

1                   **SALES AND USE TAX EXEMPTION MODIFICATIONS**

2                                   2014 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Howard A. Stephenson**

5                                   House Sponsor: Ryan D. Wilcox

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7 **LONG TITLE**

8 **General Description:**

9                   This bill amends provisions related to sales and use taxes.

10 **Highlighted Provisions:**

11                   This bill:

- 12                   ▶ modifies definitions;
- 13                   ▶ addresses the sales and use taxation of parts used in the repair or renovation of
- 14 tangible personal property;
- 15                   ▶ addresses a sales and use exemption for certain manufacturing, processing,
- 16 producing, operating, or research and development activities; and
- 17                   ▶ makes technical and conforming changes.

18 **Money Appropriated in this Bill:**

19                   None

20 **Other Special Clauses:**

21                   This bill takes effect on July 1, 2014.

22 **Utah Code Sections Affected:**

23 AMENDS:

24                   **59-12-102 (Effective 07/01/14)**, as last amended by Laws of Utah 2013, Chapters 229,  
25 234, 266, and 441

26                   **59-12-103 (Effective 07/01/14)**, as last amended by Laws of Utah 2013, Chapters 150  
27 and 227



28 **59-12-104**, as last amended by Laws of Utah 2013, Chapters 82, 223, 229, 234, and 441



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

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

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

33 As used in this chapter:

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

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

36 (b) is typically marketed:

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

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

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

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

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

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

43 Federal Communications Commission.

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

45 (i) a subscriber purchases;

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

47 the subscriber's:

48 (A) prerecorded announcement; or

49 (B) live service; and

50 (iii) is typically marketed:

51 (A) under the name 900 service; or

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

53 Communications Commission.

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

55 (i) a collection service a seller of a telecommunications service provides to a

56 subscriber; or

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

58 (A) a product; or

- 59 (B) a service.
- 60 (3) (a) "Admission or user fees" includes season passes.
- 61 (b) "Admission or user fees" does not include annual membership dues to private
- 62 organizations.
- 63 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 64 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 65 Agreement after November 12, 2002.
- 66 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 67 (a) listed under Subsection (6); and
- 68 (b) that are imposed within a local taxing jurisdiction.
- 69 (6) "Agreement sales and use tax" means a tax imposed under:
- 70 (a) Subsection 59-12-103(2)(a)(i)(A);
- 71 (b) Subsection 59-12-103(2)(b)(i);
- 72 (c) Subsection 59-12-103(2)(c)(i);
- 73 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 74 (e) Section 59-12-204;
- 75 (f) Section 59-12-401;
- 76 (g) Section 59-12-402;
- 77 (h) Section 59-12-703;
- 78 (i) Section 59-12-802;
- 79 (j) Section 59-12-804;
- 80 (k) Section 59-12-1102;
- 81 (l) Section 59-12-1302;
- 82 (m) Section 59-12-1402;
- 83 (n) Section 59-12-1802;
- 84 (o) Section 59-12-2003;
- 85 (p) Section 59-12-2103;
- 86 (q) Section 59-12-2213;
- 87 (r) Section 59-12-2214;
- 88 (s) Section 59-12-2215;
- 89 (t) Section 59-12-2216;

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

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

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

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

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

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

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

163 (16) "Authorized carrier" means:

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

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

169 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling  
170 stock, ~~[the holder of a certificate issued by the United States Surface Transportation Board]~~ a  
171 person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in  
172 more than one state.

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

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

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

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

178 (B) animal waste;

179 (C) methane produced:

180 (I) at landfills; or

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

182 (D) aquatic plants; and

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

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

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

218 (A) that retail sale includes:

219 (I) food and food ingredients;

220 (II) a drug;

221 (III) durable medical equipment;

222 (IV) mobility enhancing equipment;

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

224 (VI) a prosthetic device; or

225 (VII) a medical supply; and

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

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

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

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

233 (A) packaging that:

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

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

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

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

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



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

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

250 (A) a binding sales document; or

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

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

254 (A) a bill of sale;

255 (B) a contract;

256 (C) an invoice;

257 (D) a lease agreement;

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

259 (F) a price list;

260 (G) a rate card;

261 (H) a receipt; or

262 (I) a service agreement.

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

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

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

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

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

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

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

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

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

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

286 (i) on a transaction; and

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

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

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

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

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

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

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

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

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

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

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

304 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
305 fuels that does not constitute industrial use under Subsection (55) or residential use under  
306 Subsection (105).

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

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

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

315 (25) "Component part" includes:

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

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

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

321 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

345 (i) by a seller of:

346 (A) tangible personal property;

347 (B) a product transferred electronically; or

348 (C) services; and

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

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

353 (i) transportation;

354 (ii) shipping;

355 (iii) postage;

356 (iv) handling;

357 (v) crating; or

358 (vi) packing.

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

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

362 (a) is intended to supplement the diet;

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

364 (i) a vitamin;

365 (ii) a mineral;

366 (iii) an herb or other botanical;

367 (iv) an amino acid;

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

369 dietary intake; or  
370 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient  
371 described in Subsections (34)(b)(i) through (v);  
372 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:  
373 (A) tablet form;  
374 (B) capsule form;  
375 (C) powder form;  
376 (D) softgel form;  
377 (E) gelcap form; or  
378 (F) liquid form; or  
379 (ii) if the product is not intended for ingestion in a form described in Subsections  
380 (34)(c)(i)(A) through (F), is not represented:  
381 (A) as conventional food; and  
382 (B) for use as a sole item of:  
383 (I) a meal; or  
384 (II) the diet; and  
385 (d) is required to be labeled as a dietary supplement:  
386 (i) identifiable by the "Supplemental Facts" box found on the label; and  
387 (ii) as required by 21 C.F.R. Sec. 101.36.  
388 (35) (a) "Digital audio work" means a work that results from the fixation of a series of  
389 musical, spoken, or other sounds.  
390 (b) "Digital audio work" includes a ringtone.  
391 (36) "Digital audio-visual work" means a series of related images which, when shown  
392 in succession, imparts an impression of motion, together with accompanying sounds, if any.  
393 (37) "Digital book" means a work that is generally recognized in the ordinary and usual  
394 sense as a book.  
395 (38) (a) "Direct mail" means printed material delivered or distributed by United States  
396 mail or other delivery service:  
397 (i) to:  
398 (A) a mass audience; or  
399 (B) addressees on a mailing list provided:

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

- 431 (i) recognized in:
- 432 (A) the official United States Pharmacopoeia;
- 433 (B) the official Homeopathic Pharmacopoeia of the United States;
- 434 (C) the official National Formulary; or
- 435 (D) a supplement to a publication listed in Subsections (41)(a)(i)(A) through (C);
- 436 (ii) intended for use in the:
- 437 (A) diagnosis of disease;
- 438 (B) cure of disease;
- 439 (C) mitigation of disease;
- 440 (D) treatment of disease; or
- 441 (E) prevention of disease; or
- 442 (iii) intended to affect:
- 443 (A) the structure of the body; or
- 444 (B) any function of the body.
- 445 (b) "Drug" does not include:
- 446 (i) food and food ingredients;
- 447 (ii) a dietary supplement;
- 448 (iii) an alcoholic beverage; or
- 449 (iv) a prosthetic device.
- 450 (42) (a) Except as provided in Subsection (42)(c), "durable medical equipment" means
- 451 equipment that:
- 452 (i) can withstand repeated use;
- 453 (ii) is primarily and customarily used to serve a medical purpose;
- 454 (iii) generally is not useful to a person in the absence of illness or injury; and
- 455 (iv) is not worn in or on the body.
- 456 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 457 equipment described in Subsection (42)(a).
- 458 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 459 (43) "Electronic" means:
- 460 (a) relating to technology; and
- 461 (b) having:

- 462 (i) electrical capabilities;
- 463 (ii) digital capabilities;
- 464 (iii) magnetic capabilities;
- 465 (iv) wireless capabilities;
- 466 (v) optical capabilities;
- 467 (vi) electromagnetic capabilities; or
- 468 (vii) capabilities similar to Subsections (43)(b)(i) through (vi).
- 469 (44) "Electronic financial payment service" means an establishment:
  - 470 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
  - 471 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
  - 472 federal Executive Office of the President, Office of Management and Budget; and
  - 473 (b) that performs electronic financial payment services.
- 474 (45) "Employee" is as defined in Section [59-10-401](#).
- 475 (46) "Fixed guideway" means a public transit facility that uses and occupies:
  - 476 (a) rail for the use of public transit; or
  - 477 (b) a separate right-of-way for the use of public transit.
- 478 (47) "Fixed wing turbine powered aircraft" means an aircraft that:
  - 479 (a) is powered by turbine engines;
  - 480 (b) operates on jet fuel; and
  - 481 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 482 (48) "Fixed wireless service" means a telecommunications service that provides radio
- 483 communication between fixed points.
- 484 (49) (a) "Food and food ingredients" means substances:
  - 485 (i) regardless of whether the substances are in:
    - 486 (A) liquid form;
    - 487 (B) concentrated form;
    - 488 (C) solid form;
    - 489 (D) frozen form;
    - 490 (E) dried form; or
    - 491 (F) dehydrated form; and
    - 492 (ii) that are:



- 493 (A) sold for:
- 494 (I) ingestion by humans; or
- 495 (II) chewing by humans; and
- 496 (B) consumed for the substance's:
- 497 (I) taste; or
- 498 (II) nutritional value.
- 499 (b) "Food and food ingredients" includes an item described in Subsection (90)(b)(iii).
- 500 (c) "Food and food ingredients" does not include:
- 501 (i) an alcoholic beverage;
- 502 (ii) tobacco; or
- 503 (iii) prepared food.
- 504 (50) (a) "Fundraising sales" means sales:
- 505 (i) (A) made by a school; or
- 506 (B) made by a school student;
- 507 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 508 materials, or provide transportation; and
- 509 (iii) that are part of an officially sanctioned school activity.
- 510 (b) For purposes of Subsection (50)(a)(iii), "officially sanctioned school activity"
- 511 means a school activity:
- 512 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 513 district governing the authorization and supervision of fundraising activities;
- 514 (ii) that does not directly or indirectly compensate an individual teacher or other
- 515 educational personnel by direct payment, commissions, or payment in kind; and
- 516 (iii) the net or gross revenues from which are deposited in a dedicated account
- 517 controlled by the school or school district.
- 518 (51) "Geothermal energy" means energy contained in heat that continuously flows
- 519 outward from the earth that is used as the sole source of energy to produce electricity.
- 520 (52) "Governing board of the agreement" means the governing board of the agreement
- 521 that is:
- 522 (a) authorized to administer the agreement; and
- 523 (b) established in accordance with the agreement.

524 (53) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:  
525 (i) the executive branch of the state, including all departments, institutions, boards,  
526 divisions, bureaus, offices, commissions, and committees;  
527 (ii) the judicial branch of the state, including the courts, the Judicial Council, the  
528 Office of the Court Administrator, and similar administrative units in the judicial branch;  
529 (iii) the legislative branch of the state, including the House of Representatives, the  
530 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
531 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
532 Analyst;  
533 (iv) the National Guard;  
534 (v) an independent entity as defined in Section 63E-1-102; or  
535 (vi) a political subdivision as defined in Section 17B-1-102.  
536 (b) "Governmental entity" does not include the state systems of public and higher  
537 education, including:  
538 (i) a college campus of the Utah College of Applied Technology;  
539 (ii) a school;  
540 (iii) the State Board of Education;  
541 (iv) the State Board of Regents; or  
542 (v) an institution of higher education.  
543 (54) "Hydroelectric energy" means water used as the sole source of energy to produce  
544 electricity.  
545 (55) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or  
546 other fuels:  
547 (a) in mining or extraction of minerals;  
548 (b) in agricultural operations to produce an agricultural product up to the time of  
549 harvest or placing the agricultural product into a storage facility, including:  
550 (i) commercial greenhouses;  
551 (ii) irrigation pumps;  
552 (iii) farm machinery;  
553 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered  
554 under Title 41, Chapter 1a, Part 2, Registration; and

- 555 (v) other farming activities;
- 556 (c) in manufacturing tangible personal property at an establishment described in SIC
- 557 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 558 Executive Office of the President, Office of Management and Budget;
- 559 (d) by a scrap recycler if:
- 560 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 561 one or more of the following items into prepared grades of processed materials for use in new
- 562 products:
- 563 (A) iron;
- 564 (B) steel;
- 565 (C) nonferrous metal;
- 566 (D) paper;
- 567 (E) glass;
- 568 (F) plastic;
- 569 (G) textile; or
- 570 (H) rubber; and
- 571 (ii) the new products under Subsection (55)(d)(i) would otherwise be made with
- 572 nonrecycled materials; or
- 573 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
- 574 cogeneration facility as defined in Section 54-2-1.
- 575 (56) (a) Except as provided in Subsection (56)(b), "installation charge" means a charge
- 576 for installing:
- 577 (i) tangible personal property; or
- 578 (ii) a product transferred electronically.
- 579 (b) "Installation charge" does not include a charge for:
- 580 (i) repairs or renovations of:
- 581 (A) tangible personal property; or
- 582 (B) a product transferred electronically; or
- 583 (ii) attaching tangible personal property or a product transferred electronically:
- 584 (A) to other tangible personal property; and
- 585 (B) as part of a manufacturing or fabrication process.

586 (57) "Institution of higher education" means an institution of higher education listed in  
587 Section 53B-2-101.

588 (58) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
589 personal property or a product transferred electronically for:

- 590 (i) (A) a fixed term; or
- 591 (B) an indeterminate term; and
- 592 (ii) consideration.

