
3160 offered by the institution of higher education; or
3161 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
3162 (i) a medical facility; or
3163 (ii) a nursing facility; and
3164 (c) Subsections (12)(a) and (b) apply to:
3165 (i) food and food ingredients;
3166 (ii) prepared food; or
3167 (iii) alcoholic beverages;
3168 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
3169 or a product transferred electronically by a person:
3170 (i) regardless of the number of transactions involving the sale of that tangible personal
3171 property or product transferred electronically by that person; and
3172 (ii) not regularly engaged in the business of selling that type of tangible personal
3173 property or product transferred electronically;
3174 (b) this Subsection (13) does not apply if:
3175 (i) the sale is one of a series of sales of a character to indicate that the person is
3176 regularly engaged in the business of selling that type of tangible personal property or product
3177 transferred electronically;
3178 (ii) the person holds that person out as regularly engaged in the business of selling that
3179 type of tangible personal property or product transferred electronically;
3180 (iii) the person sells an item of tangible personal property or product transferred
3181 electronically that the person purchased as a sale that is exempt under Subsection (25); or
3182 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
3183 this state in which case the tax is based upon:
3184 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
3185 sold; or
3186 (B) in the absence of a bill of sale or other written evidence of value, the fair market
3187 value of the vehicle or vessel being sold at the time of the sale as determined by the
3188 commission; and
3189 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3190 commission shall make rules establishing the circumstances under which:

3191 (i) a person is regularly engaged in the business of selling a type of tangible personal
3192 property or product transferred electronically;

3193 (ii) a sale of tangible personal property or a product transferred electronically is one of
3194 a series of sales of a character to indicate that a person is regularly engaged in the business of
3195 selling that type of tangible personal property or product transferred electronically; or

3196 (iii) a person holds that person out as regularly engaged in the business of selling a type
3197 of tangible personal property or product transferred electronically;

3198 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
3199 July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration
3200 facility, of the following:

3201 (i) machinery and equipment that:

3202 (A) are used:

3203 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
3204 recycler described in Subsection 59-12-102(60)(b):

3205 (Aa) in the manufacturing process;

3206 (Bb) to manufacture an item sold as tangible personal property; and

3207 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
3208 (14)(a)(i)(A)(I) in the state; or

3209 (II) for a manufacturing facility that is a scrap recycler described in Subsection
3210 59-12-102(60)(b):

3211 (Aa) to process an item sold as tangible personal property; and

3212 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
3213 (14)(a)(i)(A)(II) in the state; and

3214 (B) have an economic life of three or more years; and

3215 (ii) normal operating repair or replacement parts that:

3216 (A) have an economic life of three or more years; and

3217 (B) are used:

3218 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
3219 recycler described in Subsection 59-12-102(60)(b):

3220 (Aa) in the manufacturing process; and

3221 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
3222 state; or
3223 (II) for a manufacturing facility that is a scrap recycler described in Subsection
3224 59-12-102(60)(b):
3225 (Aa) to process an item sold as tangible personal property; and
3226 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
3227 state;
3228 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
3229 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
3230 of the following:
3231 (i) machinery and equipment that:
3232 (A) are used:
3233 (I) in the manufacturing process;
3234 (II) to manufacture an item sold as tangible personal property; and
3235 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
3236 (14)(b) in the state; and
3237 (B) have an economic life of three or more years; and
3238 (ii) normal operating repair or replacement parts that:
3239 (A) are used:
3240 (I) in the manufacturing process; and
3241 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and
3242 (B) have an economic life of three or more years;
3243 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
3244 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
3245 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
3246 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
3247 of the 2002 North American Industry Classification System of the federal Executive Office of
3248 the President, Office of Management and Budget, of the following:
3249 (i) machinery and equipment that:
3250 (A) are used:
3251 (I) (Aa) in the production process, other than the production of real property; or