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

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

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

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

- 603 (A) upon completion of required payments; and
- 604 (B) if the payment of an option price does not exceed the greater of:
  - 605 (I) \$100; or
  - 606 (II) 1% of the total required payments; or

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

610 (d) For purposes of Subsection (58)(c)(iii), an operator is necessary for equipment to  
611 perform as designed if the operator's duties exceed the:

- 612 (i) set-up of tangible personal property;
- 613 (ii) maintenance of tangible personal property; or
- 614 (iii) inspection of tangible personal property.

615 (59) "Life science establishment" means an establishment in this state that is classified  
616 under the following NAICS codes of the 2007 North American Industry Classification System

617 of the federal Executive Office of the President, Office of Management and Budget:

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

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

620 Manufacturing; or

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

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

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

627 (62) "Local taxing jurisdiction" means a:

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

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

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

631 (63) "Manufactured home" is as defined in Section [15A-1-302](#).

632 (64) [~~For purposes of Section [59-12-104](#), "manufacturing]~~ "Manufacturing facility"  
633 means:

634 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard  
635 Industrial Classification Manual of the federal Executive Office of the President, Office of  
636 Management and Budget;

637 (b) a scrap recycler if:

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

641 (A) iron;

642 (B) steel;

643 (C) nonferrous metal;

644 (D) paper;

645 (E) glass;

646 (F) plastic;

647 (G) textile; or

648 (H) rubber; and  
649 (ii) the new products under Subsection (64)(b)(i) would otherwise be made with  
650 nonrecycled materials; or

651 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is  
652 placed in service on or after May 1, 2006.

653 (65) "Member of the immediate family of the producer" means a person who is related  
654 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:

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

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

657 (ii) a foster child or foster stepchild;

658 (b) grandchild or stepgrandchild;

659 (c) grandparent or stepgrandparent;

660 (d) nephew or stepnephew;

661 (e) niece or stepniece;

662 (f) parent or stepparent;

663 (g) sibling or stepsibling;

664 (h) spouse;

665 (i) person who is the spouse of a person described in Subsections (65)(a) through (g);

666 or

667 (j) person similar to a person described in Subsections (65)(a) through (i) as  
668 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
669 Administrative Rulemaking Act.

670 (66) "Mobile home" is as defined in Section [15A-1-302](#).

671 (67) "Mobile telecommunications service" is as defined in the Mobile  
672 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

673 (68) (a) "Mobile wireless service" means a telecommunications service, regardless of  
674 the technology used, if:

675 (i) the origination point of the conveyance, routing, or transmission is not fixed;

676 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

677 (iii) the origination point described in Subsection (68)(a)(i) and the termination point  
678 described in Subsection (68)(a)(ii) are not fixed.

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

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

683 (69) (a) Except as provided in Subsection (69)(c), "mobility enhancing equipment"  
684 means equipment that is:

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

687 (ii) appropriate for use in a:

688 (A) home; or

689 (B) motor vehicle; and

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

691 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
692 the equipment described in Subsection (69)(a).

693 (c) "Mobility enhancing equipment" does not include:

694 (i) a motor vehicle;

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

697 (iii) durable medical equipment; or

698 (iv) a prosthetic device.

699 (70) "Model 1 seller" means a seller registered under the agreement that has selected a  
700 certified service provider as the seller's agent to perform all of the seller's sales and use tax  
701 functions for agreement sales and use taxes other than the seller's obligation under Section  
702 [59-12-124](#) to remit a tax on the seller's own purchases.

703 (71) "Model 2 seller" means a seller registered under the agreement that:

704 (a) except as provided in Subsection (71)(b), has selected a certified automated system  
705 to perform the seller's sales tax functions for agreement sales and use taxes; and

706 (b) retains responsibility for remitting all of the sales tax:

707 (i) collected by the seller; and

708 (ii) to the appropriate local taxing jurisdiction.

709 (72) (a) Subject to Subsection (72)(b), "model 3 seller" means a seller registered under

710 the agreement that has:

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

717 (b) For purposes of Subsection (72)(a), "model 3 seller" includes an affiliated group of  
718 sellers using the same proprietary system.

719 (73) "Model 4 seller" means a seller that is registered under the agreement and is not a  
720 model 1 seller, model 2 seller, or model 3 seller.

721 (74) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

722 (75) "Motor vehicle" is as defined in Section [41-1a-102](#).

723 (76) "Oil sands" means impregnated bituminous sands that:

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

726 (b) yield mixtures of liquid hydrocarbon; and

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

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

731 (78) "Optional computer software maintenance contract" means a computer software  
732 maintenance contract that a customer is not obligated to purchase as a condition to the retail  
733 sale of computer software.

734 (79) (a) "Other fuels" means products that burn independently to produce heat or  
735 energy.

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

738 (80) (a) "Paging service" means a telecommunications service that provides  
739 transmission of a coded radio signal for the purpose of activating a specific pager.

740 (b) For purposes of Subsection (80)(a), the transmission of a coded radio signal



741 includes a transmission by message or sound.

742 (81) "Pawnbroker" is as defined in Section 13-32a-102.

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

744 (83) (a) "Permanently attached to real property" means that for tangible personal  
745 property attached to real property:

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

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

748 (B) suggests that the tangible personal property will remain attached to the real

749 property in the same place over the useful life of the tangible personal property; or

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

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

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

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

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

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

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

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

761 property and real property are located; or

762 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
763 Subsection (83)(c)(iii) or (iv).

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

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

767 (A) convenience;

768 (B) stability; or

769 (C) for an obvious temporary purpose;

770 (ii) the detachment of tangible personal property from real property except for the  
771 detachment described in Subsection (83)(b)(ii);

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

776 (A) a computer;

777 (B) a telephone;

778 (C) a television; or

779 (D) tangible personal property similar to Subsections (83)(c)(iii)(A) through (C) as  
780 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
781 Administrative Rulemaking Act; or

782 (iv) an item listed in Subsection (123)(c).

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

787 (85) "Place of primary use":

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

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

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

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

795 (86) (a) "Postpaid calling service" means a telecommunications service a person  
796 obtains by making a payment on a call-by-call basis:

797 (i) through the use of a:

798 (A) bank card;

799 (B) credit card;

800 (C) debit card; or

801 (D) travel card; or

802 (ii) by a charge made to a telephone number that is not associated with the origination

803 or termination of the telecommunications service.

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

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

809 (88) "Prepaid calling service" means a telecommunications service:

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

812 (b) that:

813 (i) is paid for in advance; and

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

815 (A) access number; or

816 (B) authorization code;

817 (c) that is dialed:

818 (i) manually; or

819 (ii) electronically; and

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

821 (i) by a known amount; and

822 (ii) with use.

823 (89) "Prepaid wireless calling service" means a telecommunications service:

824 (a) that provides the right to utilize:

825 (i) mobile wireless service; and

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

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

828 (B) a content service; or

829 (C) an ancillary service;

830 (b) that:

831 (i) is paid for in advance; and

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

833 (A) access number; or

- 834 (B) authorization code;
- 835 (c) that is dialed:
- 836 (i) manually; or
- 837 (ii) electronically; and
- 838 (d) sold in predetermined units or dollars that decline:
- 839 (i) by a known amount; and
- 840 (ii) with use.
- 841 (90) (a) "Prepared food" means:
- 842 (i) food:
- 843 (A) sold in a heated state; or
- 844 (B) heated by a seller;
- 845 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 846 item; or
- 847 (iii) except as provided in Subsection (90)(c), food sold with an eating utensil provided
- 848 by the seller, including a:
- 849 (A) plate;
- 850 (B) knife;
- 851 (C) fork;
- 852 (D) spoon;
- 853 (E) glass;
- 854 (F) cup;
- 855 (G) napkin; or
- 856 (H) straw.
- 857 (b) "Prepared food" does not include:
- 858 (i) food that a seller only:
- 859 (A) cuts;
- 860 (B) repackages; or
- 861 (C) pasteurizes; or
- 862 (ii) (A) the following:
- 863 (I) raw egg;
- 864 (II) raw fish;

- 865 (III) raw meat;
- 866 (IV) raw poultry; or
- 867 (V) a food containing an item described in Subsections (90)(b)(ii)(A)(I) through (IV);
- 868 and
- 869 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 870 Food and Drug Administration's Food Code that a consumer cook the items described in
- 871 Subsection (90)(b)(ii)(A) to prevent food borne illness; or
- 872 (iii) the following if sold without eating utensils provided by the seller:
- 873 (A) food and food ingredients sold by a seller if the seller's proper primary
- 874 classification under the 2002 North American Industry Classification System of the federal
- 875 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 876 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 877 Manufacturing;
- 878 (B) food and food ingredients sold in an unheated state:
- 879 (I) by weight or volume; and
- 880 (II) as a single item; or
- 881 (C) a bakery item, including:
- 882 (I) a bagel;
- 883 (II) a bar;
- 884 (III) a biscuit;
- 885 (IV) bread;
- 886 (V) a bun;
- 887 (VI) a cake;
- 888 (VII) a cookie;
- 889 (VIII) a croissant;
- 890 (IX) a danish;
- 891 (X) a donut;
- 892 (XI) a muffin;
- 893 (XII) a pastry;
- 894 (XIII) a pie;
- 895 (XIV) a roll;

- 896 (XV) a tart;
- 897 (XVI) a torte; or
- 898 (XVII) a tortilla.
- 899 (c) An eating utensil provided by the seller does not include the following used to
- 900 transport the food:
  - 901 (i) a container; or
  - 902 (ii) packaging.
- 903 (91) "Prescription" means an order, formula, or recipe that is issued:
  - 904 (a) (i) orally;
  - 905 (ii) in writing;
  - 906 (iii) electronically; or
  - 907 (iv) by any other manner of transmission; and
  - 908 (b) by a licensed practitioner authorized by the laws of a state.
- 909 (92) (a) Except as provided in Subsection (92)(b)(ii) or (iii), "prewritten computer
- 910 software" means computer software that is not designed and developed:
  - 911 (i) by the author or other creator of the computer software; and
  - 912 (ii) to the specifications of a specific purchaser.
- 913 (b) "Prewritten computer software" includes:
  - 914 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
  - 915 software is not designed and developed:
    - 916 (A) by the author or other creator of the computer software; and
    - 917 (B) to the specifications of a specific purchaser;
  - 918 (ii) computer software designed and developed by the author or other creator of the
  - 919 computer software to the specifications of a specific purchaser if the computer software is sold
  - 920 to a person other than the purchaser; or
  - 921 (iii) except as provided in Subsection (92)(c), prewritten computer software or a
  - 922 prewritten portion of prewritten computer software:
    - 923 (A) that is modified or enhanced to any degree; and
    - 924 (B) if the modification or enhancement described in Subsection (92)(b)(iii)(A) is
    - 925 designed and developed to the specifications of a specific purchaser.
  - 926 (c) "Prewritten computer software" does not include a modification or enhancement

927 described in Subsection (92)(b)(iii) if the charges for the modification or enhancement are:

928 (i) reasonable; and

929 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the

930 invoice or other statement of price provided to the purchaser at the time of sale or later, as

931 demonstrated by:

932 (A) the books and records the seller keeps at the time of the transaction in the regular  
933 course of business, including books and records the seller keeps at the time of the transaction in  
934 the regular course of business for nontax purposes;

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

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

937 (93) (a) "Private communication service" means a telecommunications service:

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

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

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

944 (i) an extension line;

945 (ii) a station;

946 (iii) switching capacity; or

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

949 (94) (a) Except as provided in Subsection (94)(b), "product transferred electronically"  
950 means a product transferred electronically that would be subject to a tax under this chapter if  
951 that product was transferred in a manner other than electronically.

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

953 (i) an ancillary service;

954 (ii) computer software; or

955 (iii) a telecommunications service.

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

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

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



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

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

992 (98) (a) "Purchase price" and "sales price" mean the total amount of consideration:

993 (i) valued in money; and

994 (ii) for which tangible personal property, a product transferred electronically, or  
995 services are:

996 (A) sold;

997 (B) leased; or

998 (C) rented.

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

1000 (i) the seller's cost of the tangible personal property, a product transferred  
1001 electronically, or services sold;

1002 (ii) expenses of the seller, including:

1003 (A) the cost of materials used;

1004 (B) a labor cost;

1005 (C) a service cost;

1006 (D) interest;

1007 (E) a loss;

1008 (F) the cost of transportation to the seller; or

1009 (G) a tax imposed on the seller;

1010 (iii) a charge by the seller for any service necessary to complete the sale; or

1011 (iv) consideration a seller receives from a person other than the purchaser if:

1012 (A) (I) the seller actually receives consideration from a person other than the purchaser;

1013 and

1014 (II) the consideration described in Subsection (98)(b)(iv)(A)(I) is directly related to a  
1015 price reduction or discount on the sale;

1016 (B) the seller has an obligation to pass the price reduction or discount through to the  
1017 purchaser;

1018 (C) the amount of the consideration attributable to the sale is fixed and determinable by  
1019 the seller at the time of the sale to the purchaser; and

1020 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the  
1021 seller to claim a price reduction or discount; and

1022 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,  
1023 coupon, or other documentation with the understanding that the person other than the seller  
1024 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1025 (II) the purchaser identifies that purchaser to the seller as a member of a group or  
1026 organization allowed a price reduction or discount, except that a preferred customer card that is  
1027 available to any patron of a seller does not constitute membership in a group or organization  
1028 allowed a price reduction or discount; or

1029 (III) the price reduction or discount is identified as a third party price reduction or  
1030 discount on the:

1031 (Aa) invoice the purchaser receives; or

1032 (Bb) certificate, coupon, or other documentation the purchaser presents.