3252 (Bb) in research and development; and
3253 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)
3254 in the state; and
3255 (B) have an economic life of three or more years; and
3256 (ii) normal operating repair or replacement parts that:
3257 (A) have an economic life of three or more years; and
3258 (B) are used in:
3259 (I) (Aa) the production process, except for the production of real property; and
3260 (Bb) an establishment described in this Subsection (14)(c) in the state; or
3261 (II) (Aa) research and development; and
3262 (Bb) in an establishment described in this Subsection (14)(c) in the state;
3263 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,
3264 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web
3265 Search Portals, of the 2002 North American Industry Classification System of the federal
3266 Executive Office of the President, Office of Management and Budget, of the following:
3267 (A) machinery and equipment that:
3268 (I) are used in the operation of the web search portal;
3269 (II) have an economic life of three or more years; and
3270 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
3271 in the state; and
3272 (B) normal operating repair or replacement parts that:
3273 (I) are used in the operation of the web search portal;
3274 (II) have an economic life of three or more years; and
3275 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
3276 in the state; or
3277 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by
3278 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North
3279 American Industry Classification System of the federal Executive Office of the President,
3280 Office of Management and Budget, of the following:
3281 (A) machinery and equipment that:
3282 (I) are used in the operation of the web search portal; and

3283 (II) have an economic life of three or more years; and
3284 (B) normal operating repair or replacement parts that:
3285 (I) are used in the operation of the web search portal; and
3286 (II) have an economic life of three or more years;
3287 (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
3288 Utah Administrative Rulemaking Act, the commission:
3289 (i) shall by rule define the term "establishment"; and
3290 (ii) may by rule define what constitutes:
3291 (A) processing an item sold as tangible personal property;
3292 (B) the production process, except for the production of real property;
3293 (C) research and development; or
3294 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and
3295 (f) on or before October 1, 2011, and every five years after October 1, 2011, the
3296 commission shall:
3297 (i) review the exemptions described in this Subsection (14) and make
3298 recommendations to the Revenue and Taxation Interim Committee concerning whether the
3299 exemptions should be continued, modified, or repealed; and
3300 (ii) include in its report:
3301 (A) an estimate of the cost of the exemptions;
3302 (B) the purpose and effectiveness of the exemptions; and
3303 (C) the benefits of the exemptions to the state;
3304 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
3305 (i) tooling;
3306 (ii) special tooling;
3307 (iii) support equipment;
3308 (iv) special test equipment; or
3309 (v) parts used in the repairs or renovations of tooling or equipment described in
3310 Subsections (15)(a)(i) through (iv); and
3311 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
3312 (i) the tooling, equipment, or parts are used or consumed exclusively in the
3313 performance of any aerospace or electronics industry contract with the United States

3314 government or any subcontract under that contract; and
3315 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
3316 title to the tooling, equipment, or parts is vested in the United States government as evidenced
3317 by:
3318 (A) a government identification tag placed on the tooling, equipment, or parts; or
3319 (B) listing on a government-approved property record if placing a government
3320 identification tag on the tooling, equipment, or parts is impractical;
3321 (16) sales of newspapers or newspaper subscriptions;
3322 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
3323 product transferred electronically traded in as full or part payment of the purchase price, except
3324 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
3325 trade-ins are limited to other vehicles only, and the tax is based upon:
3326 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
3327 vehicle being traded in; or
3328 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
3329 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
3330 commission; and
3331 (b) [~~notwithstanding Subsection (17)(a),~~] Subsection (17)(a) does not apply to the
3332 following items of tangible personal property or products transferred electronically traded in as
3333 full or part payment of the purchase price:
3334 (i) money;
3335 (ii) electricity;
3336 (iii) water;
3337 (iv) gas; or
3338 (v) steam;
3339 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
3340 or a product transferred electronically used or consumed primarily and directly in farming
3341 operations, regardless of whether the tangible personal property or product transferred
3342 electronically:
3343 (A) becomes part of real estate; or
3344 (B) is installed by a:

- 3345 (I) farmer;
- 3346 (II) contractor; or
- 3347 (III) subcontractor; or
- 3348 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
- 3349 product transferred electronically if the tangible personal property or product transferred
- 3350 electronically is exempt under Subsection (18)(a)(i); and
- 3351 (b) [~~notwithstanding Subsection (18)(a),~~] amounts paid or charged for the following
- 3352 are subject to the taxes imposed by this chapter:
- 3353 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
- 3354 incidental to farming:
- 3355 (I) machinery;
- 3356 (II) equipment;
- 3357 (III) materials; or
- 3358 (IV) supplies; and
- 3359 (B) tangible personal property that is considered to be used in a manner that is
- 3360 incidental to farming includes:
- 3361 (I) hand tools; or
- 3362 (II) maintenance and janitorial equipment and supplies;
- 3363 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
- 3364 transferred electronically if the tangible personal property or product transferred electronically
- 3365 is used in an activity other than farming; and
- 3366 (B) tangible personal property or a product transferred electronically that is considered
- 3367 to be used in an activity other than farming includes:
- 3368 (I) office equipment and supplies; or
- 3369 (II) equipment and supplies used in:
- 3370 (Aa) the sale or distribution of farm products;
- 3371 (Bb) research; or
- 3372 (Cc) transportation; or
- 3373 (iii) a vehicle required to be registered by the laws of this state during the period
- 3374 ending two years after the date of the vehicle's purchase;
- 3375 (19) sales of hay;

3376 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
3377 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
3378 garden, farm, or other agricultural produce is sold by:

3379 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
3380 agricultural produce;

3381 (b) an employee of the producer described in Subsection (20)(a); or
3382 (c) a member of the immediate family of the producer described in Subsection (20)(a);

3383 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
3384 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

3385 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
3386 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
3387 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
3388 manufacturer, processor, wholesaler, or retailer;

3389 (23) a product stored in the state for resale;

3390 (24) (a) purchases of a product if:

3391 (i) the product is:

3392 (A) purchased outside of this state;

3393 (B) brought into this state:

3394 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
3395 (II) by a nonresident person who is not living or working in this state at the time of the
3396 purchase;

3397 (C) used for the personal use or enjoyment of the nonresident person described in
3398 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

3399 (D) not used in conducting business in this state; and

3400 (ii) for:

3401 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
3402 the product for a purpose for which the product is designed occurs outside of this state;

3403 (B) a boat, the boat is registered outside of this state; or

3404 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
3405 outside of this state;

3406 (b) the exemption provided for in Subsection (24)(a) does not apply to:

- 3407 (i) a lease or rental of a product; or
3408 (ii) a sale of a vehicle exempt under Subsection (33); and
3409 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
3410 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
3411 following:
- 3412 (i) conducting business in this state if that phrase has the same meaning in this
3413 Subsection (24) as in Subsection (63);
3414 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
3415 as in Subsection (63); or
3416 (iii) a purpose for which a product is designed if that phrase has the same meaning in
3417 this Subsection (24) as in Subsection (63);
3418 (25) a product purchased for resale in this state, in the regular course of business, either
3419 in its original form or as an ingredient or component part of a manufactured or compounded
3420 product;
3421 (26) a product upon which a sales or use tax was paid to some other state, or one of its
3422 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
3423 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
3424 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
3425 Act;
3426 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
3427 person for use in compounding a service taxable under the subsections;
3428 (28) purchases made in accordance with the special supplemental nutrition program for
3429 women, infants, and children established in 42 U.S.C. Sec. 1786;
3430 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
3431 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
3432 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
3433 Manual of the federal Executive Office of the President, Office of Management and Budget;
3434 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
3435 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
3436 (a) not registered in this state; and
3437 (b) (i) not used in this state; or

- 3438 (ii) used in this state:
- 3439 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
- 3440 time period that does not exceed the longer of:
- 3441 (I) 30 days in any calendar year; or
- 3442 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 3443 the borders of this state; or
- 3444 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
- 3445 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
- 3446 state;
- 3447 (31) sales of aircraft manufactured in Utah;
- 3448 (32) amounts paid for the purchase of telecommunications service for purposes of
- 3449 providing telecommunications service;
- 3450 (33) sales, leases, or uses of the following:
- 3451 (a) a vehicle by an authorized carrier; or
- 3452 (b) tangible personal property that is installed on a vehicle:
- 3453 (i) sold or leased to or used by an authorized carrier; and
- 3454 (ii) before the vehicle is placed in service for the first time;
- 3455 (34) (a) 45% of the sales price of any new manufactured home; and
- 3456 (b) 100% of the sales price of any used manufactured home;
- 3457 (35) sales relating to schools and fundraising sales;
- 3458 (36) sales or rentals of durable medical equipment if:
- 3459 (a) a person presents a prescription for the durable medical equipment; and
- 3460 (b) the durable medical equipment is used for home use only;
- 3461 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 3462 Section 72-11-102; and
- 3463 (b) the commission shall by rule determine the method for calculating sales exempt
- 3464 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 3465 (38) sales to a ski resort of:
- 3466 (a) snowmaking equipment;
- 3467 (b) ski slope grooming equipment;
- 3468 (c) passenger ropeways as defined in Section 72-11-102; or

- 3469 (d) parts used in the repairs or renovations of equipment or passenger ropeways
3470 described in Subsections (38)(a) through (c);
- 3471 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 3472 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
3473 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
3474 59-12-102;
- 3475 (b) if a seller that sells or rents at the same business location the right to use or operate
3476 for amusement, entertainment, or recreation one or more unassisted amusement devices and
3477 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
3478 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
3479 amusement, entertainment, or recreation for the assisted amusement devices; and
- 3480 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
3481 Utah Administrative Rulemaking Act, the commission may make rules:
- 3482 (i) governing the circumstances under which sales are at the same business location;
3483 and
- 3484 (ii) establishing the procedures and requirements for a seller to separately account for
3485 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
3486 assisted amusement devices;
- 3487 (41) (a) sales of photocopies by:
- 3488 (i) a governmental entity; or
- 3489 (ii) an entity within the state system of public education, including:
- 3490 (A) a school; or
- 3491 (B) the State Board of Education; or
- 3492 (b) sales of publications by a governmental entity;
- 3493 (42) amounts paid for admission to an athletic event at an institution of higher
3494 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
3495 20 U.S.C. Sec. 1681 et seq.;
- 3496 (43) (a) sales made to or by:
- 3497 (i) an area agency on aging; or
- 3498 (ii) a senior citizen center owned by a county, city, or town; or
- 3499 (b) sales made by a senior citizen center that contracts with an area agency on aging;

3500 (44) sales or leases of semiconductor fabricating, processing, research, or development
3501 materials regardless of whether the semiconductor fabricating, processing, research, or
3502 development materials:

3503 (a) actually come into contact with a semiconductor; or

3504 (b) ultimately become incorporated into real property;

3505 (45) an amount paid by or charged to a purchaser for accommodations and services
3506 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
3507 59-12-104.2;

3508 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
3509 sports event registration certificate in accordance with Section 41-3-306 for the event period
3510 specified on the temporary sports event registration certificate;

3511 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted
3512 by the Public Service Commission of Utah only for purchase of electricity produced from a
3513 new alternative energy source, as designated in the tariff by the Public Service Commission of
3514 Utah; and

3515 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a
3516 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under
3517 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

3518 (48) sales or rentals of mobility enhancing equipment if a person presents a
3519 prescription for the mobility enhancing equipment;

3520 (49) sales of water in a:

3521 (a) pipe;

3522 (b) conduit;

3523 (c) ditch; or

3524 (d) reservoir;

3525 (50) sales of currency or coins that constitute legal tender of a state, the United States,
3526 or a foreign nation;

3527 (51) (a) sales of an item described in Subsection (51)(b) if the item:

3528 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

3529 (ii) has a gold, silver, or platinum content of 50% or more; and

3530 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

- 3531 (i) ingot;
- 3532 (ii) bar;
- 3533 (iii) medallion; or
- 3534 (iv) decorative coin;
- 3535 (52) amounts paid on a sale-leaseback transaction;
- 3536 (53) sales of a prosthetic device:
- 3537 (a) for use on or in a human; and
- 3538 (b) (i) for which a prescription is required; or
- 3539 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 3540 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 3541 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 3542 or equipment is primarily used in the production or postproduction of the following media for
- 3543 commercial distribution:
- 3544 (i) a motion picture;
- 3545 (ii) a television program;
- 3546 (iii) a movie made for television;
- 3547 (iv) a music video;
- 3548 (v) a commercial;
- 3549 (vi) a documentary; or
- 3550 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
- 3551 commission by administrative rule made in accordance with Subsection (54)(d); or
- 3552 (b) [~~notwithstanding Subsection (54)(a),~~] purchases, leases, or rentals of machinery or
- 3553 equipment by an establishment described in Subsection (54)(c) that is used for the production
- 3554 or postproduction of the following are subject to the taxes imposed by this chapter:
- 3555 (i) a live musical performance;
- 3556 (ii) a live news program; or
- 3557 (iii) a live sporting event;
- 3558 (c) the following establishments listed in the 1997 North American Industry
- 3559 Classification System of the federal Executive Office of the President, Office of Management
- 3560 and Budget, apply to Subsections (54)(a) and (b):
- 3561 (i) NAICS Code 512110; or