1033 (c) "Purchase price" and "sales price" do not include:

1034 (i) a discount:

1035 (A) in a form including:

1036 (I) cash;

1037 (II) term; or

1038 (III) coupon;

1039 (B) that is allowed by a seller;

1040 (C) taken by a purchaser on a sale; and

1041 (D) that is not reimbursed by a third party; or

1042 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately  
1043 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of  
1044 sale or later, as demonstrated by the books and records the seller keeps at the time of the  
1045 transaction in the regular course of business, including books and records the seller keeps at the  
1046 time of the transaction in the regular course of business for nontax purposes, by a  
1047 preponderance of the facts and circumstances at the time of the transaction, and by the  
1048 understanding of all of the parties to the transaction:

1049 (A) the following from credit extended on the sale of tangible personal property or  
1050 services:

- 1051 (I) a carrying charge;
- 1052 (II) a financing charge; or
- 1053 (III) an interest charge;
- 1054 (B) a delivery charge;
- 1055 (C) an installation charge;
- 1056 (D) a manufacturer rebate on a motor vehicle; or
- 1057 (E) a tax or fee legally imposed directly on the consumer.
- 1058 (99) "Purchaser" means a person to whom:
- 1059 (a) a sale of tangible personal property is made;
- 1060 (b) a product is transferred electronically; or
- 1061 (c) a service is furnished.
- 1062 (100) "Regularly rented" means:
- 1063 (a) rented to a guest for value three or more times during a calendar year; or
- 1064 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1065 value.
- 1066 (101) "Rental" is as defined in Subsection (58).
- 1067 (102) (a) Except as provided in Subsection (102)(b), "repairs or renovations of tangible
- 1068 personal property" means:
- 1069 (i) a repair or renovation of tangible personal property that is not permanently attached
- 1070 to real property; or
- 1071 (ii) attaching tangible personal property or a product transferred electronically to other
- 1072 tangible personal property or detaching tangible personal property or a product transferred
- 1073 electronically from other tangible personal property if:
- 1074 (A) the other tangible personal property to which the tangible personal property or
- 1075 product transferred electronically is attached or from which the tangible personal property or
- 1076 product transferred electronically is detached is not permanently attached to real property; and
- 1077 (B) the attachment of tangible personal property or a product transferred electronically
- 1078 to other tangible personal property or detachment of tangible personal property or a product
- 1079 transferred electronically from other tangible personal property is made in conjunction with a
- 1080 repair or replacement of tangible personal property or a product transferred electronically.
- 1081 (b) "Repairs or renovations of tangible personal property" does not include:

1082 (i) attaching prewritten computer software to other tangible personal property if the  
1083 other tangible personal property to which the prewritten computer software is attached is not  
1084 permanently attached to real property; or

1085 (ii) detaching prewritten computer software from other tangible personal property if the  
1086 other tangible personal property from which the prewritten computer software is detached is  
1087 not permanently attached to real property.

1088 (103) "Research and development" means the process of inquiry or experimentation  
1089 aimed at the discovery of facts, devices, technologies, or applications and the process of  
1090 preparing those devices, technologies, or applications for marketing.

1091 (104) (a) "Residential telecommunications services" means a telecommunications  
1092 service or an ancillary service that is provided to an individual for personal use:

1093 (i) at a residential address; or

1094 (ii) at an institution, including a nursing home or a school, if the telecommunications  
1095 service or ancillary service is provided to and paid for by the individual residing at the  
1096 institution rather than the institution.

1097 (b) For purposes of Subsection (104)(a)(i), a residential address includes an:

1098 (i) apartment; or

1099 (ii) other individual dwelling unit.

1100 (105) "Residential use" means the use in or around a home, apartment building,  
1101 sleeping quarters, and similar facilities or accommodations.

1102 (106) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
1103 than:

1104 (a) resale;

1105 (b) sublease; or

1106 (c) subrent.

1107 (107) (a) "Retailer" means any person engaged in a regularly organized business in  
1108 tangible personal property or any other taxable transaction under Subsection [59-12-103\(1\)](#), and  
1109 who is selling to the user or consumer and not for resale.

1110 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1111 engaged in the business of selling to users or consumers within the state.

1112 (108) (a) "Sale" means any transfer of title, exchange, or barter, conditional or

1113 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1114 Subsection 59-12-103(1), for consideration.

1115 (b) "Sale" includes:

1116 (i) installment and credit sales;

1117 (ii) any closed transaction constituting a sale;

1118 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
1119 chapter;

1120 (iv) any transaction if the possession of property is transferred but the seller retains the  
1121 title as security for the payment of the price; and

1122 (v) any transaction under which right to possession, operation, or use of any article of  
1123 tangible personal property is granted under a lease or contract and the transfer of possession  
1124 would be taxable if an outright sale were made.

1125 (109) "Sale at retail" is as defined in Subsection (106).

1126 (110) "Sale-leaseback transaction" means a transaction by which title to tangible  
1127 personal property or a product transferred electronically that is subject to a tax under this  
1128 chapter is transferred:

1129 (a) by a purchaser-lessee;

1130 (b) to a lessor;

1131 (c) for consideration; and

1132 (d) if:

1133 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
1134 of the tangible personal property or product transferred electronically;

1135 (ii) the sale of the tangible personal property or product transferred electronically to the  
1136 lessor is intended as a form of financing:

1137 (A) for the tangible personal property or product transferred electronically; and

1138 (B) to the purchaser-lessee; and

1139 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
1140 is required to:

1141 (A) capitalize the tangible personal property or product transferred electronically for  
1142 financial reporting purposes; and

1143 (B) account for the lease payments as payments made under a financing arrangement.

- 1144 (111) "Sales price" is as defined in Subsection (98).
- 1145 (112) (a) "Sales relating to schools" means the following sales by, amounts paid to, or  
1146 amounts charged by a school:
- 1147 (i) sales that are directly related to the school's educational functions or activities  
1148 including:
- 1149 (A) the sale of:
- 1150 (I) textbooks;
- 1151 (II) textbook fees;
- 1152 (III) laboratory fees;
- 1153 (IV) laboratory supplies; or
- 1154 (V) safety equipment;
- 1155 (B) the sale of a uniform, protective equipment, or sports or recreational equipment  
1156 that:
- 1157 (I) a student is specifically required to wear as a condition of participation in a  
1158 school-related event or school-related activity; and
- 1159 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
1160 place of ordinary clothing;
- 1161 (C) sales of the following if the net or gross revenues generated by the sales are  
1162 deposited into a school district fund or school fund dedicated to school meals:
- 1163 (I) food and food ingredients; or
- 1164 (II) prepared food; or
- 1165 (D) transportation charges for official school activities; or
- 1166 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
1167 event or school-related activity.
- 1168 (b) "Sales relating to schools" does not include:
- 1169 (i) bookstore sales of items that are not educational materials or supplies;
- 1170 (ii) except as provided in Subsection (112)(a)(i)(B):
- 1171 (A) clothing;
- 1172 (B) clothing accessories or equipment;
- 1173 (C) protective equipment; or
- 1174 (D) sports or recreational equipment; or

1175 (iii) amounts paid to or amounts charged by a school for admission to a school-related  
1176 event or school-related activity if the amounts paid or charged are passed through to a person:

1177 (A) other than a:

1178 (I) school;

1179 (II) nonprofit organization authorized by a school board or a governing body of a  
1180 private school to organize and direct a competitive secondary school activity; or

1181 (III) nonprofit association authorized by a school board or a governing body of a  
1182 private school to organize and direct a competitive secondary school activity; and

1183 (B) that is required to collect sales and use taxes under this chapter.

1184 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1185 commission may make rules defining the term "passed through."

1186 (113) For purposes of this section and Section 59-12-104, "school":

1187 (a) means:

1188 (i) an elementary school or a secondary school that:

1189 (A) is a:

1190 (I) public school; or

1191 (II) private school; and

1192 (B) provides instruction for one or more grades kindergarten through 12; or

1193 (ii) a public school district; and

1194 (b) includes the Electronic High School as defined in Section 53A-15-1002.

1195 (114) "Seller" means a person that makes a sale, lease, or rental of:

1196 (a) tangible personal property;

1197 (b) a product transferred electronically; or

1198 (c) a service.

1199 (115) (a) "Semiconductor fabricating, processing, research, or development materials"  
1200 means tangible personal property or a product transferred electronically if the tangible personal  
1201 property or product transferred electronically is:

1202 (i) used primarily in the process of:

1203 (A) (I) manufacturing a semiconductor;

1204 (II) fabricating a semiconductor; or

1205 (III) research or development of a:

- 1206 (Aa) semiconductor; or
- 1207 (Bb) semiconductor manufacturing process; or
- 1208 (B) maintaining an environment suitable for a semiconductor; or
- 1209 (ii) consumed primarily in the process of:
- 1210 (A) (I) manufacturing a semiconductor;
- 1211 (II) fabricating a semiconductor; or
- 1212 (III) research or development of a:
- 1213 (Aa) semiconductor; or
- 1214 (Bb) semiconductor manufacturing process; or
- 1215 (B) maintaining an environment suitable for a semiconductor.
- 1216 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1217 includes:
- 1218 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1219 transferred electronically described in Subsection (115)(a); or
- 1220 (ii) a chemical, catalyst, or other material used to:
- 1221 (A) produce or induce in a semiconductor a:
- 1222 (I) chemical change; or
- 1223 (II) physical change;
- 1224 (B) remove impurities from a semiconductor; or
- 1225 (C) improve the marketable condition of a semiconductor.
- 1226 (116) "Senior citizen center" means a facility having the primary purpose of providing
- 1227 services to the aged as defined in Section [62A-3-101](#).
- 1228 (117) (a) Subject to Subsections (117)(b) and (c), "short-term lodging consumable"
- 1229 means tangible personal property that:
- 1230 (i) a business that provides accommodations and services described in Subsection
- 1231 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services
- 1232 to a purchaser;
- 1233 (ii) is intended to be consumed by the purchaser; and
- 1234 (iii) is:
- 1235 (A) included in the purchase price of the accommodations and services; and
- 1236 (B) not separately stated on an invoice, bill of sale, or other similar document provided



- 1237 to the purchaser.
- 1238 (b) "Short-term lodging consumable" includes:
- 1239 (i) a beverage;
- 1240 (ii) a brush or comb;
- 1241 (iii) a cosmetic;
- 1242 (iv) a hair care product;
- 1243 (v) lotion;
- 1244 (vi) a magazine;
- 1245 (vii) makeup;
- 1246 (viii) a meal;
- 1247 (ix) mouthwash;
- 1248 (x) nail polish remover;
- 1249 (xi) a newspaper;
- 1250 (xii) a notepad;
- 1251 (xiii) a pen;
- 1252 (xiv) a pencil;
- 1253 (xv) a razor;
- 1254 (xvi) saline solution;
- 1255 (xvii) a sewing kit;
- 1256 (xviii) shaving cream;
- 1257 (xix) a shoe shine kit;
- 1258 (xx) a shower cap;
- 1259 (xxi) a snack item;
- 1260 (xxii) soap;
- 1261 (xxiii) toilet paper;
- 1262 (xxiv) a toothbrush;
- 1263 (xxv) toothpaste; or
- 1264 (xxvi) an item similar to Subsections (117)(b)(i) through (xxv) as the commission may
- 1265 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1266 Rulemaking Act.
- 1267 (c) "Short-term lodging consumable" does not include:

1268 (i) tangible personal property that is cleaned or washed to allow the tangible personal  
1269 property to be reused; or

1270 (ii) a product transferred electronically.

1271 (118) "Simplified electronic return" means the electronic return:

1272 (a) described in Section 318(C) of the agreement; and

1273 (b) approved by the governing board of the agreement.

1274 (119) "Solar energy" means the sun used as the sole source of energy for producing  
1275 electricity.

1276 (120) (a) "Sports or recreational equipment" means an item:

1277 (i) designed for human use; and

1278 (ii) that is:

1279 (A) worn in conjunction with:

1280 (I) an athletic activity; or

1281 (II) a recreational activity; and

1282 (B) not suitable for general use.

1283 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1284 commission shall make rules:

1285 (i) listing the items that constitute "sports or recreational equipment"; and

1286 (ii) that are consistent with the list of items that constitute "sports or recreational  
1287 equipment" under the agreement.

1288 (121) "State" means the state of Utah, its departments, and agencies.

1289 (122) "Storage" means any keeping or retention of tangible personal property or any  
1290 other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose except  
1291 sale in the regular course of business.

1292 (123) (a) Except as provided in Subsection (123)(d) or (e), "tangible personal property"  
1293 means personal property that:

1294 (i) may be:

1295 (A) seen;

1296 (B) weighed;

1297 (C) measured;

1298 (D) felt; or

- 1299 (E) touched; or
- 1300 (ii) is in any manner perceptible to the senses.
- 1301 (b) "Tangible personal property" includes:
- 1302 (i) electricity;
- 1303 (ii) water;
- 1304 (iii) gas;
- 1305 (iv) steam; or
- 1306 (v) prewritten computer software, regardless of the manner in which the prewritten
- 1307 computer software is transferred.
- 1308 (c) "Tangible personal property" includes the following regardless of whether the item
- 1309 is attached to real property:
- 1310 (i) a dishwasher;
- 1311 (ii) a dryer;
- 1312 (iii) a freezer;
- 1313 (iv) a microwave;
- 1314 (v) a refrigerator;
- 1315 (vi) a stove;
- 1316 (vii) a washer; or
- 1317 (viii) an item similar to Subsections (123)(c)(i) through (vii) as determined by the
- 1318 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1319 Rulemaking Act.
- 1320 (d) "Tangible personal property" does not include a product that is transferred
- 1321 electronically.
- 1322 (e) "Tangible personal property" does not include the following if attached to real
- 1323 property, regardless of whether the attachment to real property is only through a line that
- 1324 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 1325 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1326 Rulemaking Act:
- 1327 (i) a hot water heater;
- 1328 (ii) a water filtration system; or
- 1329 (iii) a water softener system.