- 3562 (ii) NAICS Code 51219; and
- 3563 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3564 commission may by rule:
 - 3565 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
 - 3566 or
 - 3567 (ii) define:
 - 3568 (A) "commercial distribution";
 - 3569 (B) "live musical performance";
 - 3570 (C) "live news program"; or
 - 3571 (D) "live sporting event";
 - 3572 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
 - 3573 on or before June 30, 2027, of tangible personal property that:
 - 3574 (i) is leased or purchased for or by a facility that:
 - 3575 (A) is an alternative energy electricity production facility;
 - 3576 (B) is located in the state; and
 - 3577 (C) (I) becomes operational on or after July 1, 2004; or
 - 3578 (II) has its generation capacity increased by one or more megawatts on or after July 1,
 - 3579 2004, as a result of the use of the tangible personal property;
 - 3580 (ii) has an economic life of five or more years; and
 - 3581 (iii) is used to make the facility or the increase in capacity of the facility described in
 - 3582 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
 - 3583 transmission grid including:
 - 3584 (A) a wind turbine;
 - 3585 (B) generating equipment;
 - 3586 (C) a control and monitoring system;
 - 3587 (D) a power line;
 - 3588 (E) substation equipment;
 - 3589 (F) lighting;
 - 3590 (G) fencing;
 - 3591 (H) pipes; or
 - 3592 (I) other equipment used for locating a power line or pole; and

3593 (b) this Subsection (55) does not apply to:
3594 (i) tangible personal property used in construction of:
3595 (A) a new alternative energy electricity production facility; or
3596 (B) the increase in the capacity of an alternative energy electricity production facility;
3597 (ii) contracted services required for construction and routine maintenance activities;
3598 and
3599 (iii) unless the tangible personal property is used or acquired for an increase in capacity
3600 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
3601 acquired after:
3602 (A) the alternative energy electricity production facility described in Subsection
3603 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
3604 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
3605 in Subsection (55)(a)(iii);
3606 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
3607 on or before June 30, 2027, of tangible personal property that:
3608 (i) is leased or purchased for or by a facility that:
3609 (A) is a waste energy production facility;
3610 (B) is located in the state; and
3611 (C) (I) becomes operational on or after July 1, 2004; or
3612 (II) has its generation capacity increased by one or more megawatts on or after July 1,
3613 2004, as a result of the use of the tangible personal property;
3614 (ii) has an economic life of five or more years; and
3615 (iii) is used to make the facility or the increase in capacity of the facility described in
3616 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
3617 transmission grid including:
3618 (A) generating equipment;
3619 (B) a control and monitoring system;
3620 (C) a power line;
3621 (D) substation equipment;
3622 (E) lighting;
3623 (F) fencing;