1330 (124) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
1331 software" means an item listed in Subsection (124)(b) if that item is purchased or leased  
1332 primarily to enable or facilitate one or more of the following to function:

- 1333 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1334 (ii) telecommunications transmission equipment, machinery, or software.

1335 (b) The following apply to Subsection (124)(a):

- 1336 (i) a pole;
- 1337 (ii) software;
- 1338 (iii) a supplementary power supply;
- 1339 (iv) temperature or environmental equipment or machinery;
- 1340 (v) test equipment;
- 1341 (vi) a tower; or

1342 (vii) equipment, machinery, or software that functions similarly to an item listed in  
1343 Subsections (124)(b)(i) through (vi) as determined by the commission by rule made in  
1344 accordance with Subsection (124)(c).

1345 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1346 commission may by rule define what constitutes equipment, machinery, or software that  
1347 functions similarly to an item listed in Subsections (124)(b)(i) through (vi).

1348 (125) "Telecommunications equipment, machinery, or software required for 911  
1349 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
1350 Sec. 20.18.

1351 (126) "Telecommunications maintenance or repair equipment, machinery, or software"  
1352 means equipment, machinery, or software purchased or leased primarily to maintain or repair  
1353 one or more of the following, regardless of whether the equipment, machinery, or software is  
1354 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
1355 following:

- 1356 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1357 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1358 (c) telecommunications transmission equipment, machinery, or software.

1359 (127) (a) "Telecommunications service" means the electronic conveyance, routing, or  
1360 transmission of audio, data, video, voice, or any other information or signal to a point, or

- 1361 among or between points.
- 1362 (b) "Telecommunications service" includes:
- 1363 (i) an electronic conveyance, routing, or transmission with respect to which a computer
- 1364 processing application is used to act:
- 1365 (A) on the code, form, or protocol of the content;
- 1366 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 1367 (C) regardless of whether the service:
- 1368 (I) is referred to as voice over Internet protocol service; or
- 1369 (II) is classified by the Federal Communications Commission as enhanced or value
- 1370 added;
- 1371 (ii) an 800 service;
- 1372 (iii) a 900 service;
- 1373 (iv) a fixed wireless service;
- 1374 (v) a mobile wireless service;
- 1375 (vi) a postpaid calling service;
- 1376 (vii) a prepaid calling service;
- 1377 (viii) a prepaid wireless calling service; or
- 1378 (ix) a private communications service.
- 1379 (c) "Telecommunications service" does not include:
- 1380 (i) advertising, including directory advertising;
- 1381 (ii) an ancillary service;
- 1382 (iii) a billing and collection service provided to a third party;
- 1383 (iv) a data processing and information service if:
- 1384 (A) the data processing and information service allows data to be:
- 1385 (I) (Aa) acquired;
- 1386 (Bb) generated;
- 1387 (Cc) processed;
- 1388 (Dd) retrieved; or
- 1389 (Ee) stored; and
- 1390 (II) delivered by an electronic transmission to a purchaser; and
- 1391 (B) the purchaser's primary purpose for the underlying transaction is the processed data

1392 or information;

1393 (v) installation or maintenance of the following on a customer's premises:

1394 (A) equipment; or

1395 (B) wiring;

1396 (vi) Internet access service;

1397 (vii) a paging service;

1398 (viii) a product transferred electronically, including:

1399 (A) music;

1400 (B) reading material;

1401 (C) a ring tone;

1402 (D) software; or

1403 (E) video;

1404 (ix) a radio and television audio and video programming service:

1405 (A) regardless of the medium; and

1406 (B) including:

1407 (I) furnishing conveyance, routing, or transmission of a television audio and video

1408 programming service by a programming service provider;

1409 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or

1410 (III) audio and video programming services delivered by a commercial mobile radio  
1411 service provider as defined in 47 C.F.R. Sec. 20.3;

1412 (x) a value-added nonvoice data service; or

1413 (xi) tangible personal property.

1414 (128) (a) "Telecommunications service provider" means a person that:

1415 (i) owns, controls, operates, or manages a telecommunications service; and

1416 (ii) engages in an activity described in Subsection (128)(a)(i) for the shared use with or  
1417 resale to any person of the telecommunications service.

1418 (b) A person described in Subsection (128)(a) is a telecommunications service provider  
1419 whether or not the Public Service Commission of Utah regulates:

1420 (i) that person; or

1421 (ii) the telecommunications service that the person owns, controls, operates, or  
1422 manages.

1423 (129) (a) "Telecommunications switching or routing equipment, machinery, or  
1424 software" means an item listed in Subsection (129)(b) if that item is purchased or leased  
1425 primarily for switching or routing:

- 1426 (i) an ancillary service;
- 1427 (ii) data communications;
- 1428 (iii) voice communications; or
- 1429 (iv) telecommunications service.

1430 (b) The following apply to Subsection (129)(a):

- 1431 (i) a bridge;
- 1432 (ii) a computer;
- 1433 (iii) a cross connect;
- 1434 (iv) a modem;
- 1435 (v) a multiplexer;
- 1436 (vi) plug in circuitry;
- 1437 (vii) a router;
- 1438 (viii) software;
- 1439 (ix) a switch; or
- 1440 (x) equipment, machinery, or software that functions similarly to an item listed in  
1441 Subsections (129)(b)(i) through (ix) as determined by the commission by rule made in  
1442 accordance with Subsection (129)(c).

1443 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1444 commission may by rule define what constitutes equipment, machinery, or software that  
1445 functions similarly to an item listed in Subsections (129)(b)(i) through (ix).

1446 (130) (a) "Telecommunications transmission equipment, machinery, or software"  
1447 means an item listed in Subsection (130)(b) if that item is purchased or leased primarily for  
1448 sending, receiving, or transporting:

- 1449 (i) an ancillary service;
- 1450 (ii) data communications;
- 1451 (iii) voice communications; or
- 1452 (iv) telecommunications service.

1453 (b) The following apply to Subsection (130)(a):

- 1454 (i) an amplifier;
- 1455 (ii) a cable;
- 1456 (iii) a closure;
- 1457 (iv) a conduit;
- 1458 (v) a controller;
- 1459 (vi) a duplexer;
- 1460 (vii) a filter;
- 1461 (viii) an input device;
- 1462 (ix) an input/output device;
- 1463 (x) an insulator;
- 1464 (xi) microwave machinery or equipment;
- 1465 (xii) an oscillator;
- 1466 (xiii) an output device;
- 1467 (xiv) a pedestal;
- 1468 (xv) a power converter;
- 1469 (xvi) a power supply;
- 1470 (xvii) a radio channel;
- 1471 (xviii) a radio receiver;
- 1472 (xix) a radio transmitter;
- 1473 (xx) a repeater;
- 1474 (xxi) software;
- 1475 (xxii) a terminal;
- 1476 (xxiii) a timing unit;
- 1477 (xxiv) a transformer;
- 1478 (xxv) a wire; or
- 1479 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1480 Subsections (130)(b)(i) through (xxv) as determined by the commission by rule made in
- 1481 accordance with Subsection (130)(c).

1482 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1483 commission may by rule define what constitutes equipment, machinery, or software that  
1484 functions similarly to an item listed in Subsections (130)(b)(i) through (xxv).



1485 (131) (a) "Textbook for a higher education course" means a textbook or other printed  
1486 material that is required for a course:

- 1487 (i) offered by an institution of higher education; and
- 1488 (ii) that the purchaser of the textbook or other printed material attends or will attend.

1489 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1490 (132) "Tobacco" means:

- 1491 (a) a cigarette;
- 1492 (b) a cigar;
- 1493 (c) chewing tobacco;
- 1494 (d) pipe tobacco; or
- 1495 (e) any other item that contains tobacco.

1496 (133) "Unassisted amusement device" means an amusement device, skill device, or  
1497 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
1498 the amusement device, skill device, or ride device.

1499 (134) (a) "Use" means the exercise of any right or power over tangible personal  
1500 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),  
1501 incident to the ownership or the leasing of that tangible personal property, product transferred  
1502 electronically, or service.

1503 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
1504 property, a product transferred electronically, or a service in the regular course of business and  
1505 held for resale.

1506 (135) "Value-added nonvoice data service" means a service:

1507 (a) that otherwise meets the definition of a telecommunications service except that a  
1508 computer processing application is used to act primarily for a purpose other than conveyance,  
1509 routing, or transmission; and

1510 (b) with respect to which a computer processing application is used to act on data or  
1511 information:

- 1512 (i) code;
- 1513 (ii) content;
- 1514 (iii) form; or
- 1515 (iv) protocol.

1516 (136) (a) Subject to Subsection (136)(b), "vehicle" means the following that are  
1517 required to be titled, registered, or titled and registered:

- 1518 (i) an aircraft as defined in Section 72-10-102;
- 1519 (ii) a vehicle as defined in Section 41-1a-102;
- 1520 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1521 (iv) a vessel as defined in Section 41-1a-102.

1522 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1523 (i) a vehicle described in Subsection (136)(a); or
- 1524 (ii) (A) a locomotive;
- 1525 (B) a freight car;
- 1526 (C) railroad work equipment; or
- 1527 (D) other railroad rolling stock.

1528 (137) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
1529 exchanging a vehicle as defined in Subsection (136).

1530 (138) (a) "Vertical service" means an ancillary service that:

- 1531 (i) is offered in connection with one or more telecommunications services; and
- 1532 (ii) offers an advanced calling feature that allows a customer to:
  - 1533 (A) identify a caller; and
  - 1534 (B) manage multiple calls and call connections.

1535 (b) "Vertical service" includes an ancillary service that allows a customer to manage a  
1536 conference bridging service.

1537 (139) (a) "Voice mail service" means an ancillary service that enables a customer to  
1538 receive, send, or store a recorded message.

1539 (b) "Voice mail service" does not include a vertical service that a customer is required  
1540 to have in order to utilize a voice mail service.

1541 (140) (a) Except as provided in Subsection (140)(b), "waste energy facility" means a  
1542 facility that generates electricity:

- 1543 (i) using as the primary source of energy waste materials that would be placed in a  
1544 landfill or refuse pit if it were not used to generate electricity, including:
  - 1545 (A) tires;
  - 1546 (B) waste coal;

- 1547 (C) oil shale; or
- 1548 (D) municipal solid waste; and
- 1549 (ii) in amounts greater than actually required for the operation of the facility.
- 1550 (b) "Waste energy facility" does not include a facility that incinerates:
- 1551 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1552 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1553 (141) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1554 (142) "Wind energy" means wind used as the sole source of energy to produce
- 1555 electricity.
- 1556 (143) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
- 1557 location by the United States Postal Service.

1558 Section 2. Section **59-12-103 (Effective 07/01/14)** is amended to read:

1559 **59-12-103 (Effective 07/01/14). Sales and use tax base -- Rates -- Effective dates --**  
1560 **Use of sales and use tax revenues.**

1561 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or  
1562 charged for the following transactions:

- 1563 (a) retail sales of tangible personal property made within the state;
- 1564 (b) amounts paid for:

1565 (i) telecommunications service, other than mobile telecommunications service, that  
1566 originates and terminates within the boundaries of this state;

1567 (ii) mobile telecommunications service that originates and terminates within the  
1568 boundaries of one state only to the extent permitted by the Mobile Telecommunications  
1569 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

1570 (iii) an ancillary service associated with a:

- 1571 (A) telecommunications service described in Subsection (1)(b)(i); or
- 1572 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

1573 (c) sales of the following for commercial use:

- 1574 (i) gas;
- 1575 (ii) electricity;
- 1576 (iii) heat;
- 1577 (iv) coal;

- 1578 (v) fuel oil; or
- 1579 (vi) other fuels;
- 1580 (d) sales of the following for residential use:
- 1581 (i) gas;
- 1582 (ii) electricity;
- 1583 (iii) heat;
- 1584 (iv) coal;
- 1585 (v) fuel oil; or
- 1586 (vi) other fuels;
- 1587 (e) sales of prepared food;
- 1588 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 1589 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 1590 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 1591 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 1592 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 1593 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 1594 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 1595 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 1596 exhibition, cultural, or athletic activity;
- 1597 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 1598 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 1599 (i) the tangible personal property; and
- 1600 (ii) parts used in the repairs or renovations of the tangible personal property described
- 1601 in Subsection (1)(g)(i), [~~whether or not~~] regardless of whether:
- 1602 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 1603 property; or
- 1604 (B) the particular parts used in the repairs or renovations of that tangible personal
- 1605 property are exempt from a tax under this chapter;
- 1606 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 1607 assisted cleaning or washing of tangible personal property;
- 1608 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court

1609 accommodations and services that are regularly rented for less than 30 consecutive days;

1610 (j) amounts paid or charged for laundry or dry cleaning services;

1611 (k) amounts paid or charged for leases or rentals of tangible personal property if within

1612 this state the tangible personal property is:

1613 (i) stored;

1614 (ii) used; or

1615 (iii) otherwise consumed;

1616 (l) amounts paid or charged for tangible personal property if within this state the

1617 tangible personal property is:

1618 (i) stored;

1619 (ii) used; or

1620 (iii) consumed; and

1621 (m) amounts paid or charged for a sale:

1622 (i) (A) of a product transferred electronically; or

1623 (B) of a repair or renovation of a product transferred electronically; and

1624 (ii) regardless of whether the sale provides:

1625 (A) a right of permanent use of the product; or

1626 (B) a right to use the product that is less than a permanent use, including a right:

1627 (I) for a definite or specified length of time; and

1628 (II) that terminates upon the occurrence of a condition.

1629 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax

1630 is imposed on a transaction described in Subsection (1) equal to the sum of:

1631 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

1632 (A) 4.70%; and

1633 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales

1634 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

1635 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional

1636 State Sales and Use Tax Act; and

1637 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales

1638 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

1639 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state

1640 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1641 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1642 transaction under this chapter other than this part.

1643 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed  
1644 on a transaction described in Subsection (1)(d) equal to the sum of:

1645 (i) a state tax imposed on the transaction at a tax rate of 2%; and

1646 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1647 transaction under this chapter other than this part.

1648 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed  
1649 on amounts paid or charged for food and food ingredients equal to the sum of:

1650 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at  
1651 a tax rate of 1.75%; and

1652 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1653 amounts paid or charged for food and food ingredients under this chapter other than this part.

1654 (d) (i) For a bundled transaction that is attributable to food and food ingredients and  
1655 tangible personal property other than food and food ingredients, a state tax and a local tax is  
1656 imposed on the entire bundled transaction equal to the sum of:

1657 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

1658 (I) the tax rate described in Subsection (2)(a)(i)(A); and

1659 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
1660 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
1661 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
1662 Additional State Sales and Use Tax Act; and

1663 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
1664 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
1665 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which  
1666 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1667 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates  
1668 described in Subsection (2)(a)(ii).

1669 (ii) If an optional computer software maintenance contract is a bundled transaction that  
1670 consists of taxable and nontaxable products that are not separately itemized on an invoice or

1671 similar billing document, the purchase of the optional computer software maintenance contract  
1672 is 40% taxable under this chapter and 60% nontaxable under this chapter.

1673 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled  
1674 transaction described in Subsection (2)(d)(i) or (ii):

1675 (A) if the sales price of the bundled transaction is attributable to tangible personal  
1676 property, a product, or a service that is subject to taxation under this chapter and tangible  
1677 personal property, a product, or service that is not subject to taxation under this chapter, the  
1678 entire bundled transaction is subject to taxation under this chapter unless:

1679 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
1680 personal property, product, or service that is not subject to taxation under this chapter from the  
1681 books and records the seller keeps in the seller's regular course of business; or

1682 (II) state or federal law provides otherwise; or

1683 (B) if the sales price of a bundled transaction is attributable to two or more items of  
1684 tangible personal property, products, or services that are subject to taxation under this chapter  
1685 at different rates, the entire bundled transaction is subject to taxation under this chapter at the  
1686 higher tax rate unless:

1687 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
1688 personal property, product, or service that is subject to taxation under this chapter at the lower  
1689 tax rate from the books and records the seller keeps in the seller's regular course of business; or

1690 (II) state or federal law provides otherwise.

1691 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the  
1692 seller's regular course of business includes books and records the seller keeps in the regular  
1693 course of business for nontax purposes.

1694 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)  
1695 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a  
1696 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental  
1697 of tangible personal property, other property, a product, or a service that is not subject to  
1698 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless  
1699 the seller, at the time of the transaction:

1700 (A) separately states the portion of the transaction that is not subject to taxation under  
1701 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

1702 (B) is able to identify by reasonable and verifiable standards, from the books and  
1703 records the seller keeps in the seller's regular course of business, the portion of the transaction  
1704 that is not subject to taxation under this chapter.

1705 (ii) A purchaser and a seller may correct the taxability of a transaction if:

1706 (A) after the transaction occurs, the purchaser and the seller discover that the portion of  
1707 the transaction that is not subject to taxation under this chapter was not separately stated on an  
1708 invoice, bill of sale, or similar document provided to the purchaser because of an error or  
1709 ignorance of the law; and

1710 (B) the seller is able to identify by reasonable and verifiable standards, from the books  
1711 and records the seller keeps in the seller's regular course of business, the portion of the  
1712 transaction that is not subject to taxation under this chapter.

1713 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps  
1714 in the seller's regular course of business includes books and records the seller keeps in the  
1715 regular course of business for nontax purposes.

1716 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible  
1717 personal property, products, or services that are subject to taxation under this chapter at  
1718 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate  
1719 unless the seller, at the time of the transaction:

1720 (A) separately states the items subject to taxation under this chapter at each of the  
1721 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

1722 (B) is able to identify by reasonable and verifiable standards the tangible personal  
1723 property, product, or service that is subject to taxation under this chapter at the lower tax rate  
1724 from the books and records the seller keeps in the seller's regular course of business.

1725 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the  
1726 seller's regular course of business includes books and records the seller keeps in the regular  
1727 course of business for nontax purposes.

1728 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax  
1729 rate imposed under the following shall take effect on the first day of a calendar quarter:

1730 (i) Subsection (2)(a)(i)(A);

1731 (ii) Subsection (2)(b)(i);

1732 (iii) Subsection (2)(c)(i); or



- 1733 (iv) Subsection (2)(d)(i)(A)(I).
- 1734 (h) (i) A tax rate increase takes effect on the first day of the first billing period that  
1735 begins on or after the effective date of the tax rate increase if the billing period for the  
1736 transaction begins before the effective date of a tax rate increase imposed under:
- 1737 (A) Subsection (2)(a)(i)(A);
- 1738 (B) Subsection (2)(b)(i);
- 1739 (C) Subsection (2)(c)(i); or
- 1740 (D) Subsection (2)(d)(i)(A)(I).
- 1741 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing  
1742 statement for the billing period is rendered on or after the effective date of the repeal of the tax  
1743 or the tax rate decrease imposed under:
- 1744 (A) Subsection (2)(a)(i)(A);
- 1745 (B) Subsection (2)(b)(i);
- 1746 (C) Subsection (2)(c)(i); or
- 1747 (D) Subsection (2)(d)(i)(A)(I).
- 1748 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is  
1749 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or  
1750 change in a tax rate takes effect:
- 1751 (A) on the first day of a calendar quarter; and
- 1752 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 1753 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
- 1754 (A) Subsection (2)(a)(i)(A);
- 1755 (B) Subsection (2)(b)(i);
- 1756 (C) Subsection (2)(c)(i); or
- 1757 (D) Subsection (2)(d)(i)(A)(I).
- 1758 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1759 the commission may by rule define the term "catalogue sale."
- 1760 (3) (a) The following state taxes shall be deposited into the General Fund:
- 1761 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 1762 (ii) the tax imposed by Subsection (2)(b)(i);
- 1763 (iii) the tax imposed by Subsection (2)(c)(i); or

1764 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).  
1765 (b) The following local taxes shall be distributed to a county, city, or town as provided  
1766 in this chapter:  
1767 (i) the tax imposed by Subsection (2)(a)(ii);  
1768 (ii) the tax imposed by Subsection (2)(b)(ii);  
1769 (iii) the tax imposed by Subsection (2)(c)(ii); and  
1770 (iv) the tax imposed by Subsection (2)(d)(i)(B).  
1771 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1772 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)  
1773 through (g):  
1774 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:  
1775 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and  
1776 (B) for the fiscal year; or  
1777 (ii) \$17,500,000.  
1778 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
1779 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the  
1780 Department of Natural Resources to:  
1781 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to  
1782 protect sensitive plant and animal species; or  
1783 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
1784 act, to political subdivisions of the state to implement the measures described in Subsections  
1785 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.  
1786 (ii) Money transferred to the Department of Natural Resources under Subsection  
1787 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
1788 person to list or attempt to have listed a species as threatened or endangered under the  
1789 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.  
1790 (iii) At the end of each fiscal year:  
1791 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
1792 Conservation and Development Fund created in Section 73-10-24;  
1793 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
1794 Program Subaccount created in Section 73-10c-5; and

1795 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
1796 Program Subaccount created in Section 73-10c-5.

1797 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
1798 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund  
1799 created in Section 4-18-106.

1800 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described  
1801 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water  
1802 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of  
1803 water rights.

1804 (ii) At the end of each fiscal year:

1805 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
1806 Conservation and Development Fund created in Section 73-10-24;

1807 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
1808 Program Subaccount created in Section 73-10c-5; and

1809 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
1810 Program Subaccount created in Section 73-10c-5.

1811 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described  
1812 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development  
1813 Fund created in Section 73-10-24 for use by the Division of Water Resources.

1814 (ii) In addition to the uses allowed of the Water Resources Conservation and  
1815 Development Fund under Section 73-10-24, the Water Resources Conservation and  
1816 Development Fund may also be used to:

1817 (A) conduct hydrologic and geotechnical investigations by the Division of Water  
1818 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
1819 quantifying surface and ground water resources and describing the hydrologic systems of an  
1820 area in sufficient detail so as to enable local and state resource managers to plan for and  
1821 accommodate growth in water use without jeopardizing the resource;

1822 (B) fund state required dam safety improvements; and

1823 (C) protect the state's interest in interstate water compact allocations, including the  
1824 hiring of technical and legal staff.

1825 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described

1826 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount  
1827 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1828 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
1829 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount  
1830 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1831 (i) provide for the installation and repair of collection, treatment, storage, and  
1832 distribution facilities for any public water system, as defined in Section 19-4-102;

1833 (ii) develop underground sources of water, including springs and wells; and

1834 (iii) develop surface water sources.

1835 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1836 2006, the difference between the following amounts shall be expended as provided in this  
1837 Subsection (5), if that difference is greater than \$1:

1838 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
1839 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

1840 (ii) \$17,500,000.

1841 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

1842 (A) transferred each fiscal year to the Department of Natural Resources as dedicated  
1843 credits; and

1844 (B) expended by the Department of Natural Resources for watershed rehabilitation or  
1845 restoration.

1846 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
1847 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund  
1848 created in Section 73-10-24.

1849 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
1850 remaining difference described in Subsection (5)(a) shall be:

1851 (A) transferred each fiscal year to the Division of Water Resources as dedicated  
1852 credits; and

1853 (B) expended by the Division of Water Resources for cloud-seeding projects  
1854 authorized by Title 73, Chapter 15, Modification of Weather.

1855 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
1856 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund

1857 created in Section 73-10-24.

1858 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the  
1859 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
1860 Resources Conservation and Development Fund created in Section 73-10-24 for use by the  
1861 Division of Water Resources for:

1862 (i) preconstruction costs:

1863 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
1864 26, Bear River Development Act; and

1865 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project  
1866 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

1867 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
1868 Chapter 26, Bear River Development Act;

1869 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
1870 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

1871 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and  
1872 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

1873 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to  
1874 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be  
1875 transferred each year as dedicated credits to the Division of Water Rights to cover the costs  
1876 incurred for employing additional technical staff for the administration of water rights.

1877 (f) At the end of each fiscal year, any unexpended dedicated credits described in  
1878 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development  
1879 Fund created in Section 73-10-24.

1880 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1881 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%  
1882 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in  
1883 the Transportation Fund created by Section 72-2-102.

1884 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of  
1885 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section  
1886 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated  
1887 by a 1/64% tax rate on the taxable transactions under Subsection (1).

1888 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in  
1889 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,  
1890 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005  
1891 created by Section [72-2-124](#):

1892 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of  
1893 the revenues collected from the following taxes, which represents a portion of the  
1894 approximately 17% of sales and use tax revenues generated annually by the sales and use tax  
1895 on vehicles and vehicle-related products:

1896 (A) the tax imposed by Subsection (2)(a)(i)(A);

1897 (B) the tax imposed by Subsection (2)(b)(i);

1898 (C) the tax imposed by Subsection (2)(c)(i); and

1899 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

1900 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the  
1901 current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through  
1902 (D) that exceeds the amount collected from the sales and use taxes described in Subsections  
1903 (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

1904 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of  
1905 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total  
1906 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D)  
1907 generated in the current fiscal year than the total percentage of sales and use taxes deposited in  
1908 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection  
1909 (8)(a) equal to the product of:

1910 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the  
1911 previous fiscal year; and

1912 (B) the total sales and use tax revenue generated by the taxes described in Subsections  
1913 (8)(a)(i)(A) through (D) in the current fiscal year.

1914 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under  
1915 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes  
1916 described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of  
1917 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in  
1918 Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

1919 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected  
1920 from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited  
1921 under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues  
1922 collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the  
1923 current fiscal year under Subsection (8)(a).

1924 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under  
1925 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of  
1926 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under  
1927 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section  
1928 [72-2-124](#).

1929 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
1930 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund  
1931 created by Section [35A-8-1009](#) and expended as provided in Section [35A-8-1009](#).

1932 (11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b),  
1933 and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July  
1934 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005  
1935 created by Section [72-2-124](#) the amount of tax revenue generated by a .025% tax rate on the  
1936 transactions described in Subsection (1).

1937 (b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into  
1938 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or  
1939 charged for food and food ingredients, except for tax revenue generated by a bundled  
1940 transaction attributable to food and food ingredients and tangible personal property other than  
1941 food and food ingredients described in Subsection (2)(d).

1942 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection  
1943 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the  
1944 Transportation Fund created by Section [72-2-102](#) the amount of tax revenue generated by a  
1945 .025% tax rate on the transactions described in Subsection (1) to be expended to address  
1946 chokepoints in construction management.

1947 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into  
1948 the Transportation Fund any tax revenue generated by amounts paid or charged for food and  
1949 food ingredients, except for tax revenue generated by a bundled transaction attributable to food

1950 and food ingredients and tangible personal property other than food and food ingredients  
1951 described in Subsection (2)(d).