- 3624 (G) pipes; or
- 3625 (H) other equipment used for locating a power line or pole; and
- 3626 (b) this Subsection (56) does not apply to:
 - 3627 (i) tangible personal property used in construction of:
 - 3628 (A) a new waste energy facility; or
 - 3629 (B) the increase in the capacity of a waste energy facility;
 - 3630 (ii) contracted services required for construction and routine maintenance activities;
 - 3631 and
 - 3632 (iii) unless the tangible personal property is used or acquired for an increase in capacity
 - 3633 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
 - 3634 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
 - 3635 described in Subsection (56)(a)(iii); or
 - 3636 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
 - 3637 in Subsection (56)(a)(iii);
 - 3638 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
 - 3639 or before June 30, 2027, of tangible personal property that:
 - 3640 (i) is leased or purchased for or by a facility that:
 - 3641 (A) is located in the state;
 - 3642 (B) produces fuel from alternative energy, including:
 - 3643 (I) methanol; or
 - 3644 (II) ethanol; and
 - 3645 (C) (I) becomes operational on or after July 1, 2004; or
 - 3646 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
 - 3647 a result of the installation of the tangible personal property;
 - 3648 (ii) has an economic life of five or more years; and
 - 3649 (iii) is installed on the facility described in Subsection (57)(a)(i);
 - 3650 (b) this Subsection (57) does not apply to:
 - 3651 (i) tangible personal property used in construction of:
 - 3652 (A) a new facility described in Subsection (57)(a)(i); or
 - 3653 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
 - 3654 (ii) contracted services required for construction and routine maintenance activities;

3655 and

3656 (iii) unless the tangible personal property is used or acquired for an increase in capacity
3657 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

3658 (A) the facility described in Subsection (57)(a)(i) is operational; or

3659 (B) the increased capacity described in Subsection (57)(a)(i) is operational;

3660 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
3661 product transferred electronically to a person within this state if that tangible personal property
3662 or product transferred electronically is subsequently shipped outside the state and incorporated
3663 pursuant to contract into and becomes a part of real property located outside of this state;

3664 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
3665 state or political entity to which the tangible personal property is shipped imposes a sales, use,
3666 gross receipts, or other similar transaction excise tax on the transaction against which the other
3667 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

3668 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
3669 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
3670 refund:

3671 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

3672 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
3673 which the sale is made;

3674 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
3675 sale prior to filing for the refund;

3676 (iv) for sales and use taxes paid under this chapter on the sale;

3677 (v) in accordance with Section 59-1-1410; and

3678 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
3679 the person files for the refund on or before June 30, 2011;

3680 (59) purchases:

3681 (a) of one or more of the following items in printed or electronic format:

3682 (i) a list containing information that includes one or more:

3683 (A) names; or

3684 (B) addresses; or

3685 (ii) a database containing information that includes one or more:

3686 (A) names; or
3687 (B) addresses; and
3688 (b) used to send direct mail;
3689 (60) redemptions or repurchases of a product by a person if that product was:
3690 (a) delivered to a pawnbroker as part of a pawn transaction; and
3691 (b) redeemed or repurchased within the time period established in a written agreement
3692 between the person and the pawnbroker for redeeming or repurchasing the product;
3693 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
3694 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
3695 and
3696 (ii) has a useful economic life of one or more years; and
3697 (b) the following apply to Subsection (61)(a):
3698 (i) telecommunications enabling or facilitating equipment, machinery, or software;
3699 (ii) telecommunications equipment, machinery, or software required for 911 service;
3700 (iii) telecommunications maintenance or repair equipment, machinery, or software;
3701 (iv) telecommunications switching or routing equipment, machinery, or software; or
3702 (v) telecommunications transmission equipment, machinery, or software;
3703 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
3704 personal property or a product transferred electronically that are used in the research and
3705 development of alternative energy technology; and
3706 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3707 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
3708 purchases of tangible personal property or a product transferred electronically that are used in
3709 the research and development of alternative energy technology;
3710 (63) (a) purchases of tangible personal property or a product transferred electronically
3711 if:
3712 (i) the tangible personal property or product transferred electronically is:
3713 (A) purchased outside of this state;
3714 (B) brought into this state at any time after the purchase described in Subsection
3715 (63)(a)(i)(A); and
3716 (C) used in conducting business in this state; and