1952 (13) Notwithstanding Subsections (4) through (12), an amount required to be expended  
1953 or deposited in accordance with Subsections (4) through (12) may not include an amount the  
1954 Division of Finance deposits in accordance with Section 59-12-103.2.

1955 Section 3. Section 59-12-104 is amended to read:

1956 **59-12-104. Exemptions.**

1957 [~~The following sales and uses are exempt~~] Exemptions from the taxes imposed by this  
1958 chapter are as follows:

1959 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax  
1960 under Chapter 13, Motor and Special Fuel Tax Act;

1961 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political  
1962 subdivisions; however, this exemption does not apply to sales of:

1963 (a) construction materials except:

1964 (i) construction materials purchased by or on behalf of institutions of the public  
1965 education system as defined in Utah Constitution Article X, Section 2, provided the  
1966 construction materials are clearly identified and segregated and installed or converted to real  
1967 property which is owned by institutions of the public education system; and

1968 (ii) construction materials purchased by the state, its institutions, or its political  
1969 subdivisions which are installed or converted to real property by employees of the state, its  
1970 institutions, or its political subdivisions; or

1971 (b) tangible personal property in connection with the construction, operation,  
1972 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities  
1973 providing additional project capacity, as defined in Section 11-13-103;

1974 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

1975 (i) the proceeds of each sale do not exceed \$1; and

1976 (ii) the seller or operator of the vending machine reports an amount equal to 150% of  
1977 the cost of the item described in Subsection (3)(b) as goods consumed; and

1978 (b) Subsection (3)(a) applies to:

1979 (i) food and food ingredients; or

1980 (ii) prepared food;



- 1981 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
- 1982 (i) alcoholic beverages;
- 1983 (ii) food and food ingredients; or
- 1984 (iii) prepared food;
- 1985 (b) sales of tangible personal property or a product transferred electronically:
- 1986 (i) to a passenger;
- 1987 (ii) by a commercial airline carrier; and
- 1988 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 1989 (c) services related to Subsection (4)(a) or (b);
- 1990 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
- 1991 and equipment:
- 1992 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
- 1993 North American Industry Classification System of the federal Executive Office of the
- 1994 President, Office of Management and Budget; and
- 1995 (II) for:
- 1996 (Aa) installation in an aircraft, including services relating to the installation of parts or
- 1997 equipment in the aircraft;
- 1998 (Bb) renovation of an aircraft; or
- 1999 (Cc) repair of an aircraft; or
- 2000 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
- 2001 commerce; or
- 2002 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
- 2003 aircraft operated by a common carrier in interstate or foreign commerce; and
- 2004 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
- 2005 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
- 2006 refund:
- 2007 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
- 2008 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
- 2009 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
- 2010 the sale prior to filing for the refund;
- 2011 (iv) for sales and use taxes paid under this chapter on the sale;

2012 (v) in accordance with Section 59-1-1410; and  
2013 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if  
2014 the person files for the refund on or before September 30, 2011;

2015 (6) sales of commercials, motion picture films, prerecorded audio program tapes or  
2016 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture  
2017 exhibitor, distributor, or commercial television or radio broadcaster;

2018 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal  
2019 property if the cleaning or washing of the tangible personal property is not assisted cleaning or  
2020 washing of tangible personal property;

2021 (b) if a seller that sells at the same business location assisted cleaning or washing of  
2022 tangible personal property and cleaning or washing of tangible personal property that is not  
2023 assisted cleaning or washing of tangible personal property, the exemption described in  
2024 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning  
2025 or washing of the tangible personal property; and

2026 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,  
2027 Utah Administrative Rulemaking Act, the commission may make rules:

2028 (i) governing the circumstances under which sales are at the same business location;  
2029 and

2030 (ii) establishing the procedures and requirements for a seller to separately account for  
2031 sales of assisted cleaning or washing of tangible personal property;

2032 (8) sales made to or by religious or charitable institutions in the conduct of their regular  
2033 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are  
2034 fulfilled;

2035 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of  
2036 this state if the vehicle is:

2037 (a) not registered in this state; and  
2038 (b) (i) not used in this state; or  
2039 (ii) used in this state:

2040 (A) if the vehicle is not used to conduct business, for a time period that does not  
2041 exceed the longer of:

2042 (I) 30 days in any calendar year; or

- 2043 (II) the time period necessary to transport the vehicle to the borders of this state; or
- 2044 (B) if the vehicle is used to conduct business, for the time period necessary to transport
- 2045 the vehicle to the borders of this state;
- 2046 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 2047 (i) the item is intended for human use; and
- 2048 (ii) (A) a prescription was issued for the item; or
- 2049 (B) the item was purchased by a hospital or other medical facility; and
- 2050 (b) (i) Subsection (10)(a) applies to:
- 2051 (A) a drug;
- 2052 (B) a syringe; or
- 2053 (C) a stoma supply; and
- 2054 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2055 commission may by rule define the terms:
- 2056 (A) "syringe"; or
- 2057 (B) "stoma supply";
- 2058 (11) sales or use of property, materials, or services used in the construction of or
- 2059 incorporated in pollution control facilities allowed by Sections [19-2-123](#) through [19-2-127](#);
- 2060 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 2061 (i) the following if the item described in Subsection (12)(c) is not available to the
- 2062 general public:
- 2063 (A) a church; or
- 2064 (B) a charitable institution;
- 2065 (ii) an institution of higher education if:
- 2066 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 2067 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 2068 offered by the institution of higher education; or
- 2069 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 2070 (i) a medical facility; or
- 2071 (ii) a nursing facility; and
- 2072 (c) Subsections (12)(a) and (b) apply to:
- 2073 (i) food and food ingredients;

2074 (ii) prepared food; or  
2075 (iii) alcoholic beverages;  
2076 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property  
2077 or a product transferred electronically by a person:  
2078 (i) regardless of the number of transactions involving the sale of that tangible personal  
2079 property or product transferred electronically by that person; and  
2080 (ii) not regularly engaged in the business of selling that type of tangible personal  
2081 property or product transferred electronically;  
2082 (b) this Subsection (13) does not apply if:  
2083 (i) the sale is one of a series of sales of a character to indicate that the person is  
2084 regularly engaged in the business of selling that type of tangible personal property or product  
2085 transferred electronically;  
2086 (ii) the person holds that person out as regularly engaged in the business of selling that  
2087 type of tangible personal property or product transferred electronically;  
2088 (iii) the person sells an item of tangible personal property or product transferred  
2089 electronically that the person purchased as a sale that is exempt under Subsection (25); or  
2090 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of  
2091 this state in which case the tax is based upon:  
2092 (A) the bill of sale or other written evidence of value of the vehicle or vessel being  
2093 sold; or  
2094 (B) in the absence of a bill of sale or other written evidence of value, the fair market  
2095 value of the vehicle or vessel being sold at the time of the sale as determined by the  
2096 commission; and  
2097 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2098 commission shall make rules establishing the circumstances under which:  
2099 (i) a person is regularly engaged in the business of selling a type of tangible personal  
2100 property or product transferred electronically;  
2101 (ii) a sale of tangible personal property or a product transferred electronically is one of  
2102 a series of sales of a character to indicate that a person is regularly engaged in the business of  
2103 selling that type of tangible personal property or product transferred electronically; or  
2104 (iii) a person holds that person out as regularly engaged in the business of selling a type

2105 of tangible personal property or product transferred electronically;

2106 ~~[(14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after~~

2107 ~~July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration~~

2108 ~~facility, of the following:]~~

2109 ~~[(i) machinery and equipment that:]~~

2110 ~~[(A) are used:]~~

2111 ~~[(I) for a manufacturing facility except for a manufacturing facility that is a scrap~~

2112 ~~recycler described in Subsection 59-12-102(64)(b):]~~

2113 ~~[(Aa) in the manufacturing process;]~~

2114 ~~[(Bb) to manufacture an item sold as tangible personal property; and]~~

2115 ~~[(Cc) beginning on July 1, 2009, in a manufacturing facility described in this~~

2116 ~~Subsection (14)(a)(i)(A)(I) in the state; or]~~

2117 ~~[(H) for a manufacturing facility that is a scrap recycler described in Subsection~~

2118 ~~59-12-102(64)(b):]~~

2119 ~~[(Aa) to process an item sold as tangible personal property; and]~~

2120 ~~[(Bb) beginning on July 1, 2009, in a manufacturing facility described in this~~

2121 ~~Subsection (14)(a)(i)(A)(H) in the state; and]~~

2122 ~~[(B) have an economic life of three or more years; and]~~

2123 ~~[(ii) normal operating repair or replacement parts that:]~~

2124 ~~[(A) have an economic life of three or more years; and]~~

2125 ~~[(B) are used:]~~

2126 ~~[(I) for a manufacturing facility except for a manufacturing facility that is a scrap~~

2127 ~~recycler described in Subsection 59-12-102(64)(b):]~~

2128 ~~[(Aa) in the manufacturing process; and]~~

2129 ~~[(Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the~~

2130 ~~state; or]~~

2131 ~~[(H) for a manufacturing facility that is a scrap recycler described in Subsection~~

2132 ~~59-12-102(64)(b):]~~

2133 ~~[(Aa) to process an item sold as tangible personal property; and]~~

2134 ~~[(Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(H) in the~~

2135 ~~state;]~~

2136 ~~[(b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a~~  
 2137 ~~manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,~~  
 2138 ~~of the following:]~~

2139 ~~[(i) machinery and equipment that:]~~

2140 ~~[(A) are used:]~~

2141 ~~[(F) in the manufacturing process;]~~

2142 ~~[(H) to manufacture an item sold as tangible personal property; and]~~

2143 ~~[(H) beginning on July 1, 2009, in a manufacturing facility described in this~~

2144 ~~Subsection (14)(b) in the state; and]~~

2145 ~~[(B) have an economic life of three or more years; and]~~

2146 ~~[(ii) normal operating repair or replacement parts that:]~~

2147 ~~[(A) are used:]~~

2148 ~~[(F) in the manufacturing process; and]~~

2149 ~~[(H) in a manufacturing facility described in this Subsection (14)(b) in the state; and]~~

2150 ~~[(B) have an economic life of three or more years;]~~

2151 (14) (a) amounts paid or charged for a purchase or lease:

2152 (i) by a manufacturing facility located in the state; and

2153 (ii) of machinery, equipment, or normal operating repair or replacement parts if the

2154 machinery, equipment, or normal operating repair or replacement parts  $\hat{S} \rightarrow$  **have an economic life**  
 2154a **of three or more years and are used  $\leftarrow \hat{S}$  :**

2155 (A)  $\hat{S} \rightarrow$  ~~[are used]~~ **in the manufacturing process  $\leftarrow \hat{S}$  to manufacture  $\hat{S} \rightarrow$  ~~[or process]~~  $\leftarrow \hat{S}$**   
 2155a an item sold as tangible personal property;  $\hat{S} \rightarrow$  ~~[and]~~ **or  $\leftarrow \hat{S}$**

2156 (B)  $\hat{S} \rightarrow$  ~~[have an economic life of three or more years]~~ **for a scrap recycler, to process an**  
 2156a **item sold as tangible personal property  $\leftarrow \hat{S}$  :**

2157 ~~[(e)] (b) amounts paid or charged for a purchase or lease [made on or after January 1,~~  
 2158 ~~2008;]:~~

2159 (i) by an establishment;

2160 (A) described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code

2161 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or

2162 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North

2163 American Industry Classification System of the federal Executive Office of the President,

2164 Office of Management and Budget[, of the following;]; and

2165 ~~[(i) machinery and equipment that:]~~

2166 ~~[(A) are used:]~~

2167 ~~[(F)(Aa) in the production process, other than the production of real property; or]~~  
 2168 ~~[(Bb) in research and development; and]~~  
 2169 ~~[(H) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)~~  
 2170 ~~in the state; and]~~  
 2171 ~~[(B) have an economic life of three or more years; and]~~  
 2172 ~~[(ii) normal operating repair or replacement parts that:]~~  
 2173 ~~[(A) have an economic life of three or more years; and]~~  
 2174 ~~[(B) are used in:]~~  
 2175 ~~[(F)(Aa) the production process, except for the production of real property; and]~~  
 2176 ~~[(Bb) an establishment described in this Subsection (14)(c) in the state; or]~~  
 2177 ~~[(H)(Aa) research and development; and]~~  
 2178 ~~[(Bb) in an establishment described in this Subsection (14)(c) in the state;]~~  
 2179 ~~[(d)(i) amounts paid or charged for a purchase or lease made on or after July 1, 2010;~~  
 2180 ~~but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web~~  
 2181 ~~Search Portals, of the 2002 North American Industry Classification System of the federal~~  
 2182 ~~Executive Office of the President, Office of Management and Budget, of the following:]~~  
 2183 ~~[(A) machinery and equipment that:]~~  
 2184 ~~[(F) are used in the operation of the web search portal;]~~  
 2185 ~~[(H) have an economic life of three or more years; and]~~  
 2186 ~~[(HH) are used in a new or expanding establishment described in this Subsection (14)(d)~~  
 2187 ~~in the state; and]~~  
 2188 ~~[(B) normal operating repair or replacement parts that:]~~  
 2189 ~~[(F) are used in the operation of the web search portal;]~~  
 2190 ~~[(H) have an economic life of three or more years; and]~~  
 2191 ~~[(HH) are used in a new or expanding establishment described in this Subsection (14)(d)~~  
 2192 ~~in the state; or]~~  
 2193 (B) located in the state; and  
 2194 (ii) of machinery, equipment, or normal operating repair or replacement parts if the  
 2195 machinery, equipment, or normal operating repair or replacement parts have an economic life  
 2196 of three or more years and are used in:  
 2197 (A) the production process to produce an item sold as tangible personal property;