3717 (ii) for:
3718 (A) tangible personal property or a product transferred electronically other than the
3719 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
3720 for a purpose for which the property is designed occurs outside of this state; or
3721 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
3722 outside of this state;
3723 (b) the exemption provided for in Subsection (63)(a) does not apply to:
3724 (i) a lease or rental of tangible personal property or a product transferred electronically;
3725 or
3726 (ii) a sale of a vehicle exempt under Subsection (33); and
3727 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
3728 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
3729 following:
3730 (i) conducting business in this state if that phrase has the same meaning in this
3731 Subsection (63) as in Subsection (24);
3732 (ii) the first use of tangible personal property or a product transferred electronically if
3733 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
3734 (iii) a purpose for which tangible personal property or a product transferred
3735 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
3736 Subsection (24);
3737 (64) sales of disposable home medical equipment or supplies if:
3738 (a) a person presents a prescription for the disposable home medical equipment or
3739 supplies;
3740 (b) the disposable home medical equipment or supplies are used exclusively by the
3741 person to whom the prescription described in Subsection (64)(a) is issued; and
3742 (c) the disposable home medical equipment and supplies are listed as eligible for
3743 payment under:
3744 (i) Title XVIII, federal Social Security Act; or
3745 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
3746 (65) sales:
3747 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

3748 District Act; or
3749 (b) of tangible personal property to a subcontractor of a public transit district, if the
3750 tangible personal property is:
3751 (i) clearly identified; and
3752 (ii) installed or converted to real property owned by the public transit district;
3753 (66) sales of construction materials:
3754 (a) purchased on or after July 1, 2010;
3755 (b) purchased by, on behalf of, or for the benefit of an international airport:
3756 (i) located within a county of the first class; and
3757 (ii) that has a United States customs office on its premises; and
3758 (c) if the construction materials are:
3759 (i) clearly identified;
3760 (ii) segregated; and
3761 (iii) installed or converted to real property:
3762 (A) owned or operated by the international airport described in Subsection (66)(b); and
3763 (B) located at the international airport described in Subsection (66)(b);
3764 (67) sales of construction materials:
3765 (a) purchased on or after July 1, 2008;
3766 (b) purchased by, on behalf of, or for the benefit of a new airport:
3767 (i) located within a county of the second class; and
3768 (ii) that is owned or operated by a city in which an airline as defined in Section
3769 59-2-102 is headquartered; and
3770 (c) if the construction materials are:
3771 (i) clearly identified;
3772 (ii) segregated; and
3773 (iii) installed or converted to real property:
3774 (A) owned or operated by the new airport described in Subsection (67)(b);
3775 (B) located at the new airport described in Subsection (67)(b); and
3776 (C) as part of the construction of the new airport described in Subsection (67)(b);
3777 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
3778 (69) purchases and sales described in Section 63H-4-111;

3779 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
3780 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
3781 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
3782 lists a state or country other than this state as the location of registry of the fixed wing turbine
3783 powered aircraft; or

3784 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
3785 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
3786 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
3787 lists a state or country other than this state as the location of registry of the fixed wing turbine
3788 powered aircraft;

3789 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

3790 (a) to a person admitted to an institution of higher education; and

3791 (b) by a seller, other than a bookstore owned by an institution of higher education, if
3792 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
3793 textbook for a higher education course;

3794 (72) a license fee or tax a municipality imposes in accordance with Subsection
3795 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
3796 level of municipal services;

3797 (73) amounts paid or charged for construction materials used in the construction of a
3798 new or expanding life science research and development facility in the state, if the construction
3799 materials are:

3800 (a) clearly identified;

3801 (b) segregated; and

3802 (c) installed or converted to real property; [~~and~~]

3803 (74) amounts paid or charged for:

3804 (a) a purchase or lease of machinery and equipment that:

3805 (i) are used in performing qualified research:

3806 (A) as defined in Section 59-7-612;

3807 (B) in the state; and

3808 (C) with respect to which the purchaser pays or incurs a qualified research expense as
3809 defined in Section 59-7-612; and

3810 (ii) have an economic life of three or more years; and
3811 (b) normal operating repair or replacement parts:
3812 (i) for the machinery and equipment described in Subsection (74)(a); and
3813 (ii) that have an economic life of three or more years[-]; and
3814 (75) purchases or sales of a short-term lodging consumable to or by a business that
3815 provides accommodations and services described in Subsection 59-12-103(1)(i).
3816 **Section 4. Effective dates.**
3817 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2013.
3818 (2) The actions affecting Section 59-12-102 (Effective 07/01/14) take effect on July 1,
3819 2014.

Legislative Review Note
as of 1-30-13 3:49 PM

Office of Legislative Research and General Counsel