2198 (B) research and development;

2199 (C) transporting, storing, or managing tailings, overburden, or similar waste materials

2200 produced from mining;

2201 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in

2202 mining; or

2203 (E) in preventing, controlling, or reducing dust or other pollutants from mining;

2204 ~~[(ii)]~~ (c) amounts paid or charged for a purchase or lease [made on or after July 1,

2205 2014,];

2206 (i) by an establishment;

2207 (A) described in NAICS Code 518112, Web Search Portals, of the 2002 North

2208 American Industry Classification System of the federal Executive Office of the President,

2209 Office of Management and Budget~~[-of the following:];~~ and

2210 ~~[(A) machinery and equipment that:]~~

2211 (B) located in the state; and

2212 (ii) of machinery, equipment, or normal operating repair or replacement parts if the

2213 machinery, equipment, or normal operating repair or replacement parts:

2214 ~~[(F)]~~ (A) are used in the operation of the web search portal; and

2215 ~~[(H)]~~ (B) have an economic life of three or more years; [and]

2216 ~~[(B) normal operating repair or replacement parts that:]~~

2217 ~~[(f) are used in the operation of the web search portal; and]~~

2218 ~~[(H) have an economic life of three or more years;]~~

2219 ~~[(e)]~~ (d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter

2220 3, Utah Administrative Rulemaking Act, the commission:

2221 (i) shall by rule define the term "establishment"; and

2222 (ii) may by rule define what constitutes:

2223 (A) processing an item sold as tangible personal property;

2224 (B) the production process, [except for the production of real property;] to produce an

2225 item sold as tangible personal property; or

2226 (C) research and development; [or] and

2227 ~~[(D) a new or expanding establishment described in Subsection (14)(d) in the state;~~

2228 and]



2229            [(f)] (e) on or before October 1, [~~2011~~] 2016, and every five years after October 1,  
2230 [~~2011~~] 2016, the commission shall:

2231            (i) review the exemptions described in this Subsection (14) and make  
2232 recommendations to the Revenue and Taxation Interim Committee concerning whether the  
2233 exemptions should be continued, modified, or repealed; and

2234            (ii) include in its report:

2235            (A) an estimate of the cost of the exemptions;

2236            (B) the purpose and effectiveness of the exemptions; and

2237            (C) the benefits of the exemptions to the state;

2238            (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

2239            (i) tooling;

2240            (ii) special tooling;

2241            (iii) support equipment;

2242            (iv) special test equipment; or

2243            (v) parts used in the repairs or renovations of tooling or equipment described in  
2244 Subsections (15)(a)(i) through (iv); and

2245            (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

2246            (i) the tooling, equipment, or parts are used or consumed exclusively in the  
2247 performance of any aerospace or electronics industry contract with the United States  
2248 government or any subcontract under that contract; and

2249            (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),  
2250 title to the tooling, equipment, or parts is vested in the United States government as evidenced  
2251 by:

2252            (A) a government identification tag placed on the tooling, equipment, or parts; or

2253            (B) listing on a government-approved property record if placing a government  
2254 identification tag on the tooling, equipment, or parts is impractical;

2255            (16) sales of newspapers or newspaper subscriptions;

2256            (17) (a) except as provided in Subsection (17)(b), tangible personal property or a  
2257 product transferred electronically traded in as full or part payment of the purchase price, except  
2258 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,  
2259 trade-ins are limited to other vehicles only, and the tax is based upon:

2260 (i) the bill of sale or other written evidence of value of the vehicle being sold and the  
2261 vehicle being traded in; or

2262 (ii) in the absence of a bill of sale or other written evidence of value, the then existing  
2263 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the  
2264 commission; and

2265 (b) Subsection (17)(a) does not apply to the following items of tangible personal  
2266 property or products transferred electronically traded in as full or part payment of the purchase  
2267 price:

2268 (i) money;

2269 (ii) electricity;

2270 (iii) water;

2271 (iv) gas; or

2272 (v) steam;

2273 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property  
2274 or a product transferred electronically used or consumed primarily and directly in farming  
2275 operations, regardless of whether the tangible personal property or product transferred  
2276 electronically:

2277 (A) becomes part of real estate; or

2278 (B) is installed by a:

2279 (I) farmer;

2280 (II) contractor; or

2281 (III) subcontractor; or

2282 (ii) sales of parts used in the repairs or renovations of tangible personal property or a  
2283 product transferred electronically if the tangible personal property or product transferred  
2284 electronically is exempt under Subsection (18)(a)(i); and

2285 (b) amounts paid or charged for the following are subject to the taxes imposed by this  
2286 chapter:

2287 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is  
2288 incidental to farming:

2289 (I) machinery;

2290 (II) equipment;

2291 (III) materials; or  
2292 (IV) supplies; and  
2293 (B) tangible personal property that is considered to be used in a manner that is  
2294 incidental to farming includes:  
2295 (I) hand tools; or  
2296 (II) maintenance and janitorial equipment and supplies;  
2297 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product  
2298 transferred electronically if the tangible personal property or product transferred electronically  
2299 is used in an activity other than farming; and  
2300 (B) tangible personal property or a product transferred electronically that is considered  
2301 to be used in an activity other than farming includes:  
2302 (I) office equipment and supplies; or  
2303 (II) equipment and supplies used in:  
2304 (Aa) the sale or distribution of farm products;  
2305 (Bb) research; or  
2306 (Cc) transportation; or  
2307 (iii) a vehicle required to be registered by the laws of this state during the period  
2308 ending two years after the date of the vehicle's purchase;  
2309 (19) sales of hay;  
2310 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or  
2311 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or  
2312 garden, farm, or other agricultural produce is sold by:  
2313 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other  
2314 agricultural produce;  
2315 (b) an employee of the producer described in Subsection (20)(a); or  
2316 (c) a member of the immediate family of the producer described in Subsection (20)(a);  
2317 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued  
2318 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;;  
2319 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,  
2320 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,  
2321 wholesaler, or retailer for use in packaging tangible personal property to be sold by that

2322 manufacturer, processor, wholesaler, or retailer;

2323       (23) a product stored in the state for resale;

2324       (24) (a) purchases of a product if:

2325           (i) the product is:

2326               (A) purchased outside of this state;

2327               (B) brought into this state:

2328                   (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

2329                   (II) by a nonresident person who is not living or working in this state at the time of the

2330 purchase;

2331               (C) used for the personal use or enjoyment of the nonresident person described in

2332 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

2333               (D) not used in conducting business in this state; and

2334           (ii) for:

2335               (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of

2336 the product for a purpose for which the product is designed occurs outside of this state;

2337               (B) a boat, the boat is registered outside of this state; or

2338               (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

2339 outside of this state;

2340       (b) the exemption provided for in Subsection (24)(a) does not apply to:

2341           (i) a lease or rental of a product; or

2342           (ii) a sale of a vehicle exempt under Subsection (33); and

2343       (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

2344 purposes of Subsection (24)(a), the commission may by rule define what constitutes the

2345 following:

2346           (i) conducting business in this state if that phrase has the same meaning in this

2347 Subsection (24) as in Subsection (63);

2348           (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)

2349 as in Subsection (63); or

2350           (iii) a purpose for which a product is designed if that phrase has the same meaning in

2351 this Subsection (24) as in Subsection (63);

2352       (25) a product purchased for resale in this state, in the regular course of business, either

2353 in its original form or as an ingredient or component part of a manufactured or compounded  
2354 product;

2355 (26) a product upon which a sales or use tax was paid to some other state, or one of its  
2356 subdivisions, except that the state shall be paid any difference between the tax paid and the tax  
2357 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if  
2358 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax  
2359 Act;

2360 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a  
2361 person for use in compounding a service taxable under the subsections;

2362 (28) purchases made in accordance with the special supplemental nutrition program for  
2363 women, infants, and children established in 42 U.S.C. Sec. 1786;

2364 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,  
2365 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens  
2366 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification  
2367 Manual of the federal Executive Office of the President, Office of Management and Budget;

2368 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State  
2369 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

2370 (a) not registered in this state; and

2371 (b) (i) not used in this state; or

2372 (ii) used in this state:

2373 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a  
2374 time period that does not exceed the longer of:

2375 (I) 30 days in any calendar year; or

2376 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to  
2377 the borders of this state; or

2378 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time  
2379 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this  
2380 state;

2381 (31) sales of aircraft manufactured in Utah;

2382 (32) amounts paid for the purchase of telecommunications service for purposes of  
2383 providing telecommunications service;

- 2384 (33) sales, leases, or uses of the following:
- 2385 (a) a vehicle by an authorized carrier; or
- 2386 (b) tangible personal property that is installed on a vehicle:
- 2387 (i) sold or leased to or used by an authorized carrier; and
- 2388 (ii) before the vehicle is placed in service for the first time;
- 2389 (34) (a) 45% of the sales price of any new manufactured home; and
- 2390 (b) 100% of the sales price of any used manufactured home;
- 2391 (35) sales relating to schools and fundraising sales;
- 2392 (36) sales or rentals of durable medical equipment if:
- 2393 (a) a person presents a prescription for the durable medical equipment; and
- 2394 (b) the durable medical equipment is used for home use only;
- 2395 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 2396 Section [72-11-102](#); and
- 2397 (b) the commission shall by rule determine the method for calculating sales exempt
- 2398 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 2399 (38) sales to a ski resort of:
- 2400 (a) snowmaking equipment;
- 2401 (b) ski slope grooming equipment;
- 2402 (c) passenger ropeways as defined in Section [72-11-102](#); or
- 2403 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 2404 described in Subsections (38)(a) through (c);
- 2405 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 2406 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 2407 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 2408 [59-12-102](#);
- 2409 (b) if a seller that sells or rents at the same business location the right to use or operate
- 2410 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 2411 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 2412 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 2413 amusement, entertainment, or recreation for the assisted amusement devices; and
- 2414 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,

2415 Utah Administrative Rulemaking Act, the commission may make rules:  
2416 (i) governing the circumstances under which sales are at the same business location;  
2417 and  
2418 (ii) establishing the procedures and requirements for a seller to separately account for  
2419 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for  
2420 assisted amusement devices;  
2421 (41) (a) sales of photocopies by:  
2422 (i) a governmental entity; or  
2423 (ii) an entity within the state system of public education, including:  
2424 (A) a school; or  
2425 (B) the State Board of Education; or  
2426 (b) sales of publications by a governmental entity;  
2427 (42) amounts paid for admission to an athletic event at an institution of higher  
2428 education that is subject to the provisions of Title IX of the Education Amendments of 1972,  
2429 20 U.S.C. Sec. 1681 et seq.;  
2430 (43) (a) sales made to or by:  
2431 (i) an area agency on aging; or  
2432 (ii) a senior citizen center owned by a county, city, or town; or  
2433 (b) sales made by a senior citizen center that contracts with an area agency on aging;  
2434 (44) sales or leases of semiconductor fabricating, processing, research, or development  
2435 materials regardless of whether the semiconductor fabricating, processing, research, or  
2436 development materials:  
2437 (a) actually come into contact with a semiconductor; or  
2438 (b) ultimately become incorporated into real property;  
2439 (45) an amount paid by or charged to a purchaser for accommodations and services  
2440 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section  
2441 59-12-104.2;  
2442 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary  
2443 sports event registration certificate in accordance with Section 41-3-306 for the event period  
2444 specified on the temporary sports event registration certificate;  
2445 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted

2446 by the Public Service Commission of Utah only for purchase of electricity produced from a  
2447 new alternative energy source, as designated in the tariff by the Public Service Commission of  
2448 Utah; and

2449 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a  
2450 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under  
2451 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

2452 (48) sales or rentals of mobility enhancing equipment if a person presents a  
2453 prescription for the mobility enhancing equipment;

2454 (49) sales of water in a:

2455 (a) pipe;

2456 (b) conduit;

2457 (c) ditch; or

2458 (d) reservoir;

2459 (50) sales of currency or coins that constitute legal tender of a state, the United States,  
2460 or a foreign nation;

2461 (51) (a) sales of an item described in Subsection (51)(b) if the item:

2462 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

2463 (ii) has a gold, silver, or platinum content of 50% or more; and

2464 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

2465 (i) ingot;

2466 (ii) bar;

2467 (iii) medallion; or

2468 (iv) decorative coin;

2469 (52) amounts paid on a sale-leaseback transaction;

2470 (53) sales of a prosthetic device:

2471 (a) for use on or in a human; and

2472 (b) (i) for which a prescription is required; or

2473 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

2474 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of  
2475 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery  
2476 or equipment is primarily used in the production or postproduction of the following media for



2477 commercial distribution:

2478 (i) a motion picture;

2479 (ii) a television program;

2480 (iii) a movie made for television;

2481 (iv) a music video;

2482 (v) a commercial;

2483 (vi) a documentary; or

2484 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the

2485 commission by administrative rule made in accordance with Subsection (54)(d); or

2486 (b) purchases, leases, or rentals of machinery or equipment by an establishment

2487 described in Subsection (54)(c) that is used for the production or postproduction of the

2488 following are subject to the taxes imposed by this chapter:

2489 (i) a live musical performance;

2490 (ii) a live news program; or

2491 (iii) a live sporting event;

2492 (c) the following establishments listed in the 1997 North American Industry

2493 Classification System of the federal Executive Office of the President, Office of Management

2494 and Budget, apply to Subsections (54)(a) and (b):

2495 (i) NAICS Code 512110; or

2496 (ii) NAICS Code 51219; and

2497 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2498 commission may by rule:

2499 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

2500 or

2501 (ii) define:

2502 (A) "commercial distribution";

2503 (B) "live musical performance";

2504 (C) "live news program"; or

2505 (D) "live sporting event";

2506 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but

2507 on or before June 30, 2027, of tangible personal property that:

2508 (i) is leased or purchased for or by a facility that:  
2509 (A) is an alternative energy electricity production facility;  
2510 (B) is located in the state; and  
2511 (C) (I) becomes operational on or after July 1, 2004; or  
2512 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
2513 2004, as a result of the use of the tangible personal property;  
2514 (ii) has an economic life of five or more years; and  
2515 (iii) is used to make the facility or the increase in capacity of the facility described in  
2516 Subsection (55)(a)(i) operational up to the point of interconnection with an existing  
2517 transmission grid including:  
2518 (A) a wind turbine;  
2519 (B) generating equipment;  
2520 (C) a control and monitoring system;  
2521 (D) a power line;  
2522 (E) substation equipment;  
2523 (F) lighting;  
2524 (G) fencing;  
2525 (H) pipes; or  
2526 (I) other equipment used for locating a power line or pole; and  
2527 (b) this Subsection (55) does not apply to:  
2528 (i) tangible personal property used in construction of:  
2529 (A) a new alternative energy electricity production facility; or  
2530 (B) the increase in the capacity of an alternative energy electricity production facility;  
2531 (ii) contracted services required for construction and routine maintenance activities;  
2532 and  
2533 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
2534 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or  
2535 acquired after:  
2536 (A) the alternative energy electricity production facility described in Subsection  
2537 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or  
2538 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described

2539 in Subsection (55)(a)(iii);  
2540 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but  
2541 on or before June 30, 2027, of tangible personal property that:  
2542 (i) is leased or purchased for or by a facility that:  
2543 (A) is a waste energy production facility;  
2544 (B) is located in the state; and  
2545 (C) (I) becomes operational on or after July 1, 2004; or  
2546 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
2547 2004, as a result of the use of the tangible personal property;  
2548 (ii) has an economic life of five or more years; and  
2549 (iii) is used to make the facility or the increase in capacity of the facility described in  
2550 Subsection (56)(a)(i) operational up to the point of interconnection with an existing  
2551 transmission grid including:  
2552 (A) generating equipment;  
2553 (B) a control and monitoring system;  
2554 (C) a power line;  
2555 (D) substation equipment;  
2556 (E) lighting;  
2557 (F) fencing;  
2558 (G) pipes; or  
2559 (H) other equipment used for locating a power line or pole; and  
2560 (b) this Subsection (56) does not apply to:  
2561 (i) tangible personal property used in construction of:  
2562 (A) a new waste energy facility; or  
2563 (B) the increase in the capacity of a waste energy facility;  
2564 (ii) contracted services required for construction and routine maintenance activities;  
2565 and  
2566 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
2567 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:  
2568 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as  
2569 described in Subsection (56)(a)(iii); or

2570 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described  
2571 in Subsection (56)(a)(iii);

2572 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on  
2573 or before June 30, 2027, of tangible personal property that:

2574 (i) is leased or purchased for or by a facility that:

2575 (A) is located in the state;

2576 (B) produces fuel from alternative energy, including:

2577 (I) methanol; or

2578 (II) ethanol; and

2579 (C) (I) becomes operational on or after July 1, 2004; or

2580 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as  
2581 a result of the installation of the tangible personal property;

2582 (ii) has an economic life of five or more years; and

2583 (iii) is installed on the facility described in Subsection (57)(a)(i);

2584 (b) this Subsection (57) does not apply to:

2585 (i) tangible personal property used in construction of:

2586 (A) a new facility described in Subsection (57)(a)(i); or

2587 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

2588 (ii) contracted services required for construction and routine maintenance activities;

2589 and

2590 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
2591 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

2592 (A) the facility described in Subsection (57)(a)(i) is operational; or

2593 (B) the increased capacity described in Subsection (57)(a)(i) is operational;

2594 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a  
2595 product transferred electronically to a person within this state if that tangible personal property  
2596 or product transferred electronically is subsequently shipped outside the state and incorporated  
2597 pursuant to contract into and becomes a part of real property located outside of this state;

2598 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other  
2599 state or political entity to which the tangible personal property is shipped imposes a sales, use,  
2600 gross receipts, or other similar transaction excise tax on the transaction against which the other

2601 state or political entity allows a credit for sales and use taxes imposed by this chapter; and  
2602 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,  
2603 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a  
2604 refund:

- 2605 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
- 2606 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on  
2607 which the sale is made;
- 2608 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the  
2609 sale prior to filing for the refund;
- 2610 (iv) for sales and use taxes paid under this chapter on the sale;
- 2611 (v) in accordance with Section 59-1-1410; and
- 2612 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if  
2613 the person files for the refund on or before June 30, 2011;

2614 (59) purchases:

- 2615 (a) of one or more of the following items in printed or electronic format:
  - 2616 (i) a list containing information that includes one or more:
    - 2617 (A) names; or
    - 2618 (B) addresses; or
  - 2619 (ii) a database containing information that includes one or more:
    - 2620 (A) names; or
    - 2621 (B) addresses; and
  - 2622 (b) used to send direct mail;
- 2623 (60) redemptions or repurchases of a product by a person if that product was:
  - 2624 (a) delivered to a pawnbroker as part of a pawn transaction; and
  - 2625 (b) redeemed or repurchased within the time period established in a written agreement  
2626 between the person and the pawnbroker for redeeming or repurchasing the product;
- 2627 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
  - 2628 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;  
2629 and
  - 2630 (ii) has a useful economic life of one or more years; and
  - 2631 (b) the following apply to Subsection (61)(a):

2632 (i) telecommunications enabling or facilitating equipment, machinery, or software;  
2633 (ii) telecommunications equipment, machinery, or software required for 911 service;  
2634 (iii) telecommunications maintenance or repair equipment, machinery, or software;  
2635 (iv) telecommunications switching or routing equipment, machinery, or software; or  
2636 (v) telecommunications transmission equipment, machinery, or software;

2637 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible  
2638 personal property or a product transferred electronically that are used in the research and  
2639 development of alternative energy technology; and

2640 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2641 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes  
2642 purchases of tangible personal property or a product transferred electronically that are used in  
2643 the research and development of alternative energy technology;

2644 (63) (a) purchases of tangible personal property or a product transferred electronically  
2645 if:

2646 (i) the tangible personal property or product transferred electronically is:  
2647 (A) purchased outside of this state;  
2648 (B) brought into this state at any time after the purchase described in Subsection  
2649 (63)(a)(i)(A); and  
2650 (C) used in conducting business in this state; and  
2651 (ii) for:  
2652 (A) tangible personal property or a product transferred electronically other than the  
2653 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property  
2654 for a purpose for which the property is designed occurs outside of this state; or  
2655 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
2656 outside of this state;

2657 (b) the exemption provided for in Subsection (63)(a) does not apply to:  
2658 (i) a lease or rental of tangible personal property or a product transferred electronically;  
2659 or  
2660 (ii) a sale of a vehicle exempt under Subsection (33); and  
2661 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
2662 purposes of Subsection (63)(a), the commission may by rule define what constitutes the

2663 following:

2664 (i) conducting business in this state if that phrase has the same meaning in this  
2665 Subsection (63) as in Subsection (24);

2666 (ii) the first use of tangible personal property or a product transferred electronically if  
2667 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

2668 (iii) a purpose for which tangible personal property or a product transferred  
2669 electronically is designed if that phrase has the same meaning in this Subsection (63) as in  
2670 Subsection (24);

2671 (64) sales of disposable home medical equipment or supplies if:

2672 (a) a person presents a prescription for the disposable home medical equipment or  
2673 supplies;

2674 (b) the disposable home medical equipment or supplies are used exclusively by the  
2675 person to whom the prescription described in Subsection (64)(a) is issued; and

2676 (c) the disposable home medical equipment and supplies are listed as eligible for  
2677 payment under:

2678 (i) Title XVIII, federal Social Security Act; or

2679 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

2680 (65) sales:

2681 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit  
2682 District Act; or

2683 (b) of tangible personal property to a subcontractor of a public transit district, if the  
2684 tangible personal property is:

2685 (i) clearly identified; and

2686 (ii) installed or converted to real property owned by the public transit district;

2687 (66) sales of construction materials:

2688 (a) purchased on or after July 1, 2010;

2689 (b) purchased by, on behalf of, or for the benefit of an international airport:

2690 (i) located within a county of the first class; and

2691 (ii) that has a United States customs office on its premises; and

2692 (c) if the construction materials are:

2693 (i) clearly identified;

- 2694 (ii) segregated; and
- 2695 (iii) installed or converted to real property:
- 2696 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 2697 (B) located at the international airport described in Subsection (66)(b);
- 2698 (67) sales of construction materials:
- 2699 (a) purchased on or after July 1, 2008;
- 2700 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 2701 (i) located within a county of the second class; and
- 2702 (ii) that is owned or operated by a city in which an airline as defined in Section
- 2703 [59-2-102](#) is headquartered; and
- 2704 (c) if the construction materials are:
- 2705 (i) clearly identified;
- 2706 (ii) segregated; and
- 2707 (iii) installed or converted to real property:
- 2708 (A) owned or operated by the new airport described in Subsection (67)(b);
- 2709 (B) located at the new airport described in Subsection (67)(b); and
- 2710 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 2711 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 2712 (69) purchases and sales described in Section [63H-4-111](#);
- 2713 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 2714 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 2715 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2716 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2717 powered aircraft; or
- 2718 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 2719 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 2720 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2721 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2722 powered aircraft;
- 2723 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:
- 2724 (a) to a person admitted to an institution of higher education; and



2725 (b) by a seller, other than a bookstore owned by an institution of higher education, if  
2726 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a  
2727 textbook for a higher education course;

2728 (72) a license fee or tax a municipality imposes in accordance with Subsection  
2729 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced  
2730 level of municipal services;

2731 (73) amounts paid or charged for construction materials used in the construction of a  
2732 new or expanding life science research and development facility in the state, if the construction  
2733 materials are:

2734 (a) clearly identified;

2735 (b) segregated; and

2736 (c) installed or converted to real property;

2737 (74) amounts paid or charged for:

2738 (a) a purchase or lease of machinery and equipment that:

2739 (i) are used in performing qualified research:

2740 (A) as defined in Section 59-7-612;

2741 (B) in the state; and

2742 (C) with respect to which the purchaser pays or incurs a qualified research expense as  
2743 defined in Section 59-7-612; and

2744 (ii) have an economic life of three or more years; and

2745 (b) normal operating repair or replacement parts:

2746 (i) for the machinery and equipment described in Subsection (74)(a); and

2747 (ii) that have an economic life of three or more years;

2748 (75) a sale or lease of tangible personal property used in the preparation of prepared  
2749 food if:

2750 (a) for a sale:

2751 (i) the ownership of the seller and the ownership of the purchaser are identical; and

2752 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that

2753 tangible personal property prior to making the sale; or

2754 (b) for a lease:

2755 (i) the ownership of the lessor and the ownership of the lessee are identical; and

2756 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible  
2757 personal property prior to making the lease;

2758 (76) (a) purchases of machinery or equipment if:

2759 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,  
2760 Gambling, and Recreation Industries, of the 2012 North American Industry Classification  
2761 System of the federal Executive Office of the President, Office of Management and Budget;

2762 (ii) the machinery or equipment:

2763 (A) has an economic life of three or more years; and

2764 (B) is used by one or more persons who pay admission or user fees described in  
2765 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

2766 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

2767 (A) amounts paid or charged as admission or user fees described in Subsection  
2768 59-12-103(1)(f); and

2769 (B) subject to taxation under this chapter;

2770 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2771 commission may make rules for verifying that 51% of a purchaser's sales revenue for the  
2772 previous calendar quarter is:

2773 (i) amounts paid or charged as admission or user fees described in Subsection  
2774 59-12-103(1)(f); and

2775 (ii) subject to taxation under this chapter; and

2776 (c) on or before the November 2018 interim meeting, and every five years after the  
2777 November 2018 interim meeting, the commission shall review the exemption provided in this  
2778 Subsection (76) and report to the Revenue and Taxation Interim Committee on:

2779 (i) the revenue lost to the state and local taxing jurisdictions as a result of the  
2780 exemption;

2781 (ii) the purpose and effectiveness of the exemption; and

2782 (iii) whether the exemption benefits the state;

2783 (77) purchases of a short-term lodging consumable by a business that provides  
2784 accommodations and services described in Subsection 59-12-103(1)(i);

2785 (78) amounts paid or charged to access a database:

2786 (a) if the primary purpose for accessing the database is to view or retrieve information

2787 from the database; and  
2788 (b) not including amounts paid or charged for a:  
2789 (i) digital audiowork;  
2790 (ii) digital audio-visual work; or  
2791 (iii) digital book;  
2792 (79) amounts paid or charged for a purchase or lease made by an electronic financial  
2793 payment service, of:  
2794 (a) machinery and equipment that:  
2795 (i) are used in the operation of the electronic financial payment service; and  
2796 (ii) have an economic life of three or more years; and  
2797 (b) normal operating repair or replacement parts that:  
2798 (i) are used in the operation of the electronic financial payment service; and  
2799 (ii) have an economic life of three or more years; and  
2800 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section [54-15-102](#).  
2801 Section 4. **Effective date.**  
2802 This bill takes effect on July 1, 2014.

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**Legislative Review Note**  
**as of 2-7-14 12:18 PM**

**Office of Legislative Research and General Counsel**